

Employment Rights for Working Parents

Trying to balance work life and family life can be a struggle. Our own research highlights the importance that working parents place on being able to access support to help them achieve the right balance. We published a report, *Striking the Balance*, highlighting the impact that becoming a parent has on that parent's working life, employment and career. As a result of that research, we later published a guide for employers called *How to be a Family Friendly Employer*. These documents contain a lot of helpful information whether you are a working parent, an employer or both. This factsheet outlines some of the initiatives designed to help working parents manage their work and family responsibilities, including:

- flexible working
- parental leave
- time off for dependants.

FLEXIBLE WORKING

What is flexible working?

'Flexible working' is a phrase that describes any working pattern adapted to suit your needs (Directgov, 2010). The following information refers only to Northern Ireland statutory procedures. If you live in England, Scotland or Wales, please visit www.gov.uk. There are many flexible working patterns including, but not limited to:

- **Part-time:** working less than the normal hours, perhaps by working fewer days per week
- **Compressed hours:** working your agreed hours over fewer days
- **Homeworking:** working from home
- **Flexi-time:** choosing when to work (there is usually a core period during which you have to work)
- **Job sharing:** sharing a job, designed for one person, with someone else
- **Term-time:** working term time only.

Eligibility

Anyone can ask their employer for flexible working arrangements, however, flexible working legislation gives some employees the **legal right to request** a flexible working pattern.

To be eligible you must:

- be an employee, but not an agency worker (other than those returning from a period of parental leave) or those in the armed forces
- have at least 26 weeks' service at the date the application is made
- not have made another application to work flexibly in the previous 12 months.

Submitting a request

Only one request can be made in a 12 month period. It should:

1. Be made in writing (sometimes on a standard application form), and dated.
2. State that the application is being made under the statutory right to request.
3. Set out the pattern and proposed start date.
4. Explain what effect the proposed pattern will have on the employer and suggest how this might be dealt with.
5. Confirm that the employee meets the eligibility criteria above.

Ensure you make your application well in advance of when you want it to take effect.

Possible outcomes

Under the law your employer must consider any application you make seriously, and only reject it if there are good business reasons for doing so. The law gives employees the right to ask for flexible working - not the right to have it. When considering an application, the employer must follow statutory procedures and time frames. They must consider the request seriously and can only refuse on one of the following statutory specified grounds:

- burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to reorganise work amongst existing staff
- inability to recruit additional staff
- detrimental impact on quality and/or performance
- insufficient workload during the proposed working hours
- planned structural changes.

Your employer might simply agree to your request to work flexibly. If so, then they should write to you within 28 days setting out the agreed changes to your employment contract and the date on which the new working pattern will start.

If your employer does not agree with your request they should also have a meeting with you to discuss this. The meeting must happen within 28 days of your employer receiving your application. You may wish to bring a colleague to the meeting; they will be able to talk with you and address the meeting but not answer questions on your behalf. If you can't attend a meeting that is scheduled make sure you rearrange the meeting with your employer.

Your employer may wish to discuss alternative flexible working patterns if they feel unable to accommodate your request.

Your employer must let you know, in writing, their decision within 14 days of the meeting. This time limit can be extended if you and your employer agree. If your application is rejected, then your employer must give you written notification which includes:

- the business ground(s) for refusing
- an explanation why the business ground(s) apply to your application
- details of your right to appeal.

Appealing a decision you are unhappy with

If you are unhappy with the decision that your employer has made, you have the right to appeal it. This can be done on a number of grounds, including:

- bringing something additional to your employer's attention that they were not aware of when they made their decision
- challenging a fact that your employer used in applying their business grounds for rejection.

An employee cannot appeal simply because they disagree with the business grounds for refusing the request.

Tell your employer as soon as possible if you wish to appeal, and no later than 14 days from when you received notification of their decision. Submit your appeal in writing. The employer must arrange a meeting with you within 14 days of being advised of the appeal. As an employee you have the right to be accompanied to this meeting. After the meeting has taken place, the employer must inform you of their decision in writing.

If you are still unhappy with your employer's decision, you may be able to make a complaint to an Employment Tribunal on the following grounds:

- The appeal is refused but the employee believes they have grounds for an appeal.
- The employee is dismissed or unfairly treated (e.g. refused promotion) because of their application.
- The employer didn't follow the correct procedure when handling the application.

