

Secondary Carer Leave and Pay Policy

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Key messages

We are overjoyed to be able to help new parents with welcoming their new baby to their family! Being committed to equality, diversity and inclusion and wanting to make it possible for you to take time away from work and care for your family, we offer parents secondary carer leave and pay which can be further enhanced through the ICO scheme.

The main objective of this policy and procedure is to provide:

- Information regarding statutory paternity rights and entitlements and the additional paid leave enhancement offered by the Information Commissioner's Office (ICO).
- To confirm the procedure for applying for secondary carer leave and pay, and to ensure the correct care and support is provided to

employees on secondary carer leave by people managers, People Services, and any other relevant departments.

This policy does not cover the rights for new parents to adoption leave, maternity leave or shared parental leave. Please refer to the individual policies available in the Policies Hub on Iris for further information.

Does this policy relate to me?

All employees of the ICO have the right to secondary carer leave provided they meet the eligibility criteria set out in this policy.

The term 'paternity leave' and references to paternity are used within the legal meaning as defined in the Paternity and Adoption Leave Regulations (2002). However, eligibility for secondary carer leave is not limited solely to male parents, for example, it would apply to women where the partner of the mother is a woman who has or expects to have responsibility for raising the child. The change of the name of this policy to 'Secondary Carer Leave and Pay' is reflective of this eligibility. More information regarding who may apply for secondary carer leave is given in section 1.

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1. Eligibility

- 1.1. Secondary carer leave and pay allows the other expectant parent in the relationship to take time off work after the birth or adoption of your child. The scope of the leave and pay provisions under this policy is reflective of the ICO's efforts towards promoting a fair and inclusive workplace.
- 1.2. To be eligible for secondary carer leave and pay you must be one of the following:
 - the child's biological father;
 - the spouse, civil partner or partner of the mother (regardless of your gender);
 - the spouse, civil partner or partner of the child's adopter (regardless of your gender); or
 - the spouse, civil partner or partner of the intended parent (if you're having a baby through a surrogacy arrangement).
- 1.3. You must have worked continuously for the ICO for 26 weeks:
 - leading into the 15th week before the baby is due; or
 - at the matching week, in the case of UK adoptions; or
 - at the date the child arrives in the UK or when they want the adoption leave pay to start for overseas adoptions.
- 1.4. You must be taking time off to share the responsibility for looking after the child and/or supporting the other parent.
- 1.5. There are some situations where secondary carer leave is not available (but another type of leave may be more suited). These include if:
 - you have already taken shared parental leave in respect of the same child (whether you are the biological parent or the spouse, civil partner of a biological parent or adoptive parent);
 - you are eligible for or have taken adoption leave.

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2. Entitlements

2.1. The amount of leave and pay that you are entitled to is determined by your length of service:

- (i) **Statutory entitlement:** If you have worked continuously for the ICO for at least 26 weeks leading into the 15th week before the baby is due you are entitled to two weeks paid leave at the rate of Statutory Paternity Pay or 90% of your average weekly earnings, whichever is lower.

In relation to length of service in adoption situations, you must have worked continuously for the ICO for at least 26 weeks leading up to the end of the week in the 'qualifying week'. For UK adoptions, this is the week of being notified that you have been matched with the child. For overseas adoptions, this is either the date the child arrives in the UK or when you want your leave and pay to start because you have, or expect to have, the main responsibility (apart from the responsibility of the child's adopter) for the upbringing of the child.

The relevant period for the purposes of assessing average weekly earnings is the 8-week period ending with the 15th week before the baby is due, you or your partner are notified of being matched with the child, or when the child arrives in the UK.

- (ii) **The ICO Scheme:** If you have at least one year's continuous service with the ICO at the beginning of the 11th week before the expected week of childbirth, (or at the week of matching/arrival of child in the UK for adoption), you are entitled to four weeks secondary carer leave at the rate of full pay (inclusive of Statutory Paternity Pay).

- 2.2. Employees may choose to take secondary carer leave in either one block, or two separate blocks. Leave must only be taken in weekly blocks.
- 2.3. Secondary carer leave can only begin after the child's arrival, unless there is a change in circumstances. For birth parents or surrogacy situations, leave must start on or after the day of birth. For adoption, leave must start on or after the child's placement (or the date the child enters Great Britain in the case of overseas adoption).
- 2.4. Leave may start on any day of the week on or following the child's birth or placement date and must be taken within one year of the birth (or expected week of birth, whichever is later), or within one year of the adoption placement. For overseas adoption, leave must be taken within one year of the child entering Great Britain.
- 2.5. Understanding the importance of looking after your partner and your baby, we encourage you to take time for antenatal care or adoption appointments. You are entitled to take a maximum of 6.5 hours per appointment, including travelling and waiting time.
- 2.6. You are entitled to only one period of secondary carer leave for each pregnancy or adoption placement. This applies even if more than one child is born from the same pregnancy. For adoption, if more than one child is placed with you under the same arrangement, you are still entitled to one period of leave. A new entitlement only arises where children are placed under separate arrangements.

