

Paternity leave policy and procedure

1. Scope

- 1.1 All employees of the Information Commissioner's Office.
- 1.2 Although this policy and the related legislation describes this type of leave as 'paternity' leave, it does not apply solely to new fathers. Information regarding who may apply for paternity leave is given below.

2. Purpose

- 2.1 To inform employees wishing to take paternity leave of their statutory rights and entitlements and additional enhancements offered by the ICO. The policy incorporates the procedure to be followed for each occasion of paternity leave.

3. Eligibility

- 3.1 Paternity leave and pay may be available to you if you will have parental responsibility for a newborn child, or if you are adopting a child and your spouse/partner is taking adoption leave.
- 3.2 To be eligible for paternity leave and pay you must fulfil the following criteria.
 - i. You must have or expect to have responsibility for the child's upbringing.
 - ii. You must be the biological father of the child or the mother's husband or partner (male or female).
 - iii. You must have worked continuously for the ICO for 26 weeks leading into the 15th week before the baby is due (or worked continuously for the ICO for 26 weeks at the matching week, in the case of adoption).
- 3.3 You can only take paternity leave in order to care for your new child or support the mother of the baby or both.
- 3.4 If you do not fulfil the eligibility criteria in relation to length of service you are not entitled to paternity leave or paternity pay.

4. Length of Leave

- 4.1 The ICO grants two weeks of paternity leave if you meet the eligibility criteria. This equates to ten days for full-time staff or a pro-rated entitlement for part-time staff (for example a person who works three days a week is entitled to two of their working weeks as paternity leave, so six days in total)
- 4.2 Paternity leave can be taken as either two consecutive weeks or as two separate weeks but cannot be taken as individual days; this applies equally to full and part-time staff.
- 4.3 Paternity leave must be taken within a 56 day period which starts either on the date of birth, or at the beginning of the expected week of childbirth, whichever is later, or within 56 days of the adoption placement.

- 4.4 You are only entitled to one period of leave even if more than one baby is born as the result of the pregnancy or if more than one child is placed for adoption.

5. Rates of pay

- 5.1 There are two rates of pay for paternity leave which is determined by your length of service.

- i) **Statutory Paternity Pay:** If you have worked continuously for the ICO for 26 weeks leading into the 15th week before the baby is due you are entitled to paid leave at the rate of Statutory Paternity Pay.

In relation to adoption, if you have worked continuously for the ICO for 26 weeks up to the week of matching you are entitled to paid leave at the rate of Statutory Paternity Pay.

- 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 for adoption), you are entitled to paternity leave of up to two weeks at full pay (inclusive of Statutory Paternity Pay).

- 5.2 You are only entitled to one period of paternity leave at full pay for babies expected within 12 months of each other or for children who are placed for adoption within 12 months of each other. If the expected date of childbirth of a new child is within 12 months of the birth of a previous child, paternity leave will be paid at the rate of Statutory Paternity Pay.

6. Procedure

- 6.1 **Notification:** We recognise that it is difficult to predict exactly when paternity leave is required to start, but if you wish to take paternity leave you must inform your line manager as early as possible of the likely dates of absence.

In due course you must also formally notify Human Resources of the likely dates of the paternity leave absence by submitting a completed paternity leave self-certification form (see Appendices 1 and 2).

- 6.2 Whenever possible, firm applications for leave should be made at least 15 weeks before the expected date of childbirth or at least 28 days before the adopted child is expected to be placed. We will consider applications received later than these time limits will be considered, though there is no guarantee we will accept them.

- 6.3 We may require evidence to support the leave request, for example a photocopy of the maternity certificate (MAT B1) or documents from the adoption agency.

- 6.4 The paternity leave self-certification form must confirm the following:
- The week the baby is due/ the child is to be placed for adoption.
 - Whether one week or two weeks leave is to be requested.
 - When you want your leave to start.

- 6.5 If the start date of the leave period is to be changed for any reason you should

give at least 28 days notice, unless this is not reasonably practicable.

6.6 Leave may start on any day of the week on or following the child's birth date and must be completed within 56 days of the actual date of birth of the child.

6.7 If the child is born early, however, leave may be completed within the period from the actual date of the child's birth up to 56 days after the expected week of birth.

6.8 Confirmation of leave: When we receive the paternity leave self-certification the Human Resources team will write to you to confirm that leave has been granted or, if leave has not been granted, the reasons why the application has been turned down.

6.9 If the dates you have requested are turned down discussions will take place with you to find suitable alternative dates. We do not expect that this situation will arise where paternity leave is being taken immediately following the birth of a child.

7. Protection of rights

7.1 While on paternity leave you are entitled to the benefit of your normal terms and conditions of employment except for terms relating to salary.

7.2 You are entitled to return to the same job following paternity leave.

7.3 You are protected from suffering unfair treatment or dismissal for taking, or seeking to take, paternity leave.

8. Frequently asked questions

8.1 **Do I need to plan to start my paternity leave on a particular day of the week?**

No. Paternity leave can start on any day of the week on or following the day the child was born or placed for adoption.

