

# APPENDIX 27

## Parental Leave Policy

**INTRODUCTION:**

1. This policy applies to barrister Members of Chambers (“Members”), and to Pupils[[1]](#footnote-1) who are parents or carers of children and other dependents. It should be read in conjunction with Chambers’ Constitution.
2. “Parental Leave” refers to the period of time taken off work by a member, in order to care for a child and/or support the family unit, within the first 12 months of that child’s birth or adoption.
3. A Member may decide to take longer than 12 months off work in order to look after his or her child/children. Such Members will not be entitled to the reductions/exemptions set out in this policy[[2]](#footnote-2). However, there will be a presumption in favour of welcoming the tenant as a Member of Chambers, irrespective of the total period of leave taken.

**DEFINITIONS AND PERIOD:**

1. Parental leave may commence before or after the birth or adoption of the Member’s child.
2. Use of the term “parent” includes guardian. This policy applies equally to all parents regardless of (a) gender (b) relationship status (c) whether or not the parent has given birth (d) whether the Member becomes a parent through pregnancy, adoption, or surrogacy.
3. A “dependent” for the purposes of this policy will include an infant, child, young person, or an adult with a disability.

*Sole and Joint carers:*

*Sole Carers*

1. There is no minimum period of parental leave.
2. The maximum period of parental leave is 12 months subject to paragraph 39.
3. For the purpose of this policy, a “sole” carer is a caregiver who looks after the child on a full-time basis. This will not be affected by the working status of the other parent.

*Joint Carers:*

1. For the purpose of this policy, a “joint” carer is any carer who is not the “sole” carer. For example, the parent who continues to work whilst the sole carer stays at home.
2. A joint carer will be entitled to take up to 3 months of parental leave, within the period between birth and the child’s first birthday.

*Joint and sole carer*

1. A Member will not be considered to have returned to normal working practice if they work the equivalent of 3 days or less a week. For the avoidance of doubt, this is the equivalent of:
	1. 156 days if the parent takes 12 months of parental leave,
	2. 78 days if they take 6 months of parental leave and,
	3. 39 days if they take 3 months or parental leave.
2. The days worked do not have to be spread evenly across the period of parental leave[[3]](#footnote-3). However, any tenant who works more than the equivalent of 3 days a week will be deemed to have returned to normal working practice.
3. Where issues arise regarding the volume of work undertaken by a tenant on parental leave, they shall be adjudicated upon by the Management Committee.
4. The Head of Chambers, Senior Clerk and a representative from the Equality and Diversity Committee will consider any request to extend the period of parental leave on a case-by-case basis.[[4]](#footnote-4)
5. Any Member of Chambers is entitled to up to 12 months leave of absence from Chambers for the purposes of parental leave to care for their dependent. Parental leave is granted for the purpose of caring for their child or dependent, whether alone or together with another parent or carer. It cannot be taken where the parent intends another activity to be the primary focus of their leave, for example, full-time working to prepare a case out of court, full-time studying, or undertaking non-Chambers work. Examples of what would not amount to parental leave are provided at Appendix One.

**CHAMBERS FEES**

1. A sole carer on parental leave, for a period of up to 12 months, shall:
	1. Pay 6% less than the standard contribution rate on all fees received and billed during that period.
2. Any joint carer on parental leave, for a period of up to 3 months shall:
	1. Pay 4% less than the standard contribution rate on all fees received and billed during that period. [[5]](#footnote-5)

**PRE-LEAVE**

1. Chambers aims to support all Members who choose to become parents, whether they wish to take parental leave or not. Where a Member wishes to take leave following birth or adoption, Chambers will support them in doing so. Where a Member wishes to continue working following birth or adoption, Chambers will support them in adjusting their working practices that they may require to allow them to do this.
2. Any Member of Chambers intending to take time off from Chambers for the purpose of parental leave must give notice to the Clerks and Chambers Administrator. Such notice should be given at least 6 weeks prior to when the Member wishes to take parental leave where possible. Chambers recognises that there will be circumstances in which it will not be possible to give any notice (for example, medical circumstances that lead to a premature birth). It is likely to assist the Member and the Clerks’ management of their practice if notice is given at the earliest opportunity possible.
3. Chambers (and in particular Chambers’ Clerks) will accommodate time off for fertility treatment, antenatal care, and related medical and other appointments.
4. Prior to the commencement of leave, the Member must meet with an appropriate clerk to discuss and where appropriate agree:
	1. The level and type of contact s/he would like to have during parental leave;
	2. Any outstanding cases and appropriate cover;
	3. Any outstanding billing;
	4. A proposed return date;
	5. How, when and by whom solicitors will be informed of the start and end date of parental leave;
	6. Whether s/he will be undertaking any work during parental leave[[6]](#footnote-6) (in accordance with paragraph 9);

**DURING LEAVE**

1. Chambers, through the Clerks (or other appropriate person), will ensure that the Member is kept informed of Chambers’ meetings and decisions held by Chambers.
2. Unless otherwise informed by the Member, it should be assumed that s/he cannot attend Chambers and team meetings and apologies for absence should be reflected in the minutes of those meetings. Minutes should be e-mailed to the Member.

