

Neonatal Care Leave and Pay IA No: BEIS028(F)-22-LM RPC Reference No: Lead department or agency: Department for Business, Energy and Industrial Strategy Other departments or agencies:	Impact Assessment (IA)
	Date: February 2022
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries: Bryan Halka/Elena Hartley	

Summary: Intervention and Options	RPC Opinion: Not applicable
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Cost of Preferred (or more likely) Option
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Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
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What is the problem under consideration? Why is government intervention necessary?

In the UK, an estimated 100,000 babies are admitted to neonatal care each year following their birth. Many of these babies spend prolonged periods of time in neonatal care as a result of being born prematurely, with congenital conditions, complications at birth, or experiencing serious health conditions shortly after birth. During this time parents face significant practical considerations in order to spend time with their new baby (or babies). Currently, parents in these circumstances rely on their statutory leave entitlements which means a considerable proportion of their leave may be used while the baby is still in hospital. The Government proposes a Neonatal Care Leave and Pay entitlement to replace the number of weeks their child spends in neonatal care (up to a maximum of 12) so parents can spend time caring for their child outside of a medical environment.

What are the policy objectives and the intended effects?

The proposed introduction of Neonatal Care Leave and Pay aims to:

- Enable parents to be away from work to deal with the immediate challenges of having a baby in neonatal care; to support the other parent and care for other children; to provide time to care for and bond with the child outside of a medical environment which will provide a sure foundation for the future.
- Provide a societal benefit associated with a more engaged, productive and healthy workforce, allowing parents to maintain a continued attachment to the labour market.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Non-regulatory approach: Raise awareness through a campaign and/or issue guidance to encourage employers to voluntarily offer provisions to employees in these circumstances. However, in the absence of statutory minima, individual employers may not provide a socially optimal standard and so some of these benefits may not be realised. In addition, employers are unlikely to offer consistent support which will lead to discrepancies between the support provided in individual cases, both across and within employers. The absence of minimum standards could result in some parents facing undue stress, additional costs and falling out of the labour market due to the difficulty in balancing employment and family-life.

Policy Option: Introduce a statutory right of 1 week of neonatal care leave and pay for each week the baby is in neonatal care up to a maximum of 12 weeks. This leave will be paid at the current statutory rate of £156.66 per week or 90% of average earnings (whichever is lower).

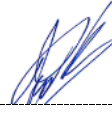
Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 5 years after implementation year.

Does implementation go beyond minimum EU requirements?	Yes
Is this measure likely to impact on trade and investment?	No
Does this measure comply with our international trade and investment obligations, including those arising under WTO agreements, UK free trade agreements, and UK Investment Treaties?	Yes

Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by Paul Scully MP, Parliament Under
Secretary of State for Business, Energy and
Industrial Strategy:



Date: 27/06/2022

Summary: Analysis & Evidence

Preferred Policy Option

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2024	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -68.1	High: -188.2	Best Estimate: -160.5

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£8.0 million		£11.9 million	£110.0 million
High	£8.0 million		£35.6 million	£314.1 million
Best Estimate	£8.0 million		£30.0 million	£266.6 million

Description and scale of key monetised costs by 'main affected groups'

Businesses costs:

- One-off familiarisation costs for large businesses - £4.7 million.
- Reoccurring annual costs of familiarisation for small businesses - £0.3 million
- Reoccurring annual costs relating to administering the leave - £0.6 million
- Reoccurring wage-like costs - £0.9 million
- Reoccurring reorganisation costs - £20.8 million

Exchequer costs:

- One-off to HMRC cost relating to the implementation of IT systems - £5 million.
- Statutory payments costs that are funded by the Exchequer - £14.2 million

Other key non-monetised costs by 'main affected groups'

Additional costs to the exchequer and employers should working parents' incentives change, resulting in them leaving their child in neonatal care for longer than they need, to receive additional statutory payments. However, this is unlikely to affect many parents.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			£4.9 million	£41.9 million
High			£14.6 million	£125.8 million
Best Estimate			£12.3 million	£106.1 million

Description and scale of key monetised benefits by 'main affected groups'

- Additional annual payments to parents who take Neonatal Care Leave and Pay of £15.1m.
- There will be a benefit to small businesses, as they can reclaim 103% of the statutory rate.