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3. Procedure

- 3.1. **Notification:** We recognise that it is difficult to predict exactly when secondary carer leave is required to start, but if you wish to take secondary leave you must inform your people manager as early as possible of the likely dates of leave. In due course you must also formally notify People Services of the likely

dates of the leave by submitting a completed Secondary Carer Leave Self-Certification Form (see section 8 - Related forms).

3.2. Wherever possible, employees are expected to submit a firm application for secondary carer leave within the following timeframes:

- **For births and surrogacy cases:** You must tell us the baby's due date at least 15 weeks before the week the baby is expected to be born. Applications for leave must be submitted as soon as possible and at least 28 days before you want your secondary carer leave to start.
- **For UK adoptions:** Within seven days of being matched with a child by the adoption agency or local authority.
- **For overseas adoptions:** Within 28 days of receiving official notification from the relevant UK authority confirming suitability to adopt, or the date the employee completes 26 weeks of continuous service with the ICO, whichever is later.

Applications received later than these time limits will be considered and, as far as possible, the ICO will endeavour to accommodate late requests depending on the circumstances. However, there is no guarantee we will be able to accommodate late requests.

3.3. We may require evidence to support a request for secondary carer leave and pay, for example a photocopy of the maternity certificate (MAT B1) or documents from the adoption or surrogacy.

3.4. The secondary carer leave self-certification form must confirm the following information relevant to your case:

- your relationship to the child and/or their parent;
- the expected week of childbirth;
- confirmation that you and your partner are intended parents of the child (in surrogacy cases);

- the week the baby is due/the child is to be placed for adoption or enter Great Britain;
- how much leave is being requested; and
- when you want your leave to start and whether you wish to take the leave as one or two blocks.

3.5. If the start date of the leave period is to be changed for any reason, you should give at least a 28-day notice period unless this is not reasonably practicable. When notifying us of this change, you must confirm that the purpose of the new period of leave is to care for the child or to support your partner.

3.6. You can cancel a period of leave by giving us written notice at least 28 days before the start date, or as soon as you reasonably can.

3.7. If the child arrives early, leave may be completed within the period from the actual date of the child's birth/placement up to one year after the expected week of birth/placement.

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4. General principles

- 4.1. While on secondary carer leave you are entitled to the benefit of your normal terms and conditions of employment except for terms relating to salary.
- 4.2. Your holiday entitlement continues to accrue during secondary carer leave. If you are unable to use up your accrued holiday due to a period of secondary carer leave close to the end of the holiday year, it can be carried over to the next holiday year.
- 4.3. You are entitled to return to the same job following secondary carer leave. If this is not reasonably practicable, for example your role no longer exists due to restructuring, you will be offered a similar role on the same terms and conditions. In such cases you will be consulted with in advance of your return in

accordance with the ICO Restructuring and Redeployment Guidelines.

- 4.4. You are protected from suffering unfair treatment or dismissal for validly taking, or seeking to take, secondary carer leave.
- 4.5. You will not be excluded from communication and consultation because of absence due to validly-taken secondary carer leave.
- 4.6. You will not be dismissed for a reason connected with a period of validly-taken secondary carer leave.
- 4.7. These provisions apply equally to full time or part time workers.
- 4.8. We understand that before you go on secondary carer leave or after you return, you may require adjustments to help you bring your best self to work and care for your family. We encourage you to contact your people manager to explore the options available to you.
- 4.9. Recognising that secondary carers are equally involved in providing care, the ICO will try to best accommodate the parents' needs. Flexible working schedules will be considered upon request. Examples of such arrangements include, but are not limited to the following:
 - Reduced or compressed working hours
 - Part-time employment options
 - Extended hybrid home/office based work arrangements
 - Job-sharing

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5. Neonatal care leave

- 5.1. You are entitled to take neonatal care leave if your baby receives neonatal or palliative care for a continuous period of

seven days or more in the 28 days following birth. Neonatal care leave is in addition to secondary carer leave. Details of the leave and pay available are given in the Neonatal Care Leave Policy.

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6. Stillbirth and neonatal loss

- 6.1. Losing a baby can be traumatic and is a deeply personal experience that affects people differently. At the ICO, we support all employees who may experience this loss and we are conscious that whether you were pregnant, or a partner, you may need time to recover either emotionally and/or physically.
- 6.2. Secondary carers are entitled to secondary carer leave and pay if they meet the normal qualifying conditions in the case of such an event.
- 6.3. Under the law, if a person's baby passes away before the end of the 24th week of pregnancy, it is called a 'miscarriage'. If a baby has passed away when they were born after the end of the 24th week of pregnancy it is called a 'stillbirth'.
- 6.4. This means that any leave needed by a secondary carer following a miscarriage will be treated as sickness absence in accordance with the Managing Sickness Absence Policy, and unfortunately does not qualify for secondary carer leave.
- 6.5. You are eligible for secondary carer leave and pay if your child is stillborn after 24 weeks of pregnancy or born alive at any stage of pregnancy but does not survive (neonatal loss). However, you may have less time in which to take your secondary carer leave.
- 6.6. Employees may also be entitled to parental bereavement leave in addition to any secondary carer leave. Please refer to the section on Parental Bereavement Leave within the Special Leave Policy for further information.
- 6.7. If you feel you are not coping, no matter how long after the miscarriage, still birth or death after birth, please do ask for help. We will do all we can to support you, but if you feel that you

would prefer to speak to someone outside of the ICO, support can be provided through our Employee Assistance Programme which offers a confidential and free service 24 hours a day, seven days a week, every day of the year. Face to face counselling is also available. Please refer to the knowledge article in the People Services Help app on Workday for more details.

