Paternity Leave guidance for trainees (and supervisors) working in HETV programmes

Rights
Pay
Trainee responsibilities
Trainee and Employer roles

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Paternity leave

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1.0 Purpose
The purpose of this document is to describe current national arrangements for partners of women due to have a child, with regard to statutory Paternity Rights.

The information is for both trainees and those involved in post-graduate training of doctors and dentists, whether in the clinical arena, or in the PGMDE.

2.0 Function
The function of this document is to ensure that all trainees are aware of their statutory rights, but also their responsibilities for keeping employers informed, and to protect their own, and their patients’ wellbeing. This document should be used in conjunction with the trainee’s current Trust’s Paternity Policy.

3.0 Content
Rights

Male employees have national entitlements around Paternity Leave, assuming that they have been in employment long enough to qualify for such leave. The qualifying period is defined as a minimum of 12 months of employment in the NHS, which need not have been with a single employer.

All paternity leave should be completed by the time the infant is 56 days old.
There are a number of additional requirements detailed below to qualify for these rights.

**Responsibilities to inform key personnel of before becoming eligible for these benefits**

The key staff can be divided into those at the trainee’s place of employment (such as Clinical Lead, Practice Manager) and those managing training (Deanery Programme Manager, Educational Supervisor, TPD/ Head of School).

These are:
- To inform their Clinical Lead (may also be known as Service Director, Practice Manager in General Practice, referred to as CL in this paper) in the Trust or other Education Provider, (EP) where he is working
  - no later than the 25th week of the pregnancy that they are expecting a baby with their partner.
  - the week the baby is expected to be born; and
  - when they would like paternity leave and pay to commence
  - if the trainee wishes to change his dates, he should notify the CL 28 days beforehand.

- Trainees are required to submit form SC3 ([http://www.hmrc.gov.uk/forms/sc3.pdf](http://www.hmrc.gov.uk/forms/sc3.pdf)) and a copy of their partner's MAT B1 form to their employer when requesting paternity leave.
- The dates requested can be changed with a minimum of 28 days’ notice. Changes requested with less notice can be refused by the employer.

**Leave**

*Ordinary* paternity leave and *additional* paternity leave.

Ordinary paternity leave is a short period of leave taken by most new fathers. It is for a maximum of two weeks and has to be completed by the time the baby is 56 days old. There is no extension in the event of multiple births, nor can doctors split the two week period into odd days or two separate weeks. Additional paternity leave is not often requested, as it is not paid, and can only be taken if the baby’s mother has returned to work. The section below describes common uncertainties which arise around duties/ pay/ locums etc.

Leave can be taken if a baby is born before 24 weeks but subsequently dies, or for stillborn babies born after 24 weeks. There is no provision for Paternity Leave after miscarriage, at any gestation.

Leave is also available to adoptive parents, and ‘qualifying requirements’ to request leave are in place nationally. They are different to Paternity Leave as described in this document.
**Antenatal appointments**

There is NO provision in the national terms for paid time off to accompany your pregnant partner to her appointments, whether in primary or secondary care. If you want to accompany your partner, you MUST request annual or unpaid leave, in accordance with Trust arrangements.

It is possible to have paid time to attend classes arranged for prospective fathers or couples, often in evenings. Your employer can, as with pregnant trainees, ask for proof of such appointments.

**Time off for the birth**

Most prospective fathers want to be present around labour and delivery. However, doctors also have a professional responsibility to ensure that patients they should have been caring for at that time have access to care from suitably qualified colleagues. It is expected that rosters will be written to factor in EDDs and that there is provision for other colleagues to service those shifts, for example, by the father to ‘bank’ shifts earlier in his partner’s pregnancy so that he has no ‘out of hours’ shifts in the weeks close to the EDD. An alternative is to book annual leave in this period.

It may be helpful to know that in singleton pregnancies, whether the first, or subsequent pregnancies, 1 in 15 women deliver in week 37-38, and 1 in four weeks 38-39, 39-40 and 40-41. Approximately 10% of mothers remain undelivered by dates + 10 days. Reassuringly, only one baby in a hundred is born before 32 weeks, and one in fifty between 32 and 37. Couples expecting twins are much more likely to have their babies early: 10% by 32 weeks, 40% between 32 and 37 and most of the remainder by the start of week 39.

If a doctor is ‘caught unawares’ by his partner going into labour, or being admitted to hospital with significant health problems as an emergency, he MUST inform the Clinical Lead or duty consultant immediately, and should remain at work until suitable cover is confirmed. It would be very unusual for a doctor to remain at work for a significant period of time, as there may be concerns around his ability to work safely in the light of a family ‘medical emergency’ and senior colleagues will do their best to get duties covered by someone with the necessary skills to care for patients safely.

