

Fathers at Work – Understanding Paternity Leave

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Employment Law News

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Fathers at Work – Understanding Paternity Leave

The number of men taking time off work when their baby is born is [falling](#). Despite the government's attempts to encourage fathers to increase the time they spend caring for their children, it seems many men do not take advantage of their statutory right to paternity leave.

There are several reasons proposed for the falling numbers:

1. Small business owners, who lack a dedicated HR resource, may not understand employees' statutory paternal rights. In addition, many employees are unaware of their paternity leave rights and therefore fail to ask their employer for time off.
2. Paternity leave is only available to employees. The increase in gig economy workers has meant many men are now self-employed, thus not entitled to paternity leave.
3. Many men simply cannot afford to take paternity leave. In the absence of any top-up from an employer, paternity leave is paid at a flat rate of £148.68 per week or 90% of your average weekly earnings, whichever is less^[1]. Not every family can withstand this level of income drop for two weeks.
4. Employees may also worry about being perceived as uncommitted to their job if they take two weeks leave when their baby is born. This is especially pertinent if the employee is in line for a promotion or partnership.

In this article, we will give an overview of paternity leave rights and the benefits to the father and baby if it is taken in full.

What is paternity leave?

Since 6 April 2003, eligible employees have been entitled to take either one whole week or two consecutive weeks' ordinary paternity leave (OPL) within 56 days of a child's birth or placement for adoption.

How is OPL different to Shared Parental Leave?

On 5 April 2015, a new system of shared parental leave (SPL) was introduced by the Children and Families Act 2014 which effectively allows parents to share the statutory maternity or adoption leave and pay that was previously only available only

to one parent.

Although OPL is not available if the employee has taken any shared parental leave (SPL), in practice, most fathers take OPL at the same time as the mother is on compulsory maternity leave (two weeks from the day of the birth). If the option of SPL is taken up, one parent will move onto SPL after two weeks.

What are the eligibility criteria for OPL?

To be eligible for OPL, an employee must show they:

- Have been with their employer at least 26 weeks (counted from the 15th week before the baby is due). In the case of adoption, an employee must have been continuously employed by their employer for at least 26 weeks by the “matching week”.
- Are either the father, the husband or partner of the mother (this includes same-sex), the child’s adopter, or in the case of surrogacy, the child’s intended parent.
- Have given their employer notice of the intention to take paternity leave in or before the 15th week in which the baby is due.
- Have not have already taken shared parental leave in respect of the same child.

Is an employee protected from dismissal or discrimination if he takes paternity leave?

An employee has the right not to be subjected to any detrimental treatment by their employer for a prescribed reason related to paternity leave.

If an employee is dismissed because of or for reasons relating to his decision to take OPL, that dismissal is deemed automatically unfair. This means the employer will be deemed to have unfairly dismissed the employee unless it can prove

that the reason for dismissal was **not** the exercise of paternity leave rights.

What are the benefits of paternity leave?

[Studies](#) show that fathers who take their full two weeks' paternity leave are more likely to be involved with childcare duties such as feeding, bathing, and playing with their baby long after the leave has ended.

Furthermore, research by the [University of Oslo](#) found that children whose fathers had taken paternity leave had improved performance at secondary school. However, it must be acknowledged that like all studies which measure how an external factor affects a child's school performance, it is impossible to separate the impact of genes and income. Wealthier fathers are more likely to take paternity leave as they have the means and skills to demand higher paternity leave payments. The achievement gap between children of different economic backgrounds is [well-established](#). This aside, there is [evidence](#) to show that the more a father is involved with their children, the greater their academic outcome.

Finally, if a father takes paternity leave, and during that time gains confidence in caring for his child, the mother's parental burden may be lessened, making it easier for her to return to work.

The experience of fathers at work

Research conducted by Deloitte in conjunction with [Daddilife](#)—a parenting website for working fathers found that of 2000 fathers surveyed, 63% had requested a change in working pattern since becoming a father and a third of fathers had changed jobs to achieve an optimal work/personal life balance. For employers, flexible working, therefore, presents as a retention opportunity for men and women. In terms of mental health many suggested that it had been affected by balancing

work and parental responsibilities and had created tension with their employers and partners.

If you have experienced detrimental treatment or have been dismissed because of or on grounds related to paternity leave, contact an employment solicitor.

If you have any questions regarding employment law matters, please do not hesitate to call us on 020 3828 0350.

BDBF is a specialist employment law firm in the financial, insurance, professional and technology sectors.

[\[1\]](#)Accurate at the time of writing – September 2019

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