

Appendix M

Chapter 6: Combining a Military Career with Family

Appendix M.1 – Maternity and Parental Leave – Policy Overview

The ADF's policy on maternity and parental leave is set out in its Pay and Conditions Manual (PACMAN).

What types of maternity and parental leave are available to ADF members?

There are two types of 'parental' leave available to ADF members:

1. *Maternity leave* is 'granted to a member who is pregnant or has recently given birth'.¹⁴⁴ A total of 52 weeks is available to members, up to 14 weeks of which is paid. Members are able to take recreation leave or long service leave instead of unpaid leave.¹⁴⁵ Maternity leave may be taken at half pay (to extend the period of paid maternity leave) if approved.¹⁴⁶ If a member returns to work early, she is entitled to take maternity leave again during the 52 week period.¹⁴⁷ An application for maternity leave submitted by an eligible member must be approved.¹⁴⁸ The ADF recognises maternity leave as being associated with pregnancy and childbirth, and as such, it is not available to members who become parents through adoption or surrogacy.¹⁴⁹
2. *Parental leave* is available to members on continuous full-time service who become the parent of a 'newborn or adopted dependent child'.¹⁵⁰ Eligible members may be granted two weeks of paid parental leave and up to 64 weeks of additional unpaid parental leave.¹⁵¹ ADF authorities are not obliged to approve applications for parental leave.¹⁵²

Who is eligible for maternity or parental leave?

Maternity leave

All members who are pregnant 20 weeks before the expected date of birth are entitled to a maternity leave absence.¹⁵³ A member remains entitled to maternity leave if her pregnancy terminates (for example, through miscarriage) 20 weeks or later prior to the expected date of birth. The member must observe the required absence (to be outlined further below) in such a situation.¹⁵⁴

ADF members are entitled to *paid maternity leave* if they have worked a continuous period of 12 months of 'full-time service in the ADF, or any other employment recognised for the purpose of the *Maternity Leave (Commonwealth Employees) Act 1973*'.¹⁵⁵ PACMAN states that 'A member is not entitled to paid maternity leave for any period of absence before her first 12 months' qualifying service.' However,

[a] member with less than 12 months' qualifying service before a period of absence may be entitled to salary if she completes the 12 months during the period of absence. She is entitled for any period of absence that meets both of these conditions:

- a) It starts when she completes 12 months' qualifying service
- b) It ends when the member has had 14 weeks maternity leave.¹⁵⁶

Reservists not on continuous full-time service are not eligible for paid or unpaid maternity leave from the ADF, however they are entitled to a 52 week break from their minimum training service obligation.¹⁵⁷

Parental leave

Members are entitled to paid parental leave if they:

- are on continuous full-time service
- become the parent of, or take 'full parental responsibility for, a newborn or adopted dependent child'
- 'are not entitled to paid maternity leave'.¹⁵⁸

Similar eligibility conditions apply to unpaid parental leave although a member who has taken 52 weeks' maternity leave may then take up to 14 weeks' parental leave.¹⁵⁹ Reservists are not eligible for parental leave but can be granted up to 66 weeks' break in their service obligations.¹⁶⁰

What are the conditions of maternity and parental leave?

Maternity leave

Paid maternity leave, including leave taken at half pay, is considered a period of effective service. Unpaid maternity leave is not a period of effective service. PACMAN states that the following conditions apply to unpaid maternity leave:

- a) It counts as continuous service.
- b) It will not break continuity of service if the conditions for a particular entitlement are met.
- c) The member is not required to remain fit or deployable.
- d) The member continues to receive free medical care. The member is not returned to the payroll for hospitalisation, treatment, illness or convalescence.
- e) The member keeps their housing assistance.¹⁶¹

A member who believes she is pregnant must report to an ADF health facility and Command is informed when a pregnancy is confirmed.¹⁶² Members must take a period of 'required absence' during the latter stages of pregnancy and following childbirth. Generally this is from six weeks before the expected date of birth until six weeks after the actual date of birth, although as discussed further below, a member may be given permission to work during this period.¹⁶³

The period of 'required absence' will generally form part of a member's maternity leave. It is not in addition to the 52 weeks' maternity leave.

