

**Sixth Floor Limited**  
**Parental Leave Policy**

**1. INTRODUCTION**

- 1.1 This is the Parental Leave Policy of the Sixth Floor Limited, which operates barristers' chambers at level 6, 174-180 Phillip Street, Sydney, and levels 9 to 11, 233 Macquarie Street, Sydney ('**Sixth Floor**').
- 1.2. The purpose of this Parental Leave Policy is to:
- (a) provide a framework in which parental leave can be facilitated on the Sixth Floor;
  - (b) assist with the elimination and prevention of all forms of unlawful pregnancy, sex, family responsibilities and carers' leave discrimination on the Sixth Floor;
  - (c) record that the Sixth Floor has adopted this Parental Leave Policy, including for the purposes of assisting to minimise the risk of liability associated with any contravention of the relevant laws;
  - (d) implement a procedure whereby any complaint relating to conduct in contravention or alleged contravention of this policy and/or the relevant laws can be dealt with in accordance with the Sixth Floor Grievance Handling Policy.

**2. THE LAW**

- 2.1. Under Part 2-2, Divisions 4 and 5, of the *Fair Work Act 2009* (Cth) ('**FW Act**'), employers employing eligible employees owe those employees specific obligations in respect of parental leave, as well as the right to request flexible workplace arrangements.
- 2.2. The *Anti-Discrimination Act 1977* (NSW) as well as the *Sex Discrimination Act 1984* (Cth), the *Disability Discrimination Act 1992* (Cth), and the FW Act (the '**relevant laws**') make it generally unlawful to discriminate on the grounds of pregnancy, sex, family responsibilities and/or carer's responsibilities, as well as on the basis of disability, in most areas of work and in the provision of services.
- 2.3. Rule 123 of the Legal Profession Uniform Conduct (Barristers) Rules 2015 relevantly provides that a barrister must not in the course of practice, engage in conduct which constitutes (a) discrimination; or (b) sexual harassment.
- 2.4. Discrimination and/or sexual harassment can also constitute a breach of other rules in the Legal Profession Uniform Conduct (Barristers) Rules 2015.
- 2.5. Discrimination and/or sexual harassment, including where it constitutes a breach of the Legal Profession Uniform Conduct (Barristers) Rules 2015, can constitute professional misconduct and/or unsatisfactory professional conduct within the meaning of Division 1 of Part 5.4 of the *Legal Profession Uniform Law* (NSW) ("**Legal Profession Uniform Law**").
- 2.6. Nothing in this Parental Leave Policy affects any rights or entitlements under the federal government paid parent leave scheme.

**3. LIABILITY**

- 3.1. An employer, principal or legal practitioner who fails to take all reasonable steps to prevent employees, agents or fellow workplace participants from engaging in unlawful

discrimination may be vicariously liability for such acts or treated as permitting those acts to have occurred.

- 3.2. Any legal practitioner may be:
- (a) personally liability under the relevant laws for conduct constituting unlawful discrimination, harassment, vilification and/or victimisation; and/or
  - (b) found to have engaged in professional misconduct and/or unsatisfactory professional conduct within the meaning of Division 1, Part 5.4 of the Legal Profession Uniform Law by reason of having engaged in conduct constituting unlawful discrimination, harassment, vilification and/or victimisation.

#### **4. APPLICATION OF THIS PARENTAL LEAVE POLICY**

- 4.1. This Parental Leave Policy is applicable to:
- (a) all members of the Sixth Floor (being shareholders, associate members, licensees and readers) ('**Barristers**'); and
  - (b) all workers engaged by the Sixth Floor Ltd ('**Workers**').

#### **5. POLICY IN RESPECT OF BARRISTERS**

- 5.1. In the event that any Barrister decides to take leave in connection with the birth or adoption of a child for the purpose of being the child's carer:
- (a) that Barrister is permitted to licence (in the case of floor members) or sub-licence (in the case of licensees) his or her room for the duration of the parental leave. Such licence or sub-licence will be in accordance with the usual procedures relevant to any applicant seeking accommodation on the Sixth Floor;
  - (b) that Barrister is encouraged to discuss their parental leave plans with the Clerk, who will treat any such discussion with discretion. The Clerk will also assist with finding an appropriate license or sub-license arrangement;
  - (c) that Barrister is relieved from the requirement to pay the monthly clerk's fee for each full month of parental leave taken up to a maximum of six full months, with the option to utilise the fee relief while on parental leave or when returning to work and regardless of whether their room is subject to any license or sub-license arrangement.
- 5.2. Barristers on parental leave:
- (a) are encouraged to maintain contact with the Sixth Floor and will continue to receive all Sixth Floor emails and communications while on leave;
  - (b) the Clerk and/or the Floor Secretary will ensure that any changes and/or decisions relevant to the Sixth Floor likely to affect the Barrister on leave are communicated to that Barrister in a timely manner;
  - (c) will be offered opportunities to receive appropriate work, where such work is available, while on leave and where they indicate an interest in receiving such work. The onus is on the Barrister taking the leave to advise the Clerk or the Floor

Secretary if and when he or she is available to accept work and to ensure that he or she maintains a current practising certificate and insurance;

- (d) will be invited to and notified of social functions, events and continuing professional development events arrange by the Sixth Floor;
- (e) will be offered the opportunity and have assistance with setting up home-based work arrangements including remote access to work email accounts, receiving scanned briefs and access to clerk services;
- (f) are encouraged to make use of the Floor's mentoring policy when returning from parental leave, under which barristers who chose to will be paired with mentors who will provide guidance and assistance with continuing their practices and with balancing work at the Bar with parental responsibilities.

## **6. POLICY IN RESPECT OF WORKERS**

- 6.1 All Workers 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 FW Act.
- 6.2. All Workers on leave are encouraged to maintain contact with the Sixth Floor, Including as contemplated under section 79A of the FW Act, and will continue to receive all Sixth Floor emails and communications while on leave.

## **7. GRIEVANCE/COMPLAINTS PROCEDURE**

- 7.1. Any enquiry, concern or complaint (collectively, '**grievance**') made in respect of this policy should be made in accordance with the Sixth Floor Grievance Handling Policy.

## **8. ADDITIONAL MATTERS**

- 8.1. The Sixth Floor will:
  - (a) publish this Parental Leave Policy in a place accessible to relevant persons;
  - (b) inform new Barristers and Workers of this Parental Leave Policy upon that person commencing work at the Sixth Floor;
  - (c) provide appropriate training in and information about the operation and effect of this Parental Leave Policy;
  - (d) regularly remind Barristers and Workers of their obligations under this Parental Leave Policy;
  - (e) review the content and operation of this Parental Leave Policy from time to time as necessary.

**Date:** 30 October 2018