



**Somerset
Council**

Neonatal Care Leave Policy

Organisation	Somerset Council
Title	Neonatal Care Leave Policy
Owner	HR Policy Team
Primary Legislation	Neonatal Care (Leave and Pay) Act 2023 Neonatal Care Leave and Miscellaneous Amendments Regulations 2025 Statutory Neonatal Care Pay (General) Regulations 2025

1 Policy Statement

- 1.1 Somerset Council recognises that having a child in neonatal care is an extremely difficult and challenging time and is committed to supporting employees who experience this.
- 1.2 The Neonatal Care Leave Policy provides employees caring for a child who has received neonatal care within the first 28 days after birth up to 12 weeks' leave as a day one right.
- 1.3 Employees are entitled to Statutory Neonatal Care Pay if they have at least 26 weeks of continuous service before the relevant week and earn above the Lower Earning Limit.
- 1.4 Employees with at least one year's continuous service by the 11th week before the Expected Week of Childbirth or employees with one year's continuous service at the time of adoption will be eligible for full contractual pay for the period of neonatal care leave.
- 1.5 This policy applies to all employees of Somerset Council with the exception of those employed in Local Authority maintained schools where alternative HR policies, which have been subject to consultation and agreement with recognised professional associations and trade unions, are recommended for adoption by the individual school's Governance Board.
- 1.6 This policy does not form part of the Somerset Council Terms and Conditions and may be subject to change.
- 1.7 In the event of a conflict between the provisions of the Policy and the provisions of the Employment Rights Act 1996, the provisions of the Act will Prevail.

2 Neonatal Care

- 2.1 Neonatal care refers to:
- medical care that a child receives in a hospital.
 - medical care that a child receives in any other place providing:
 - the child was previously admitted to a hospital as an inpatient and needs continuing care after leaving the hospital.

- the care is under the direction of a consultant, and
- the care involves ongoing monitoring and visits from healthcare professionals arranged by the hospital where your child was an inpatient.
- palliative or end-of-life care.

3 Eligibility

3.1 Neonatal leave is a day one right meaning that all employees are entitled to this as long as they meet one of the following criteria:

- they are the child's parent or adoptive parent and have or expect to have responsibility for the upbringing of the child.
- they are the partner of the child's birth parent or adoptive parent and have main responsibility for the upbringing of the child.
- Employees adopting from overseas are entitled to neonatal leave if at the date the child enters Great Britain, they are the adoptive parent or partner of the adoptive parent.

3.2 Employees having a child through a surrogacy arrangement are entitled to neonatal care leave if at the date of the child's birth:

- they have applied or intend to apply for a parental order within a period of six months,
- they expect the parental order to be granted, and
- they have or expect to have responsibility for the upbringing of the child.

3.3 Additionally, the following conditions must be satisfied:

- the child was born on or after 6 April 2025.
- the child started receiving neonatal care within 28 days after the date on which they were born (the 28 days are counted from the day after the child is born).
- the neonatal care has lasted seven days or longer without interruption (the seven days are counted from the day after the neonatal care started).
- the employee is taking the leave to care for the child (apart from in cases of bereavement which are outlined later in the policy).
- the employee complies with the relevant notice and declaration requirements set out in the policy.

4 Entitlement

4.1 Neonatal care leave is provided as one week for every week the child has spent in neonatal care without interruption, up to a maximum of twelve weeks. A week is defined as a period of seven days starting from the day after the neonatal care began.

4.2 In cases where the child is adopted the entitlement begins either after the child has been placed for adoption (for adoptions within the UK) or after the child has entered Great Britain (for adoptions from overseas).

- 4.3 Neonatal care leave must be taken in blocks of at least one week.
- 4.4 Employees can take only up to 12 weeks' neonatal care leave, even if multiple children from the same pregnancy require neonatal care.