Before making a claim to an Employment Tribunal you should try to resolve the issue with your employer, and/or seek specialist advice. If appropriate, you may also wish to consider a complaint under the grievance procedure in your employment contract.

Further information

For further information on family friendly working policies contact Employers For Childcare's Family Benefits Advice Service on fbas@employersforchildcare.org.

You will also find more information on the legal underpinning for flexible working at:
www.nibusinessinfo.co.uk/content/flexible-working-law-and-best-practice

PARENTAL LEAVE

What is parental leave?

Parental leave is the right to take unpaid time off work to look after your child or to make arrangements for their welfare. It can help you spend more time with your child and strike a better balance between your work and family commitments. Examples of the ways parental leave might be used include:

- spending more time with your child in their early years
- time with your child during a stay in hospital
- looking at new schools
- settling your child into new childcare arrangements
- allowing your family to spend more time together
- taking additional leave immediately after your maternity, paternity or adoption leave providing you give the right notice.

Who is entitled to take parental leave?

If you have a child aged under 18, you may be entitled to take parental leave. To qualify, you must be an employee and have at least one year's continuous service with your current employer. You must also:

- be named as a parent on the child's birth certificate
- be named on the child's adoption certificate
- have acquired formal, legal parental responsibility for the child.

If you are separated, and do not live with your children, you have the right to parental leave if you keep formal parental responsibility for the children.

If you are self-employed or a 'worker' (e.g. an agency worker, contractor etc.) you will not be entitled to take parental leave.

Foster parents do not have rights to parental leave but may be able to request a flexible working pattern.

How much parental leave can I take?

Each parent who qualifies for parental leave can take up to 18 weeks' parental leave for each child, up to the child's 18th birthday. The maximum amount of leave that can be taken

per year is four weeks per child. The leave should be taken in weekly blocks, unless the child is disabled, in which case shorter periods can be taken.

What does the process of applying for parental leave involve?

Employees should give their employer at least 21 days' notice of the dates that they intend to take. An employer may ask for evidence that an employee is entitled to parental leave, for example, a child's birth certificate or certificate of adoption.

An employer can postpone the leave dates for up to six months if it would cause disruption to the business, i.e. if leave was planned for the busiest period. However, if the leave is being requested because of the birth or adoption of a child, then the employer cannot postpone it.

Is parental leave paid?

No. Statutory parental leave is **unpaid**. Some employers may enhance the statutory entitlement and make payments at their discretion. This will depend on your terms and conditions of employment.

Whilst you are on unpaid leave you might be eligible for certain benefits, such as Universal Credit, depending on your circumstances.

What if I don't qualify for parental leave?

If you don't qualify for parental leave but need time off to care for your child you could:

- take paid holiday
- ask your employer for unpaid time off
- ask your employer about flexible working.

If there's a genuine emergency and you need to take time off at short notice your employer may let you take dependants leave or you may have the right to take time off to arrange for care. All employees have a right to take a reasonable amount of unpaid time off to deal with certain emergencies involving people they care for. This is known as time off for dependants, and applies regardless of how long you have been working for your employer or whether you have child or adult care responsibilities.

TIME OFF FOR DEPENDANTS (COMPASSIONATE LEAVE)

Time off for dependants can also be referred to as 'compassionate leave'. If you are an employee, you have the right to take time off work to deal with emergencies involving a dependant, regardless of your length of service. Usually, this would be your husband, wife, partner, child, parent, or someone who lives in your household as a member of the family. A dependant may also be anyone who reasonably relies on you for help in an emergency, for example an elderly neighbour. The emergency might be:

- a dependant falling ill
- a dependant having been injured or assaulted
- a dependant having a baby
- problems with a dependant's care arrangements
- unexpected incidents involving children at school
- the death of a dependant.

Is time off for dependants paid?

Time off for dependants is usually unpaid. However, some employers may enhance the statutory entitlement and make payments at their discretion. This will depend on your terms and conditions of employment. Whilst you are on unpaid leave you might be eligible for certain benefits, such as Universal Credit, depending on your circumstances.