Businesses may already offer a form of neonatal leave and they are currently covering 100% of these costs but when the policy comes in, they will be able to reclaim a percentage of the statutory payments.

Other key non-monetised benefits by 'main affected groups'

- Employed parents will have access to leave and pay to replace the weeks their child spends in neonatal care. This will be particularly beneficial to fathers/partners who have a maximum of two weeks Statutory Paternity Leave and would previously have been forced to work, take unpaid leave, take annual leave, or leave employment altogether.
- This leave will enable parents to benefit from having additional time to bond with their child away from a medical environment. It will subsequently support infants in their social, developmental and emotional needs, as parental contact in the first few weeks after birth is important for children's development. Finally, this leave entitlement will create a minimum standard for an issue which is difficult to navigate for employers and employees.

Key assumptions/sensitivities/risks	Discount rate	3.5%
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The main uncertainty for this assessment is the number of people who will take up the leave. We have assumed a take-up rate of 75% for fathers/partners and 50% for mothers in our best estimation, which is tapered every four weeks by 10%. To account for this uncertainty, different take-up rate scenarios have been created to give a low and high estimate of the costs and benefits. There is also uncertainty in the assumptions on how employers manage employee absence over long periods.

BUSINESS ASSESSMENT (Option 1: Best Estimate)

Direct impact on business (Equivalent Annual):			Score for Business Impact Target (qualifying provisions only): £93.2m
Costs: £31.0m	Benefits: £12.3m	Net: £18.6m	

Evidence Base (for summary sheets)

Problem under consideration;

1. The National Neonatal Research Database estimates that around 100,000 babies every year are cared for in neonatal care following birth. Neonatal means 'new-born' and neonatal units specialise in the care of babies born prematurely, with a low birth weight and/or who have a medical condition that requires surgery or specialised treatment. Of the 60,000 babies who are born prematurely (before 37 weeks of pregnancy) each year in the UK, around two-thirds are admitted to neonatal care intensive care. 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 babies¹.
2. There are four levels of neonatal care, all of which require that the baby stays at the hospital:
 - Intensive care - for babies who have serious problems, who are very premature, and/or have an extremely low birth weight.
 - High dependency care - for babies with less serious problems but who still need a great deal of observation and support.
 - Low dependency - for babies who do not require continuous observation and/or who are stable and growing.
 - Transitional care - for babies who need some medical treatment but are well enough to be cared for at their mother's bedside.
3. A baby's gestational age is strongly correlated with the length of time spent in neonatal care following birth – a baby born before 27 weeks will spend an average 39.4 weeks in neonatal care, whereas a baby born between 32 and 36 weeks will spend an average of 12 days there. The issue is not isolated to premature babies - many full-term but sick babies spend prolonged periods of time in neonatal care as a result of serious health conditions rather than gestational age².
4. In addition, multiple births are more likely to be premature with around 60% of multiple births born before 37 weeks gestation and subsequently will need neonatal care³. This time in neonatal care can be days, weeks or months depending on the babies' specific needs.
5. Mothers who experience pregnancy related health-issues and have a higher risk pregnancy which requires close monitoring, are more likely to give birth prematurely and/or experience complications during the actual birth. The stress of having a baby in neonatal care can impact on the physical and mental health of both parents – which could potentially have a negative impact on the labour market outcomes for them.
6. Many lobby groups representing the views of parents of premature, sick and multiple (PSM) babies argue that current statutory entitlements (Maternity and Paternity Leave and Pay) for these parents are inadequate. They argue that current provisions do not support them in providing the care that babies need, as they are forced back to work too soon, leading some parents to drop out of the labour market altogether.
7. In 2018/19, officials in BEIS conducted a short, focussed, internal review of the provisions for PSM babies. This included a light touch literature review; meeting with lobby groups representing parents (Bliss, The Smallest Things and TAMBA); meeting with groups representing employers (CBI, BCC, FSB and EEF); and focus groups with parents of premature babies. The review found four key issues:
 - 'Ad hoc' expenses incurred in connection with having a baby in neonatal care are significant. A survey conducted by Bliss in 2014, suggests an eight-week stay in hospital

¹ <https://www.bliss.org.uk/research-campaigns/neonatal-care-statistics/prematurity-statistics-in-the-uk>

² <https://www.bliss.org.uk/research-campaigns/neonatal-care-statistics/statistics-about-neonatal-care>

³ <https://www.reproductivefacts.org/news-and-publications/patient-fact-sheets-and-booklets/documents/fact-sheets-and-info-booklets/multiple-pregnancy-and-birth-twins-triplets-and-high-order-multiples-booklet/>

costs parents over £2,250 and parents we spoke to in the focus groups reported unplanned expenses of up to £6,000.