5 Taking Neonatal Care Leave

- 5.1 Neonatal care leave can start on any day on or after the child has received eight days of uninterrupted care and must be taken within 68 weeks of the child's date of birth.
- 5.2 The right to neonatal care leave is in addition to any other statutory leave that the employee may be entitled to, such as maternity, adoption, paternity, parental bereavement, or shared parental leave.
- 5.3 Neonatal care leave can be taken in two tiers:
 - Tier 1 - The tier 1 period begins when the child starts receiving neonatal care and ends on the seventh day after the child is discharged. Employees taking neonatal care leave in the tier 1 period can take it in one continuous block or several non-continuous blocks of a minimum of one week at a time.
 - Tier 2 - The tier 2 period is any remaining period (within 68 weeks after the child's date of birth) that is not part of the tier 1 period. Employees taking neonatal care leave during the tier 2 period must take the leave in one continuous block.
- 5.4 Further information and guidance on the tiered leave system can be found in the Neonatal Care Leave Guidance.

6 Notice of Neonatal Care Leave

- 6.1 Although this section outlines clear notification requirements, it is understood that this is a challenging time for employees and as such discretion on provision of notice will be given.
 - Tier 1 Notice
- 6.2 An employee taking tier 1 leave should notify their line manager before the first day of absence in that week.
- 6.3 The Neonatal Care Leave Form will also need to be completed by the employee, although there is no expectation for this to be completed immediately. However, it is requested that the form is sent to the line manager within 28 days of the first day of neonatal care leave.
 - Tier 2 Notice
- 6.4 An employee taking tier 2 leave should provide notice in writing of their intention and entitlement to take neonatal care leave using the Neonatal Care Leave Form, sending this to their line manager.
- 6.5 If the employee is taking a single week of neonatal care leave, their notice should be received at least 15 days before the commencement of leave.

- 6.6 If the employee is taking two or more consecutive weeks of neonatal care leave, their notice should be received at least 28 days before the commencement of leave.

Changing Neonatal Care Leave

- 6.7 In cases where an employee has submitted a notice to take neonatal care leave during the tier 2 period but wishes to cancel this, they must inform their line manager.
- 6.8 If the employee intended to take a single week of neonatal care leave, they must submit the cancellation form at least 15 days before the commencement date.
- 6.9 If the employee intended to take two or more consecutive weeks, they must submit the cancellation form at least 28 days before the commencement date.

7 Other Statutory Leave

- 7.1 Employees are entitled to take neonatal care leave in addition to any other statutory leave that they may be entitled to, including maternity, adoption, paternity, parental bereavement, and shared parental leave
- 7.2 If the employee has already started a period of statutory leave, but subsequently becomes eligible for neonatal care leave, they can take the neonatal care leave after completing the other statutory leave, provided that the neonatal care leave is taken within 68 weeks of the child's birth date.
- 7.3 If the employee has already started a period of neonatal care leave during the tier 1 period but needs to begin another type of statutory leave, their neonatal care leave will be temporarily paused immediately before the other statutory leave begins. They can then resume the remaining weeks of neonatal care leave in one of two ways:
- if they are in the tier 1 period - immediately after the end of the other period of statutory leave, or
 - if they are in the tier 2 period - immediately after any other neonatal care leave taken during the tier 2 period.
- 7.4 An employee cannot take neonatal care leave in the tier 2 period if, at the time of giving notice, they are aware that the leave will overlap with another type of statutory leave.

8 Neonatal Care Pay

Statutory Neonatal Care Pay

- 8.1 The rate of statutory neonatal care pay is set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings (whichever is lower).

8.2 Statutory neonatal care pay is payable during the neonatal care leave period, provided that the employee meets the eligibility criteria below:

- they are entitled to take neonatal care leave.
- they have at least 26 weeks' continuous employment at the end of the relevant week.
- they remain in continuous employment from the end of the relevant week (or from the child's birth if they were born before the relevant week).
- their average weekly earnings are not less than the lower earnings limit for national insurance contributions.
- they have complied with the relevant notice and evidential requirements and are able to provide the declarations as set out in this policy/relevant payroll form.
- they have confirmed when they wish to start receiving statutory neonatal care pay within the Neonatal Leave Form providing notice of intention and entitlement to take neonatal care leave.