How much time off for dependants can I take?

No set period is defined, but it should be 'reasonable'. In most instances, one or two days should be enough time to deal with the emergency that has arisen. There is no limit on the number of times you can take time off for dependants provided it is being taken in order to deal with genuine emergencies. You should try to keep your employer up to date with the situation, as far as possible. For example, if you need more time off than you expected you should let your employer know. If your employer feels that you are taking more time off than they can reasonably cope with, they should advise you of this and you should try to resolve the issue.

When does the right to time off not apply?

You don't have the right to time off for every problem, for example, a burst boiler at home does not count as there is no 'dependant'. Additionally, time off to care for people who don't count as dependants would not be covered. Your employer can still choose to allow

you time off if they wish, or you could take the time out of some of your paid holiday. If it happens regularly, it may be more useful to consider using a flexible working arrangement. Additionally, the right to time off for dependants only covers emergencies and so doesn't apply if you know about an event in advance. For example, if you want time off to take your child into hospital in a week's time the right doesn't apply, although you may be able to take it as parental leave instead.

Protection for employees who take time off for dependants

Some parents may have concerns that legitimately taking time off in this manner may not be looked upon favourably by their employer, but there are some protections in place for these circumstances. An employee who takes time off for dependants should not:

- be subject to detrimental treatment for taking emergency time off
- be dismissed - or selected for redundancy - because they took, or sought to take, emergency leave.

If an employee believes that they have been treated unfairly or dismissed in these circumstances, they may take a claim of detrimental treatment or unfair dismissal to an industrial tribunal - regardless of their length of service.

Statutory Parental Bereavement Leave and Pay

From 6 April 2022, eligible working parents in Northern Ireland are entitled to two weeks' statutory paid leave following the death of a child under 18 or a stillbirth (after 24 weeks of pregnancy), bringing Northern Ireland in line with the rest of the UK.

Who is a Bereaved Parent?

A 'bereaved parent' is defined as:

- The child's legal parents
- Individuals with a court order giving them day-to-day responsibility for the child
- Some Primary carers without legal status (such as kinship carers) depending on the relationship and duration of care

What can I receive and who is eligible?

All employees have a right to **Statutory Parental Bereavement Leave** of two weeks from the day they start their job, regardless of how long they have worked for their employer. The leave can be taken as one block of two weeks, or two separate one week blocks.

To be eligible for **Statutory Parental Bereavement Pay** during this time, the parent must have worked for their employer continuously for at least 26 weeks at the time of their child's death or stillbirth, and had average earnings over the Lower Earnings Limit on the date of the date of the bereavement.

You have 56 weeks to take Parental Bereavement Leave or claim Statutory Parental Bereavement Pay through your employer. This starts from the date of the child's death or stillbirth.

Statutory Parental Bereavement Leave or Pay are not available for self-employed parents.

Is Statutory Parental Bereavement leave paid?

For eligible employees Statutory Parental Bereavement Pay is paid at a rate of £187.18 per week, or 90% of the parent's average weekly earnings, whichever is lower.

What notice period is required?

For leave taken in the first eight weeks after the death or stillbirth, you must give your employer notice before you would normally start work on the first day of the week or weeks you want to take off work. No further notice is required, recognising that employees are likely to need this leave with little to no notice.

From week 9 to week 56 you must give your employer at least one week's notice before the start of the week or weeks you want to take off work.

Parents taking Parental Bereavement Leave will have the same employment protections as those associated with other forms of family related leave, for example Maternity Leave.

Where can I find more information?

Full details of Statutory Bereavement Leave and Pay for Northern Ireland, including the eligibility criteria, and details of how to claim Statutory Parental Bereavement Pay, are available on the [NI Direct website](#).

What about foster parents and other guardians?

Foster parents and carers who do not have formal, legal parental responsibility, can avail of family-friendly policies as follows:

	Entitlement for carers without parental responsibility
Flexible working (right to request)	✓
Parental leave	X
Time off for dependants	✓
Statutory Parental Bereavement Leave and Pay	Dependent on the relationship and duration of care

For further information or advice on any other entitlements for parents and families, please contact our Family Benefits Advice Service on fbas@employersforchildcare.org.