

# Extending Statutory Paternity Pay

This article answers some common questions around Statutory Paternity Pay, addressing the current situation and the recent discussions about changes.

## Is an extension to Statutory Paternity Pay planned?

Recently, there have been discussions amongst professional organisations and charities about the state of parental leave, in particular paternity leave. The consensus arising from these discussions is that the system is in need of reform; calls have been made for legislative action but so far, there has been no official announcement from the Government.

However, the discussions have focussed attention on paternity leave and how it works.

## The current position

### Paternity leave

In the United Kingdom, the right to two weeks' paid paternity leave was first introduced in April 2003.

Eligible employees can take either one week or two consecutive weeks' leave after the baby is born. The leave must be taken in one go. It is worth noting that the amount of time off does not increase if they have more than one child, for example twins.

Paternity Leave cannot start before the baby is born and it must finish within 56 days of the birth (or due date if the baby is born early).

### Statutory Paternity Pay

The current weekly pay rate (as of April 2022) for Statutory Paternity Pay (SPP) is £156.66 per week or

90% of the employee's average weekly earnings (whichever is lower). This is subject to Income Tax and National Insurance in the usual way. This usually increases every April.

To be eligible for SPP, the employee must be one of the following:

- The baby's biological father
- The husband or partner of the mother
- The child's adopter
- The intended parent (e.g. if the baby is being born through surrogacy)

In order to qualify for SPP, the following criteria must also apply:

- The employee must have worked continuously for the employer for at least 26 weeks before the 'qualifying week'
- The employee must earn at least £123 a week (gross) on average for 8 weeks before the qualifying week

The 'qualifying week' is 15 weeks before the expected week of childbirth

It is worth noting that, in addition to paternity leave, parents can also take Shared Parental Leave and Pay. These additional rights were introduced in 2015 in an attempt to give more choice in how parents can care for their child.

## Shared parental leave

This lasts for up to 50 weeks and Shared Parental Pay can be paid for up to 37 weeks. These can be split between the parents and can be taken in one go, or in blocks, on a flexible basis. Shared Parental Pay is paid at the same rate as Statutory Maternity Pay and Statutory Paternity Pay - £156.66 a week or 90% of the employee's average weekly earnings, whichever is lower.

## Over and above

With the change in the work environment following the pandemic and what has been termed The Great Resignation, employers may be finding it hard to attract and retain the most talented employees. Therefore, offering enhanced benefits may well help with this. Family friendly benefits, over and above the statutory minimum, can help employers to stand out from the competition when potential recruits are surveying the latest vacancies.

As a case in point, in the very competitive financial recruitment sector, the accounting firm Grant Thornton UK, recently introduced a Paternity Policy of 6 weeks' full pay, a massive increase over and above the statutory two weeks of paternity leave paid at £156.66 per week.

What remains to be seen however is whether other employers will follow suit, without the legal obligation to do so.

## What does the future hold for parental leave?

Research by the law firm EMW, based on official HMRC figures in 2020, found that only 2% of couples took up the option of Shared Parental Leave.

The maternity rights charity, Maternity Action, reported in July 2022 that 2.1% of couples used Shared Parental Leave.

These figures are evidence that the current system is not popular, with the take-up falling way short of the Government's reported target of 25%. This has led to

calls for the current system to be overhauled and for an enhancement to Statutory Paternity Leave and Pay to be made.

Recent research by the Chartered Institute of Personnel and Development (CIPD), the leading professional HR organisation in the UK, found that almost half of the employers surveyed said they would support extending statutory paternity leave and pay. The Report recommends that the UK Government should enhance Statutory Paternity Leave to six weeks at or near the full rate of pay. Maternity Action has made similar recommendations.

These recommendations have received coverage in the media, and this may be what has formed the incorrect impression that the Government is planning to take action.

## The Governments position

In its 2019 Report 'Good Work Plan: Proposals to support families', the Government said: *"Of the countries in the OECD, the UK offers employed pregnant women and new mothers the longest period of dedicated Maternity Leave but our dedicated offer for fathers is among the lowest."*

A number of European countries offer greatly enhanced paternity leave and pay compared to the United Kingdom. For example, Spain offers 16 weeks of paternity leave on full pay.

Whilst the Government acknowledges that UK paternity leave is low, it has no immediate plans to change the current statutory position.

Having said this, given the recent change in Prime Minister and the uncertainty on budgets, taxation and spending, only time will tell if this remains so. Employers are therefore advised to maintain a watchful eye on Government announcements.

If you are concerned about what the future may hold or indeed are looking to make changes to your current Paternity leave policy, ensure you get legal advice to guide you every step of the way.

## Sources and further information

Employer Focus on Working Parents: Parental leave and pay and childcare policies, CIPD, August 2022

<https://www.peoplemanagement.co.uk/article/1747108/shared-parental-leave-uptake-still-exceptionally-low>

<https://maternityaction.org.uk/2022/07/fathers-day-or-fathers-six-weeks-well-how-about-fathers-six-months/>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819041/good-work-family-support-consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819041/good-work-family-support-consultation.pdf)