INTRODUCTION

Parental leave is a form of unpaid leave that entitles employees to take time off to look after their child's welfare. Typically, such leave is intended to allow parents to spend more time with their children or settle children into new childcare arrangements.

Parental leave is separate to the entitlement to take time off to deal with an emergency involving dependants, such as illness or injury, breakdown of care arrangements or an incident at school.

The factsheet outlines the basic entitlements of parental leave, the criteria for eligibility and negotiating improvements to the terms of parental leave agreements that go beyond the basic legal minimum.

ENTITLEMENT

Parental leave legislation allows an employee to take up to 18 weeks’ unpaid leave for every child under the age of five for whom the employee holds parental responsibility (or until five years after placement in the case of adoption).

In the case of a child who qualifies for Disability Living Allowance, the leave applies to any child under the age of 18.

The maximum parental leave permissible in any one year is 4 weeks and leave has to be taken in blocks of one week rather than odd days.

A “week” is taken to be the length of time that an employee normally works in a week. For example, if a part-time employee works for 2.5 days a week, that would normally be normally be taken as their weekly entitlement.

The 18 weeks’ entitlement represented a major increase on the 13 weeks previously in force before March 2013. The change to parental leave legislation was introduced at the latest possible moment by the current government to comply with the EU parental leave directive.

ELIGIBILITY

In order to qualify for parental leave, the following criteria apply:

- The employee must have worked in the organisation for more than a year;

- The employee has, or expects to have, “parental responsibility” for the child, as defined under the Children Act 1989 - that is, the parent is the mother, or married to the mother or the parents are civil partners and therefore they
are named on the child’s birth certificate or have obtained formal legal parental responsibilities.

- The self-employed or a person legally defined as a “worker” (such as an agency worker) rather than an “employee” are excluded from parental leave rights, along with foster parents (unless they have secured parental responsibility through the courts).

Employees remain in employment while on parental leave, and employment terms and conditions are protected such as relating to notice and redundancy and disciplinary or grievance procedures.

Employees have the right to return to the same job if they take leave of four weeks or less. If employees take more than four weeks’ leave, they have the right to return to the same job, unless the employer shows that this is not reasonably practicable. In this case, they are entitled to an equivalent job of same or better terms and conditions when they return.

**A “FALL BACK” SCHEME**

Employers and employees have been encouraged to negotiate their own arrangements for how parental leave will work in their workplace. Where this does not happen, or until a negotiated agreement is in place, the Fall Back scheme applies.

Under the Fall Back scheme:

- Parental leave must be taken in blocks of one week except for children entitled to Disability Living Allowance, where leave can be taken in periods of less than a week.
- No more than four weeks’ parental leave can be taken in any one year by each parent, for each child.
- The parent must give 21 days’ notice before taking parental leave, or, where that is not reasonably practicable, as soon as is reasonably practicable.
- An employer can postpone your parental leave for up to six months if they consider that your absence would unduly disrupt the business. Leave requested for the period immediately after the birth of a child, or their placement in adoption, cannot be postponed.

**NEGOTIATING**

Trade union negotiators have a key role in improving the basic parental leave provisions. Collective agreements can replace the Fall Back scheme with an entirely different set of arrangements. These can be better, but cannot be worse than the Fall Back scheme.
Where there is an existing agreement providing time off to someone supporting a parent (usually maternity support or paternity leave), aim to build on and improve this provision. You can choose to keep your current agreement separate, or incorporate it into a new parental leave agreement. But be careful to avoid having existing paid leave replaced by the longer, unpaid period of time off provided for in the legislation.

Organisation is the key to effective negotiating. A strong union organisation means high levels of union membership, stewards in all areas, and an informed and consulted membership. If employers see low union density and a poor union organisation it is harder to make your arguments stick. Before any bargaining begins you need to consult your members and gather information. A campaign around better parental leave raises the profile of the union and shows that it is listening, encourages non-members to join and helps get existing members more involved in the branch.

Think about setting up a working party to survey members and develop proposals as a way of involving more members in the bargaining process.

BEST PRACTICE EXAMPLE - Nottinghamshire County Council has agreed that parental leave is not a substitute for existing leave provisions, such as Maternity Support Leave, Compassionate Leave, Leave for Urgent Domestic Business or Adoption Leave.