- Parents and their representatives feel that the current statutory entitlements to parental leave and pay are insufficient and/or too inflexible in cases where a baby is born premature or sick.
- Uptake of the current entitlements is less than 100% - parents reported that they had/will have to return to work sooner than planned as they faced financial hardship – particularly where fathers/partners had taken unpaid leave from work to support the mother and child. In addition, many parents are not aware of the full suite of legal entitlements to time off work.
- There is variation in the levels of support provided by employers, both when the parents are on parental leave and when they have returned to work but are juggling work with childcare responsibilities - including hospital appointments.

Findings from the consultation

8. In July 2019 the Government published a wide-ranging consultation that sought views on several proposals to support families in balancing their work and personal lives. Chapter 2 of the consultation sought views on proposals for a new entitlement to Neonatal Leave and Pay. The consultation received 1,364 responses, of which:
 - 1,238 (91%) were from individuals,
 - 48 (3.5%) were from employers who identified themselves as either a large, medium, small or micro business,
 - 16 (1%) were from organisations who identified themselves as a business/trade representative group,
 - 14 (1%) were trade or staff unions,
 - 6 (0.4%) were from organisations who identified themselves as a legal representative group: and
 - 42 (3%) were from individuals/organisations who classified themselves as 'other' (e.g., charities and not for profit organisations). Over 99% of all respondents agreed that parents of babies who are admitted into neonatal care should have access to additional weeks of Leave and Pay.
9. The consultation specifically asked about:
 - Eligibility and qualifying conditions.
 - The length of entitlement and when the entitlement can be taken.
 - Notice and evidence requirements.
 - Employment protections and parents' right to return to the same job.

Eligibility and qualifying conditions:

10. The Government proposed in the consultation 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 (a 'minimum stay'). However, 47% of all respondents disagreed with this: with many calling for the minimum stay to be removed entirely, or if there was to be a minimum requirement that a one-week stay should be considered. Therefore, it was decided that parents of babies which are admitted into

neonatal care (28 days old or less) will be eligible for Neonatal Leave and Pay if the admission lasts for a continuous period of 7 days or more.

11. In addition to this, entitlement to Statutory Neonatal Pay, like other family-related pay rights, will be available to those employees who meet continuity of service and minimum earnings tests, to provide both consistency and ease to employers who will administer the entitlement.

The length of entitlement and when the entitlement can be taken:

12. For parents to be eligible for Neonatal Care Leave and Pay their baby needs to be admitted into neonatal care up to a maximum of 28 days after birth. This condition relates to the NHS's definition of a neonate⁴.
13. The consultation highlighted that 67% of all respondents did not support capping the amount of Neonatal Care Leave available to parents but the most popular proposal selected was a cap of 12 weeks (29%). We have therefore concluded that the total amount of statutory Neonatal Leave and Pay available to parents should be capped at a maximum of 12 weeks. Furthermore, our data reveals that less than 2% of babies spent longer than 12 weeks in neonatal care (see Table 1). This 12-week maximum amount balances the needs of business (planning for their employee's absence) alongside the needs of parents.
14. Following consultation feedback, the policy design will mean Neonatal Care Leave and Pay entitlement can be taken following Parental Leave (Maternity/Adoption/Paternity/Parental Bereavement Leave/Shared Parental Leave). For mothers this effectively creates a window of 68 weeks (52 weeks of Maternity/Shared Parental Leave, 12 weeks Neonatal Leave and 2 weeks Parental Bereavement Leave per child - we assume a max of two deaths) after their child's birth to take Neonatal Care Leave. For equality purpose, fathers/partners will also have up to 68 weeks to take neonatal leave. but we expect the vast majority to be taken immediately following Paternity Leave as stakeholders reported fathers/partners need time-off around the period the baby is in neonatal care. Separate secondary legislation will set out how neonatal leave should be taken, whether in a single block or as blocks of one or more weeks. If a baby is discharged from neonatal care and subsequently needs to be readmitted then the parents will still be entitled to take Neonatal Care Leave and Pay, so long as the baby was re-admitted to Neonatal care before 28 days after birth and stays in neonatal care for 7 or more continuous days.