8.3 Relevant week refers to the 15th week before the expected week of childbirth if the employee is entitled to statutory maternity or paternity pay. If the employee is entitled to statutory adoption pay, the relevant week is the week in which the employee is notified that they have been matched with a child for adoption purposes. In all other cases, it is the week before the neonatal care begins.

8.4 Neonatal care pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Enhanced Neonatal Care Pay

8.5 Employees will continue to be paid their normal contractual rate of pay while taking neonatal care leave provided:

- they are entitled to take neonatal care leave.
- they have at least one year's continuous service by the 11th week before the Expected Week of Childbirth (or in the case of adoption, the employee must have one year's continuous service at the time of the adoption)
- they remain in continuous employment from the end of the relevant week (or from the child's birth if they were born before the relevant week).
- their average weekly earnings are not less than the lower earnings limit for national insurance contributions.
- they have complied with the relevant notice and evidential requirements and are able to provide the declarations as set out in this policy/relevant payroll form.

8.6 All neonatal care pay is treated as earnings and is therefore subject to PAYE and national insurance deductions. Enhanced Neonatal Care Pay will be offset by Statutory Neonatal Care Pay.

- 8.7 If the employee does not return to work for a minimum of three months following the period of leave, they may be asked to repay their Enhanced Neonatal Care Pay.

9 Changes Affecting Entitlement

- 9.1 The employee must make their line manager aware of any changes regarding the child's neonatal care as soon as is reasonably practicable. For example, if the neonatal care ends, or they are readmitted.

10 Placement Disruption or Bereavement

- 10.1 Employees who have accrued entitlement to neonatal care leave will still ordinarily be entitled to take their neonatal care leave if the placement is disrupted or their child passes away - [Parental Bereavement Leave](#). Please seek HR advice in such situations.
- 10.2 A placement is disrupted where the child is returned after having been placed for adoption, ceases to live with the overseas adopter, or in the case of a surrogacy arrangement, the parental order does not proceed.

11 Rights during Neonatal Care Leave

- 11.1 During neonatal care leave all terms and conditions of the employee's contract will continue (with the exception of pay, subject to entitlement as set out above).

Annual Leave

- 11.2 Employees will continue to accrue holiday entitlement during neonatal care leave. Any holiday entitlement that has not been taken because of neonatal care leave may be carried over into the next holiday year.

Pension

- 11.3 If the employee is a member of the Local Government Pension Scheme, deductions for pension will be made automatically on all Statutory & Enhanced Neonatal Care Pay received.
- 11.4 If the employee is a member of the Local Government Pension Scheme, they can elect to pay contributions for an unpaid period of Neonatal Care Leave when they return to work in order that this period can be counted for pension purposes. Further information on this can be found in the Pensions Policy or by contacting Peninsula Pensions.
- 11.5 If the employee is a member of any other pension scheme, they should contact HR for advice regarding their options.

Returning to Work

- 11.6 Employees have the right to resume working in the same job and on the same terms and conditions if returning to work from a period of isolated neonatal care leave.
- 11.7 When returning from a period of neonatal care leave that follows immediately from another period of statutory leave and the total time on leave is more than 26 weeks, the employee has the right to return to the same job wherever possible. However, if this is not reasonably practicable, Somerset Council will offer a suitable alternative job on terms and conditions that are no less favourable.

12 Support Mechanisms

- 12.1 Employees requiring support may wish to contact the Employee Assistance Provider, [Care First](#), which offers free confidential counselling services. Employees may also wish to join the employee [Parenting Network](#) to meet other parents, gain support, and share experiences.

Links to specialist external support services can be found on the Neonatal Care Leave page in the HR A-Z.

Version History

Revision Date	Author	Version	Description of Revision
31/03/2025	Sarah Welland	1	New Somerset Policy