

## Rights of working fathers

### Paternity leave

If you are a working father you are entitled to one or two weeks' leave from work when you and your partner have a child. This leave is called **paternity leave**. You can also qualify for paternity leave when you adopt a child.

#### **Paternity leave when your child is born**

To qualify for paternity leave when you and your partner have a child, you must have been employed by the same employer for at least 26 weeks by the end of the 15th week before the expected week of childbirth. You must also be responsible for bringing up the child and:

- be the child's natural father or
- be living with the child's mother or
- be married to the child's mother.

You can take up to two weeks paternity leave. You do not have to take the whole two weeks but, if you choose to take only one week, you may not take the other week at a later date. You must tell your employer how much leave you want to take and when you want the leave to start.

The leave can start either on the day the baby is born or on a date that has been agreed in advance with your employer. Your paternity leave cannot start before the baby is born and must be completed within 56 of days of the birth.

You must give your employer notice that you want to take paternity leave. The notice must be in writing if your employer asks for this. You must give notice 15 weeks before the baby is due or, if this is not practical, as soon as possible once you know you want to take leave

You will get paid during your paternity leave, as long as you earn at least £107 a week. This pay is called **Statutory Paternity Pay (SPP)**. If your paternity leave starts on or after 3 April 2011, you will get either 90% of your average weekly pay, or £135.45, whichever is lower. You may be able to get more than SPP if your contract of employment allows for this.

If you earn less than £107 per week, you will not be entitled to SPP during your paternity leave. However, you may be able to claim tax credits or income support instead. To find out more about claiming benefits if you cannot get SPP, you should talk to an experienced adviser (see below).

## **Paternity leave when you adopt a child**

When you and your partner adopt a child, you can choose to take either **adoption leave** or paternity leave. To qualify for paternity leave when you adopt a child you must:

- be employed for at least 26 weeks by the time you are matched with your child for adoption. (You will not be entitled to paternity leave or pay if you already know the child - for example if it's your stepchild)
- not be taking adoption leave. (Where you and a partner are adopting a child one of you can take adoption leave and one paternity leave)
- be the partner of the person adopting the child, and have some responsibility for the child's upbringing

You can take up to two weeks paternity leave. You do not have to take the whole two weeks but if you choose to take only one week you may not take the other week at a later date. Your entitlement to pay during this leave will be the same as for someone taking paternity leave when their child is born (see above).

If you are **adopting a child from the UK**, your paternity leave can start either on the day the child is placed with you, or on a date agreed in advance with your employer. The leave must be completed within 56 days from the date of adoption. You must give your employer notice that you want to take paternity leave. This should be no more than seven days after the date you were told you had been matched with your child, or as soon as possible afterwards.

If you are **adopting a child from abroad**, your leave can start on the date the child enters the country, or on a date agreed in advance with your employer. The leave must be completed within 56 days from the date the child arrived in the country. You must give your employer notice that you want to take paternity leave. This should be within 28 days of the date you were officially told you had been matched with a child.

## **Additional paternity leave**

If your child is due, or matched with you, on or after 3 April 2011, you and your partner may be able to share leave. If your partner doesn't use up all their statutory maternity or adoption leave, and goes back to work, you may be able to take the remainder of their leave to look after the child.

## **The right to work flexible hours**

If you are the parent of a child aged under 17, (or under 18 if your child is disabled), you have the right to ask your employer to work flexibly. Your employer must consider your request for flexible working seriously, but does not have to agree to it.

Flexible working can include working part time, working school hours, working flexitime, home working, job sharing, shift working, staggering hours and

compressing hours (where you work your total number of agreed hours over a shorter period).

To qualify for flexible working you must have worked for your employer for at least 26 weeks and must be responsible for your child on a day to day basis. You can make one request to work flexibly each year. This must be in writing.

If your employer wants to turn down your request for flexible working, they must give their reasons in writing. You have **the right to appeal** if your request is turned down. You must do this in writing, within at least 14 days of getting your employer's decision. You should give your reasons for appealing and make sure your appeal is dated.

If your appeal for flexible working is refused, you may be able to:

- ask ACAS to help you sort out your dispute with your employer. You can find out more on the ACAS website at [www.acas.org.uk](http://www.acas.org.uk)
- complain to an employment tribunal.

You can only complain to an employment tribunal under certain circumstances. This is a very complicated area. If you want to make a claim to an employment tribunal because your employer has refused your request for flexible working, there are strict time limits and procedures to follow. You should get advice from an experienced adviser (see below).

You should also bear in mind that an employment tribunal may not be able to over-turn your employer's decision. However, it may be able to force your employer to reconsider your request or to award you compensation.

## Time off work to look after your child

If you have a child who is under five, you have the right to take time off work to look after them. This is called **parental** leave. You must have worked for your employer for at least one year before you can take this leave. You can take up to 13 weeks off. The leave will not be paid unless your contract of employment says it will. If your child is disabled and 18 or younger, you can take up to 18 weeks unpaid time off work.

This leave does not have to be taken all at the same time, but you should take it in one week blocks. Your employer may be able to limit you to taking no more than four weeks in any one year. You will not have to make the time up later on.

You may be able to get income support if you are not paid while you are on leave.

## Further help

### Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice on a limitless range of subjects, including employment rights. They can also refer you to a more specialist source of advice, if needed. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#), or look in your local telephone directory.

### Other Citizens Advice fact sheets and leaflets which might help

- Maternity rights at work
- Time off work
- Working hours
- Resolving disputes at work

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**This fact sheet was last updated on 1 April 2012 and is reviewed regularly. If it is some time since you obtained this fact sheet, please contact your local Citizens Advice Bureau to check if it is still correct. Or visit our website - [www.adviceguide.org.uk](http://www.adviceguide.org.uk) - where you can download an up-to-date copy.**