**RETURN TO PRACTICE**

1. On returning to practice after parental leave Members should indicate to the Clerks any preferences for working hours, the type, duration, and location of any hearings/trials that the Member may undertake. This should include any request for flexible or part-time working.
2. If a Member has chosen not to take leave after the birth or adoption of a child, they should equally indicate to the Clerks any preferences for working hours, the type, duration, and location of any hearings that the Member may undertake during the period after the birth or adoption. This should include any request for flexible or part-time working.
3. In either case the Clerks will endeavour to help structure the Member’s practice in accordance with these preferences and ensure that, if a particular instruction precludes these preferences being met, the Member understands the reasons for this and is supported in finding alternative instructions.
4. Before returning to practice a Member may request any or all of;

 (a) a mentor appointed by the Equality and Diversity Committee who will assist the Member in settling back into practice,

(b) a review of the Member’s website profile in conjunction with the appropriate Clerk,

(c) that a list of solicitors be written to announcing the Member’s return to practice.

1. After returning to practice, a three-month review should take place, at which the Member’s career and support needs may be identified.
2. Members are responsible for ensuring their practising certificates and insurance are current upon return.

**GENERALLY**

1. The timing of Chambers’ meetings, team meetings and practice reviews should take into consideration childcare needs of barristers, and attendance at evening/weekend meetings should not be expected. Video links should be made available to Members wishing to participate in meetings from home.
2. Chambers should recognise that lack of and/or cost of childcare provision will mean that some Members cannot attend evening or weekend meetings/events. Chambers will endeavour to ensure this does not exclude those Members from Chambers professional and social life and will aim to vary the times at which such events are arranged.

**PROSPECTIVE PUPILS**

1. Upon application, Chambers may defer the commencement of pupillage of prospective pupils who become pregnant prior the commencement of pupillage for a period of up to 12 months. This is as per 2HB’s standard deferment terms.
2. Prospective pupils with existing childcare commitments may discuss with the Pupillage Committee how their working hours during pupillage can accommodate such commitments and should be advised of their entitlement to flexible working hours in accordance with this policy.

**CURRENT PUPILS**

1. First, second, third six pupils and probationary tenants are entitled to flexible working hours for childcare reasons. This is to be discussed at a meeting with the Pupil, Pupil Supervisor, Senior Clerk and a representative of the Equality and Diversity Committee.
2. Pupils who become pregnant during pupillage may defer completion of the remainder of pupillage, subject to the requirements of Part V of the Bar Training Regulations. If an exemption from the Bar Training Regulations is required, the pupil’s supervisor shall be responsible for obtaining written permission from the Bar Standards Board.
3. Such a deferral shall not affect the overall pupillage award which shall be paid monthly during the period in which the pupil is undertaking pupillage/working. In the event of a rise in the pupillage award following deferral and prior to commencement of the deferred period the pupil shall be paid at the increased rate during the deferred period.
4. In the event of deferral and during the pupil’s deferment period, the pupil’s supervisor shall be their point of contact with Chambers.
5. Chambers shall endeavour to accommodate pupils’ requests for flexible working hours to allow for childcare commitments. Such working hours should be discussed with the pupil’s supervisor to ensure that the pupil is able to complete the work that is required of him or her.
6. The need to work flexible hours for this reason should not, as far as possible, affect the allocation of court work during the practising period of pupillage. Pupils should however be aware of the demands and practicalities of the court schedule and the necessity for evening and last-minute briefs and should arrange childcare with this in mind wherever possible.
7. Pupils should be assured that any need to work flexible hours for reasons of childcare will not in any way affect their prospects of being recruited as a tenant pursuant to the Chambers’ policy on recruitment of tenants from pupils.

**MISUSE OF THE POLICY**

1. Chambers will be unable to police any abuse of this policy in any obvious and direct way. The onus is placed upon the Member to ensure their compliance with this policy.
2. It will be a disciplinary offence under the Chambers’ Constitution to abuse this policy. Any individual found to have misused this policy will be referred to the Bar Standards Board. Examples of abuse of the policy are provided at Appendix One.

