

National Work Life Week: A Closer Look at Family Leave and Protections in the UK

The current framework of family leave and protections is undeniably complex, having grown incrementally over time into a structure that is challenging for many to get to grips with. This is already under consideration by the Government following a review opened in July 2025.

As recently published by [Working Families](#), coupled with this complexity is a disparity in entitlements and workplace protections, resulting in a system that they feel is “letting down” families. Their research reveals startling statistics about parents’ inability to access financial support, with widespread impacts on gender equality, child development and broader economic growth.

For Working Families’ [National Work Life Week](#), Rose Lim, Knowledge Lawyer at BDBF, examines the current framework of family rights and entitlements in the UK and the reforms planned under the Employment Rights Bill, and considers the gaps which may be restricting families’ ability to thrive both at work and at home.

What is the current framework?

[Leave Entitlements](#)

The current legal framework provides, in summary, for the following entitlements relating to pregnancy, childbirth and associated care (including via surrogacy and adoption arrangements):

- **Maternity leave and pay:** 52 weeks' statutory maternity leave (made up of 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave) and 39 weeks' statutory maternity pay (or maternity allowance).
- **Paternity leave and pay:** 2 weeks' statutory paternity leave, to be taken either as a single period or two separate weeks, and statutory paternity pay.
- **Shared parental leave:** Ability for parents to share the mother (or primary adopter)'s entitlement to 50 weeks' maternity leave, with statutory shared parental pay.
- **Parental leave:** 18 weeks' unpaid leave to be taken before the child's 18th birthday.
- **Bereavement leave:** 2 weeks' leave following the death of a child or a stillbirth with statutory parental bereavement pay.
- **Neonatal care leave:** 12 weeks' leave to accommodate neonatal hospital care with statutory neonatal care pay.
- **Dependant leave:** Right to take 'reasonable' unpaid time off to help a dependant (including a child or partner) with an emergency.

- **Time off for antenatal appointments:** Right to paid time off for the mother (or primary adopter) to attend antenatal care appointments and, on two occasions, right of the partner to unpaid time off to accompany them at such appointments.

Each of the above rights is subject to eligibility criteria and notification requirements.

Many employers will have additional policies that benefit working parents, either by enhancing the statutory entitlement (most commonly with enhanced maternity pay), offering benefits from “Day One” of employment, and/or offering additional paid or unpaid leave.

Employers are also required to assess the health and safety risks posed to those who are pregnant or breastfeeding in the workplace and take any necessary steps to reduce them.

Protections

In addition to the leave entitlements outlined above, the law offers additional workplace protections for expectant and new parents.

Pregnancy / Maternity

Employees who are pregnant or on maternity leave have the protected characteristic of “pregnancy and maternity” under the Equality Act 2010, and are protected from unfavourable treatment due to their pregnancy, pregnancy-related illness or their having taken maternity leave. They are also protected from detriment and/or dismissal related to their pregnancy, maternity leave or giving birth, with dismissal being automatically unfair where it is connected to one of these factors.

In redundancy situations, employees who are pregnant, returning from statutory maternity leave or have otherwise given birth are entitled to be offered a suitable alternative role, essentially giving them priority over other colleagues to avoid redundancy. If such a role exists and is not offered to the employee, their dismissal will be automatically unfair.

On returning to work, employees who have been on ordinary maternity leave are entitled to the same position on the same (or no less favourable) terms. Those who have taken additional maternity leave are also entitled to the same role or a different suitable and appropriate role, again on the same (or no less favourable) terms.

Like all employees, those returning from maternity leave will be able to make a flexible working request. However, case law has established the existence of a ‘childcare disparity’, meaning that refusal of a flexible working request in these circumstances (or general inflexibility on working hours) can constitute indirect sex discrimination as a result of the increased expectation on new mothers to act as primary carer for children (*Dobson v North Cumbria Integrated Care NHS Foundation Trust (EAT) UKEAT/0220/19/LA*).

Paternity / Other Parental Leave

Employees who are on paternity leave are not specifically protected via the Equality Act 2010, but may in some circumstances be able to claim sex discrimination.