PACMAN states that:

A member cannot be made to go on maternity leave earlier than six weeks before the expected date of birth. A medical officer or doctor may declare a member unfit for duty for reasons related to her pregnancy. In this case, the normal ADF fitness for duty arrangements must apply. They apply until the member is declared fit for duty or her required absence starts. The member may be considered fit for other duties. One of the purposes of maternity leave is to recognise that a member may not be fit for duty because of her pregnancy. If a member is placed on convalescence at the same time [provided] for maternity leave, they should happen at the same time.¹⁶⁴

A member may be given permission to continue to perform duty during the period of required absence. A medical certificate is required for this to be approved. A similar situation applies if a member wishes to resume duty during the required absence.¹⁶⁵ The ADF has advised that this process is simple, although approval is variable depending on the member's condition and the recommendations of her specialist obstetrician and ADF medical officer.¹⁶⁶

If a member who is already on leave without pay becomes pregnant, she must serve the original period of leave without pay. She must also observe the required absence, however, if the required absence overlaps with the existing leave without pay, she will not be paid for the overlapping period of required absence. The member is entitled to maternity leave from the day after the end of the leave without pay until the day 52 weeks after the required absence begins.¹⁶⁷

Parental leave

Parental leave must be taken within 66 weeks from the date of birth or adoption. Paid parental leave can only be taken as one unbroken two week period or two periods of up to one week each. Unpaid parental leave can be split into separate periods of leave.¹⁶⁸

How does ADF maternity leave interact with national Paid Parental Leave scheme?

The Commonwealth Government's Paid Parental Leave scheme provides up to 18 weeks parental leave, paid at the national minimum wage, to eligible working parents who are the primary carer of a child born or adopted after 1 January 2011. This pay is in addition to any paid maternity or parental leave provided by Defence. It must be taken within the 52 week period from the date of birth or adoption.¹⁶⁹

The eligible parent must be absent from work to receive Parental Leave Pay. PACMAN states that 'This may be on paid or unpaid leave – or a break in training for Reserves.'¹⁷⁰

Receipt of Parental Leave Pay under the Commonwealth Government Scheme does not affect access to the ADF's maternity and parental leave provisions.¹⁷¹

Appendix M.2 – Flexible Working Arrangements – Policy Overview

The ADF's policy on flexible working arrangements is set out in *Defence Instruction (General) Personnel 49-4 Flexible work arrangements for members of the Australian Defence Force*. Conditions related to part-time leave without pay are also included in PACMAN.

Types of flexible working arrangements currently available to ADF members

The following flexible working arrangements are available to ADF members:

- Temporary home located work, which can be used 'in a temporary or occasional arrangement, or as an ongoing arrangement for a specified time, on a part-time or full-time basis.'¹⁷²
- Variable working hours, under which members may 'vary their start and finish times and periods of absence from the workplace to suit their individual circumstances. This may be used in one-off cases or as an ongoing arrangement.'¹⁷³
- Part-time leave without pay (PTLWOP), which enables members to work a reduced number of days in any fortnightly pay period. Under the policy, PTLWOP includes job sharing.¹⁷⁴

Eligibility for flexible working arrangements

All ADF members may apply for temporary home-located work and variable working hours. PTLWOP is only available to members on continuous full time service, and will generally not be approved for members of the Reserve unless the Reservist is on continuous full-time service. In order to be eligible for a flexible working arrangement, a member:

must have completed initial recruit or specialist training, and any period of service to consolidate that training as considered necessary by the CDF or his authorised officer. Defence Members employed overseas on warlike and non-warlike (operational) deployments, on overseas representational duties, overseas exchange programs or on secondment are not eligible for PTLWOP.¹⁷⁵

Members returning from maternity or parental leave 'are entitled to PTLWOP in the two-year period immediately following the birth, or in the case of adoption, the date of placement, of a child or children' where applications for PTLWOP are made in these circumstances, they are 'to be recommended and approved, unless genuine operational requirements exist.'¹⁷⁶

Flexible working arrangements may be considered appropriate in various situations, including:

- allowing greater participation in the care and nurturing of a child, or children, in the two year period immediately following the birth, or in the case of adoption, the date of placement, of a child or children
- enabling respite from arduous periods of ADF service
- fulfilling education, training or other aspirations without terminating ADF Service

