



WORKING PARENTS POLICY

covering

MATERNITY, PATERNITY, ADOPTION, SHARED PARENTAL and PARENTAL LEAVE and PAY

and also

THE RIGHT TO REQUEST FLEXIBLE WORKING

This document is designed to inform employees of their rights and entitlements during and following pregnancy or adoption and when caring for children. It conforms to current legislation.

People and Work is fully committed to helping working parents balance work and family life, whilst maintaining the effective running of the company.

Parents are entitled to take Maternity or Paternity Leave, but can if they wish choose to opt in to Shared Parental Leave instead.

1. Maternity Leave and Statutory Maternity Pay (SMP)

A pregnant employee has the following maternity rights:

- reasonable time off for **antenatal care**, paid at the normal rate of pay. Antenatal care may include visits to clinics, parenting classes and relaxation classes
- **special health and safety protection** while pregnant, after having recently given birth, or while breastfeeding
- **suspension from work on full pay** if there is an unavoidable health or safety risk to an expectant or new mother and suitable alternative work cannot be found
- **protection** against unfair treatment or dismissal
- regardless of length of employment, **a maximum of 52 weeks Maternity Leave** (26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave)

- **the right to return to work** after the baby is born

In addition, an employee who has had:

- at least 26 weeks' continuous service and
- continues to be employed into the 15th week before the week the baby is due and
- who is still pregnant at the start of the 11th week before the week the baby is due, or has had the baby by then

is entitled to receive **Statutory Maternity Pay**.

An employee who does not qualify for Statutory Maternity Pay can apply for Maternity Allowance, which is claimed from Jobcentre Plus.

Statutory Maternity Pay (SMP) is payable for up to 39 weeks:

- 6 weeks paid at 90% of the employee's average weekly earnings
- the remaining weeks paid at 90% of the employee's average weekly earnings, or the weekly rate of Statutory Maternity Pay, whichever is lower

In addition:

- during maternity People and Work will continue to make contributions to personal pension funds and give access to any other contractual benefits
- during maternity leave the annual accrual of holiday entitlement continues
- a pregnant employee can start her **maternity leave** at any time she chooses **after the beginning of the 11th week** before the week the baby is due
- if an employee is off work for any reason to do with her pregnancy from the fourth week before the baby is due, maternity leave automatically starts
- if the baby is born before the date maternity leave was due to start, maternity leave starts automatically on the day after the baby is born
- **'keeping in touch (KIT) days'** - an employee can do paid work or paid training for up to 10 days during her SMP period without losing SMP for the week in which that work is done. Days worked and rates of pay will be agreed between the employee and the company. However, the employer cannot demand that KIT days are worked and the employee is under no obligation to work them (see also SPLIT days in section 3).

What the pregnant employee must do:

Before taking Maternity Leave:

In order to benefit from statutory maternity rights and the company's maternity provisions, an employee must give the company the following information **in writing** by the end of the 15th week before the baby is due:

- confirmation that she is pregnant
- the expected date of childbirth
- the fact that she intends to take maternity leave
- the dates that she intends maternity leave to start and end

An employee must also provide the company with a certificate confirming her pregnancy, issued no earlier than 20 weeks before the date the baby is due. A maternity certificate MatB1 signed by a doctor or midwife is the usual notification.

Once the company has received this notice, it will write to the employee within 28 days confirming the dates on which they are expected to stop work and return to work from maternity leave.

Returning to work:

An employee must take at least two weeks' maternity leave after the birth of her child. She may return to work at any time after the two weeks are up.

If an employee does not intend to take full statutory maternity leave, she should notify the company at least 28 days before the due start date of her maternity leave.

If an employee wants to return to work before or after the agreed date that her maternity leave ends, she must give the company 8 weeks' notice of the date she intends to return.

People and Work's policy on Maternity Leave and Maternity Pay

People and Work will ensure that all the employee's statutory maternity rights are protected and will do all it can to support and assist pregnant employees, who should address any questions or concerns to their Line Manager.

2. Paternity Leave and Paternity Pay

Ordinary Paternity Leave

An employee who **has completed** 26 weeks' service by the end of the 15th week before the start of the week when the baby is due, who gives the company the **correct notice** (see below) and who is:

- the biological father of the child, or
- the mother's partner or husband and
- intending to use the time off to support the mother or care for the baby

is entitled to **Ordinary Paternity Leave**

- leave can be taken for 1 or 2 weeks
- odd days cannot be taken and if 2 weeks are taken they must be taken in a single block, after the baby is born
- leave remains at 1 or 2 weeks even if more than one child (i.e. twins) is born
- the start date must be: the actual date of birth, an agreed number of days after the birth or an agreed number of days after the expected date of birth
- leave must finish within 56 days of the birth
- Ordinary Paternity Leave is additional to the normal holiday allowance

During ordinary paternity leave the company will continue to make contributions to personal pension funds and give access to any other contractual benefits, annual accrual of holiday entitlement continues and all other employment rights are protected.

