

2. Neonatal Leave and Pay: Proposals to support parents of children who require neonatal care following birth

This chapter explores the design of potential new statutory rights to Neonatal Leave and Pay, the associated practical considerations and the implications for employers and employees.

Please respond to the questions in this chapter by **11 October 2019**.

Introduction

Babies in neonatal care

In the UK, an estimated 100,000 babies are admitted to neonatal care every year following their birth. Bliss (the charity for premature and sick babies) estimates that:

- Of the 60,000 babies a year who are born prematurely (before 37 weeks' gestation), around two thirds require neonatal care; and
- A further 60,000 babies who are born full-term (at 37 or more weeks' gestation) are admitted each year to neonatal intensive care – this is around 10% of the annual birth rate of full-term babies.⁵⁰

A baby's gestational age is strongly correlated with the length of time that they will spend in neonatal care following birth – according to the Neonatal Data Analysis Unit, a baby born at 24 weeks will spend an average of 17.6 weeks in neonatal care, whereas a baby born between 32 and 36 weeks will spend an average of 12 days there.

Neonatal care is not only for premature babies. Many full-term but sick babies spend prolonged periods of time on a neonatal care unit in a hospital as a result of being born with congenital conditions, complications at birth, or experiencing serious health conditions shortly after birth. In addition, multiple births (twins, triplets, etc.) are more likely to be premature. Around 50% of multiples are born before 37 weeks' gestation, but the proportion of multiples that spend time in neonatal care because of complications following birth is even higher at 60%.⁵¹ This time in neonatal care can be days, weeks or months depending on the babies' specific needs.

⁵⁰ NDAU, (2017). NDAU 2016 Report. Available at: [www.imperial.ac.uk/media/imperial-college/medicine/dept-medicine/infectious-diseases/neonatology/NDAU-2016-Report-v1.1-\(002\).pdf](http://www.imperial.ac.uk/media/imperial-college/medicine/dept-medicine/infectious-diseases/neonatology/NDAU-2016-Report-v1.1-(002).pdf)

⁵¹ TAMBA, (2013). Multiple Births Parents' Experiences of Maternity and Paternity Leave. Available at www.tamba.org.uk/document.doc?id=516

What is neonatal care?

Neonatal means ‘new born’ and neonatal units specialise in the care of babies born early, with low weight or who have a medical condition that requires specialised treatment. There are four levels of care:

1. **Intensive care** – provided for babies who have the most complex problems, who are very premature (those born before 28 weeks’ gestation) and/or have an extremely low birth weight (birth weight less than 1500 grams).
2. **High dependency care** – provided for babies with less serious problems but who still need continuous monitoring and support and for those who are recovering from a critical illness.
3. **Special care (sometimes called low dependency care)** – provided for babies who may need to have their breathing and heart rate monitored, be fed through a tube, supplied with extra oxygen or treated for jaundice.
4. **Transitional care** – is provided for babies who need some medical observation or treatment but who are well enough to be cared for at their mother’s bedside in a postnatal ward.

Children can move between the different levels of care (and care facilities) depending on their needs. This can involve transfers between hospitals, particularly in cases where the parents’ local hospital is unable to care for the baby’s immediate needs or the needs of the baby over the coming days or weeks.

Parents’ experience of having a baby in neonatal care

Having a baby is a significant event in lives of all parents, it is an exciting time and parents look forward to taking their baby or babies home, getting to know them and introducing them to family and friends. For some parents, however, giving birth can trigger a particularly traumatic period in their lives. A new baby’s admission to a neonatal unit often follows a sudden, difficult and sometimes complicated birth. Even where the admission to neonatal care was expected – e.g. when labour was induced because the health of the mother or her unborn child or children was at risk - parents can never prepare themselves for the experience of having a baby who needs immediate, intensive care to thrive and, in some cases, to survive.

Of the approximately 4,000 child deaths (under the age of 16) in 2017, around 74% of children die in the first year following birth; and 72% of infant deaths (i.e. under the age of one), died within the first 28 days of life.⁵² This highlights the fragility of a baby’s first weeks of life and, with this, the uncertainty that parents of babies in neonatal care can face with respect to their baby’s chances of survival.