8.2 **My partner has given birth before I had planned to go on paternity leave, what do I need to do?**

You must contact either a member of the Human Resources team or your line manager as soon as reasonably practicable to inform them of the birth. The ICO will try to be as flexible as possible with regard to the date on which your paternity leave starts.

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

Please contact either a member of the Human Resources team or your line manager to let them know the situation. The ICO will try to be as flexible as possible with regard to the date on which your paternity leave starts to take account of the baby's late arrival.

8.4 **Does paternity leave allow me to attend ante-natal sessions with my wife/partner, such as scans?**

No. If you wish to attend such sessions you will need to take annual leave or use flexi time.

8.5 I want to have more than two weeks off following the birth of the baby, am I allowed to do this?

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

In addition you may apply to take a period of 'parental leave' which is unpaid. For more details on this, see the parental leave policy.

8.6 My partner is expecting a child for whom I am not the biological father. Am I eligible for paternity leave?

Providing you fulfil the requirements with respect to length of service in the ICO, you will be eligible for paternity leave if you expect to have parental responsibility for the child's upbringing.

This means, for example, that it is possible for a lesbian woman to take paternity leave if her partner is pregnant, just as it is for a man whose partner is pregnant but he is not the biological father of the child.

8.7 What is the difference between 'adoption leave' and paternity leave taken because 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 will be entitled to take adoption leave.

If your partner/spouse is taking adoption leave you will only be able to take paternity leave.

8.8 Why is only one period of paternity leave at full pay allowed in a 12 month period? There is no such limitation on maternity leave.

There are no limits to the number of occasions someone can take paternity leave in a 12 month period, or indeed the number of occasions that statutory paternity pay can be claimed, providing they fulfil the criteria.

There are obvious biological reasons which provide for a certain period of time between episodes of maternity leave. However, there are no such restrictions which may provide a gap between periods of paternity leave. The policy is therefore designed to close the loophole which could have the ICO funding staff to take many periods of time off at full pay in a short space of time.

8.9 Why does the policy say 'you can only take paternity leave in order to care for your new child or support the mother of the baby or both'?

This is to make it very clear that members of staff must use paternity leave appropriately. Disciplinary procedures will be initiated if it is discovered that someone has used of paternity leave inappropriately, for example by going on holiday without the mother or child.

Further information

- BERR website which answers specific paternity leave related queries
<http://www.berr.gov.uk/employment/employment-legislation/employment-guidance/page18481.html>
- The ACAS website has a useful section that deals with paternity leave
www.acas.org.uk/index.aspx?articleid=1156

Related Forms

Paternity Leave Self Certification – Form HR-P1 (Appendix 1)

Paternity Leave Self Certification (Adoption) – Form HR-P1(A) (Appendix 2)

Information Commissioner's Office

Paternity Leave Self Certification

This form must be completed by any employee wishing to take paternity leave as described within the ICO Paternity Leave Policy and sent to Human Resources.

1. Your details

Your name: _____

Your job title: _____

Your department: _____

The baby is due on: ____ / ____ / ____

If the baby has been born please enter the actual date of birth: ____ / ____ / ____

I would like my paternity leave and pay to start on: ____ / ____ / ____

I will be away from work for one / two* weeks (* delete as appropriate)

If you wish to take two weeks of paternity leave that are not consecutive, please indicate the date on which your second week of paternity leave will commence: ____ / ____ / ____

2. Declaration

You must be able to tick all three boxes below to get paternity pay and paternity leave:

I declare that

- I am
 - the baby's biological father, or
 - married to/the civil partner of the mother, or
 - living with the mother in an enduring family relationship,but am not an immediate relative

☐

- I have responsibility for the child's upbringing.

☐

- I will take time off to support the mother or care for the child.

☐

Signed: _____

Date: ____ / ____ / ____

Information Commissioner's Office

Paternity Leave Self Certification (adoption related)

This form should be completed by any employee wishing to take paternity leave following the adoption of a child as described within the ICO's Paternity Leave Policy and sent to H.R.

1. Your details

Your name: _____

Your job title: _____

Your department: _____

The day on which the adoption agency told me a child had been matched for adoption was:
_____ / _____ / _____

The child is expected to be placed on: _____ / _____ / _____

I would like my paternity leave and/or pay to start on: _____ / _____ / _____

I will be away from work for one/two* weeks (* delete as appropriate)

If you wish to take two weeks of paternity leave that are not consecutive, please indicate the date on which your second week of paternity leave will commence: ____ / ____ / ____

2. Declaration

I declare that I am adopting the child with my spouse/partner and I want to receive Statutory Paternity Pay and paternity leave not Statutory Adoption Pay and adoption leave. ☐

You must be able to tick all three boxes below to get paternity pay and paternity leave:

I declare that

- I am
 - Married to/ the civil partner of the person adopting the child, or
 - living with the person adopting the child in an enduring family relationship, but am not an immediate relative ☐
- I will have responsibility for the child's upbringing. ☐
- I will take time off to support the mother or care for the child. ☐

Signed: _____ Date: ____ / ____ / ____