

PARENTAL LEAVE FACTSHEET

Parental leave was introduced to give parents of young and or disabled children the right to take a period of time off work to look after their child. Parents can use it to spend more time with children and strike a better balance between their work and family commitments.

The leave is unpaid, although in some cases Income Support may be claimed when parental leave is taken, see our Tax Credits and Benefits factsheet for more details. To be eligible for parental leave you must be an employee, have or expect to have parental responsibility and have worked for your employer for at least one year. In addition, your child must either be under 5 years old, or if claiming Disability Living Allowance, be under 18 years old. Parental leave can be taken at any time prior to your child's 5th birthday. In the case of adoption, you can take parental leave at any time prior to the 5th anniversary of the date when the placement for adoption began, or your child's 18th birthday if earlier. If your child is claiming DLA you can take the leave at any time up to your child's 18th birthday. Each parent can take up to 13 weeks parental leave for each child. If your child is claiming DLA, the entitlement is up to 18 weeks.

You can take the leave in long or short blocks depending on what has been agreed with your employer. Employers and employees can agree their own procedures and terms for taking parental leave, for instance in a collective agreement or through individual arrangement. If there is no agreement, then the Fallback Scheme automatically applies. This is the legal minimum. An employer cannot offer you less advantageous terms than the Fallback Scheme. Under the Fallback Scheme, you may only take leave in blocks or multiples of one week, unless your child is entitled to DLA, in which case you may take leave in blocks or multiples of one day. A maximum of 4 weeks in a year per eligible child may be taken by each parent. You must also give your employer at least 21 days' notice in writing to take parental leave. The leave cannot be postponed beyond the child's 18th birthday.

The notice must state the start and end dates of the leave. The employer can postpone your leave for up to 6 months where the business would be particularly disrupted if the leave were taken at the time requested, unless you are taking the leave immediately after the birth of your child (or placement of your child in your family for adoption), in which case your employer cannot postpone your leave.

At the end of parental leave, you are guaranteed the right to return to the same job if you took 4 weeks or less of leave. If more than 4 weeks was taken (or if you took a shorter period of leave but immediately after additional maternity leave), you are entitled to return to the same job or if that is not reasonably practicable, to a similar job which has the same or better status terms and conditions as your old job. You cannot be treated less favourably by your employer because you have taken or have tried to take parental leave- you are legally protected from dismissal, detrimental treatment and victimization for taking parental leave.

Your employer should not prevent you from taking leave, or asserting your rights in circumstances where you are entitled to them. You must also not be subject to less favourable treatment by your employer because you have taken leave or asserted rights to which you are entitled.

For further advice on this topic, please contact Joanna Robson at Babylaw™ at jo.robson@babylaw.co.uk or 08445 61 11 61.

This factsheet is intended to give general information about legal topics and is not intended to apply to specific circumstances. Its contents should not, therefore, be regarded as constituting legal advice and should not be relied upon as such. In relation to any particular problem that you may have, you are advised to seek specific legal advice.

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