The worry and uncertainty that follows a baby’s or babies’ admission to a neonatal unit can, therefore, feel overwhelming to parents. They can experience a myriad of emotions including shock, anger, grief and feelings of helplessness and uncertainty, all of which can have a significant impact on the health and wellbeing of parents in this situation. In a survey of around 600 parents conducted by Bliss in 2018, 80% of parents whose babies were admitted into neonatal care reported that their mental health suffered after their experience and 35% of

⁵² ONS, (2019). Child mortality (death cohort) tables in England and Wales [online], Office for National Statistics, ons.gov.uk. Available at: www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/datasets/childmortalitystatisticschildhoodinfantandperinatalchildhoodinfantandperinatalmortalityinenglandandwales

parents reported that their mental health was “significantly worse” after their time on the neonatal unit. The survey also found that: 23% of respondents had been diagnosed with anxiety; 16% has been diagnosed with post-traumatic stress disorder; and 14% had been diagnosed with postnatal depression after their experience of having a baby or babies in a neonatal care unit.⁵³

Parents of children in neonatal care have practical considerations around arranging their time in order to spend as much time as possible with their new baby or babies, which can exacerbate their anxiety. It is unusual for parents to be able to stay overnight on the ward where their baby is receiving care, but in the interests of their baby’s or babies’ health and well-being they are strongly encouraged to be present to facilitate caregiving. For example, skin to skin contact with both parents is associated with better health outcomes for the baby.

During this time parents may need to travel significant distances between their home and the hospital on a daily basis or even stay in temporary accommodation closer to the hospital. This could introduce issues such as: childcare arrangements for other children; parents’ ability to return to work at the end of their period of arranged leave; as well as the financial costs arising from all of the above.

Unfortunately, some parents continue to face significant challenges beyond the point of discharge from hospital. Sometimes a baby can be sent home with highly specialised medical equipment which they continue to be dependent upon, and which parents must administer; and sometimes babies can be left with long-term health conditions which require ongoing specialist care.

Even where this is not the case, when a baby is discharged from neonatal intensive care its developmental age is likely to be behind its chronological age. This, as well as ongoing dependencies on medical equipment and specialist care, can create barriers to participating in ‘normal’ activities such as attending mother and baby groups or joining a nursery; and to mothers returning to work at the end of their statutory leave.

Where a baby is kept in neonatal care for longer than two weeks, a Bliss survey found that around 36% of fathers and partners were signed off sick while their baby was in neonatal care.⁵⁴ In some cases, this can have a negative impact on their employment record and can lead to damage to labour market outcomes. Fathers and partners may also experience negative effects on their physical and mental health from trying to combine work with caring for the child and the mother.

BEIS’s Internal Review of Provisions for Premature, Sick and Multiple Babies

Earlier this year, BEIS concluded an internal review of provisions for premature, sick and multiple babies. This review sought to understand the barriers that these parents can face to returning to and staying in the labour market following the birth of their child. It highlighted that the challenges faced by parents of premature, sick and multiple babies can be significant, particularly in cases where their baby needs neonatal care for a number of weeks or months following birth. Annex 2 contains more information about the internal review, its findings, and actions being taken in response.

⁵³ Bliss, (2018). Bliss releases new research on mental health [online], bliss.org.uk. Available at: www.bliss.org.uk/news/bliss-releases-new-research-on-mental-health [Accessed 1 July 2019]

⁵⁴ Bliss, (2019). Bliss 2019 survey of parents with experience of having a baby in neonatal care [online], bliss.org.uk. Available at: www.bliss.org.uk/news/two-thirds-of-dads-forced-to-return-to-work-while-their-baby-was-still-in-neonatal-care

Prospective parents and new parents enjoy a range of family-related leave and pay rights which enable them to take time off work prior to the birth of their child and subsequently. These entitlements are designed to cater to a variety of circumstances. More information about current entitlements to parental leave and pay can be found in [Chapter 1](#).

In addition, all employees have the right take a reasonable amount of time off work to deal with emergencies involving family and other dependants; and employees with 26 weeks' service have a statutory right to request flexible working.