Employees also have a statutory right to **unpaid** time off to accompany their partner to **two** ante-natal appointments, of no more than 6.5 hours each. (If such unpaid time off is required, employees should speak to their Line Manager).

Requests for ordinary paternity leave should be submitted in writing (or on form SC3) to the company **at least 15 weeks** before the baby is due. The request should state:

- when the baby is due
- whether 1 or 2 weeks off are required
- when paternity leave is to start

If an employee changes his mind about taking leave, or wants to change the

start or end date, at least 28 days' notice should be given.

Ordinary Statutory Paternity Pay (OSPP)

An employee who has **completed 26 weeks'** unbroken service by the end of the 15th week before the start of the week when the baby is due and who gives the company the **correct notice** (see below) and is **still employed** without a break up to the date the child is born, and is **earning** at least the statutory gross amount per week and who is:

- the biological father of the child or
- the mother's partner or husband or
- the person who expects to have responsibility for the child's upbringing

is entitled to OSPP.

Ordinary Statutory Paternity Pay (OSPP) is payable for **up to two weeks:**

- at 90% of average gross weekly earnings or
- the weekly standard rate of OSPP, whichever is lower

To claim OSPP an employee must provide company with claim form SC3 **at least 28 days** before they want OSPP to start.

People and Work's policy on Paternity Leave

People and Work will ensure that all the employee's statutory paternity rights are protected and will do all it can to assist employees requesting Paternity Leave. Employees should contact their Line Manager in the first instance.

3. Adoption Leave and Adoption Pay

Employees who adopt a child are entitled to the same rights (e.g. reasonable time off for antenatal care etc.) as pregnant employees, the same amount of leave (i.e. 52 weeks leave – 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave) and the same amount of Statutory Adoption Pay (SAP).

Adoption Leave can start:

- on the date the child starts living with the employee, or up to 14 days before the expected placement date (UK adoptions)
- when the employee is matched with a child to be placed with them by a UK adoption agency
- when the child arrives in the UK or within 28 days of this (overseas adoption)
- the day the child is born, or the day after (surrogacy arrangements)

What the adoptive parent must do:

Before taking Adoption Leave:

- within 7 days of the match, the employee must say how much adoption leave is required, the start date and the date of the child's actual placement.
- Surrogacy - at least 15 weeks before due date, employee must state when the baby is due and when they want to start their leave.

(Notice does not have to be given in writing but employers can request it). The employer has 28 days to confirm in writing the start and return to work dates.

Changes to the chosen leave dates must be notified by the employee at least 28 days before the original start date or the new start date, whichever is earlier. 8 weeks' notice must be given of any change of the chosen date of return to work. If the employer wishes to change these dates, they must put this in writing.

If the employee wishes to claim SAP, they must give 28 days' notice in writing, unless the time between the match and the placement is less.

Overseas Adoptions

The employee must notify the employer of:

- the date of the official notification and expected date of arrival in the UK, within 28 days of receiving such notification
- the actual date that the child arrives in the UK – within 28 days of arrival
- how much adoption leave is required and when it is to start – 28 days' notice

The employer has 28 days to write and confirm the start and return to work dates.

Proof of adoption

This is needed to qualify for adoption pay, but not for adoption leave, unless the employer requests it. Proof must show:

- the name and address of the adoption agency and the date of the match (e.g. the matching certificate)
- the expected or actual date of placement (letter from agency)
- the relevant UK authority's official notification confirming that the parent is allowed to adopt (overseas only)
- the date the child arrived in the UK (e.g. plane ticket)

The employer must keep a record of such proof.

Surrogacy

No proof is needed for either adoption leave or pay unless the employer asks for it. If asked for, the employee must give a written statement (statutory declaration) to confirm that, in the 6 months after the birth:

- they intend to apply for a parental order and they expect this to be granted (e.g. because they have no previous conviction regarding offences against children)
- and also that the birth mother and father agree to the above

Adoption Leave

The employer cannot refuse leave or change the amount of leave required but can delay the start date if the employee has no reasonable excuse for giving the wrong amount of notice. To delay, the employer must write within 28 days of the original request.

Adoption pay

The employer can only refuse to pay adoption pay if the employee does not qualify (see maternity pay), by sending form SAP1 within 7 days of their decision, to be received by the employee within 28 days of the original request, or the day the employee is matched with the child, whichever is earlier. The employer must keep records for 3 years from the end of the last relevant tax year.

People and Work's policy on Adoption Leave and Adoption Pay

People and Work will ensure that all the employee's statutory adoption rights are protected and will do all it can to support and assist employees who are adopting. Any questions or concerns should be addressed to their Line Manager.

