

## **Neonatal Care leave and pay statutory scheme**

**The Board of Trustees, CEO and Strategic team are committed to safeguarding and promoting the welfare of children and young people and requires all staff and volunteers to demonstrate this commitment in every aspect of their work.**

<b>This policy was created and ratified by the Wensum Trust Board:</b>	<b>May 2025</b>
<b>Responsible for updating:</b>	<b>Head of HR</b>
<b>This policy will be reviewed by the Wensum Trust Board: (unless earlier review is recommended by the Wensum Trust)</b>	<b>May 2026</b>
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<b>Signed by the Chair of the Board of Trustees:</b>	John Smith

# **Neonatal Care leave and pay statutory scheme**

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We, the Trust Board, have adopted this scheme.

## **1. Introduction and scope**

- 1.1 The purpose of this scheme is to outline the Neonatal care leave and pay statutory provision (set out as regulations contained in the Neonatal Care (Leave and Pay) Act 2023). Neonatal care leave and pay is one part of the family friendly provisions available to employees.
- 1.2 Governing boards and trusts must comply with the statutory neonatal care leave and pay scheme.
- 1.3 The Headteacher/Principal/Line Manager will ensure that employees are made aware of the provisions of this scheme and that they are applied in a consistent manner.
- 1.4 Neonatal care leave means that an eligible parent can take up to a maximum of 12 weeks leave and pay when their baby requires neonatal care. This is in addition to existing parental leave entitlements.
- 1.5 The provisions in this policy apply to children born on or after 6<sup>th</sup> April 2025.

## **2. Equalities and support**

- 2.1 The Headteacher/Principal/Line Manager will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.
- 2.2 Through the implementation of this policy, the Trust Board will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.

2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Trust Board understands the employee may require extra support in relation to the application of this policy. Where reasonable adjustments are necessary and can be accommodated, the Headteacher/Principal/Line Manager will support these.

### **3. Definition of neonatal care**

3.1 To qualify, the neonatal care must start before the end of the 28 days beginning with the day after the child's birth and be:

- medical care received in a hospital;
- medical care received in any other place which meets the following criteria:
  - (i) the child was an inpatient in hospital and the care is received upon the child leaving hospital
  - (ii) the care is under the direction of a consultant; and
  - (iii) the care includes ongoing monitoring by, and visits to the child from, healthcare professionals arranged by the hospital referred to in paragraph 3.1(i); and
- palliative or end of life care

3.2. For definitions of 'consultant' and 'hospital' see Part 2, paragraph 4(3) of the [Neonatal Care Leave and Miscellaneous Amendments Regulations 2025 on the legislation.gov.uk website](#).

### **4. Leave**

#### **Entitlement**

4.1 Entitlement to neonatal leave is a day one employment right.

4.2 To be entitled to take the leave, employees must be taking the leave to care for the child, give the required notice and be either:

- the child's parent, an intended parent of the child, or the partner of the child's mother, living together in an enduring family relationship, at the date of birth or;
- the child's adopter, prospective adopter, or the partner of either at the date the child is placed or;
- an overseas adopter, or the partner of an overseas adopter at the date the child enters Great Britain.

4.3 Eligible employees are entitled to take one week of leave for each 'qualifying period' their child receives neonatal care. The qualifying period is any period of seven days during which the child receives care without interruption. The qualifying period must be after the date the child is born or in cases of adoption, placed. The entitlement only arises after the first seven days of neonatal care and lasts for a period of seven days after the child is discharged.

4.4 Employees can take neonatal care leave up to a maximum of 12 weeks. It must be taken before the end of the 68 weeks beginning with the child's date of birth. Or:

- for employees adopting within the UK, beginning with the date the child is placed or;
- for employees adopting from abroad, beginning with the date the child enters Great Britain.

NB. the requirement to be taking leave to care for the child disappplies if the child dies or the placement ends after the entitlement to leave has accrued.

## **Two tiers of leave**

4.5 Different rules apply depending on whether the leave is taken in a 'tier 1' or 'tier 2' period.

- **Tier 1** is the period beginning with the day the child starts receiving neonatal care and ends with the seventh day after the child stops receiving neonatal care. Neonatal care leave in this period may be taken in non-consecutive blocks of a minimum of one week (but only after the first seven days of care).
- **Tier 2** is the period of time which is not a tier 1 period and is before the end of the 68 weeks total leave period. Neonatal care leave in this period must be taken in consecutive weeks. (see para 4.6 for when tier 2 leave is likely to apply).

## **Notice requirements**

4.6 To ensure the correct notice is given please use Neonatal care leave and pay notification form.

4.6.1 For tier one leave, notice must be given before the employee is due to start work on the first day of absence, unless it is not reasonably practicable to do so. This notice does not have to be given in writing. However, if the employee is entitled to statutory neonatal care pay there will be a notification system in place to ensure payroll are notified. See section 5 below.

