

PATERNITY LEAVE AND PAY FACTSHEET

Rights to paternity leave and pay were introduced in April 2003.

This document provides a basic summary of paternity leave and pay. It does not attempt to describe the detail, and should not be taken as an authoritative statement of the law.

Following the birth of a child, the new rights to paternity leave and pay will give eligible employees the right to take paid leave to care for the child or support the mother.

Eligibility

Employees must satisfy the following conditions in order to qualify for paternity leave. They must:

- have or expect to have responsibility for the child's upbringing
- be the biological father of the child or the mother's husband or partner
- have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due

Employers can ask their employees to provide a self-certificate (see below for further details) as evidence that they meet these eligibility conditions.

Length of paternity leave

Eligible employees can choose to take either one week or two consecutive weeks' paternity leave (not odd days).

They can choose to start their leave:

- from the date of the child's birth (whether this is earlier or later than expected), or
- from a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected), or
- from a chosen date later than the first day of the week in which the baby is expected to be born.

Leave can start on any day of the week on or following the child's birth but must be completed:

- within 56 days of the actual date of birth of the child, or
- if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.

Only one period of leave is available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

Statutory Paternity Pay

During their paternity leave, most employees are entitled to Statutory Paternity Pay (SPP) from their employers.

Statutory Paternity Pay is paid by employers for either one or two consecutive weeks as the employee has chosen. The rate of Statutory Paternity Pay is the same as the standard rate of Statutory Maternity Pay - from April 2005, this is £106 a week or 90% of average weekly earnings if this is less than £106.

Employees who have average weekly earnings below the Lower Earnings Limit for National Insurance purposes (£82 a week from April 2005) do not qualify for SPP. Employees who do not qualify for SPP, or who are normally low-paid, may be able to get Income Support while on paternity leave. Additional financial support may be available through Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant.

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Notice of intention to take paternity leave

Employees must inform their employers of their intention to take paternity leave by the end of the fifteenth week before the baby is expected, unless this is not reasonably practicable. They must tell their employers:

- the week the baby is due
- whether they wish to take one or two weeks' leave
- when they want their leave to start.

Employees can change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable). Employees must tell their employers the date they expect any payments of SPP to start at least 28 days in advance, unless this is not reasonably practicable.

Self certificate

Employees must give their employers a completed self-certificate as evidence of their entitlement to SPP.

Employers can also request a completed self certificate as evidence of entitlement to paternity leave. The self certificate must include a declaration that the employee meets certain eligibility conditions and provide the information specified above as part of the notice requirements.

By providing a completed self certificate, employees will be able to satisfy both the notice and evidence conditions for paternity leave and pay. Employers will not be expected to carry out any further checks.

Contractual benefits

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary (unless their contract of employment provides otherwise), throughout their paternity leave. However, most employees will be entitled to SPP for this period. If the employee has a contractual right to paternity leave as well as the statutory right, he may take advantage of whichever is the more favourable. Any paternity pay to which he has a contractual right reduces the amount of SPP to which he is entitled.

Return to work after paternity leave

Employees are entitled to return to the same job following paternity leave.

Protection from detriment and dismissal

Employees are protected from suffering unfair treatment or dismissal for taking, or seeking to take, paternity leave. Employees who believe they have been treated unfairly can complain to an employment tribunal.

Employers' recovery of payments

Employers can recover the amount of Statutory Paternity Pay (SPP) they pay out in the same way as they can claim back Statutory Maternity Pay. Employers can claim back 92% of the payments they make, with those eligible for small employers relief able to claim back 100% plus an additional amount in compensation for the employer's portion of National Insurance contributions paid on SPP.

In addition, employers who need can get funding in advance for payments of SPP from the HM Revenue and Customs.

Rights to parental leave and time off for dependants

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Employees – both mothers and fathers – who have completed one year's service with their employers are entitled to 13 weeks' (unpaid) parental leave to care for their child. Parental leave can usually be taken up to 5 years from the date of birth or in cases of adoption five years from the date of placement (or the child's 18th birthday, if that is sooner).

Parents of disabled children are entitled to 18 weeks' parental leave (previously 13 weeks) up to the child's 18th birthday, providing they have the qualifying length of service.