

Eleven Wentworth Chambers

Parental and Extended Leave Policy

This Policy substantially adopts the Model Parental and Other Extended Leave Best Practice Guideline approved by Bar Council on 24 March 2022.

1. Who does this Policy apply to?

1.1 This Policy applies to:

- a) members, licensees and readers of Eleven Wentworth (**Chambers**); and
- b) all eligible employees engaged by Chambers.

2. Definitions

2.1. Terms used in this Policy are defined in Schedule A.

3. Members/licensees of Chambers

3.1 In the event that any member or licensee of Chambers decides to take parental or extended leave that is:

- a) Parental leave in connection with the birth or adoption of a child; or
- b) Carer's leave, to care for a dependent; or
- c) Personal leave in connection with their own illness, injury or disability or, in connection with the serious illness, serious injury or death of the member's/licensee's spouse, de facto partner or child;

then:

- d) that member or licensee is permitted to sub-licence his or her room for the duration of the leave:
 - i. to a sub-licensee approved by the Board of Chambers in accordance with the usual procedures and criteria relevant to any applicant seeking accommodation in Chambers; and

- ii. on terms approved by the Board of Chambers in accordance with the general principle that the member or licensee taking leave may recover from the sub-licensee the costs of owning or licensing the room during the period of leave (including any monthly fees payable to Counsels Chambers Limited) and may require the sub-licensee to pay floor fees payable to Chambers in respect of the room during the period of leave, but shall not profit from the sub-licence;
- e) If, after that member's or licensee's reasonable efforts, the member or licensee is unable to secure a suitable barrister to sub-licence his or her room, the Board of Chambers will take on the responsibility of seeking to secure a suitable barrister to sub-licence their room.
 - f) If the member or licensee, and the Board, are both unable to secure a suitable sub-licensee, then Chambers will absorb that barrister's chambers fees¹ for a period of six months while the barrister is on leave.
 - g) Any room or space occupied by a member or licensee of Chambers prior to them taking leave will remain open during the period of leave for a minimum of one year. This applies to each pregnancy and/or adoption in relation to parental leave.
 - h) The member or licensee will be offered a period of six months free of chambers fees² during the period of leave.
 - i) In the case of licensees taking parental or extended leave, upon returning from leave the licensee will be accommodated, at a minimum, for the period of the licence that was outstanding at the time they commenced leave (if the licence was for a fixed term) or for a period of 6 months (whichever is the longer period)³ (the **minimum period**). The nature of the accommodation provided to a licensee during the minimum period will depend upon the circumstances existing at the time and will be a matter for the Board of Chambers to determine at its discretion. Owing to space limitations, and the arrival of new readers in chambers each year, sometimes it may not be possible for the licensee to remain in the room occupied

¹ In the case of members, this means floor fees. In the case of licensees, this means rent and floor fees.

² See footnote 1 above.

³ For example, a licensee who takes leave 3 months into their 12 month licence will upon their return be accommodated for a period of at least 9 months. A licensee who takes leave 10 months into their 12 month licence will upon their return be accommodated for a period of at least 6 months.

by the licensee prior to taking leave or an equivalent room. If no such room is available, the licensee will be given permission to “float” in Chambers for the minimum period, and room sharing may also be permitted in accordance with clause 5 below.

4. Readers

- 4.1 If any reader of Chambers takes parental or extended leave during their period of readership, then:
- a) the reader will not pay any rent or chambers fees during the period of leave (which is the Chambers’ practice for a reader during the period of their readership in any event);
 - b) upon the returning from leave, the reader will be accommodated, at a minimum, for the period of their readership that was outstanding at the time that they commenced leave or for a period of 6 months (whichever is the longer period)⁴ (the **minimum period**). The nature of the accommodation provided to a reader during the minimum period will depend upon the circumstances existing at the time and will be a matter for the Board of Chamber to determine at its discretion. Owing to space limitations, and the arrival of new readers in chambers each year, sometimes it may not be possible for the reader to remain in the room occupied by the reader prior to taking leave or an equivalent room. If no such room is available, the reader will be given permission to “float” in Chambers, and room sharing may also be permitted in accordance with clause 5 below.

5. Room sharing

- 5.1 Upon returning to chambers after a period of parental or extended leave, a member/licensee/reader may be permitted to room share where requested for a period of time and on such terms as agreed to by the Board of Chambers. Such a room share arrangement may apply to time-share of a room or two barristers sharing a room full time. In any room share arrangement, the licensee and barrister

⁴ For example, a reader who takes leave 6 months into their 12 month readership period will upon their return be accommodated for a period of at least 6 months. A reader who takes leave 10 months into their 12 month readership period will upon their return be accommodated for a period of at least 6 months.

proposed to share that room will be subject to the usual procedures relevant to any applicant seeking accommodation in Chambers.

6. Other provisions relating to leave

- 6.1 At Chambers' discretion, extended leave taken in connection with the illness or injury or disability (as applicable) of a Chambers' member/licensee, or their spouse, de facto partner or child, may be subject to the provision of supporting medical documentation.
- 6.2 All members/licensees/readers who take parental or extended leave, while on leave:
- a. Are encouraged to maintain contact with chambers and will continue to receive all Chambers emails and communications while on leave.
 - b. Will be informed in a timely manner by the Clerk of any changes and/or decisions relevant to the Chambers likely to affect the member/licensee on leave.
 - c. Will be offered opportunities to receive appropriate work, where such work is available, where requested. The onus is on the member/licensee/reader taking the leave to advise the Clerk if and when she or he is available to accept work and to ensure that she or he maintains a current practising certificate and insurance.
 - d. Will be invited to and notified of social functions, events and continuing professional development events arranged by Chambers.
 - e. Will (if listed on the Chambers website before that leave) continue to be listed on the Chambers' website in the same or a similar manner, and referred to in Chambers' communications whilst on leave in their capacity as a member or licensee, as appropriate.
 - f. Will be offered the opportunity and have assistance with setting up home-based work arrangements including remote access to work email accounts, reasonable assistance with receiving scanned briefs and access to clerk services where requested.
- 6.3 Upon returning to chambers after a period of parental or extended leave, the member/licensee/reader:

- a. May be offered appropriate work, where such work is available and where requested, for the purpose of assisting with re-establishing the member's/licensee's/reader's practice;
- b. May be provided with the opportunity to return to chambers on a part time basis where requested and will be offered the opportunity and have assistance with setting up home-based work arrangements in accordance with clause 6.2(f) above.