4. Shared Parental Leave (SPL)

The total amount of SPL is the same as the mother's entitlement to maternity leave i.e. 52 weeks (see section 1). However, if the mother reduces her maternity leave entitlement, then she and/or her partner may opt in to the SPL system and take any remaining weeks as SPL. SPL enables parents to share caring responsibilities. However, unlike Maternity Leave, eligible employees can stop and start SPL and return to work between periods of leave.

Each eligible parent can submit **up to three** notices to book periods of leave.

A parent intending to take SPL must:

- be an employee
- share the primary responsibility for the care of the child with the other parent
- have properly notified their employer of their entitlement and have provided the necessary declarations and evidence (see step 1 below)
- satisfy the 'continuity of employment test' i.e. the employee has worked for the company for at least 26 weeks at the end of the 15th week before the child's expected due date/matching date and is still working for the company at the start of each leave period and
- their partner must meet the 'employment and earnings test' i.e. in the 66 weeks leading up to the baby's expected due date, the partner has worked for at least 26 weeks and earned an average of at least £30 a week in any 13 weeks.

Step 1.

If an eligible employee intends to take SPL they must provide the company with a **notice of entitlement** to take SPL and submit it at least 8 weeks before they intend to take a period of SPL. The notice must include:

- how many weeks' maternity/adoption leave has been/will be taken
- how much leave each parent is entitled to take
- how much leave each parent intends to take
- when they expect to take their leave
- the signatures of both parents

This notice is binding and cannot usually be withdrawn, unless:

- within 8 weeks of the mother submitting notice to end her maternity leave, it transpires that neither parent qualifies for SPL;
- when notice was given **before the birth**, it may be withdrawn without a reason up to six weeks following the birth; or
- the mother's partner dies.

Step 2.

Booking SPL

If parents have decided how they will use SPL between them, they can book their leave. Leave can be booked at the same time as, or following, this notice of entitlement (see step 1, above). A notice to book leave must be in writing, dated, clearly set out and submitted at least 8 weeks before any period of leave is due to begin. (If a child has not yet been born, then the booking can state that, say, the leave is to begin 'two weeks after the birth').

Up to three separate notices to book leave may be submitted, the leave to be taken during the child's first year. Any variation to leave already booked will be counted as one of the notices.

SPL can only be taken:

- in complete weeks, but can start on any day of the week, and
- can also be taken using 3 separate notices to book leave
- each notice to book SPL can be either for a **continuous** block, or multiple **discontinuous** blocks.

Continuous Leave: an unbroken period of leave

Once a continuous leave notification has been correctly given (although the company is not required by the legislation to take any further action) the company will write to the employee to confirm the SPL arrangements. (If the company fails to respond within the time limit, the employee should check that their leave booking has been received). However, in the absence of any response from the company, the employee is entitled to take a continuous leave booking.

Discontinuous Leave: leave taken over a period of time, with breaks in between when the employee returns to work (e.g. one month's SPL then 3 weeks back at work).

- discontinuous leave, in a single notice, can only be taken with the company's agreement.

- the company will respond and discuss the request within 14 days.
- If the discontinuous leave notice is not agreed, then on day 15 the employee may withdraw their discontinuous leave notification. If they do so, it will not count as one of their 3 notices to book leave.
- If the employee does not withdraw the request, the amount of discontinuous leave requested must be taken in one block.
- Within 19 days of the original notification the employee can choose when the continuous leave will commence, but it cannot start sooner than 8 weeks from the date of the original notification.
- If the employee does not choose, the start date automatically defaults to the date the requested discontinuous leave would have started.

Step 3.

If there is a joint entitlement to SPL, and parents have notified their employers of how much leave they each intend to take as part of the entitlement notice, they can vary the allocation of leave at any stage. To do this, both parents must notify their employers:

- of the details of their original division of leave
- that they want to change it
- how they now intend to take the available SPL.

Both must sign the notice to confirm they are in agreement with the variation. If leave was booked that will now no longer take place, a notice to vary leave must also be made.

If parents do not choose SPL at first, but choose Maternity/Paternity leave instead, they still have the option to use SPL at a later date, while still eligible. If a mother decides to return to work early she can give her partner the opportunity to take the rest of her maternity leave as SPL, provided 8 weeks' notice is given to the employer and the SPL is taken within one year of the birth.

SPLIT days

During SPL the employer and the employee can agree up to 20 Shared Parental Leave in Touch (SPLIT) days, although this is not compulsory. SPLIT days can be used where both parties feel it would be beneficial to the employee to attend a work-related activity, e.g. a training session or team meeting, or to work part of a week to help the employee return to work in a gradual way.

SPLIT days will be paid at the rate the employee would normally receive, by topping up ShPP (see below) for those days.