Nevertheless, evidence gathered so far through the internal review suggests that current leave and pay entitlements do not adequately support parents where the baby or babies need to spend a prolonged period in neonatal care. In response, this chapter proposes a new entitlement to Neonatal Leave and Pay for parents in these circumstances.

Proposal of a new entitlement to Neonatal Leave and Pay

Currently, parents of a baby or babies in neonatal care rely on their statutory leave entitlements to enable them to be off work whilst the baby is in hospital. This means that for mothers, a proportion of their 52 weeks of Maternity Leave is spent with the baby in hospital; and for fathers and partners, typically their whole two weeks of Paternity Leave is spent with the mother and baby in hospital.

As a result, these parents are unable to spend time caring for their child outside of a medical environment for at least a proportion of their Maternity Leave or Paternity Leave. Where the baby has been in neonatal care for a prolonged period, fathers and partners often rely on annual leave entitlements or unpaid leave in order to be with the mother and baby in hospital after their statutory Paternity Leave has elapsed. Around 6% of fathers and partners reported to Bliss that they had to take sick leave after their Paternity Leave had ended to enable them to remain off work and be with their baby in hospital.⁵⁵

The government wants to consider the option of providing Neonatal Leave and Pay. This would be an entitlement to be absent from work to care for the baby, so that, as far as possible, parents have additional time at home with their child to compensate for the time their child was in hospital after birth.

We propose that parents receive one week of Neonatal Leave and Pay for every week that their baby is in neonatal care, up to a maximum number of weeks. This would apply to parents of babies who had spent a minimum of two continuous weeks in neonatal care immediately after birth.

For fathers and partners who would otherwise only have a maximum of two weeks' Paternity Leave, plus any other leave entitlements, Neonatal Leave and Pay would facilitate this parent to be absent from work in order to be with their baby or babies whilst they are in neonatal care. Where the father or partner is eligible for Paternity Leave, the intention is that Neonatal Leave and Pay would be taken at the end of the father's Paternity Leave.

For mothers, Neonatal Leave and Pay would enable an additional period of time to be spent caring for the baby at home at the end of her Maternity Leave, which will replace the time that would have been spent doing this following birth, but for the fact the baby was in hospital.

⁵⁵ Bliss (2017) Parental Leave Survey, Bliss, [Unpublished]

Supporting parents in the manner proposed will help to maintain their attachment to the labour market with both short-term and long-term benefits to the individual parent and their family, the economy and society.

Existing provisions for other family-related leave and pay rights, such as Maternity, Paternity, and Shared Parental leave and Pay would be unaffected by this statutory right. The government is considering making Neonatal Leave and Pay a new, additional entitlement.

Eligibility for Neonatal Leave and Pay

Mothers, fathers and partners

In determining who should be eligible for Neonatal Leave and Pay, we have considered whether leave and pay should be available to individuals outside of the baby or babies' immediate family. We have concluded that it should be restricted to the individuals who would have had the main responsibility for caring for the child, had it not been admitted to neonatal care.

These individuals are more likely to need to take time off work to spend time with their new baby or babies in neonatal care; or to care for it at home, outside of a medical environment.

This means that the following groups of parents would potentially be eligible for Neonatal Leave and Pay:

- The mother of the baby or babies;
- The father of the baby or babies;
- The mother's spouse; civil partner or a partner who will be living with the mother and baby that is in neonatal care in an enduring family relationship;
- The intended parents in a surrogacy arrangement (where they are eligible for and intend to apply for a Parental Order);
- The intended parents in cases of adoption, where the intention was that the baby or babies would be placed with the individuals that they have been matched with at birth or shortly after birth

1. **Do you agree with the principle that entitlement to Neonatal Leave and Pay should be restricted to the individuals who would have had the main responsibility for caring for the child following birth, had it not been admitted to neonatal care (i.e. those listed above)?**

- **Strongly agree**
- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Don't know**

If you disagree or disagree strongly, please specify who else you think should be entitled.

