

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 'Returning to work 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 (£102 a week from 6th April 2011). The rate of payment is the lesser of £128.73 a week from 3rd April 2011 or 90% of your average weekly earnings. If you earn less than £102 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.

[New Rules April 2011](#)

If you are expecting a child on or after 3rd April 2011, or you are adopting a child which is matched with you on or after 3rd April 2011, you may be able to share leave between yourself and your partner. If your partner

hasn't used up all of their statutory maternity leave and has gone back to work, you can take the remainder of their leave off instead. This is called Additional Paternity Leave. You can take this after the baby is 20 weeks old but before they are one year old. You have to take the leave all in one go. You have to give your employer notice that you want to take Additional Paternity Leave. You also have to give them evidence that you are entitled to it. This includes a declaration from your partner that they have gone back to work. If your partner hasn't used up all her entitlement to statutory maternity pay or maternity allowance, you can be paid additional statutory paternity pay for the rest of the time they were entitled to it.

Please see our 'Paternity Rights' factsheet for more details.

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.

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



Parental Leave

Parental leave is a form of statutory unpaid leave available to some working parents in addition to statutory maternity, paternity 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 13 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.


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

Contact Us

Please feel free to discuss your own position and concerns. Contact your nearest Russell Jones & Walker office or call:

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 **Web: www.rjw.co.uk**

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This factsheet is for general guidance only and should not be treated as a definitive guide or be regarded as legal advice. If you need more details or information about the matters referred to in this factsheet please seek formal legal advice. This information was correct at time of going to press April 2011.