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7. Frequently asked questions

7.1. **Do I need to plan to take my secondary carer leave on a particular day?**

No. Secondary carer leave can start on any day of the week. You can take it as one block, or two separate blocks. Leave must only be taken in weekly blocks.

7.2. **My partner has given birth before I had planned to go on secondary carer leave, what do I need to do?**

You must contact either People Services or your people manager as soon as reasonably practicable to inform them of the birth. The ICO will try to be as flexible as possible about the date on which your secondary carer leave starts.

7.3. **My partner was due to give birth a week ago, but the baby has not arrived, and I had expected to start my secondary carer leave by now. What should I do?**

Please contact either your people manager or a member of the People Services team to let them know the situation. The ICO will try to be as flexible as possible about the date on which your secondary carer leave starts to take account of the baby's late arrival.

7.4. **Does secondary carer leave allow me to attend antenatal sessions with my wife/partner, such as scans?**

You are entitled to take reasonable time off to attend antenatal appointments with your partner up to a maximum of 6.5 hours per appointment, including travelling and waiting time.

7.5. I want to have more than four weeks off following the birth of the baby, am I allowed to do this?

You may have a longer period off using annual leave and/or flexi, providing it is agreed with your people manager.

There are also additional provisions detailed in the ICO's Shared Parental Leave and Pay Policy or the ICO's Parental Leave Policy.

7.6. My partner is expecting a child for whom I am not the biological parent. Am I eligible for secondary carer leave?

Yes, providing you fulfil the requirements with respect to length of service in the ICO. In accordance with law, you will need to provide evidence they have a parental responsibility agreement in place.

7.7. What is the difference between 'adoption leave' and secondary carer leave when a child is being adopted?

Adoption leave can last up to 52 weeks and in many ways the statutory provisions mirror those of statutory maternity leave. If you are adopting as a couple only, one of you (the 'main adopter') will be entitled to take adoption leave.

If your partner is taking adoption leave you will be able to take secondary carer leave and/or you may decide to share the 52 weeks under the Shared Parental Leave and Pay provisions – See the ICO's Shared Parental Leave and Pay policy for more information.

7.8. What if I am having a child through surrogacy?

If you are having a child through surrogacy, you and your partner may be entitled to adoption leave and pay, and secondary carer leave and pay.

A surrogate, as a pregnant employee, has the right to take maternity leave and pay. The second legal parent may be eligible for secondary carer leave and pay.

7.9. Why does the policy say you should be taking time off to look after the child and/or support the other parent?

This is to make it clear that employees must take secondary carer leave appropriately to provide care. If it is discovered that secondary carer leave has been taken inappropriately, for example by going on holiday without the mother/other parent or child, that may give rise to disciplinary action.

7.10. Am I entitled to accrue the three privilege days that occur between Christmas and New Year and take them at another time if I am on secondary carer leave at Christmas?

Yes. You will be granted additional days leave in lieu of any public and privilege holidays that fall during your secondary carer leave.

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8. Further information

- [Paternity pay and leave: Overview - GOV.UK](#)
- [Paternity leave rights - Paternity leave and pay - Acas](#)

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9. Related Forms

The following forms can be found in the '[Self-service forms](#)' area of the People and EDI Hub on Iris:

- Secondary carer Leave Self Certification Form HR-P1 (Annex A)
- Secondary carer Leave Self Certification (Adoption) Form HR-P1(A) (Annex B)

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Feedback on this document

If you have any feedback on this document, please [use this form](#) to provide it.

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Version history

Version	Changes Made	Date	Made by
1.0	Published	September 2008	Human Resources
1.1	Review	September 2017	Human Resources
2.0	Full review	April 2020	Human Resources
3.0	Increased paid paternity leave from 2 weeks to 4 weeks. Included references to surrogacy and adoption and rights of step fathers	February 2023	HR Operations in consultation with TU's Networks and people manager consultation group.
3.1	Renamed to Secondary Carer leave and pay policy to be more inclusive in regard to gender identity and sexual orientation. Removed the restriction of only being able to attend 2 antenatal appointment.	March 2023	People Services

	Extended the ICO scheme by removing the restriction of only being able to claim for one child per 12 month period.		
4.0	Reviewed and amended to take account of changes in line with Paternity Leave (Amendment) Regulations 2024 and Neonatal Care (Leave and Pay) Act 2023. Added reference to Parental Bereavement Leave. Transferred policy to new template, updated outdated references, combined 'Length of Leave' and 'Rates of Pay' sections. Forms removed as an appendix to streamline.	August 2025	Policy Manager, People Services

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