- enabling members to meet their personal responsibilities and obligations
- wherever practical, enabling members who are accompanying their spouse or Service-recognised interdependent partner on posting interstate or overseas, to continue working instead of taking Leave Without Pay (LWOP).¹⁷⁷

Application and approval process

Applications are considered on a case-by-case basis. Approval authorities vary depending on the type of flexible working arrangement. For temporary home located work, applications may be approved by the commanding officer (CO)/supervisor (rank must be at least major or equivalent). For variable working hours, applications may be approved by the CO/supervisor (rank must be major or equivalent, or an appropriate delegate). For PTLWOP, applications may be approved by an authority authorised by the Chief of Defence Force, within the career management agencies.¹⁷⁸

The Instruction sets out specific roles and responsibilities for those involved in the application and approval process.

For members, these include identifying the type of flexible working arrangements most appropriate for their circumstances, submitting an application to their CO/supervisor, and ensuring that any application for PTLWOP is also made to the relevant career management agency.

For COs/supervisors, responsibilities include managing workforce and capability issues, providing members with assistance about flexible working arrangements if required, considering 'all FWA [flexible working arrangement] applications in a fair and equitable manner' (noting that external scrutiny will apply to applications that are not approved or recommended), forwarding all applications (regardless of whether or not they are approved) to the career management agency for appropriate action and collection of statistics, maintaining documentation outlining reasons why an application has not been approved and providing these reasons to the member in writing, working with members to manage requirements and workload, regularly reviewing the effectiveness of the flexible working arrangement and including members on flexible working arrangements in workplace activities. Units are responsible for timely processing of flexible work applications.

For career management agencies, responsibilities include working with the member and their CO/supervisor to meet individual and workforce/capability needs, maintaining statistical records for all types of flexible work that are formally applied for and whether these have been approved or not approved, acting as the Approving Authority for PTLWOP applications and processing these applications when received, endeavouring 'not to post a Defence Member during approved periods of PTLWOP, unless genuine operational priorities determine otherwise', and recording details of approved PTLWOP applications on the ADF's personnel management system.¹⁷⁹

As applicable, members who are applying for a flexible working arrangement are encouraged to:

- present a convincing case highlighting personal attributes and the 'associated merits of being employed under a [flexible working] arrangement'
- research employment options in advance, such as locating an appropriate position or task, or another member with whom to job share
- be realistic about whether a unit is likely to be able to support a flexible working position, and prepared to be flexible during negotiations
- be flexible in negotiations for a flexible working arrangement
- allow sufficient time for consideration of the application.¹⁸⁰

When negotiating a flexible working arrangement, managers and members must consider:

- reasons for the request
- duration of the proposed arrangement
- advantages for the member

- advantages for the unit (such as reduced absenteeism, staff retention, and development of skills that are beneficial to the unit)
- whether the duties are suitable for the proposed flexible working arrangement
- the potential impact on the unit's operational effectiveness.¹⁸¹

Managers and members should establish agreed hours of work and communications procedures, and how work will be assessed. Where home-based work is proposed, members and the ADF should consider whether:

- any equipment will be required to enable the member to safely undertake work at home
- the working environment is healthy and safe
- security arrangements are required
- the person who would be working from home is capable of doing so safely and efficiently.¹⁸²

For Army, it should also be considered whether the member's career progression will be affected by any impact of PTLWOP on seniority.¹⁸³

The Instruction notes a number of work areas that may not be suitable for flexible working arrangements, including:

- seagoing or field postings
- jobs that require daily direct customer face to face contact
- situations where regular, face to face contact with other team Defence Members is an integral part of the job
- jobs where access to specialised requirements or classified information is required
- where supervisory or divisional responsibilities may conflict with [flexible working arrangements]
- where the Defence Member is posted to a training establishment
- where equipment or services required to undertake the proposed work cannot be reasonably provided by the Commonwealth.¹⁸⁴