Ensuring that the new entitlement is targeted at those parents who are most in need

The current regime of family-related leave and pay entitlements is intended to cater for a variety of circumstances which new parents may find themselves in. However, through our internal review we heard representations that more could be done to support parents in circumstances where their baby or babies have a prolonged stay in neonatal care following birth.

We heard that this group of parents can face particular challenges – which may impact on their ability to return to and stay in work – arising from circumstances in which:

- their baby is still in neonatal care at the end of the father/partner's Paternity Leave;
- their baby or babies' developmental age is significantly behind its/their chronological age(s) at the end of the mother's Maternity Leave;
- their baby or babies are admitted to a hospital (or different hospitals) which are not near the parents' home;
- their baby or babies are discharged from hospital with significant, ongoing care needs;
- employers do not take a compassionate approach to supporting parents to be with their baby in hospital;
- fathers and partners of babies in neonatal care do not qualify for Statutory Paternity Leave because they have not worked for their employer long enough, and so must rely on other, contractual types of leave or unpaid leave.

The government proposes to give parents of babies admitted to neonatal care following birth an additional week of statutory leave and pay for each week that their child is in hospital.

We propose that access to Neonatal Leave and Pay should be restricted to parents whose baby or babies have been in neonatal care for two weeks or more.

The government believes that two weeks is the right threshold for accessing this entitlement, as this will ensure that there is no gap between the end of a father/partner's Paternity Leave and the start of Neonatal Leave and Pay. If the threshold is higher, fathers/partners may have to return to work between these two entitlements or rely on another form of leave such as annual or sick leave.

Nevertheless, a higher threshold could enable Neonatal Leave and Pay to target parents who are most in need – those with the most seriously ill children or likely to spend an extended period of time in neonatal care.

We recognise that some babies are in neonatal care for a relatively short period. Whilst this does not detract from the difficulties that parents experience whilst their baby is in neonatal care, parents of children who spend a matter of days or even hours in hospital are less likely to face challenges as significant as those whose babies spend a prolonged period in hospital.

There are a range of other statutory entitlements that could enable these parents to take time off to be with their child.

2. Do you agree that parents of babies who need to spend time in neonatal care should have access to additional pay and leave?

- **Strongly agree**

- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Don't know**

If you disagree or strongly disagree, please provide a reason for your answer.

- 3. Do you agree that access to Neonatal Leave and Pay should be restricted to parents whose children have spent a minimum of two weeks in neonatal care, i.e. are seriously ill or likely to be in hospital for an extended period of time?**

- **Strongly agree**
- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Don't know**

If you disagree or strongly disagree, please provide a reason for your answer.

- 4. If you agree that access to Neonatal Leave and Pay should be restricted to parents whose babies are most seriously ill, after what length of time in neonatal care should the parents' entitlement to Neonatal Leave and Pay crystallise?**

- **After 2 weeks**
- **4 weeks**
- **Other**

Please provide reasons for your answer.

Other circumstances

Our internal review identified areas where the current regime is not working for parents in circumstances where a baby is admitted to neonatal care for a prolonged, continuous period immediately following birth. However, we recognise that there may be other circumstances in which parents face significant barriers to returning to and staying in work once they have used up their existing statutory leave and pay entitlements.

The following are examples of the kinds of circumstances that the government may wish to consider for inclusion within the scope of the provision. However, this is not a definitive list.

Circumstances where there is a break between the baby's birth and admission to hospital. For example, the baby could be discharged following birth only to be readmitted to hospital with a serious and potentially life-threatening condition or illness a few days later or at a later point in the baby's first year.

Circumstances where a baby is receiving life-supporting treatment outside of a hospital environment. For example, where a baby has been discharged from hospital but continues to require oxygen therapy, which the parents will administer at home.

5. Are there other circumstances that you think should be considered for inclusion within the scope of Neonatal Leave and Pay? What are they?

Please provide reasons for your answer.