**Night and / or weekend shifts rostered for period of ordinary paternity leave.**

There is no provision in doctors’ contracts for any element of prospective cover/ pay for paternity leave (as also the case for maternity leave). Your employing Trust can reasonably expect trainees to organize their rosters such that a father on paternity leave would not have any evening/ night or weekend shifts to be worked during the two weeks allowed for ordinary paternity leave.

- The trainee cannot be made to work shifts during paternity leave.
- The trainee cannot come in to work as a ‘locum’ covering his own shifts.

If shifts cannot be moved/ swapped, then the Clinical Lead may authorize a paid locum from either inside, or outside the department, subject to local arrangements. There is no budget held by HETV to pay for cover.
Annual leave around the estimated date of delivery
It is permissible to book annual leave to run continuously into, or out from, paternity leave. This should be booked in accordance with local arrangements.

It is strongly recommended that trainees actively consider exercising this option, as it will reduce stress for them, their partner, and the department. A suggestion is to book two weeks of annual leave around 38-40 weeks and then run paternity leave on for what would be weeks 41 and 42.

‘Additional’ Paternity Leave
Provision was made in 2010 for an additional 26 weeks to be taken by the father PROVIDED that the mother has returned to work. It doesn’t usually come with any remuneration. Human Resource Departments should be able to confirm if any statutory pay is due. It cannot be taken before the child is 20 weeks old, and must be concluded by the child’s first birthday. As before, it must be taken in a single block, and cannot be for less than two week’s duration. In order to qualify, the father

- Must make the request at least eight weeks before the first day of Additional Paternity Leave
- Provide written notice of the expected date of birth, the actual date of birth and both the first and last date of the period being requested as ‘additional’ paternity leave.
- A written declaration that the leave is solely for the purpose of child care, and that the applicant fulfills the criteria for additional leave.
- A written declaration from the child’s mother confirming her name, national insurance number, the date she is returning to work, that there is the one applicant named providing child care for her baby and her consent to her name / details being processed by the employer dealing with the request for additional paternity leave.
- The father MUST have been employed for a minimum of 26 weeks by the fourteenth week before the baby was due (regardless of when it was born).

‘Parental’ Leave
Up to 4 weeks of unpaid Parental Leave per year (up to a total of 18 weeks per child) can be taken by a parent of a child under the age of five years of age. This must specifically be for the purpose of providing care to a dependent child. If considering taking Parental Leave, it is recommended that trainees discuss the impact that this may have on their training and CCT date with their College Tutor or TPD. It is very likely that the CCT date will be adjusted.

Parental Leave must be formally requested with at least 21 days’ notice of the intended start date.
**Paternity pay**
Nationally, the provision is, in 2013, £136.78 or 90% of average weekly earnings, whichever is lower.

However, the terms for male doctors in HOSPITAL posts with contracts governed by, or make reference to, the national terms and conditions, are better. (Temporary appendix VI (vi) and Schedule 29 for consultants under New Consultants Terms and Conditions of Service ‘balancing work and personal life’ are entitled to full pay for the maximum period of two weeks.)

Again, this is only available if the father makes the correct application to the Trust HR department, or Practice Manager.

**Revalidation**
It is unlikely that a two week period of ordinary paternity leave will have any impact upon a doctor’s ability to fulfill the requirements needed for the annual review of Fitness to Practise leading to the five yearly recommendation by the Responsible Officer around revalidation.

**CCT date**
Since April 2013, any period of absence over and above the normal annual and study leave allowances in excess of two weeks can result in the recalculation of CCT date. This means that ‘additional’ paternity leave, or ‘parental leave’, like all maternity leave, will extend training week for week for that doctor. Doctors taking only ‘ordinary’ paternity leave should not expect to have their CCT date adjusted solely for the reason of having taken two weeks of paternity leave.

**References and Further Information**
BMA information sheet on Paternity Leave


GOV.uk Information on Employment Rights Nov 2013

https://www.gov.uk/paternity-pay-leave/
https://www.gov.uk/parental-leave/

GMC position statement Nov 2012 on absence from Training Programme


Junior Doctors' Terms and Conditions of Service Mar 2013. See Appendix (VI)

Consultation
This has been reviewed by the Executive committee of the PGME at HETV.

Dissemination
The document is available at the Oxford Deanery website section of the HETV site

Implementation
Immediate. Valid for three years from January 2014 unless there are national changes to terms and conditions of doctors specifically, or all men nationally with respect to paternity leave rights.