

## FACTSHEET 8

### **Family Matters: a summary of entitlements around pregnancy, the birth, adoption and the subsequent parenting of children**

The rights of employees who are prospective or actual parents are complex. Specific model policies and procedures are given in the Policy Section.

Below is a summary of the leave entitlements for employees.

1. **Maternity Leave:** all pregnant employees have the right in law to take up to 26 weeks' ordinary maternity leave and up to a further 26 weeks' additional maternity leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks' maternity leave. Additional maternity leave follows on immediately from the end of the period of ordinary maternity leave.

During ordinary maternity leave and additional maternity leave, all terms and conditions of the employee's contract, except normal pay, must be continued.

Instead of normal pay, the employee will usually be entitled to statutory maternity pay for a period of up to 39 weeks, with the first six weeks payable at 90% of the employee's average weekly earnings, followed by 33 weeks payable at a rate set by the Government for the relevant tax year (or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate). Employees whose average weekly earnings are less than the lower earnings limit for national insurance contributions will not, however, qualify for statutory maternity pay.

An employee on maternity leave is able to agree with her employer to work for up to 10 days during maternity leave without that work bringing maternity leave to an end and without loss of a week's statutory maternity pay. The employer can also make reasonable contact with an employee who is on maternity leave to help plan her return to work.

An employee has the right to resume working in the same job if returning to work from ordinary maternity leave. If the employee returns to work after a period of additional maternity leave, her entitlement is to return either to the same job, or if this is not reasonably practicable from the employer's perspective, to another suitable job which is on terms and conditions not less favourable.

All terms and conditions applying in relation to an employee returning to work from maternity leave, not just those relating to remuneration, must be no less favourable than those which would have applied if the employee had not been absent.

An employee who decides to return to work at the end of her full maternity leave entitlement is not required in law to give the employer any further notice of her

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return date. If, however, the employee wishes to return to work early, she must give the employer at least eight weeks' notice of the intended early return date.

There are a number of criteria for the employee to be eligible which are shown in the Policy Section.

- 2. Shared Maternity (or parental) Leave:** this allows employees to shared maternity leave and pay. Shared leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared maternity leave and pay with their partner, or to return to work early from maternity leave and opt in to shared leave and pay at a later date.

The amount of shared maternity leave to which an individual is entitled will depend on the amount of leave that the other parent takes in respect of the child. Shared maternity leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the organisation is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the organisation's agreement).

- 3. Paternity Leave:** the right to one or two weeks' consecutive paternity leave is available to the biological father of a child or to a person who is married to, the civil partner of, or the partner of, the child's mother. It is also available where a couple jointly adopt a child to the individual who does not take adoption leave and to the spouse, civil partner or partner of a child's adopter. The definition of "partner" includes same-sex partners. To qualify for paternity leave, the employee must have been continuously employed for 26 weeks by the end of the 15<sup>th</sup> week before the child's expected week of birth, or 26 weeks ending with the week in which notification of the adoptive match occurs. The employee must also have, or expect to have, responsibility for the child's upbringing and be taking the leave to care for the child. Paternity leave is not available to biological fathers who are not likely to have parental responsibility for their child. The entitlement to paternity leave is to take one or two weeks' paternity leave in a single block within eight weeks of the child's birth or adoption, or of the first day of the employee's partner's expected week of childbirth, if the baby is born prematurely.

In an adoption situation, to be entitled to paternity leave, the employee must be married to or the civil partner or partner of the child's adopter (or one of a couple jointly adopting a child). The employee must expect to have responsibility for the upbringing of the child and be taking the leave to care for the child or support the adopter.

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4. **Ordinary Parental Leave:** ordinary parental leave is a legal entitlement for both men and women. It is a period of unpaid leave for employees who are the parents of children aged under 18. It should not be confused with shared maternity leave or leave for children placed for adoption who enter Great Britain if adopted from overseas. Shared maternity leave allows mothers or adopters who meet the eligibility requirements to bring their maternity or adoption leave to an end and choose to take shared leave with their partner, who must also meet the relevant eligibility requirements.

An employee is entitled to ordinary parental leave in respect of any individual child. In the case of multiple births or the adoption of more than one child as part of the same placement, the employee has the right to take ordinary parental leave in respect of each child. The maximum amount of ordinary parental leave that may be taken in any one year in respect of a child is four weeks. Ordinary parental leave may not be taken in blocks of less than one week, except where the child is disabled, in which case it may be taken one day at a time.

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