They are protected from detriment and/or dismissal for having taken (or seeking to take) paternity leave, or because their employer thought they were likely to do so. The dismissal will be automatically unfair if it is connected to these factors. The employee is additionally entitled to return to the same job (i.e. they are treated as if returning from ordinary maternity leave).

Similar protections also extend to those taking parental leave and shared parental leave.

What is on the horizon?

Under the Employment Rights Bill (the **Bill**), which is currently passing through the final hurdles towards Royal Assent, parental leave and paternity leave are due to become “Day One” rights (i.e. there will be no minimum service, as is currently the case). It will also become possible to take paternity leave after shared parental leave (with associated pay entitlements). These updates are expected to come into force on 6 April 2026.

The Bill also provides for regulations to be made expanding protections from dismissal, although the detail of these new protections remains to be seen. Based on the Bill as it

stands, the regulations will be able to be made to cover pregnant employees and those returning from maternity, adoption, shared parental, neo-natal and parental bereavement leave. Notably, this expansion of protection does not appear to include paternity leave, except in cases of extended paternity leave for bereaved parents the new Paternity Leave (Bereavement) Act 2024 (which is not yet in force).

In July 2025, the Government also opened a broad review into all parental leave and pay rights, including a Call for Evidence that ran until 25 August 2025. This will assess all types of family leave and pay and will run for 18 months before any changes are put forward. Please see our recent article [here](#) for further detail on this review.

What are the key gaps?

It is clear that there are significant differences in the legal protections and entitlements available to new mothers (or other primary caregivers) compared to their partners, the most notable being:

- Statutory paternity pay is not a “Day One” right, whereas statutory maternity allowance is available to all (if they do not qualify for statutory maternity pay).
- Paternity leave and pay excludes self-employed parents.
- Paternity (or otherwise being a child’s caregiver) is

not a protected characteristic under the Equality Act 2010.

- Paternity leave and pay is limited to two weeks and cannot be extended without reducing the mother's entitlement to maternity leave via shared parental leave.
- Future special protection from dismissal will not apply to those who have taken paternity leave.

Whilst, to some extent, these differences are a necessary reflection of the impact of pregnancy, childbirth and maternity, commentators have raised concerns that it entrenches the idea of one partner being the 'default' caregiver and the other partner taking a secondary role. This can have a consequential impact upon career progression, recruitment bias and the gender pay gap, referred to by Working Families as the "motherhood penalty". According to recent [ONS data](#), monthly earnings five years after having children were reduced on average by 42% or £1,051 per month, compared with earnings one year before the birth.

In June 2025, the Women and Equalities Committee (WEC) published a [report](#) noting how the present framework can make it challenging for fathers and partners to take a more active role as co-parent, and proposing that in order to promote equality, maternity and paternity rights should be "as equal as possible, to benefit mothers, fathers and families".

Whilst the shared parental leave regime may have been intended to address the imbalance in available leave from work, it requires the partner who is entitled to maternity leave to 'give up' a portion of their entitlement. This may not be a practicable solution for many families, particularly in light of the fact that most companies enhance maternity offerings beyond the statutory minimum (making it a more attractive prospect than sharing parental leave). Even if it is financially viable, the WEC noted that cultural challenges of such leave being an exception rather than an entitlement can make it more challenging for partners to take it in practice, and [statistics have shown](#) that those taking shared parental leave face increased discrimination in the workplace. This is particularly significant considering the more limited discrimination and dismissal protections available to fathers and partners.

In addition to the direct impact, this reinforcement of parenting roles may additionally affect an employer's perception and treatment of childcare responsibilities, particularly in terms of parents taking 'informal' time off or requesting flexible working.

In their [response](#) to the WEC on 19 September 2025, the Government reiterated the importance of their parental leave and pay review, and confirmed that a key aim must be to "incentivise greater gender equality in parenting responsibilities". Whilst some headway has been made towards this in the proposals under the Bill, it is evident from the [published debates](#) that Parliament recognises there is still some way to go in ensuring that the UK's framework enables both parents to take a positive and active role.

BDBF is a leading employment law firm based at Bank in the

City of London. If you would like to discuss any issues relating to the content of this article, please contact Rose Lim (RoseLim@bdbf.co.uk), Amanda Steadman (AmandaSteadman@bdbf.co.uk) or your usual BDBF contact