

# Neonatal Leave and Pay

(TPO/STA/41)

## Associated Policies

- Adoption (TPO/STA/01)
- Maternity (TPO/STA/04)
- Parental Leave (TPO/STA/06)
- Paternity (TPO/STA/07)
- Special Leave of Absence (TPO/STA/14)
- Disciplinary Procedure (TPO/STA/22)
- Probationary Policy (TPO/STA/32)

## Review Periods

Last reviewed:	March 2025
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## Policy Statement

The Neonatal Care (Leave and Pay) Act 2023 gives employees the right to time off work when a baby they have responsibility for is in hospital receiving neonatal care.

Neonatal Care Leave is in addition to the other family friendly rights, such as maternity leave and paternity leave

Neonatal care leave will be available for those with responsibility of babies born on or after 6 April 2025. This date refers to the actual date of birth and not the expected due date.

## Scope

The Neonatal Leave and Pay Policy applies to all employees of Brooke Weston Trust, in line with the eligibility criteria set out below.

## Roles and Responsibilities

The CEO has responsibility for ensuring all appropriate policies, systems and training are in place.

The Strategic Delivery Group is responsible for the review and implementation of this policy.

In each school, the Principal is accountable for ensuring compliance with this policy. In central teams, the Heads of Profession and Executive team members are responsible for ensuring compliance with this policy.

The Head of People is responsible for reviewing and updating this policy.

## Neonatal Care

A baby must receive “neonatal care” in order for the parents to qualify for neonatal care leave.

For the purposes of neonatal care leave, neonatal care is care of a medical or palliative (including end of life) kind, lasting for at least seven consecutive days which starts within 28 days, beginning with the day after the child’s birth. This means that the parents of a child who is admitted for neonatal care at e.g. 30 days old will not qualify for neonatal care leave.

Medical care may be received in or out of hospital, providing the child was originally an inpatient and any care is under the direction of a consultant.

The regulations define neonatal care as:

- medical care received in a hospital
- medical care received in any other place which meets the following criteria:
  - the child was an inpatient in hospital and the care is received upon that child leaving hospital
  - the care is under the direction of a consultant
  - the care includes ongoing monitoring by, and visits to the child from, healthcare professionals arranged by the hospital in which the baby received neonatal care
- palliative or end of life care.

A baby will therefore be considered as receiving neonatal care of the type required by the regulations if it receives that care at home, provided neonatal care had been provided to the baby in hospital as an inpatient.

## Eligibility

Neonatal care leave will be available from day one of employment, provided the other eligibility requirements are met.

Employees who have parental or other prescribed responsibility for a child who is receiving, or who has received, neonatal care may take neonatal care leave. The employees must be:

- the mother and father of the baby, provided they have, or expect to have, responsibility for the baby's upbringing
- the mother's partner, provided they have, or expect to have, the main responsibility (apart from any responsibility of the mother) for the baby's upbringing
- the intended parents in surrogacy arrangement, provided they have, or expect to have, responsibility for the baby's upbringing
- the adopter, or prospective adopter, provided they have, or expect to have, responsibility for the baby's upbringing
- the adopter, or prospective adopter's partner, provided they have, or expect to have, the main responsibility (apart from any responsibility of their partner) for the baby's upbringing
- the overseas adopter, provided they have, or expect to have, responsibility for the baby's upbringing
- the overseas adopter's partner, provided they have, or expect to have, the main responsibility (apart from any responsibility of their partner) for the baby's upbringing.

## Amount and Timing of Leave

Employees will be entitled to take one week of leave for each uninterrupted seven-day period the child is receiving neonatal care. This will be subject to a maximum of 12 weeks' leave.

For example, if the child receives neonatal care for three weeks, the employee will get three weeks of neonatal care leave. If the child receives neonatal care for 15 weeks, the total neonatal care leave will be 12 weeks.

The above applies even where there is more than one baby born as part of the same birth who is receiving neonatal care.

The leave must be taken before the end of a period of 68 weeks beginning with the child's date of birth or date of placement in cases of adoption.

Neonatal care leave can be taken during two periods:

- a. "tier one period" — starts from the day the child starts receiving neonatal care, ending with the seventh day after the child stops receiving neonatal care. Leave taken in this period:
  1. cannot be taken before the day after the first seven-day uninterrupted period of neonatal care
  2. can be taken in non-consecutive weeks
- b. "tier two period" — any period which is outside of tier one but the employee is entitled to leave. Leave taken in this period must be taken consecutively.

For more information on how you may wish to use this leave can be found in the 'Neonatal Care Leave and Interaction with Other Types of Family Friendly Leave'.

## Pay During Neonatal Care Leave

An employee will be entitled to pay known as “Statutory Neonatal Care Pay” whilst they are on neonatal care leave. The Trust will also provide an enhanced contractual element as well. An employee will be entitled to Statutory Neonatal Care Pay if:

- a. are eligible for statutory neonatal care leave
- b. have 26 weeks’ continuous service by the week immediately preceding the one in which neonatal care starts
- c. earn at least the lower earnings limit on average calculated over the period of eight weeks ending with the week before neonatal care starts
- d. are still in employment in the week before neonatal care starts.

Employees will be entitled to a maximum of 12 weeks’ Statutory Neonatal Care Pay, paid at one week per every seven uninterrupted days of care the child receives.

The weekly rate of Statutory Neonatal Care Pay is the lower of:

- a. the current statutory rate (same rate as Statutory Maternity Pay)
- b. 90% of employee’s normal weekly earnings.