If an application for flexible working arrangements is not approved, members may go through the ADF's Redress of Grievance process. Within Navy, the Navy Personnel Career Management Agency may be able to arrange an alternative place of employment on a case-by-case basis if an application for flexible working arrangements cannot be accommodated in the member's existing workplace. In Air Force, if an application is rejected the member can submit another application for the same or different type of flexible working arrangement through their Chain of Command/Approval Authority.¹⁸⁵

Conditions applying to all flexible working arrangements

Duration

A member may be permitted to use a flexible working arrangement for a maximum of two years per application 'or the remaining tenure of the current posting'. The minimum period for a PTLWOP arrangement is three months.¹⁸⁶

Geographic location

Members can use a flexible working arrangement remote from their posted position, if this is approved and it is cost-neutral to the ADF. Members who are on leave without pay overseas can be employed on a flexible working arrangement, provided that they meet the conditions set out in the Defence Instruction.¹⁸⁷

Additional hours

The Instruction states that 'Members on FWA [flexible working arrangements] may be required to work extra hours in addition to those specified in the FWA [flexible work agreement].'¹⁸⁸

Variation/cancellation/termination

A flexible working arrangement can be varied or cancelled in some circumstances.¹⁸⁹ The policy specifies that at least one month's notice should usually be given to vary or terminate a flexible working arrangement. It also states 'In any job-shared situation, termination of one FWA [flexible working arrangement] may result in the termination of the second FWA [flexible working arrangement] if suitable arrangements cannot be made.'¹⁹⁰

Obligation to meet Service requirements (including individual readiness)

Members on flexible working arrangements must still serve if and when required, including sea duty, deployment and/or exercise. Where this occurs, a flexible working arrangement would usually be temporarily suspended.¹⁹¹

In cases where a member is on PTLWOP, if service is undertaken away from the geographic location of the PTLWOP position (for example, on deployment), the Defence member will usually be required to work full-time hours for the duration of those duties. Generally the member would return to their PTLWOP arrangement at the conclusion of those duties. The maximum duration of the PTLWOP agreement would not be extended by temporary reversion to full-time service.¹⁹² The policy states that:

Regardless of the geographic location of the duties, if the nature of those duties permits their discharge on a part-time basis, then, and at the discretion of the Defence Member's CO, the Defence Member may be permitted to remain on PTLWOP whilst undertaking those duties.¹⁹³

Sea duty can only be undertaken full-time. However, the shore component of a sea/shore roster may be able to be undertaken on a PTLWOP arrangement.¹⁹⁴

Individual readiness standards continue to apply to members on flexible working arrangements.¹⁹⁵

Communication

Ongoing communication is required between the unit and member on flexible working arrangements.¹⁹⁶

Impact on career – Performance appraisal

Members on flexible working arrangements are subject to the ADF's usual performance appraisal process, and if a member is on a flexible working arrangement, this is to be recorded on the appraisal form.¹⁹⁷ The ADF advised the Review that this is for several reasons:

- For the Defence Members: it is important that members working on [flexible working arrangements] have their goals and performance expectations clearly stated and measured against the hours/ conditions worked under the [flexible working arrangement]. This ensures fair assessments are made against explicit (rather than implied) goals and expectations.
- For supervisors: to ensure members are receiving and completing work with outcomes that are reflective of their hours worked. This can also be used as an assessment tool for the effectiveness of the [flexible working arrangement], which is reviewed at regular intervals.
- For the Career Management Agencies: it is to provide the CMA/PMA with an accurate description of the work undertaken in the reporting period and the environment in which the work was undertaken. This is important not only for promotion consideration (may show the member can work without constant supervision, is self-directed and self-disciplined) but may also help identify suitable candidates for positions where members are required to work independent of their chain of command or need to be able to make decisions with limited direction. It may also show that a member has the capacity to manage a heavy workload under significant time restrictions. On the whole, it can positively prove a member's capabilities and capacity for positions of greater responsibility.¹⁹⁸

Impact on career – Promotion – including effect on time in rank

The policy states that ‘Members on [flexible working arrangements] remain eligible for promotion provided they meet normal single-Service promotion criteria. For members on PTLWOP, seniority/time in rank may be calculated on a pro rata basis...’¹⁹⁹ As outlined in section 4.4 arrangements on this issue vary by Service. Part time leave without pay does not affect a member’s seniority in Air Force. However, pro rata calculations are used in Army (although the situation varies depending on whether the member is an officer or a soldier) and Navy to determine the member’s effective service, which is the basis of ‘time in rank’ calculations.