Qualifying conditions for Neonatal Leave and Pay

Neonatal Leave

The internal review highlighted that parents can face particular challenges where fathers and partners of babies in neonatal care do not qualify for Statutory Paternity Leave because they do not have the necessary 26 weeks' continuous employment with their employer. We propose that employed parents whose baby spends a prolonged period in neonatal care from birth have a day-one right to Neonatal Leave, i.e. employed parents would be eligible for the leave irrespective of the length of service with their employer, so could qualify for Neonatal Leave even if they don't qualify for Paternity Leave.⁵⁶

The government acknowledges the particularly sensitive nature of the situation where a baby is admitted to neonatal care following birth and believes that all employed parents should be supported to be away from work to be with their partner and new baby at this difficult time.

Employees will also have the certainty of knowing that their employer has a legal obligation to grant them Neonatal Leave in the event that their baby is admitted to neonatal care, therefore removing the ability of an unscrupulous employer to withhold or withdraw support.

This mirrors the approach taken to Maternity Leave, which provides for mothers to take leave irrespective of their length of service with their employer when they fall pregnant. This recognises the particular health and safety considerations that apply to giving birth, and serves to protect pregnant women and new mothers. Adoption Leave is also a day-one right.

Furthermore, the upcoming new entitlement to Parental Bereavement Leave will be a day-one right, in recognition of the particularly untimely and traumatic circumstances of a child's death.

Neonatal Pay

We propose that, as far as practicable, Neonatal Pay should mirror existing family-related statutory payments, such as Statutory Paternity Pay and Statutory Shared Parental Pay.

This would mean that, in order to qualify for Neonatal Pay parents must have:

- Average earnings over a prescribed reference period above the Lower Earnings Limit⁵⁷ and be continuously employed by the employer who is liable to pay them Neonatal Pay up until the baby's birth; and

⁵⁶ Like other family-related leave and pay rights, this proposal focuses on employed parents as they do not, generally, have the same flexibility as self-employed parents. The government is not ruling out providing further support for self-employed parents in future, but as set out in the government's response to the Taylor Review of Modern Working Practices, it is right to only consider making changes to this area in the wider context of tax, benefits and rights over the longer term.

⁵⁷ The Lower Earnings Limit (LEL) is the amount of earnings required to allow an employee to qualify for certain state benefits. The lower earnings limit is set each tax year by the government. For 2019-2020 the LEL is set at £118 per week.

- Have at least 26 weeks' continuous service with their employer at the 15th week before the baby is due (this essentially means that they must have been employed by their current employer at the point the mother became pregnant).

Statutory Neonatal Pay would be paid by the parent's employer. The employer will then be able to reclaim a proportion of it from HM Revenue & Customs.⁵⁸ Neonatal Pay would be paid at the statutory flat rate (currently £148.68 for the year 2019/20) or 90% of average weekly earnings where that is lower.

6. Do you agree that Neonatal Leave should be a 'day one right' in line with Maternity Leave, Adoption Leave and Parental Bereavement Leave?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please provide reasons for your answer.

7. Do you agree that the qualifying period of service for Statutory Neonatal Pay should mirror the qualifying period of Statutory Paternity and Shared Parental Pay?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please provide reasons for your answer.

The leave and pay

Length of the entitlement

The proposal is that parents of babies admitted to neonatal care following birth receive a week of Neonatal Leave and Pay for every week that their baby is in neonatal care.

This will ensure that the support provided by this entitlement is proportionate to the length of time that the baby spends in hospital, so that parents of the most severely ill babies can be off work and with their baby for longer. It will mean that the entitlement is tailored to the circumstances of each family, in so far as is possible.

We have suggested that the entitlement should be restricted to parents whose baby has spent a minimum of two weeks in neonatal care. This is so that this provision can target those

⁵⁸ Employers will reclaim the statutory payment from the government by reducing their national insurance contributions. Large employers will be able to reclaim 92% whilst small employers (those who have paid £45,000 or less in gross national insurance the preceding tax year) will be able to recover 103%.

parents most in need of additional support, over and above their existing statutory entitlements to leave and pay.

In addition, we propose that the potential length of Neonatal Leave and Pay should be capped at a maximum number of weeks.

