

23. Guidance on Managing Family Friendly Policies

1 OVERVIEW

It is good practice to have family friendly policies in place explaining the entitlements to leave and pay and ensuring that all employees are given support before, during and on their return from maternity, paternity, adoption or shared parental leave.

2 MATERNITY LEAVE - KEY POINTS

All employees are covered by maternity leave, including those on part-time contracts.

You should encourage employees to notify you as soon as possible of the pregnancy so that you can take any necessary steps to safeguard the safety of the employee and the unborn child. Employees should provide you with written notification by the 15th week before the expected week of childbirth (the qualifying week), of the following information:

- their pregnancy
- their expected week of childbirth, and
- the date they wish to start ordinary maternity leave period, which can be any time from the 11th week before the EWC.

The employee must also provide you with their MATB1 form (maternity certificate).

You should confirm in writing to the employee, the date of the expected start of maternity leave and the date of their expected return to work after maternity leave.

You should then have a meeting with your employee to discuss maternity arrangements, including; the amount of leave the employee can take and the payment arrangements, time off for ante-natal appointments, risk assessments that will be carried out and the opportunity to request flexible working on return from maternity leave.

Health and Safety

Conduct a Health and Safety Risk Assessment and take action to eliminate any risk. This may involve making adjustments to the role.

Time off for ante-natal care

The employee is entitled to paid time off during normal working hours to receive ante-natal care.

Length of maternity leave

Subject to meeting the notification requirements, an employee is entitled to 52 weeks' maternity leave in total, broken down as follows:

- 26 weeks' Ordinary Maternity Leave (OML), including a 2-week period of compulsory maternity leave (or 4 weeks for factory workers)
- 26 weeks' Additional Maternity Leave (AML).

During periods of maternity leave, an employee is entitled to receive normal contractual terms and conditions of employment, with the exception of remuneration.

Commencing maternity leave

Maternity leave can start at any time from the beginning of the 11th week before the expected week of childbirth.

Maternity pay

Dependent upon the employee's length of service, they may be entitled to receive Statutory Maternity Pay. If you do not qualify for SMP, they may be eligible to receive Maternity Allowance.

If you choose to operate a company maternity scheme, you should include this in your maternity policy.

Keeping in touch (KIT) days

Employees may work for up to 10 days during the maternity leave period without losing statutory payments or ending the entitlement to leave.

Holidays

Employees continue to accrue holidays during maternity leave. You should discuss with your employee the arrangements for the taking of the holiday days.

Returning to work

To ensure a smooth transition back to the workplace, it is good practice to meet with the employee to discuss arrangements for returning to work, any developments that have taken place at work, any appropriate training and any flexible working arrangements which have been agreed.

3 PATERNITY LEAVE

You should have in place a policy outlining the leave entitlements for employees wishing to take paternity leave and how employees should arrange this period of leave.

Employees will meet the eligibility criteria for paternity leave if they:

- are the child's father, the mother's husband or partner (whether of the same or different sex) or one partner in a couple who are both entitled to apply for, and propose to apply for, a Parental Order for the child
- have been employed and performed work for your employer for a minimum period of 26 weeks by the end of the 15th week before the expected week of childbirth (EWC)
- will be or expect to be responsible for the child's upbringing, where you are the father, or expect to be mainly responsible for the child's upbringing where you are the mother's husband or partner but not the father of the child
- have given the required notice of your intention to take leave
- have not previously taken shared parental leave for the same child.

When does paternity leave start?

Paternity leave lasts for a fixed period of one week or two consecutive weeks. Leave can be chosen to start:

- from the birth date or date of adoption (whether this date is sooner or later than anticipated) or
- on a specific day after the birth date or date of adoption (whether this day is sooner or later than anticipated) or
- from a specific date that is after the first day of the EWC (in birth cases and not adoption) or
- on a specific date, arranged in advance, that is after the expected placement date (in adoption cases).

Paternity leave following the birth of a child

The employee should notify the company of the intention to take paternity leave and the following information during or before the 15th week before the expected week of childbirth:

- the anticipated week of birth
- whether they intend to use one or two weeks' leave
- the date they wish the leave to begin.

Paternity pay

The employee may be entitled to receive statutory paternity pay (SPP), subject to eligibility criteria. SPP is paid at a specific rate set by the government each year, or at 90 per cent of the employee's average weekly pay during the relevant period, whichever is lower.

Contractual benefits

Whilst on paternity leave, the employee continues to be entitled to receive their normal terms and conditions of employment, other than wages or salary.

Returning to work

Following two weeks' paternity leave, the employee has the right to come back to the same job role.

If the employee wishes to change their working hours following paternity leave, they should be informed of the process to follow to make this request. You should fully consider the request and aim wherever possible to accommodate the change.

4 ADOPTION LEAVE

You should develop a policy outlining the entitlements for employees who are adopting a child, including notification requirements and rights to time off work.

If an employee is matched for adoption with a child, they may be entitled to either adoption leave or paternity leave. The main adopter's partner may be entitled to paternity leave. Main adopters are entitled to a total of 52 weeks' leave.

Time off for adoption appointments

Employees are entitled to time off to attend adoption appointments in the period between notification of a match and the date of placement.

Eligibility

Employees are entitled to adoption leave from the commencement of employment.

Ordinary and additional adoption leave

Adoption leave is divided into two categories, 'ordinary' and 'additional'. Each is for 26 weeks, with additional leave following on from ordinary adoption leave, giving 52 weeks leave in total.

