

Family Leave

Your rights to take time off work for family matters

Overview

Most people are aware of the entitlement to maternity leave. But the right to paternity leave and time off to deal with unexpected or emergency situations involving your dependants is less well known. This factsheet will tell you more about your rights to paternity and family leave.

If you are interested in maternity rights rather than family leave, the factsheet '**Maternity Rights**' is available on our website. You might also want to read the factsheets '**Health and Safety issues for pregnant women in the workplace**' and '**Flexible working**'.



Paternity Leave

You are eligible for up to two weeks paid paternity leave if you are an employee with a contract of employment (most agency workers and sub-contractors don't have the right to paid paternity leave) and are the biological father of the child, or the mother's husband or partner (including a partner in a same-sex relationship).

You have the right to paid paternity leave if you earn more than the Lower Earnings Limit for National Insurance contributions (£112 a week from 6th April 2015). The rate of payment is the lesser of £139.58 a week from 6th April 2015 or 90% of your average weekly earnings. If you earn less than £112 a week, you have the right to unpaid paternity leave if you meet the other conditions, and you could get Income Support while on paternity leave.

You are entitled to take paternity leave if you have worked for your employer for 26 weeks by the 15th week before the baby is due – this is known as the 'Qualifying Week'. As a rough guide, you should qualify if you worked for that employer when your partner became pregnant.

You must give notice to your employer that you want to take paternity leave by the 'Qualifying Week', and at least 28 days notice of when you want to take your leave.

You can take one or two week's paternity leave. You cannot take odd days off, and if you take two weeks they must be taken together. You can choose to start the leave on the day the baby is born, a number of days or weeks after the birth, or from a specific date after the first day of the week in which the baby is due.

You cannot start your paternity leave before the baby is born. Your leave can start on any day of the week, but must finish within 56 days of the baby being born or, if the baby is born before the week it was due, within 56 days of the first day of that week.

Shared Parental Leave

Parents or adopters of a baby born or placed for adoption on or after 5th April 2015 may be eligible to take Shared Parental Leave (SPL) and receive shared parental pay. This involves the mother or primary adopter returning to work and ending their leave so that their partner can share the remainder as SPL. Please see our factsheet on '**Shared Parental Leave**' for more details.



Did you know you have the right to paternity leave and time off to deal with unexpected situations or emergencies involving your dependants?



Continue overleaf >

Time off for dependants

You are entitled to take reasonable time off work to take action which is necessary to deal with unexpected events or emergencies involving your dependants.

A dependant is defined as a spouse or civil partner, child, parent or someone who lives in your household and is not your employee, tenant, lodger or boarder. In certain circumstances, other people who reasonably rely on you may also fall within this definition.

Examples of situations where you are entitled to take time off include: when a dependant falls ill, gives birth or is injured or assaulted; if you need to make arrangements to provide care for a dependant who is ill or injured; if a dependant dies; if there is an unexpected interruption or termination of arrangements for the care of a dependant; or if your child is involved in an unexpected incident at school or other educational establishment. You must tell your employer the reason for your absence as soon as you can.

Parental Leave

Parental leave is a form of statutory unpaid leave available to some working parents in addition to statutory maternity, paternity, shared parental leave and adoption leave. It gives parents the right to some unpaid time off to care for a child. To qualify for parental leave, you must have worked for your employer for a year or more and the leave has to be taken before the child's fifth birthday. There are special rules for adoptions (the five years runs from placement of the child) and for children in receipt of disability living allowance (where the cut off is the eighteenth birthday).

Each parent is entitled to take 18 weeks parental leave (in total, not per year) for each child up to their fifth birthday. Parental leave must be taken in weekly blocks up to a maximum of four weeks per year. If your child is entitled to Disability Living Allowance, you are entitled to 18 weeks parental leave in total, and you can take time off in days rather than weeks.

Your employment contract remains ongoing during parental leave, so you will continue to benefit from statutory rights during the period of absence, such as the accrual of statutory holiday entitlement. Your absence on parental leave will not break your continuity of service.

You must give at least 21 days notice when you want to take parental leave. To help your employer, it's best to give this notice in writing.

Your employer can postpone your leave for up to six months if they feel it would disrupt the business. They must give you notice of postponing your parental leave within seven days of you telling them that you want to take it. If the postponement goes past the end of the entitlement period, you can still take the leave.

Think you may have a claim?

If you are having difficulties with your employer over taking paternity or family leave, you should consider taking legal advice. You should do this quickly, because you may have only three months less one day from the date your employer refuses your leave to bring a claim in an Employment Tribunal.

If you are thinking about making an employment tribunal claim, you will first need to notify details of your claim to ACAS, who will then offer early conciliation to try to resolve the dispute. The conciliation period can be up to one month. If the claim does not settle, ACAS will issue a certificate confirming that the mandatory conciliation process has concluded.

There are changes to time periods within which to lodge claims to allow for the period during which a claim is with ACAS. The period within which a claim is with ACAS will not count for calculation of time limits; and if the time limit would usually expire during that period, or within the month after the certificate is issued, then you will have up to one month following receipt of the conciliation certificate in which to lodge a claim.

The process makes the calculation of time limits in employment tribunal cases more complicated. Claimants are advised to be aware of limitation issues and seek legal advice promptly. For further information on the ACAS early conciliation process visit: www.acas.org.uk.

Please see our '**Maternity Rights**' factsheets for further details about the rights you may have.

Please feel free to discuss your own position and concerns. Contact your nearest office on:

T: 0800 916 9015
E: enquiries@slatergordon.co.uk
W: www.slatergordon.co.uk

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