The length of time that babies spend in neonatal care varies according to the severity of their condition. We know that the majority (54%) of babies admitted to neonatal care spend one week or less in hospital before being discharged home. A much smaller proportion (19%) of babies spend between one and two weeks. This proportion decreases as the length of stay increases, with only 13% of babies admitted to neonatal care spending more than four weeks in hospital.⁵⁹

The government recognises that there may be cases where a baby spends a particularly long period in hospital. A baby's prematurity, and the acuteness of its medical condition is strongly correlated with the length of stay. For example, the Neonatal Data Analysis Unit reports that a baby born at 24 weeks gestation will spend an average of around 18 weeks in neonatal care before being discharged home.⁶⁰

However, it is important that a new Neonatal Leave and Pay policy balances the needs of parents with the needs of their employers and co-workers. An upper limit will give employers a degree of certainty over when their employees will be absent from work so they can plan ahead and ensure business continuity.

Capping the maximum number of weeks of leave and pay available will also help to maintain affordability and, therefore, ensures that this can be a paid entitlement.

Nevertheless, the government invites views on whether there should be different caps on the maximum numbers of weeks of leave and pay, such that the latter weeks of Neonatal Leave would be unpaid. This could enable parents of babies spending the longest time in neonatal care to be off work for as long as possible, but this would likely involve a trade-off with pay in order to maintain affordability.

It is important to consider the existing entitlements that could support parents of babies with the longest stays in neonatal care. Where eligibility criteria are met, parents may, for example, be able to make use of the current entitlement to parental leave in respect of older children to cover the period that extends beyond the maximum number of weeks of Neonatal Leave and Pay that we propose to provide.

8. Do you agree that the entitlement to Neonatal Leave should be capped?

- **Strongly agree**
- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**

⁵⁹ National Neonatal Audit Programme, (2017). National Neonatal Audit Programme Annual Report 2018 – on 2017 data [online], rcpch.ac.uk. Available at: www.rcpch.ac.uk/resources/national-neonatal-audit-programme-annual-report-2018-2017-data

⁶⁰ Neonatal data Analysis Unit, (2016). NDAU 2016 Report, Imperial College London. Available at: [www.imperial.ac.uk/media/imperial-college/medicine/dept-medicine/infectious-diseases/neonatology/NDAU-2016-Report-v1.1-\(002\).pdf](http://www.imperial.ac.uk/media/imperial-college/medicine/dept-medicine/infectious-diseases/neonatology/NDAU-2016-Report-v1.1-(002).pdf)

- Don't know

Please provide reasons for your answer.

- a) If you agree that the number of weeks of Neonatal Leave that are available to parents should be capped, what is the optimal maximum number of weeks of Leave that should be available?

- 2 weeks
- 4 weeks
- 6 weeks
- 12 weeks
- Other

Please provide reasons for your answer.

9. Do you agree that the maximum number of weeks of Neonatal Leave should be the same as the maximum number of Neonatal Pay in order to ensure eligible parents can receive pay throughout their leave period?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please provide reasons for your answer.

- a) If you disagree with question 9 do you agree that the number of weeks of Statutory Neonatal Pay that is available to parents should be capped?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please provide reasons for your answer.

10. If you agree that the number of weeks of Statutory Neonatal Pay that is available to parents should be capped, what is the optimal maximum number of weeks of Pay?

- 2 weeks
- 4 weeks
- 6 weeks
- 12 weeks
- Other

Please provide reasons for your answer.

When Neonatal Leave and Pay can be taken

We propose that a new entitlement to Neonatal Leave and Pay is taken at the end of existing entitlements to family-related leave and pay – i.e. at the end of Maternity Leave or Paternity Leave – in a continuous block. We are considering how this would interact with Shared Parental Leave and Pay.

This will ensure that existing provisions for other family-related leave and pay rights, such as Maternity, Paternity and Shared Parental Leave and Pay would be unaffected by the proposed new statutory right.

In addition, to create Neonatal Leave and Pay as a new, stand-alone entitlement makes it possible to give both parents equal access to the scheme.

Adding Neonatal Leave and Pay to the end of existing parental entitlements to leave and pay enables parents to take a continuous period of leave (made up of one or more of their statutory entitlements to family-related leave and pay), plus Neonatal Leave and Pay. This will enable employers to plan contingencies for staff absences more effectively, as well as supporting parents to care for their new baby or babies.