Notice and evidence requirements.

15. The Government will further consider how to make provision for notice requirements for Neonatal Care Leave in secondary legislation but intends to take a two-tiered approach:
 - a. Very short, informal, notice will be acceptable for Neonatal Care Leave taken very soon after the date of the neonate's admission to hospital. This will apply for a set period and recognises that, in many cases, the baby's admission to neonatal care is a sudden, unexpected event which parents are unable to plan for.
 - b. A longer period of notice will be required where the Neonatal Care Leave begins at a stage where the child has not been recently admitted into neonatal care. In this instance, we propose that the employee will be required to give at least one week's notice to their employer before taking Neonatal Leave, the final notice period requirements will be set out in regulations.
16. For Statutory Neonatal Care Pay, employees will be required to give written notice to their employer for the period in which the employee is claiming. As evidence for eligibility for Statutory Neonatal Pay, the Government will set out their requirements in regulations.

Employment protections and parents' right to return to the same job.

17. During the consultation, 90% of individuals and 81% of employers and business representative organisations agreed that parents taking Neonatal Care Leave should have the same protections, and right to return to work as those employees taking other forms of parental leave.
18. Parents who qualify for Neonatal Care Leave will be afforded the same employment rights and protections as parents taking other relevant family-related leave. This means that they will be

⁴ See NHS data dictionary for definition - A neonatal period commences on the baby birth date and ends after 28 completed days.

protected from detriment or discrimination arising from them taking, or seeking to take, Neonatal Care Leave.

19. In line with arrangements for other relevant family-related leave, employees who are eligible for Neonatal Care Leave will also have a right to return to the same job after a period of Neonatal Care Leave or a combined period of Neonatal and other forms of qualifying family-related statutory leave if they are absent from work for a total period of 26 weeks or less.
20. The review and consultation provided compelling anecdotal evidence to suggest that the experiences of having a baby for parents of PSM babies differ significantly from that of other parents in the wider population. We do not have any empirical evidence on the labour market outcomes for parents of PSM babies, but the stakeholder surveys suggest:
 - Some mothers are forced to give up paid employment because their child is too ill or too fragile to be left in informal or formal childcare at the time when the mother has to return to work from her Maternity Leave. The reasons why a parent may feel they cannot arrange childcare include; the parent has not had sufficient time to bond with the baby, the baby's developmental age does not match its chronological age, which means that the baby may need more acute and intensive care at the point the mother would return to work, the parent may be dealing with post-natal depression or other mental health disorders following the experience of baby being in neonatal care, the stress and physical exertion of caring for baby in neonatal care, often some distance from home, for a prolonged period may delay recovery from birth and/or increase susceptibility to ill-health following birth, the second parent (taking Paternity Leave) has not been able to support the mother.
 - Some fathers and partners are taking unpaid leave, annual leave and/or sick leave to be with their baby whilst it is in neonatal care. A survey conducted by Bliss found that 65% of fathers had to return to work from Paternity Leave before their baby was discharged from neonatal care; of these 6% of fathers/partners took sick leave to enable them to spend time with their baby⁵.
21. In support of this evidence, we know that in England and Wales in 2020 there were approximately 3,000 child deaths (under the age of 16) and 1,700, equivalent to 54%, were in the first 28 days of a child's life⁶. 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.
22. The worry and uncertainty that follows a baby 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 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.⁷
23. 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.
24. 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, which introduces the issues of childcare arrangements for other children; parents' ability to return to work

⁵ <https://www.bliss.org.uk/news/two-thirds-of-dads-forced-to-return-to-work-while-their-baby-was-still-in-neonatal-care>

⁶ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/childhoodinfantandperinatalmortalityinenglandandwales/2020>

⁷ <https://www.bliss.org.uk/parents/support/impact-mental-health-premature-sick-baby-is-it-common-for-parents-to-struggle-with-mental-health>

at the end of their period of arranged leave; as well as the financial costs arising from all of the above.