KEY NEGOTIATING ISSUES

**Definition of an employee**

Under the law, only ‘employees’ are entitled to parental leave. The government defines ‘employees’ as those with a contract of employment. This narrow definition excludes thousands of UNISON members who work in the fields of health, education and social care on an agency, casual (as and when needed) and sessional basis. UNISON believes that the right to parental leave should apply to the broader category of ‘workers’, in the same way as the legislation on Working Time and the Statutory Minimum Wage. This would cover all those who ‘perform work or services personally for another person,’ whether or not they had a written contract of employment.

**Aim to negotiate the right to parental leave for all ‘workers’. This should include casual, contract and sessional staff.**

**Eligibility criteria for parental leave**

The current criteria grant leave only to parents named on the child’s birth certificate or those who have obtained formal legal parental responsibilities. This will exclude the following groups: legal guardians, some same-sex partners who want to claim parental leave for a partner’s child, and other people, such as grandparents, who are genuinely looking after a child on a day-to-day basis.
Aim to negotiate the right to parental leave for anyone who can demonstrate that they are, or will be, the main carer for the child, or for a person who provides support to the main carer. This should apply to couples of the same sex.

**BEST PRACTICE EXAMPLES**
- Nottinghamshire County Council makes parental leave applicable to "any employee who is nominated as a child’s carer by the expectant mother".
- Windsor and Maidenhead Council allows "any partner who cares for a child but for whom they may not have legal responsibility" to use parental leave.

Current rules only grant leave to parents who have been in their current jobs for at least one year. This will be unfair to employees who are forced to change jobs, for example through redundancy, and young workers coming into the labour force, or employees on a temporary fixed-term contract of less than a year. These employees will lose out on the opportunity to take parental leave for a year after they change jobs.

Lone parents could be deterred from entering employment if they have to wait a year before they can take parental leave. The one-year qualifying period could also have an adverse effect on Black workers, and working mothers with young children, the two groups most likely to have been in their current job for less than a year.

**Aim to negotiate a reduced qualifying period, or full right to parental leave from day one.**

**BEST PRACTICE EXAMPLES**
- Neither the Environment Agency nor the University of Brighton require a qualifying period for the right to parental leave.
- Wandsworth Primary Care NHS Trust require employees to have completed a year’s continuous service with the Trust, or qualifying service with a previous employer.

**Age of child**

Parental leave only applies up to the child’s fifth birthday under the regulations, but the need for childcare does not stop when a child starts school. In fact, the need to organise care after school and during school holidays frequently makes childcare arrangements more complex for school-age children. Parents may also need time off to attend school for interviews and open days. Despite Government initiatives, there is still a serious lack of affordable, high-quality, out-of-school childcare.
Aim to negotiate the right to parental leave for all parents up to at least the child’s eighth birthday. Where possible make the case for setting the maximum even higher.

**BEST PRACTICE EXAMPLES**
- Nottinghamshire County Council offer their staff the right to take parental leave until the child’s eighth birthday or, when the child is adopted, until eight years from the date of placement or up to age 18, if that comes first.
- The University of Leeds provides employees with the right to leave until the child is eighteen years old.

**Adoption**

As with maternity leave, workers have a legal right to paid adoption leave so employees do not have to rely on using parental leave to cover time spent on adoption. Try to make sure you have an agreement on adoption leave that includes time off for meetings and other pre-placement events. If you don’t have this, aim to secure the right for adoptive parents to take parental leave as soon as the adoption procedure begins. Information on statutory adoption leave is available in the ‘references’ section of this guide.

**Paid leave**

Although there is two weeks paid maternity support leave (paternity leave) and further paid maternity support leave possible under additional paternity leave, there is no requirement for parental leave to be paid.

The central objective of the Parental Leave Directive is to allow both men and women to reconcile their work and family obligations. But research suggests that the take-up rates for parental leave are low if it is unpaid, especially amongst low-paid workers and lone parents.

Aim to negotiate paid parental leave. While the goal would be to achieve full pay for the full 18 weeks of parental leave, interim steps might be:

- a flat rate for all three months, or
- full pay for the first four weeks

**BEST PRACTICE EXAMPLES**
- Cadbury’s give 10 days paid leave at 50% of earnings, with the remaining weeks unpaid.
- Edinburgh City Council give up to five days paid leave for the planned health care of a child up to the age of five.
Flexibility of leave

The arrangements for taking leave under the Fall Back scheme are very inflexible. Except for parents of disabled children, employees must take leave in blocks of at least one week. This means that a parent wanting to take a day off to go with their child on a school outing would be forced to take a full week off, and lose a full week’s pay. Similarly, a parent needing six or seven days’ leave will have to be away from work for at least a fortnight. This is likely to discourage parents from taking leave, especially if it is unpaid.