This arrangement is also easier for parents to understand and for employers to administer as, there are legal and practical issues that arise from interrupting and extending Maternity Leave and Pay. In addition, at the point of the baby's or babies' admission to neonatal care it is unlikely to be clear how long they will need care for. This means that, even if we changed the law to allow Maternity Leave and Pay to be interrupted by Neonatal Leave and Pay, parents and their employers could potentially lose track of which parental leave and pay entitlement parents are using at any point in time and when that entitlement expires.

11. Do you agree that Neonatal Leave and Pay should be taken in a continuous period at the end of existing entitlements to family-related leave and pay, e.g. Maternity or Paternity Leave?

- **Strongly agree**
- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Don't know**

Please provide reasons for your answer.

Notice and evidence requirements

For other types of family-related entitlements, employees are required to provide notice to their employer in order to take statutory leave and to claim statutory pay.

For Maternity and Paternity Leave, parents are required to notify their employer that they wish to take these entitlements by the 15th week before the expected week of childbirth. In all but the most premature cases, an employer will already be aware that the parent is intending to take a period of leave from work to coincide with the arrival of a new baby or babies.

It is unlikely that parents will know before the point of childbirth that their new baby or babies will require admission to neonatal care – and it may not be immediately clear how long the stay in neonatal care is expected to last.

Nonetheless, it is important that employers are given as much certainty as is practicable in these circumstances to enable them to plan contingencies for the employee's absence and ensure business continuity. Although the needs of employers must be balanced against parents' needs for compassion and flexibility at this difficult time.

The question of notice is particularly relevant to fathers/partners taking Neonatal Leave at the end of Paternity Leave, when it is likely that the baby will still be in hospital, and so the number of weeks of Neonatal Leave needed will only emerge on a week-by-week basis. Whereas mothers will take Neonatal Leave and Pay at the end of Maternity Leave (up to 52 weeks), when the baby is likely to have been discharged from hospital.

As the baby's prognosis is likely to change over time, and the exact length of stay in neonatal care cannot be known in advance, it may also be important to consider how parents communicate with their employers to keep them informed of how many weeks of Neonatal Leave they are likely to need.

We propose that a parent's entitlement to Neonatal Leave and Pay will arise after a continuous period in neonatal care of two weeks from birth. If this is to be the case, this might be the appropriate point at which the parent should be required to notify their employer of the baby's situation and the likely length of its stay in neonatal care. Alternatively, it might be possible – or indeed preferable – to do this at an earlier point.

12. Do you agree that a father/partner should be required to give notice in advance of the end of their other statutory leave entitlement to Paternity Leave in order to take Neonatal Leave?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please provide reasons for your answer.

13. Do you agree that a mother should be required to give notice in advance of the end of her other statutory leave entitlement to Maternity Leave in order to take Neonatal Leave?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

Please provide reasons for your answer.

14. What would be a reasonable notice period for Neonatal Leave:

a) For fathers/partners taking Neonatal Leave at the end of Paternity Leave?

- 2 weeks
- 1 week
- Less than 1 week
- Other

b) For mothers taking Neonatal Leave at the end of Maternity Leave?

- Less than 4 weeks
- 4-8 weeks
- More than 8 weeks
- Notice that should be given as soon as baby discharged from neonatal care
- Notice should be given at point baby admitted to neonatal care

Please provide reasons for your answers.

15. What level of communication could be expected between a father/partner wishing to take Neonatal Leave at the end of Paternity Leave on a week-to-week basis while the baby is in hospital and their employer?

- Employer should be kept informed on a weekly basis
- Communication should be light-touch, and only when new information is available
- No requirement to communicate with employer

Evidence of entitlement to Neonatal Leave and Pay

Parents are required to provide evidence of eligibility for existing family-related leave and pay rights in some instances, for example this is typically the case for statutory payments such as Statutory Paternity Pay or Statutory Shared Parental Pay.

In other instances, although employees are not required to provide evidence initially, an employer can request such evidence if they choose, for example for Paternity Leave or Adoption Leave.

