

Family friendly matters

(Lecture P1155 – 15.20 minutes)

This article considers various pieces of legislation that relate to employees who are parents or are about to become parents including: Shared parental leave and pay; Parental bereavement leave and pay; Extending pregnancy protection and paternity leave and Neonatal leave and pay.

Shared parental leave and pay

This is available to parents, including same sex couples, who are having their own child, or adopting. It enables both parents to share their maternity and adoption leave between them.

The mother or adopter must take a minimum of two weeks leave, which could be extended if they work in a hazardous environment. The balance of the 52-week maximum can be taken as they see fit.

Remember only 39 weeks will be paid:

- 6 weeks at 90% of average weekly earnings;
- 33 weeks at £148.68 per week.

Where the couple wish to take shared parental leave, the mother or adopter must formerly end their leave with eight week's notice to their employer. The couple then decide how to split the remaining weeks between them and are paid at the lower of £148.68 or 90% of average weekly earnings. The split must be taken in week blocks but the maximum number of blocks that the mother or father may take is three. All shared leave must be taken by the first birthday or adoption date of the child.

To qualify for parental leave and pay the employee and partner must have at least 26 weeks service at the qualifying week for maternity or matching week for adoption.

Parental bereavement leave and pay

This is being introduced from 6 April 2020. Where an employee's child dies and is under 18 or they miscarry after 24 weeks of pregnancy then they are entitled to two weeks of leave from day one of employment without notice.

The employee will be eligible for pay during this period if they have 26 weeks service at the date of death and have average weekly earning at or above the Lower Earnings Limit of £118 per week. The amount paid will be the lower of £148.68 or 90% of average weekly earnings. This is recoverable from the government.

The leave can be split but must be taken within 56 weeks of the death, enabling the employee to defer some leave until the anniversary of their child's death.

Extending pregnancy protection and paternity leave

While pregnant and then on maternity leave a mother has a period of protection against discrimination. Where an employer is making staff redundant under a redundancy programme, pregnant women and those on maternity leave are entitled to be offered a suitable alternative where this is available and have priority over other employees.

Having returned to work, women have voiced concerned about being dismissed or being made redundant. As a result, the government put out a consultation considering whether to extend the current pregnancy protection and published its results in July 2019 in “Good Work Plan – Proposals to support families”. Although we do not have a start date we know that the plans are to extend the pregnancy protection to start from when the employees informs their employer that they are pregnant and to extend the protection to period by 6 months, making it 6 months after they return to work after maternity or adoption leave.

The government are also looking to extend protection to those who are taking shared protection leave although at present, although it is unclear how this will work.

A further proposal is that provided the father or co-adopter qualifies, with 26 weeks service at the qualifying or matching week and has earnings sat or above the Lower Earnings Limit. If the proposal goes ahead, they could be entitled to 12 weeks of paternity leave and pay as opposed to the current two weeks:

- first four weeks would be paid at 90% of average weekly earnings;
- remaining eight weeks at the statutory rate of £148.68 per week.

However, if the father’s earnings are over £100,000, they would not be eligible.

Neonatal leave and pay

In the “Good Work Plan – Proposals to support families” the government is seeking views on their proposals to introduce neonatal leave for all employees from day one of employment, allowing one week for every week that the baby is in neonatal care, with the maximum number of weeks yet to be decided.

Other points

When an employee goes off on maternity or adoption leave, they are entitled to ten Keeping In Touch days, allowing them to come back to work and be paid their normal salary. If the parents go on to take shared parental leave then there are a further split 20 days.

Pregnant workers are entitled to paid time off to attend antenatal appoints, with the partner entitled to unpaid time off for up to two such appointments to accompany the mother. An adopter is entitled to paid time off for five meetings of up to 6.5 hours per visit, with the co-adopter being entitled to attend two unpaid meetings.

A surrogate mother is entitled to maternity leave if she satisfies the normal service requirements and pay levels. The intended parents will be entitled to leave and pay as a child adopter, if eligible.