

Desktop Guide to HR - Paternity Leave

What is Paternity Leave?

Paternity Leave is one or two weeks' time off given to fathers-to-be after the birth of their baby, which may or may not be accompanied by **Paternity Pay**. Both are in essence much like maternity leave which is given to mothers.

Who is Eligible to Receive Paternity Leave and Pay?

All employees who are fathers-to-be or who will have responsibility with the mother for bringing up a child are eligible to take paternity leave and pay, provided they are taking time off to support the mother or carer of the baby, intend to be fully involved in the upbringing of the child and meet certain conditions.

To qualify for paternity leave, the employee must have been with the Company for at least 26 weeks by either:

- the end of the 15th week before the start of the week when the baby is due
- the end of the week the employee is notified of a match with an adopted child and must also be either the:
 - biological father of the child
 - mother's husband or partner (including same-sex relationships)
 - child's adopter or the partner of the adopter

To qualify for Paternity Pay, the employee must also earn at least the lower earnings limit (LEL) for National Insurance contributions, which is currently £102 per week gross before any deductions for tax (£97 prior to the 4th April 2011).

Additional Paternity Leave and Pay

To qualify for Additional Paternity Leave and Pay, the employee must either:

- be the father of a child due on or after 3 April 2011
- his wife, partner or civil partner is pregnant and due to give birth to a child on or after 3 April 2011
- him and his partner receive notification that he is matched with a child for adoption on or after 3 April 2011
- his spouse, civil partner or partner (including same-sex relationships) is adopting a child from overseas and the child enters Great Britain on or after 3 April 2011

Additional Paternity Leave is for a maximum of 26 weeks. If his partner has returned to work, the leave can be taken between 20 weeks and one year after his child is born or placed for adoption. He may be entitled to receive Additional Statutory Paternity Pay during his partner's Statutory Maternity Pay, Maternity Allowance or Adoption Pay period.

Additional Statutory Paternity Pay is paid if the employee either:

- takes Additional Paternity Leave
- is not working for the purposes of caring for your child, during your partner's Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay period

The current rate is £128.73 a week (previously £124.88 a week) or 90 per cent of average weekly earnings, if that is less.

How Long is Paternity Leave?

As long as the employee meets the conditions above, they can take either one or two weeks' paternity leave. They are not permitted to take odd days off and if they take two weeks they must be taken together.

The employee can choose to start the leave:

- on the day the baby is born
- a number of days or weeks after the baby is born
- from a specific date after the first day of the week in which the baby is expected to be born

The Paternity Leave can start on any day of the week (but not before the baby is born) and must be completed within 56 days of the baby being born. If the baby is born before the week it was due, it must finish within 56 days of the first day of that week.

An employee can still take paternity leave if the child is stillborn after 24 weeks of pregnancy or is born alive at any point of the pregnancy.

Can Fathers Request Unpaid Additional Paternity Leave?

Employees have the right to take unpaid Additional Paternity Leave if they meet the eligibility criteria for leave but not pay. All Additional Paternity Leave taken after the end of the Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay period is unpaid. Unless their contract is expressly ended by the employee or the employer, the employee continues to be employed throughout the Additional Paternity Leave period.

Do Fathers Have the Right to Attend Antenatal Classes?

Fathers **do not** have a legal right to time off to accompany their partners to antenatal appointments - the right to paid time off only applies to pregnant employees. However, many companies recognise this is an important time and let employees take paid time off or allow them to make up the time later.

How Much Is Statutory Paternity Pay?

Statutory Paternity Pay (SPP) is paid at £128.73 or 90% of the average weekly earnings if less than this amount. As with Statutory Maternity Pay, a significant percentage of this is recoverable from the government, so you should also seek advice from your accountant if one of your employees informs you they'd like to claim SPP.

--- PLEASE NOTE ---

The information set out in this document is correct at 1st May 2011. As the legislation that applies in this article/document is general in its context, your specific circumstances may require tailored advice for it to be effective. If in doubt, contact Crispin Rhodes on 01908 230969 or email angela@crispinrhodes.co.uk or sharon.pugh@crispinrhodes.co.uk