Giving parents access to more time off work could be open to abuse, particularly as Neonatal Leave and Pay would be an entitlement to, potentially, a significant number of weeks of paid leave. To address this, the government believes that employers should be able to ask for evidence of entitlement.

In requesting evidence, employers would be expected to set out how they are going to handle the information being requested, and whether they have a good reason to retain that information, taking data protection requirements into consideration.

We recognise that the need to guard against fraud needs to be balanced against the sensitivity of the situation and the challenging circumstances that the parent will already be facing.

Furthermore, it must be considered that mothers and fathers/partners may be taking Neonatal Leave and Pay at different times and so, depending on when the entitlement is taken, different types of information might be available to each parent.

- 16. Do you agree that employers should be allowed to ask for evidence of entitlement to Neonatal Leave and Pay:**
- a) **From fathers and partners taking Neonatal Leave and Pay at the end of Paternity Leave?**
- Strongly agree
 - Agree
 - Neither agree nor disagree
 - Disagree
 - Strongly disagree
 - Don't know
- b) **From mothers taking Neonatal Leave and Pay at the end of Maternity Leave?**
- Strongly agree
 - Agree
 - Neither agree nor disagree
 - Disagree
 - Strongly disagree
 - Don't know
- c) **If you agree or strongly agree, what evidence would it be reasonable for an employer to request?**

Employment protections and the right to return to the same job

The government proposes that a parent who is on Neonatal Leave should have equivalent employment protections as a parent would have under the current right to parental leave in respect of older children, including the right to not be treated unfavourably, or to be dismissed because they are taking, or are seeking to take, Neonatal Leave.

We also propose that employees on Neonatal Leave should have rights to return similar to those that apply to employees returning from parental leave taken in respect of older children. This means that in certain circumstances, an employee may have the right to return to the same job they were employed in before their absence.

- 17. Do you agree that parents on Neonatal Leave should have the same protections as employees on parental leave in respect of older children?**
- Strongly agree
 - Agree
 - Neither agree nor disagree
 - Disagree
 - Strongly disagree
 - Don't know

Please provide reasons for your answer.

- 18. Do you agree that parents on Neonatal Leave should have the same right to return to work as employees on parental leave in respect of older children?**
- Strongly agree

- **Agree**
- **Neither agree nor disagree**
- **Disagree**
- **Strongly disagree**
- **Don't know**

Please provide reasons for your answer.

Costs

The government is preparing an Impact Assessment to inform respondents' consideration of these consultation proposals. The final costs to the Exchequer and business will ultimately depend on any constraints we apply around eligibility for the new entitlement to Neonatal Leave and Pay and any constraints that we apply to the length of Neonatal Leave and Pay and/or the rate of pay.

Our provisional estimates of the costs are outlined below. These assume that parents will only be eligible for Neonatal Leave and Pay if their baby or babies are in neonatal care for at least two weeks (Table 1) or four weeks (Table 2). Costs are higher for the two-week qualifying period option as this lower threshold makes the eligible population bigger.

We have assumed a 100% take-up rate for both parents, but the costs are highly sensitive to our take-up assumptions.

We have also assumed that the length of Neonatal Leave and Pay that is available to parents will be capped. Option 1 assumes that the total number of weeks of Neonatal Leave and Pay that are available is capped at two weeks; Option 2 at four weeks; Option 3 at six weeks; and Option 4 at twelve weeks.

Table 1: Exchequer and Business (Absence costs) based on two week qualifying period.

Option	Exchequer	Absence (Business costs)
Option 1	High single figure millions	Medium single figure millions
Option 2	Low tens of millions	High single figure millions
Option 3	Low tens of millions	Low tens of millions
Option 4	Low tens of millions	Low tens of millions

Table 2: Exchequer and Business (Absence costs) based on four week qualifying period.

Option	Exchequer	Absence (Business costs)
Option 1	Low single figure millions	Low single figure millions
Option 2	Medium single figure millions	Medium single figure millions
Option 3	Low tens of millions	High single figure millions
Option 4	Low tens of millions	Low tens of millions