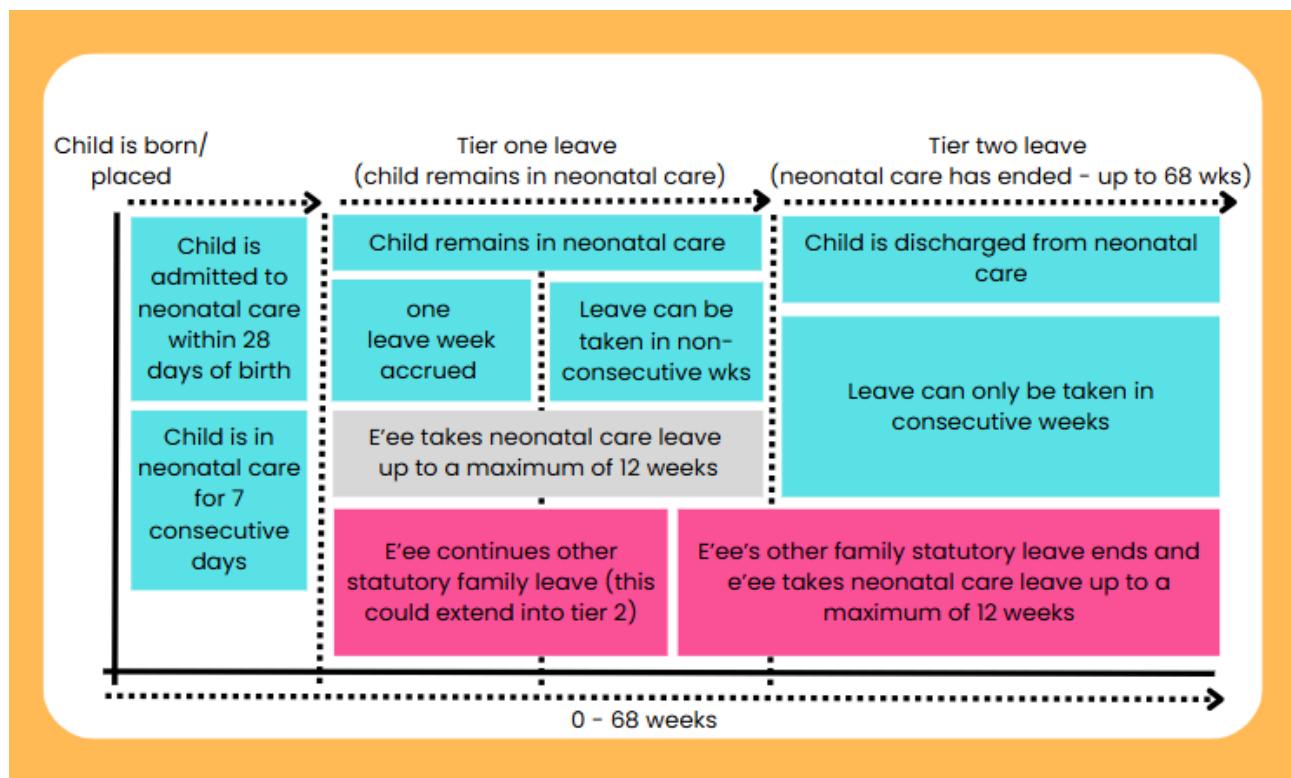
4.6.2 For tier two leave, to take a single week of leave, notice must be given no later than 15 days before the first day of leave. For two or more consecutive weeks, notice must be given no later than 28 days before the first day of leave. The Headteacher/Principal/Line Manager has discretion to shorten these deadlines.

## **Neonatal leave and other types of statutory leave**

4.7 Tier 2 leave is likely to apply where the parent/partner is already taking another type of statutory leave during the tier 1 period but accrues neonatal leave. In this case, the neonatal care leave can be taken after, providing it is within 68 weeks beginning on the child's date of birth or placement. However, where the employee has already started neonatal care leave and begins another period of statutory leave, such as shared parental leave or paternity leave, before the neonatal care leave is due to end, the neonatal care leave will end immediately.

## Visual example of how neonatal care leave can be taken

Blue boxes indicate events and rules. The grey box is one scenario route and the pink boxes are another scenario route.



The statutory entitlement is most likely to be used in the following way: Employees who are taking maternity leave or adoption leave and whose child requires a period of neonatal care, will most likely elect to take a period of 'tier 2' leave to extend the overall period of time off, paid at the statutory rate. 'Tier 1' leave might be more commonly taken by fathers (or partners) whose paternity leave has run out while their child is still receiving neonatal care.

## 5. Pay

### Entitlement

5.1 Eligible employees are entitled to statutory neonatal leave pay, for up to a maximum of 12 weeks. The rate for this pay is [available on the gov.uk website](#).