25. 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.
26. 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 of, for example, attending mother and baby groups or joining a nursery; and to mothers returning to work at the end of their statutory leave.
27. Where a baby is kept in neonatal care for longer than 2 weeks, a Bliss survey found that around 36% of fathers and partners were signed off sick while their baby was in neonatal care⁵. 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.

Rationale for intervention:

28. In general, provision of minimum standards ensures that societal benefits can be realised and without government intervention, they would not. When societal benefits are not realised, there is inefficiency in the market where the private returns to an individual or business from a particular action differ from the returns to society as a whole. Government intervenes in order to correct this inefficiency. The same applies to the role for Government in providing minimum statutory provisions for Neonatal Care Leave and Pay. There are benefits to the individuals affected and to society due to parents taking time away from work to start a family and develop a bond with their child. In particular, time away from work can help parents deal with the immediate challenges of having a baby in neonatal care, to support the other parent and care for other children, to provide time to care for and bond with the child outside of a medical environment which will provide a sure foundation for the future. Neonatal Care Leave and pay will also provide a societal benefit associated with a more engaged, productive and healthy workforce, allowing parents to maintain a continued attachment to the labour market.
29. In the absence of standard minimum requirements, with the provision of leave at the discretion of individual employers, some of these benefits may not be realised. Evidence from Bliss and administrative data from neonatal care units suggests that 100,000 babies spend time in neonatal care each year, which highlights the wide potential impact of neonatal leave and pay on families and employers⁸. Employers, and people in general, find it difficult to know how to respond to such a situation, and this is likely to lead to discrepancies between the support provided in individual cases, particularly with regards to different businesses, but even within the same business.
30. In 2019 Bliss conducted a survey of over 700 parents and found that 66% of dads and partners had to return to work while their baby was still receiving specialist neonatal care⁹. This was not something a lot of these parents would have chosen to do as, 77% of these parents felt like their parental leave was not long enough, with this figure rising to 90% of parents whose baby spent 10 or more weeks in neonatal care. This new neonatal leave entitlement will allow these parents to properly bond with their baby and care for their child whilst they are in hospital. This is particularly the case for dads whose Statutory Paternity Leave entitlement is 2 weeks and therefore, can be solely used up whilst their baby is in hospital. The survey highlighted that, 36% of dads resorted to being signed off sick in order to spend time with their baby in the neonatal unit and 24% of these

⁸ <https://www.bliss.org.uk/research-campaigns/neonatal-care-statistics/statistics-about-neonatal-care>

⁹ <https://www.bliss.org.uk/research-campaigns/our-campaigns/neonatal-leave-and-pay#:~:text=A%20Bliss%20survey%20of%20over,still%20receiving%20specialist%20neonatal%20care&text=24%20per%20cent%20of%20dads,asked%20for%20more%20time%20off>

dads said they were concerned for their job if they asked for more time off. In addition to giving parents time to properly bond with their baby, this new entitlement is likely to reduce the number of parents leaving the labour force to care for their new child. The Bliss survey highlighted that 11% of parents left their jobs due to having insufficient leave after their baby was admitted to neonatal care¹⁰.

31. Research by Smeaton 2014 suggests there are broad and diverse range of direct and indirect benefits associated with work life balance policies and practices¹¹. These include; improved corporate reputation, improved recruitment (leading to higher calibre staff and/or fewer unfilled vacancies, improved retention rates, reduced absenteeism and sick leave, improved customer service, more flexible or longer operating hours, improved productivity or performance, lower salary requirements, lower office space and energy costs, improved job satisfaction, motivation, engagement or commitment/loyalty, reduced levels of stress, reduction or mitigation of the effects of practices such as long working hours, presenteeism or work intensification.
32. If the challenges of parents are disregarded in the workplace there may be negative impacts for the organisation; failing to support these individuals (neglecting their needs when they are under considerable pressure) can undermine the efficiency and effectiveness (and therefore reputation) of the organisation. Unsupportive work environments can add significantly to the pressures of starting a family, especially if colleagues, managers, and the overall workplace culture are not sufficiently supportive. Supportive workplaces, on the other hand, are likely to help parents and make an employee's return to work easier and more sustainable.
33. This statutory leave entitlement will compensate for the time a child has spent in neonatal care is likely to improve an employee's experience as they return to work; they are likely to feel more valued, more committed to the organisation, and are likely to be more productive than they would otherwise have been as a result. Consultation with employer representatives revealed business benefits from providing this additional time off, including better health and wellbeing of their workforce and increased moral and engagement of their employees. All of this contributes to greater productivity of individuals.
34. Another important rationale for government intervention is the achievement of equity objectives. It is important that Government supports all groups of people in the economy. A statutory entitlement provides a minimum standard of Neonatal Leave for all employees regardless of who they work for.

