

Legal disclaimer

The information contained within this article is not a complete or final statement of the law.

While Derbyshire UNISON has sought to ensure the information is accurate and up to date, it is not responsible and will not be held liable for any inaccuracies and their

consequences, including any loss arising from relying on this information.

If you are a Derbyshire UNISON member with a legal problem, please contact the branch office or your steward as soon as possible for advice.

01629 582266

branch@unisondc.co.uk

derbyshireunison.com

SHARED PARENTAL LEAVE

MOTHERS, FATHERS AND adopters can opt to share parental leave around their child's birth or placement.

Eligible mothers and fathers have the right to share up to 52 weeks' leave to care for their child (minus the period that the mother has spent on maternity leave) and up to 37 weeks' shared parental pay (paid at the same rate as statutory maternity pay).

Eligibility

To qualify for leave, an employee must have 26 weeks continuous employment at the 15th week before the expected week of childbirth and remain in that employment when the leave is taken. The employee's partner must also satisfy these criteria to be eligible for shared parental leave.

Notification

Employees who qualify for shared parental leave must notify their employer of their entitlement and intention to take leave at least eight weeks before their first period of leave. This notification must include:

- **details of how much shared parental leave is available**
- **the amount of leave each parent intends to take**
- **a non-binding indication of when the employee is intending to take leave.**

The parents can subsequently vary the amount of leave that each will take by notifying their employers of the change.

Self-certification

The notification must be accompanied by declarations from both parents about their entitlement to take shared parental leave and that they agree to the amount of parental leave the other parent wishes to take.

The system is one of 'self-certification' and an employer is not expected to make detailed checks about an employee's eligibility for shared parental leave. However, if an employer receives a notification, it can ask for a copy of the child's birth certificate and the name and address of the partner's employer within 14 days.

The employee then has 14 days to respond to the request.

Leave

An employee must give a separate written notice at least eight weeks before the start of any period of shared parental leave. The notice must state when the leave will start and end, and can request more than one period of leave.

If employees have asked for a single continuous period of leave, they are entitled to take it. If they have asked for separate periods of leave, the employer can:

- **agree to the requested pattern of leave**
- **refuse the request**
- **refuse the request but propose alternative dates.**

If agreement between employer and employee cannot be reached within two weeks, employees can withdraw their request, or take the leave requested as a single continuous period.

An employee can give up to three notices of their intention to take leave. If a notice is withdrawn because a leave pattern cannot be agreed between employer and employee, it does not count towards this limit.

Right to return

During shared parental leave an employee's normal terms and conditions of employment should be maintained, except those relating to pay. Employees can work on up to 20 KIT ('keeping in touch') days each, in addition to the 10 mothers can use whilst on maternity leave, without bringing the leave to an end, and employees on shared parental leave who are at risk of redundancy are entitled to be offered suitable alternative employment if there is such a vacancy.

An employee returning from shared parental leave is normally entitled to return to the same job if they are coming back from a period of leave including shared parental leave of 26 weeks or less. If the period of leave exceeds this, and it is not reasonably practicable to return to the same job, they are entitled to return to a suitable alternative.

Employment protection

Employees must not to be subjected to detrimental treatment because they have taken, or tried to take, shared parental leave, or because their employer believed they were likely to take shared parental leave.