7. Eligible employees

- 7.1 All eligible employees of Chambers will be provided parental leave, associated entitlements and the right to request flexible workplace arrangements in accordance with Part 2-2, Divisions 4 and 5, of the *Fair Work Act 2009* (Cth) (**FW Act**).
- 7.2 All eligible employees on leave are encouraged to maintain contact with chambers, including as contemplated under section 79A of the FW Act, and will continue to receive all Chambers emails and communications while on leave.
- 7.3 All employees of the Chambers have the protections afforded to them in respect of periods of leave taken because of illness or injury under section 352 of the FW Act.
- 7.4 Employees of the Chambers are entitled to:
 - a) paid personal/carer's leave under Part 2-2, Division 7 of the FW Act – other than casual employees; and
 - b) unpaid carer's leave and other relevant unpaid leave under Part 2-2, Division 7 of the FW Act.

8. Enquiries/grievance/complaints procedure

- 8.1 Any enquiry about this Policy can be made to the Clerk.
- 8.2 Any concern or complaint made in respect of this Policy should be made in accordance with the Chambers Grievance and Complaint Framework.

9. Contravention

- 9.1 Conduct found to have contravened this Policy may result in:
 - a) disciplinary action including termination of employment; and/or

- b) a complaint being made to the Commissioner for Uniform Legal Services Regulation under Part 5.2 of the Legal Profession Uniform Law and/or other relevant body where appropriate.

10. Publication and education

10.1 The Board of Chambers and/or the Clerk will:

- a) Publish this Policy in a place accessible to relevant persons;
- b) Inform new members, licensees, readers and/or workers of Chambers of this Policy upon that person joining Chambers;
- c) Provide appropriate training in and information about the operation and effect of this Policy;
- d) Regularly remind floor members, licensees and/or workers of their obligations under this Policy; and
- e) Review the content and operation of this Policy from time to time as necessary.

Adopted by the Board of Chambers

28 October 2022

Schedule A

Sections 13 and 60 of the FW Act provides the definition of employee for the purposes of that employee's entitlement under Part 2-2 of the FW Act to parental leave, carer's leave and/or personal leave.

Barrister means 'barrister' as defined in section 6 of the *Legal Profession Uniform Law*.

Child has the meaning in section 17 of the FW Act.

Dependant means:

- any child or step-child of the person (whether or not under the age of 18 years) who is (i) wholly or substantially dependent on the person, or (ii) in need of care or support, or
- any child or adult who is in need of care or support and:
 - of whom the person is guardian, or
 - for whom the person has parental responsibility under a law of the Commonwealth or this State, or
 - in relation to whom the person is an authorised carer within the meaning of the *Children and Young Persons (Care and Protection) Act 1998* (NSW), or
- any immediate family member of the person who is in need of care or support, being one of the following:
 - a spouse or former spouse of the person or of a spouse or former spouse of the person,
 - a grandchild or step-grandchild of the person or of a spouse or former spouse of the person,
 - a parent or step-parent of the person or of a spouse or former spouse of the person,
 - a grandparent or step-grandparent of the person or of a spouse or former spouse of the person,
 - a brother or sister, or step-brother or sister, of the person or of a spouse or former spouse of the person.
- any family member of the person who is in need of care or support referred to in the above dot points as well as any person to whom, by reason of familial connection, kinship or cultural reasons, that person is obliged to provide care or support.

Eligible employee in respect of parental leave and requests for flexible work arrangements under Part 2-2, Divisions 4 and 5 of the FW Act, means:

- an employee, other than a casual employee, who has completed at least 12 months continuous service with the employer immediately before the relevant date under Part 2-2, Divisions 4 and/or 5, of the FW Act; or
- an employee who is a long term casual employee with a reasonable expectation of continuing employment by the employer on a regular and systematic basis (but for the birth of the relevant child, the taking of leave or the placement of the adopted child).

Extended leave means a period of leave of up to 12 months (and longer at the discretion of the Chambers) taken by a member/licensee/reader of Chambers during which he or she does not practice full-time as a barrister, being:

- carer's leave, to care for a dependant; or
- personal leave in connection with their own illness, injury or disability or, in connection with the serious illness, serious injury or death of the member's/licensee's spouse, de facto partner or child; or
- leave in connection with the death of a person in respect of which, by reason of familial connection, kinship or cultural reasons, the member/licensee/reader is obliged to take leave

but not being parental leave in connection with the birth or adoption of a child.

Parental leave in respect of eligible employees has the meaning given in Part 2-2, Division 5, of the FW Act.

Parental leave (other than in respect of an eligible employee) means a period of leave of up to 12 months (and longer at the discretion of the Chambers) taken by a member/licensee/reader of Chambers during which he or she does not practice full-time as a barrister and that is associated with:

- the birth of a child of a member/licensee of Chambers or a member's/licensee's spouse or de facto partner; or
- the placement of a child with the member/licensee of Chambers, or a member's/licensee's spouse or de facto partner, for adoption,

where the member/licensee of Chambers has or will have a responsibility for the care of the child.