If the employee is eligible for Statutory Neonatal Care Pay, the employee will have to provide notice of their intention to claim it alongside their notice of intention to take neonatal care leave.

Where the employee is claiming Statutory Neonatal Care Pay in the tier one period, they must provide notice before the end of 28 days after the first day of the pay week the notice refers to.

If the employee is claiming Statutory Neonatal Care Pay in the tier two period, they must provide notice no later than 15 days before the first day of the relevant pay week when taking a single week, or no later than 28 days before the first day of the first relevant pay week when taking two or more weeks.

The requirements of the notice are like that of the notice of intention for leave and must include:

- the name of the person giving notice
- the child’s date of birth and date of placement if adoption
- the date(s) the child started receiving neonatal care
- the date neonatal care ended if the child is no longer receiving it
- declaration that the week the employee is claiming pay for was taken to care for the child
- declaration that the employee meets the eligibility requirements.

As well as the above, Brooke Weston Trust will provide a contractual allowance of up to 2 weeks full contractual pay on top of the above statutory pay, to any employee as a day one right.

## Multiple Births or Adoption of Multiple Babies

Where an employee has more than one child from the same pregnancy receiving neonatal care, the tier one period will run from the first day one of the children starts receiving care until the seventh day after the last child starts receiving care.

Employees will accrue leave for each child unless more than one is receiving care at the same time, in which case, leave will accrue at the rate of one child.

The maximum number of weeks that can be accrued remains at 12 and the leave must still be taken before the end of a period of 68 weeks beginning with the child’s date of birth or date of placement in cases of adoption.

## Notice to Take Neonatal Leave

Employees will be required to give employers notice of intention to take neonatal care leave. The notice must specify:

- the name of the person giving notice
- the child's date of birth and date of placement if adoption
- the date(s) the child started receiving neonatal care
- the date neonatal care ended if the child is no longer receiving it
- the date the leave will begin
- the number of weeks' leave to be taken
- declaration that the employee is taking the leave to care for the child
- declaration that the employee meets the eligibility requirements

Employees wishing to take their leave in the tier one period (see above) must give their employer notice before they are due to start work on the first day of absence, unless it is not reasonably practicable to do so. This is to reflect the fact that leave during the tier one period is likely to be taken at the time the child is receiving the care so prevents any delays in an employee accessing their entitlement. Notice of each week of leave needs to be given to the employer.

Employees wishing to take their leave in the tier two period must give their employer the following notice:

1. for a single week of neonatal care leave, no less than 15 days' notice before the first day of the neonatal care leave to which the notice relates
2. for two or more consecutive weeks of neonatal care leave, no less than 28 days' notice before the first day of the neonatal care leave to which the notice relates.

Employees are entitled to withdraw their notice following the same notice periods as above.

The employer and employee can mutually agree to waive the requirements for the employee to give the notice set out above.

Neonatal care leave will start on the day that the employee's notice specifies unless the leave is due to start on the same day as the notice is given, or the employee is at work on that day, then it will start the day after.

## Neonatal Care Leave and Interaction with Other Types of Family Friendly Leave

The two tiers (see above) have been created to support the different types of relationship those taking the leave will have to the child.

If the employee accrues neonatal care leave after already starting another period of statutory family leave, then the neonatal care leave can be taken after, providing it is within 68 weeks beginning on the child's date of birth or placement.

Where the employee has already started neonatal care leave and begins another period of statutory leave, such as maternity or paternity leave, before neonatal care leave is due to end, then neonatal care leave will end immediately.

If the employee is still within the tier one period at the end of the other period of statutory leave, then any remaining neonatal care leave entitlement must be taken immediately.

If the employee is in the tier two period at the end of the other period of statutory leave, then the remaining entitlement must be taken consecutively with any other neonatal care leave.

For example, employees who are on maternity leave will not be able to take neonatal care leave at the time that the baby is receiving neonatal care because, in almost all cases, the employee will be on maternity leave at that time. Employees cannot take two different types of leave at the same time and it is not possible to pause maternity leave in order to take neonatal care leave. Therefore, when an employee is on maternity leave, their period of neonatal leave can be taken once their maternity leave has ended.

For those employees taking maternity leave or wishing to postpone the use of their neonatal care leave entitlement, the tier two period will provide them the opportunity to do so.

Unlike maternity leave, other forms of family leave do not automatically start once the baby is born, therefore, employees taking advantage of these forms of leave will be likely to take their neonatal care leave in the tier one period. For example, an employee who is entitled to paternity leave is more likely to take neonatal care leave at the time the neonatal care is being provided because of the comparatively short length of paternity leave.

Employees who are the father of the baby, or the mother's partner, who are not entitled to paternity leave because they do not meet the service requirement, will be entitled to take neonatal leave and, again, are most likely to take it at the time the care is being received.

## Support for physical and mental health

The Trust provides support for all its staff through a 24/7 advice and support line. Face-to-face or virtual counselling sessions are also available. You can find the contact details for the advice and support line, where you can also arrange counselling sessions, and access to further wellbeing information in our benefits portal, [Vivup](#).

## Monitoring arrangements

This policy will be reviewed every three years but may be revised as needed in consultation with the recognised trade unions.

This policy will be approved by the Trust's Strategic Delivery Group.

An equality impact assessment of this policy will be undertaken to ensure that no groups or individuals with protected characteristics are unintentionally disadvantaged by the policy.

## Document control

<b>Date of last review:</b>	March 2025	<b>Author:</b>	People Team
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## Summary of changes:

	Previous version	Current version