During ordinary adoption leave and additional adoption leave, employees are entitled to their normal terms and conditions of employment, except salary (unless the contract of employment states otherwise).

Commencement of adoption leave

Adoption leave can start on the date of the child's placement (whether this is earlier or later than was expected), or on a predetermined fixed date no earlier than 14 days before the expected date of placement and no later than the date of placement. Adoption leave can start on any day of the week.

Notification requirements

Employees are required to give notice, in writing, of the intention to take adoption leave within seven days of being notified by the adoption agency that they have been matched with a child, unless this is not reasonably practicable. The notice must specify:

- the date the child is expected to be placed
- the date the employee would like the adoption leave to start.

Employees should provide the "matching certificate" from the adoption agency. The certificate will include basic information on matching and expected placement dates.

You should write to the employee to notify them of the date on which they are expected to return to work if the full entitlement to adoption leave is taken.

Returning to work

It is good practice to arrange a meeting with the employee on their return from adoption leave to ensure a smooth transition back to work.

Keeping In Touch days

The employee can work for up to 10 days during the adoption leave without losing statutory payments for that week, or ending the leave.

Adoption pay

The employee may be entitled to statutory adoption pay (SAP).

5 SHARED PARENTAL LEAVE

You should have a policy setting out the available entitlements for shared parental leave and the procedures employees should follow.

Due to the flexibility of the shared parental leave system, it is essential that employees understand the procedural requirements involved in taking leave.

The essential features of shared parental leave (SPL) are:

- eligible employees will be able to bring maternity leave to an early end and share the remaining leave entitlement
- eligible employees will have a certain amount of flexibility to decide which parent takes leave and when, including being on leave at the same time
- the maximum amount of leave to be shared is 50 weeks
- leave may be taken in minimum blocks of one week
- eligible employees may make up to three requests for leave, including any changes to previously booked leave.

Eligibility requirements

In order to take SPL, both the employee and their partner must meet certain eligibility criteria, including:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter
- have 26 weeks' service at the end of the 15th week before the expected week of childbirth (EWC)
- have a partner who meets the employment and earnings test (see below)
- share the primary responsibility for the child with the other parent at the time of the birth
- have made the required notifications in respect of their entitlement and have provided the necessary declarations and evidence
- be working for the Company until the week before any leave is taken.

Employment and earnings test

- The employee's partner must have, in the 66 weeks before the EWC, worked for at least 26 weeks and earned on average at least £30 a week in any 13 weeks.

Amount and timing of SPL

- Parents cannot take more than 52 weeks of leave in total made up of maternity or adoption leave and shared parental leave, but excluding paternity leave which is a standalone entitlement.
- Mothers are not able to share compulsory maternity leave entitlement of two weeks (or four weeks if the mother works in a factory environment).
- Shared parental leave can only be taken in minimum blocks of one week; it is not possible to take a day's shared parental leave. The minimum amount that can be taken is one week.

Entitlement to Shared Parental Pay

Shared Parental Pay (ShPP) can be paid to both parents for a maximum of 39 weeks in total.

To be eligible to receive ShPP, employees must:

- have been continuously employed for at least 26 weeks up to and including the "qualifying week" (the 15th week prior to the expected week of childbirth or placement for adoption)
- have average earnings not less than the lower earnings limit calculated over the eight weeks prior to the qualifying week
- comply with the notification requirements.

Notification requirements

The employee must provide the following information:

- name of employee
- name of partner
- the start and end dates of maternity/adoption leave
- the total amount of shared parental leave available
- the expected week of childbirth/placement
- an indication of how the employee and their partner think they will split and take shared parental leave.

If the employee is the mother, they must also provide a signed declaration and produce a signed declaration from the other parent confirming:

- his/her name and address
- that he/she meets the eligibility requirements
- that he/she consents to the employee taking the amount of leave it has been notified they intend to take
- that he/she permits the Company to process his/her information and
- that immediate notification will be made if any of the eligibility requirements cease to be met.

Curtailment notice

- Maternity/adoption leave must be curtailed (ended early) if shared parental leave is to be taken. The mother/main adopter must inform the Company that maternity/adoption leave will be brought to an end by providing a curtailment notice at the same time as the notice of entitlement is provided.

Terms and conditions during SPL

- Employees continue to receive all contractual benefits (with the exception of salary) during shared parental leave. Holiday entitlement will continue to accrue during SPL.

6 NEXT STEPS

- Develop policies on maternity leave, paternity leave, adoption leave and shared parental leave.
- Ensure that your family friendly policies are available and accessible to your employees.
- Be supportive and helpful to employees before, during and after they take maternity, paternity, adoption or shared parental leave.

7 FACTSHEETS TO HELP

- Employee Benefits Package
- Creating a Motivating Working Environment
- Health and Safety in the Workplace

8 FOR MORE ADVICE AND INFORMATION

ACAS - (Advisory, Conciliation and Arbitration Service) free and impartial information and advice to employers and employees on all aspects of workplace relations and employment law. www.acas.org.uk

Achieve in Bath & North East Somerset - free recruitment support, advice and help. Matching job seekers, employers and course providers to help employers recruit, train and retain employees. www.achieveinbathnes.co.uk

Future Bright - free help & support for businesses and employees to realise their full potential. Provide access to training and development, workshops and networking. HR support to promote career progression and best practice to attract and retain staff. www.futurebright.org.uk

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