Specific conditions applying for part-time leave without pay

Members on PTLWOP must work a total of between one and nine full days per fortnight.²⁰⁰ This may be in the form of:

- a set number of workdays per fortnightly pay period, or
- a set number of part (work) days per fortnightly pay period, or
- an established period of time in which either a set number of whole or part days can be worked in any one fortnightly pay period.²⁰¹

Members who are involved in a job sharing arrangement would usually work a total of ten days in a fortnightly pay period, shared between the members concerned.²⁰²

Members on PTLWOP remain liable for posting, although where practical, career management agencies will ‘endeavour not to post members during periods of PTLWOP.’²⁰³

Salary is reduced on a pro-rata basis during periods of PTLWOP.²⁰⁴ The policy states that ‘Part-time leave without pay counts as service for salary increment purposes on a pro rata basis.’²⁰⁵ A period of PTLWOP may affect payment of some allowances and accrual of leave.²⁰⁶

If a member on PTLWOP requests maternity leave, the member’s salary during maternity leave will be paid as if the member had continued on PTLWOP during that period. Any recreation leave credit for service during maternity leave would also ‘be reduced as if the member had continued on PTLWOP until it would have ended.’²⁰⁷

Paid days of PTLWOP are counted towards any return of service obligation, at the rate of 1.4 days return of service per paid day.²⁰⁸

Specific conditions applying for temporary home-located work

The policy outlines a number of conditions for temporary home-located work, including:

- a requirement to ensure that the premises are safe
- ensuring that measures are in place to protect the security of Commonwealth assets and classified information
- guidelines to provide for access to the site where necessary.

It also sets out policies related to use of equipment and claims for work-related costs and compensation.²⁰⁹

Appendix M.3 – Defence Child Care Support

The ADF has a 'Defence Child Care Program' which is intended to 'facilitate priority of access to early childhood education and care for Defence families upon arrival in a new posting location, where the local community cannot meet the demand.'²¹⁰

The Defence Child Care Program has two elements:

1. Facilitating priority access to early childhood education and care in Defence Long Day Care and Out of School Hours Care centres. Mission Australia Early Learning Services has operated Defence's child care centres since 1 July 2012. Child care places are available at 20 locations across Australia under this component of the Defence Child Care Program.²¹¹
2. Facilitating access to and sponsorship of Family Day Care under the Extended Child Care Program, including supporting partners of Defence members to become carers. Defence provides \$290,000 per annum to the Extended Child Care Program for 185 places at Darwin Family Day Care, Port Stephens Newcastle, Kath Dickson Toowoomba, Bright Futures Kwinana WA and Wagga Wagga Family Day Care.²¹² When a place at one of these centres is accepted, the Defence family is required to pay the full rate charged.²¹³

The ADF's child care activities are managed by the Defence Community Organisation.

Some funding for child care is provided to Defence families under the Partner Education and Employment Program. Where a partner is 'pursuing job search activities such as travelling to appointments, participating in training, preparing job applications or attending interviews', reimbursement of up to \$250 per child per posting is available for child care costs through a registered child care provider. Families may also be able to access emergency support funding, including for child care, under the Emergency Support for Families Scheme.²¹⁴ However, Defence families are generally expected to pay for child care expenses. The ADF has advised that fees range between \$62-92 per day depending on location, and fees are determined by benchmarking against similar child care services in the area.²¹⁵

Appendix M.4 – Child Care Priority of Access Guidelines – Points Allocation²¹⁶

Category	Criteria	Points allocation per category
A	At least one parent is an ADF member.	5
B	At least one parent is a Defence APS employee.	4
C	At least one parent is a Reserve member not on continuous full time service.	1 <i>(Reserve members given Category C recognition must vacate their placement within one month should it be required by permanent Defence Personnel.)</i>
D	Mobility. Defence Personnel have undertaken a Defence relocation to a new posting locality.	4
E	The child's parent is: single or unaccompanied, is a dual Defence Personnel family, or Defence Personnel returning from maternity leave.	1