Aim to negotiate arrangements where parental leave can be taken in days or half days. This arrangement already exists for annual leave and should not cause any difficulty for the employer. A parental leave agreement could also include a provision for part-time working. This would allow parents to use their leave in the form of reduced hours over a period of time.

BEST PRACTICE EXAMPLE - The national Local Government model parental leave scheme allows leave to be taken as a minimum block of half a day, and leave can be used for changes to working arrangements.

What leave is used for?

Confusion may occur between parental leave and the right to time off for dependants. Parental leave is designed to cover time off which has been planned in advance to care for a child, while time off for dependants is meant to be used in emergencies.

Aim to ensure that your agreement makes a clear distinction between parental leave and time off for dependants. Parents should not be forced to use their parental leave to cover unexpected events like family illness or the breakdown of care arrangements.

BEST PRACTICE EXAMPLES

- At National Grid parental leave is additional to the maternity, paternity or adoption provisions and the time-off for dependants arrangements.

- Salford Council takes a broad view of what parental leave can be used for including "allowing parents to spend more time with their children when they are young and to relieve some of the stresses of working and caring."
Amount of leave

The Fall Back scheme limits the amount of leave that can be taken to a maximum of four weeks in any one year. This prevents parents from using their leave in a way that suits their circumstances. Parents might, for example, want to take a substantial block of time off during their child’s first year.

Aim to negotiate as much flexibility in taking leave as possible. Resist the imposition of a maximum amount of leave that can be taken in one year.

BEST PRACTICE EXAMPLE - Windsor and Maidenhead Council don’t limit the amount of leave available in any one year, but ask for 2 months notice if it is more than 4 weeks.

Notice period

The parental leave regulations require employees to give their employer 21 days’ notice of their intention to take leave. The need for parents to take time off to care for children often arises quickly. A nursery place may suddenly become available, making it necessary to take time off to settle the child. Parents might want to use the leave to attend a school event for which they have not had three weeks’ notice. It is unlikely that a period of leave at short notice will disrupt the employer’s business.

Aim to negotiate a shorter notice period, particularly for leave of a week or less. If that is not possible, negotiate a provision that the employer or line manager will give sympathetic consideration to requests for parental leave without full notice.

Also try to ensure that employees have the right to cancel parental leave that has already been booked, without losing leave entitlement.

BEST PRACTICE EXAMPLE - At Salford Council employee’s have to give as much notice as possible with a minimum of 7 days notice in writing.

Postponement of leave

Employers have the right to postpone parental leave for up to six months if they ‘consider that the operation of the business would be disrupted’. The employer has to discuss the issue with the employee and put their reasons in writing within seven days of receiving the employee’s notice to take parental leave.

Employers may not postpone parental leave which is requested to take place immediately following the end of maternity leave or, in the case of fathers, for the expected date of birth or placement for adoption of a child.
UNISON is concerned that unscrupulous employers could use their right to postpone leave to prevent employees from using their entitlement to parental leave. **Aim to ensure that employers are only allowed to postpone leave in exceptional circumstances, and are required to justify their decision. Make the rules clear by asking employers to set out the circumstances under which leave might be postponed.**

**BEST PRACTICE EXAMPLES**

- The Association of Colleges recommend that postponement should not occur other than in exceptional circumstances.
- Salford Council will not postpone leave for more than 3 months, and never postpone it immediately following maternity leave, maternity support leave, or adoption leave.

**Right to return to the same job**

Parental leave regulations state that an employee is guaranteed the right to return to the same job only if the leave is for four weeks or less. Employees taking longer leave are entitled to return to the same job, but if that is not reasonably practicable, to a similar job which has the same or better status and terms and conditions.

UNISON believes that employees taking parental leave should be secure in the knowledge that they will come back to the same job. If this is not the case, many workers will be deterred from taking leave.