**REVIEW OF THE POLICY**

1. Chambers aims to provide a supportive and flexible working environment for all Members. Individuals’ and families’ needs vary. Whilst the policy is designed to apply as globally as possible to all Members and pupils, it is recognised that individuals may require extra assistance or relief. Should any Member wish to discuss specific terms of their parental leave, Chambers will facilitate a discussion with the Senior Clerk, a Head of Chambers, and a representative from the Equality and Diversity Committee.
2. The Chambers’ Head of the Equality and Diversity Committee will review annually the effectiveness of this policy and, where appropriate, will make proposals for change to the Management Committee. Any substantive changes will always be discussed amongst the entirety of the Equality and Diversity Committee before any proposals for change are made.

**COMPLAINTS**

1. Any Member who wishes to make a complaint regarding a breach of this policy should in the first instance contact the Head of the Equality and Diversity Committee. This is Natalia Constantine.
2. The Chambers Administrator and the Head of the Equality and Diversity Committee are the points of contact for all queries regarding this policy.

APPENDIX ONE – WORKING ON LEAVE

Chambers recognises that some Members may wish to undertake some work during their time on parental leave. Some instructions will last many years and Chambers would not expect these to be returned during parental leave; keeping the instruction will necessitate the Member occasionally working on the papers and sending emails. Equally, a Member might be offered an instruction for a single day hearing whilst on leave, accepting which would not amount to inappropriate use of the parental leave policy.

However, given that parental leave is granted for the purpose of caring for a child or dependent, and that the Member does not pay rent during their parental leave, their work should not be the primary focus of their leave. For example, Members should not delay billing completed work to take advantage of the reduced rate.

Each person’s practice is unique, and Chambers does not consider it appropriate to set a fixed limit on hours or days that may be billed during parental leave. However, the following are provided by the Bar Council as examples of what may amount to abuse of a parental leave policy.

Chambers also notes that for Members in receipt of government maternity allowances, limits are set on the number of days which can be worked whilst still receiving benefit. Compliance with those limits is solely the Member’s responsibility.

http://www.barcouncilethics.co.uk/wp-content/uploads/2018/02/Bar-Council\_Parental-Leave-Guide-28revised-including-Shared-Parental-Leave29\_February-2018.pdf)

**Examples from Bar Council Guidance of Abuse of Parental Leave Policy**

Barrister B becomes a father in February 2018. His partner does not work and will be shouldering the vast majority of the childcare. However, Barrister B tells his chambers that he is taking a period of Shared Parental Leave (up to 12 months) although he continues to work at a similar level before and does little childcare. He claims that he is entitled to at least 6 months’ rent free.

Barrister C becomes a parent in March 2018. She is not the primary parent to her new child; the primary parent is a solicitor at a law firm, which provides 12 months paid parental leave that she will be using. For the past 5 years, Barrister C does not work in August and stays in her villa in the South of France. The summer of 2018 is no different. She tells her chambers that she wants to take parental leave from 1 – 31 August 2018. Even though she does minimal childcare (they have a live-in nanny) and her partner is benefitting from a generous parental leave policy from her employer, she claims that she is entitled to a rent-free period over August 2018.

Barrister D becomes a parent in April 2018. For some time, he has wanted to write a new practitioners book on his particular area of specialism but he has been discouraged because he knows that it will take around 6 months to write and he cannot afford to lose out on billings for such a long period of time. He tells his chambers that he is going to take on 50% less work for 12 months after the birth of his child which should be classed as parental leave. He also claims that he should enjoy an equivalent rent-free period. In fact, he plans to not look after his child very much and instead wishes to use the additional time generated by scaling back his practice to write his new book.

Barrister E becomes a parent in May 2018. He is not the primary parent to his new child as his wife has given up her job and wants to do all the childcare. Barrister E has had an extremely successful and exhausting few years in his practice where he has been working 80 hours plus each week. After the birth of his child, he tells his chambers that he is taking 12 months parental leave during which time he will work but will scale back his practice to around 60 hours a week. He does not plan to use this additional “free” time to look after his child and instead wishes catches up on his hobbies and interests. However, he still asks fora rent-free period because he attributes the decrease in his billable hours to parental leave.

1. This policy applies to pupils please look to para 33 onwards. [↑](#footnote-ref-1)
2. Unless personal circumstances mean the member of chambers needs more time off see para 43. [↑](#footnote-ref-2)
3. A tenant taking 12 months of parental leave could, for example, not work at all for 6 months and then choose to work 156 days in the next 6 months, spread over whatever days works best for the tenant. [↑](#footnote-ref-3)
4. The member on parental leave should contact the head of the Equality and Diversity Committee who shall deal with all administrative arrangements of such a meeting. [↑](#footnote-ref-4)
5. Paragraphs 17 and 18 are to be read in conjunction with paragraph 12. Joint carers can become sole carers at any time during their 12 month window of parental leave. [↑](#footnote-ref-5)
6. Whether s/he should suspend her/his practising certificate. Whilst suspension means that the member will be free from CPD obligations for the period of suspension, s/he will not be able to take on any work at all; [↑](#footnote-ref-6)