Shared Parental Pay (ShPP)

An entitled mother can get statutory maternity pay/maternity allowance for up to 39 weeks. If she gives notice to reduce her entitlement before the 39 weeks are up, any remaining weeks can be paid as ShPP.

If both parents qualify for ShPP they must decide who will receive it, or how it will be divided and they must each then inform their employer and claim ShPP.

The notice to claim ShPP can be included in the notice of entitlement to take SPL.

To qualify for ShPP and employee must:

- have met the 'continuity of employment test' (see above) and their partner must meet the 'employment and earnings test' (see above) as for SPL
- also have earned above the 'lower earnings limit' in the 8 weeks leading up to and including the 15th week before the child's due date and still be employed by the same employer at the start of the first period of ShPP
- the mother must give notice to reduce or end their maternity pay or allowance entitlement

People and Work's policy on Shared Parental Leave

People and Work is fully committed to supporting working parents and will always set aside time to fully discuss with employees their SPL requirements. Any correct notification of intention to take continuous SPL cannot be refused, whereas a request for discontinuous leave can be refused, so employees who intend to request SPL should discuss this fully in the first instance with their Line Manager.

5. Parental Leave

a. Employees' Statutory Rights

Male and female employees who have completed **one year's service** have the right to a total of 18 weeks' **unpaid** parental leave to take care of a child, which can be taken at any time **up to the child's 5th birthday**: or 18 weeks up to the child's 18th birthday if that child is entitled to a disability living allowance: or for adopted children, 18 weeks up to the child's 18th birthday or the 5th anniversary of adoption, whichever comes first). This applies to:

- parents named on the child's birth certificate or
- those who have, or expect to have, 'parental responsibility'

If twins are born, each parent may take a total of 18 weeks' leave for **each** child, up to the age of 5.

Parental leave **cannot** be taken:

- for **less** than one week or in anything other than multiples of a week
- for **more** than four weeks in any one year

Parental leave is appropriate where parents are, for example:

- looking at new schools
- needing to spend more time with their children
- visiting grandparents
- settling children into new childcare arrangements

Employees remain employed while on parental leave and are guaranteed the right to return to the same or similar job.

During parental leave the company will continue to make contributions to personal pension funds and give access to any other contractual benefits.

During parental leave the annual accrual of holiday entitlement continues.

Employees must give notice of intended parental leave, including start and end dates, which must be submitted to the company at least 21 days before the leave is due to start.

People and Work's policy on Parental Leave

People and Work will do all it can to help working parents. Employees should discuss their requirements for parental leave in advance with their Line Manager. If parental leave needs to be taken in an emergency situation, or for less than one week, employees must contact their Line Manager as soon as is practicable to request that the time off be taken as parental leave.

6. The right to request Flexible Working

a. Employees' Statutory Rights

Some employees have the **right to ask** to work flexibly. To qualify, an employee must:

- have worked for the employer for at least 26 weeks and
- not have made a request for flexible working within the previous 12 months

Flexible working can include:

- part time working
- flexi-time
- job sharing
- working from home
- term time working
- compressed hours

Employees are protected from dismissal or any discrimination on the basis that they have asked to work flexibly.

Employees have the right to be accompanied to any meeting, and also have the right to appeal any decision made by the company.

b. Employees' Statutory Responsibilities

Requests for flexible working should:

- be made in writing, and dated
- state what changes to working conditions are sought and when the employee would like these changes to start
- explain what effects the proposed changes might make on the company's operation and how the employee thinks these effects may be dealt with
- state that this is a statutory request and
- state whether a previous request has been made and the date on which that request was made

Employers have the right to refuse a request on any of the following grounds:

- the burden of extra costs to the company is unacceptable
- the company is unable to reorganize any extra work amongst existing staff
- the company is unable to recruit extra staff to cover any extra work

- the company considers that the quality of its work or performance will suffer
- the company considers that the changes will affect its ability meet its clients' demands
- there is insufficient work to do during the new hours the employee proposes to work
- the change in hours does not fit in with planned structural changes within the company

People and Work's Policy on the Right to request Flexible Working

People and Work will seriously consider all requests for flexible working, will deal with any requests in a timely manner and will do its best to accommodate such requests, provided that they do not jeopardise the smooth running of the company for any of the business reasons listed above.

The company will either agree the employee's request and notify this within 28 days, or arrange a meeting with the employee within 28 days to discuss the request, in which case the company will notify the employee of its decision within 14 days.

If an appeal is made, the company will deal with it promptly so that the whole process, from original request to appeal decision, takes no longer than three months.

If the company agrees the variation, the employee's contract of employment will be amended to form a new permanent contract. However, if the request is for a short term only, e.g. to cope with a bereavement, to pursue a course of study or for a trial period, the company will consider allowing the employee to revert back to their original work conditions after the specified period has ended.