**Aim to negotiate the right to return to the same job, regardless of the length of leave.**

**BEST PRACTICE EXAMPLE**

- At Norfolk and Norwich University Hospital if the employee will not be able to return to the same job (after taking extended parental leave) they must be advised of this when they apply for Parental Leave.
Conditions of employment

Employees on parental leave remain in employment, and both the employer and employee are bound by contractual obligations of good faith and confidentiality and terms of employment regarding redundancy, discipline and grievance. Employees continue to build up statutory holiday entitlement whilst on parental leave, although the employer can suspend contractual holiday entitlement. Pension contributions usually stop if a period of leave is unpaid but workers on parental leave retain continuity of service for the purposes of pension entitlement, seniority and promotion prospects or entitlements linked to performance-related pay.

Aim to negotiate that employees on parental leave retain all of their normal terms and conditions of employment.

BEST PRACTICE EXAMPLE

- At Centrica benefits continue during the first 13 weeks of unpaid parental leave as they do during unpaid maternity leave. These include employee discounts; annual leave/public holiday accrual; private medical insurance; continuous service/profit share eligibility; company cars and fuel costs.

Contact with the employer

The law does not require employers to maintain contact with employees who are on parental leave. This could disadvantage employees by cutting them off from information on training opportunities, job openings or important developments at work.

Aim to negotiate a requirement that employers maintain contact with employees while they are on parental leave.

BEST PRACTICE EXAMPLE

- The Association of Colleges provides for those on parental leave of four weeks or more to remain on circulation lists, to be included in invitations to work-related social events, and to be informed of training opportunities. Employees with management responsibilities are given the opportunity to participate in or be consulted about key decisions taken in their absence.
Monitoring

There is no requirement in the regulations for employers to keep records of parental leave. This may cause difficulties when employers try to monitor the take-up of family-friendly provisions, and lead to disputes over whether an employee has taken their entitlement.

Aim to negotiate a record-keeping system with your employer so that parental leave can be properly monitored. You may also want to build in a review of the parental leave arrangements after a year to identify problems and potential improvements.

BEST PRACTICE EXAMPLES

- Nottinghamshire County Council’s agreement states that records of parental leave are to be incorporated into leave recording processes.
- At Salford Council the Parental Leave policy is reviewed annually by the Director of Personnel Services in the light of experience gained from its operation and emerging good practice.

The business case for parental leave

Your employer will want to know what they will gain from agreeing to better terms on parental leave.

Improved parental leave is a good investment, helping to retain skilled and experienced staff, contributing to motivation and job satisfaction and signalling the employer’s commitment to equal opportunities.

Recruitment and retention

The implementation of family-friendly policies will help to attract new recruits and reduce turnover, especially amongst women returning from maternity leave. Staff are more likely to be loyal, committed and effective when they know that they can balance their work life and family demands. As more and more employers introduce improved parental leave, the negotiation of a good family-friendly package will provide employers with a competitive advantage.

Family-friendly policies will also widen the pool from which new recruits can be drawn, encouraging lone parents, in particular, to apply for jobs. This will make the skills and training of a wide range of workers available to employers.

Boots the Chemist estimated annual savings of £1 million from skills retention, reduced training costs and extra sales after the company introduced family-friendly policies.
Effectiveness

The absence of adequate provision for parental leave can mean heavy costs for employers resulting from unplanned absence and unproductive time spent at work. Research published in 1998 by the Institute for Employment Studies, *Working Long Hours in the UK*, found that long hours of work caused increased absence, low morale, lower productivity, reduced output, poor quality of work and greater health and safety risks. These problems are made worse by the strain of worrying about the care of children at home. Allowing workers time off to care for their children will improve the effectiveness of their work.

Reputation

Family-friendly policies are part of an overall commitment by employers to equal opportunities, and to healthy communities. It is children who will be the biggest beneficiaries of parental leave. Employers have a vested interest in the workforce of tomorrow, and those employers who show their commitment to best practice will find their reputations enhanced in the local community.

FURTHER INFORMATION

The government’s outline of parental leave can be found at
https://www.gov.uk/parental-leave

The ACAS summary of parental leave can be found at

UNISON factsheets and guidance on related issues can be found below:
Maternity Rights Factsheet

Maternity Rights Bargaining Guidance

The Labour Research Department has produced a guide for union reps entitled “Leave and Pay for Working Parents” available from its website via the link below

http://www.lrdpublications.org.uk/publications.php?pub=BK&iss=1416