

In our recent [alert](#), we recommended that employers review and update their family-friendly policies to reflect the changes that are coming into force in April under the Employment Rights Act 2025.

We also wanted to bring to your attention some other legislative changes that might require employers to make additional minor tweaks to any paternity leave policy.

Towards the end of December, the Paternity Leave (Bereavement) Act 2024 came into force, making special provisions about paternity leave in cases where a child’s mother or other adopter dies. This change followed a successful campaign by a father who was unable to take paternity leave after the death of his wife during childbirth, because he did not satisfy the eligibility criteria for such leave. The Act provides that where a child’s mother or adopter dies, there is no requirement for an employee to have at least six months’ service to be eligible to take statutory paternity leave. It also allows for paternity leave to be taken where that father/partner has already taken shared parental leave.

These changes will only be relevant for a limited period because in the meantime the government has passed the Employment Rights Act (ERA) 2025, which removes the requirement to have six months’ service to take statutory paternity leave for all employees, bereaved or not. It also removes the current restriction on taking paternity leave where a father/partner has already taken shared parental leave. These ERA 2025 changes will come into force on 6 April 2026.

In other news, the government has now issued the draft Bereaved Partner’s Paternity Leave Regulations 2026 (also due to come into force on 6 April), which set out the details of a new statutory right to “bereaved partner’s” paternity leave. This new entitlement will in effect be an extended form of unpaid paternity leave of up to 52 weeks following a child’s birth or placement for adoption in circumstances where a child’s mother or primary caregiver dies. It is intended to provide an entitlement that mirrors the length of leave available to other primary caregivers through maternity leave and adoption leave, irrespective of length of service.

The key provisions for employers to be aware of are noted below. In practice, these changes will only impact a very small number of employees. Employers may therefore opt to signpost these new rights in any paternity leave policy, rather than setting them out in full (like much of the other family-friendly legislation, the actual statutory provisions are fairly lengthy and complex).

As the father who campaigned for these changes is reported to have said: “This law is only going to impact a very small number of people, but for those that it does, the impact will be huge”

## Bereaved Partner’s Paternity Leave – Key Provisions To Be Aware Of

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| <p><b>Who is eligible?</b></p>                  | <p>An employee will be entitled to take bereaved partner’s paternity leave if their child’s primary carer dies during childbirth, or during the first year following birth/adoption; the employee satisfies the necessary relationship conditions (e.g. is the child’s father or was married to, or the civil partner/partner of, the child’s deceased primary carer); and the employee will now have the main responsibility for the child’s upbringing.</p> <p>These provisions will apply where that primary carer dies on or after 6 April 2026.</p> <p>There is no qualifying period of service required to take such leave.</p> |
| <p><b>How much leave can they take?</b></p>     | <p>An eligible employee will be able to take a single period of leave after the bereavement of up to 52 weeks, but it must be taken within 52 weeks of the birth/adoption. The exact amount of leave available will depend on when the bereavement takes place. For example, if the primary carer dies during childbirth, the employee will be entitled to the maximum amount of leave. If, however, the child’s primary carer dies 20 weeks after childbirth, the employee will only be entitled to 32 weeks’ leave.</p>   |
| <p><b>Terms and conditions during leave</b></p> | <p>An employee who exercises their right to take bereaved partner’s paternity leave will be entitled to their usual terms and conditions of employment, except remuneration and will in turn continue to be bound by their usual contractual obligations and duties to the employer during the leave.</p> <p>The leave will be unpaid, unless an employer opts to pay something for some or all the period on compassionate grounds.</p>  |

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| <b>Work during a period of leave</b>                    | In the same vein as some other types of family-friendly leave, employees will be able to carry out up to 10 days' work (effectively "Keeping-in-Touch days") during a period of bereaved partner's paternity leave without bringing that leave to an end. This could include training or any other activity undertaken for the purposes of keeping in touch or re-integration into the workplace.  |
| <b>Notice requirements</b>                              | An employee who wishes to take such leave will have to comply with various notice requirements. The exact requirements will depend on whether the employee wishes to begin the period of leave within eight weeks of the bereavement or not. An employee will also have the ability to vary the leave start date/intended return date and cancel a period of leave, provided they comply with certain notice requirements.   |
| <b>Right to return</b>                                  | <p>An employee who returns to work following a period of bereaved partner's paternity leave of 26 weeks or less will generally have the right to return to the same job on the same terms and conditions as they would have had if they had not been away. If the employee takes a longer period of leave, they will also generally be entitled to return to the same job, but if this is not reasonably practicable, to another job, which is both suitable and appropriate for the employee in the circumstances.</p> <p>If a redundancy situation arises while an employee is taking such leave or, where the period of leave is six weeks or longer, during the "post-leave protected period" (18 months after the baby was born/adopted), the employee will be entitled to be offered alternative employment if a suitable vacancy exists. In other words, employees who take bereaved partner's paternity leave will be entitled to enhanced protection in redundancy situations in the same way as other employees on certain types of family leave already have.</p> |
| <b>Additional circumstances that leave can be taken</b> | In cases where both the child and the mother die, an employee will be entitled to take bereaved partner's paternity leave even though the leave cannot be taken for the purpose of caring for the child. Similar protection is provided in adoption situations. The leave period is however shorter in such circumstances, being a maximum of eight weeks.   |
| <b>Employment protection</b>                            | As you would expect, and in line with other family-friendly leave provisions, an employee will be entitled not to be subjected to any detriment or to be dismissed for taking, seeking to take such leave, etc.  |

If you would like us to review your existing policies to let you know where changes need to be made and to identify any gaps, please speak to your usual contact in the Labour & Employment team, or one of the partners below.

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