### Eligibility

5.2 Employees are entitled to neonatal leave pay if they:

- have 26 weeks' continuous employment ending with the relevant week\* and;
- have average earnings of not less than the lower earnings limit for the eight weeks ending with the relevant week (calculated in the same way as entitlement to SMP) and;
- meet the neonatal care leave eligibility criteria

\*The relevant week is 26 weeks service by the end of the 15<sup>th</sup> week before the expected week of childbirth.

Where the employee does not meet the criteria to be entitled to neonatal care leave pay until after neonatal care has started, then they will be entitled to pay for any period of seven days of interrupted care after they become eligible.

### **Notice**

- 5.3 The Headteacher/Principal/Line Manager will need to inform the HR Team when an employee has successfully applied for neonatal care leave and pay.

**Ask the employee to complete the Neonatal care leave and pay notification form. Once authorised, this should be emailed immediately to the address below to ensure the employee is paid correctly.**

[hr@wensumtrust.org.uk](mailto:hr@wensumtrust.org.uk)

- 5.4 For tier 1, notice must be given within 28 days of starting the leave.
- 5.5 For tier 2, to be paid for a single week of leave, notice must be given no later than 15 days before the first day of leave. For two or more consecutive weeks, notice must be given no later than 28 days before the first day of leave.
- 5.6 Where it is not reasonably practicable to give the appropriate period of notice, the employee must give notice as soon as is reasonably practicable.

## **6. Returning to work after neonatal care leave**

- 6.1 Employees are entitled to return to the same job after an isolated period of neonatal care leave, unless when added to other statutory leave (excluding parental) the total duration of leave is more than 26 weeks. In this case, they are entitled to return to the same job or, if this is not reasonably practicable, they are entitled to return to a suitable, alternative role. Either way, employees are entitled to return on terms and conditions no less favourable than those that would have applied to the job they had if they had not been absent.
- 6.2 The Headteacher/Principal/Line Manager will need to inform the HR Team when an employee's neonatal care leave ends for good, even if they are not returning to work straight away e.g., due to being on sick leave or annual leave.

[hr@wensumtrust.org.uk](mailto:hr@wensumtrust.org.uk)

The Headteacher/Principal/Line Manager should include the date of return from neonatal care leave and if there are any changes e.g., changes to hours

## **7. Neonatal care leave and multiple births**

- 7.1 Neonatal care leave and pay cannot be claimed twice by the same employee in respect of multiple births. The maximum amount of leave for that employee remains at 12 weeks.

## **8. Contractual status whilst on neonatal care leave**

- 8.1 An employee's contractual benefits and status will mirror those of an employee taking maternity or adoption leave.

## **9. Annual leave whilst on neonatal care leave**

9.1 Employees continue to accrue their statutory and contractual holiday entitlement during neonatal care leave.

## **10. Pension contributions**

10.1 **Local Government Pension Scheme members:** contributions will be deducted on all payments made to the employee. Pensionable pay, for calculating LGPS pensions, during periods of paid shared parental leave is assumed to be equal to average pay before the leave commenced. During unpaid neonatal care leave, the employee will have the option of making up the “lost” pension contributions. An option form will be sent to employees if they are going to be in a period of unpaid neonatal care leave.

10.2 **Teachers' Pension scheme members:** contributions will be payable on payments made to the employee in the form of neonatal care pay. Service will be counted as reckonable for pension purposes during any paid employment. Service will not count for pension during unpaid neonatal care leave. The employee should contact Teachers' Pensions direct if they wish to make voluntary contributions during their period of unpaid neonatal care leave or if they require guidance regarding this matter.

## **11. Sickness during neonatal care leave**

11.1 If an employee is sick during neonatal care leave and it prevents them from being able to look after their child, their entitlement to neonatal care leave and/or pay will cease and they should advise their Headteacher/Principal/Line Manager. The Headteacher/Principal/Line Manager will advise the HR Team as normal sickness entitlements will apply, where eligible. This will only be the case where the employee is genuinely not able to take care of their child e.g., hospitalisation.

## **12. Redundancy during neonatal care leave**

Employees taking neonatal care leave, and during an additional protected period, are entitled to the same redundancy protection as for employees on maternity leave. The protected period begins once the employee has taken six consecutive weeks of neonatal care leave and ends 18 months after the child was born or placed for adoption.

## **13. Protection from detriment and unfair dismissal**

13.1 An employee is protected from suffering a detriment due to the fact that they took, sought to take, or made use of the benefits for neonatal care leave, or the employer believed that the employee was likely to take neonatal care leave

13.2 An employee is protected from dismissal if the reason (or principal reason) is that the employee took, sought to take, or made use of the benefits of, neonatal care leave, or the employer believed that the employee was likely to take neonatal care leave or was selected for redundancy on this basis. This will be considered automatic unfair dismissal.

## **14. Abuse of the neonatal care leave scheme**

14.1 Any abuse, including fraudulently claiming leave and/or pay, of the neonatal care leave scheme will be treated as misconduct in accordance with the disciplinary policy.

## **15. Data Protection**

Personal data collected and processed for the purpose of this scheme will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.