Policy objective;

35. The introduction of Neonatal Care Leave and Pay aims to:
 - Enable parents to be away from work to deal with the immediate challenges of having a baby in neonatal care and also to replace the weeks their baby spends in neonatal care; to support the other parent and care for other children; to provide time to care for and bond with the child outside of a medical environment which will provide a sure foundation for the future.
 - Provide a societal benefit associated with a more engaged, productive and healthy workforce, allowing parents of neonatal babies to maintain a continued attachment to the labour market without having to use annual leave, sick leave or give up work altogether.
 - Help create a minimum standard for an issue which may be difficult to navigate by employers and employees. In the absence of standard minimum requirements, with the provision of leave at the discretion of individual employers, some of these benefits may not be realised.

¹⁰ <https://www.bliss.org.uk/news/two-thirds-of-dads-forced-to-return-to-work-while-their-baby-was-still-in-neonatal-care>

¹¹ <http://www.psi.org.uk/images/uploads/bis-14-903-costs-and-benefits-to-business-of-adopting-work-life-balance-working-practices-a-literature-review.pdf>

The main options being considered are:

Option 1 - Do nothing

36. This option would involve maintaining the status quo, where the decision to offer parents (of babies that spend prolonged time in neonatal care) additional time off work to balance their care and work responsibilities would be at the discretion of employers, with an unequal pattern across the labour force in some cases a complete absence of provision would force parents to take sick days, other forms of leave or fall out of the labour force entirely. This option therefore does not address the market failure. Furthermore, this option would not reflect the strong Ministerial and broader Parliamentary interest in supporting parents of neonatal babies.

Option 2 – Non-Regulatory

37. Some non-regulatory measures have been taken forward in supporting parents such as the development of a Digital Parental Leave Tool¹² which allows parents to better plan the leave currently available to them. Although, it is not specifically aimed at parents of neonatal children, the tool is relevant to a broad range of circumstances.

38. The Advisory, Conciliation and Arbitration Service (ACAS) publishes guidance on workplace support for parents with premature or sick babies. This acts as a useful source of information for both employees and employers in cases where the baby is ill and sets out best practice guidance for managing employees in difficult circumstances. The guidance underlines the importance of employers striking a balance between balancing the needs of the business with understanding the difficult situations parents find themselves in. ACAS guidance could be further developed to advise employers on good practice at work in supporting employee parents of neonatal babies. However, guidance on its own would have limited impact without a statutory right to underpin it and it may also exacerbate unequal patterns of support across the labour force. Legislative change is necessary to provide the additional leave that is needed to support neonatal parents.

Option 3 – A statutory entitlement to Neonatal Care Leave paid at the statutory rate of pay

39. The evidence gathered from stakeholders and through the BEIS 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. It highlights the difficulties faced by fathers and partners. Following the birth of their child, fathers and partners are currently able to take a single block of 1 or 2 weeks (their choice) of Paternity Leave and Pay in the 8 weeks following the birth (or the original due date. Currently, both parents 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 2 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 to be with the mother and baby in hospital after their statutory Paternity Leave has elapsed.

40. We propose giving each parent one week of Neonatal Leave and Pay for every week that their baby is in neonatal care. As the vast majority of fathers/partners who will be eligible for Neonatal Care Leave and Pay will also take 1 or 2 weeks of Statutory Paternity Leave and Pay, the policy design will restrict entry to parents of children who have been in neonatal care for at least 1 week (7 days) so that Neonatal Care Leave and Pay complements existing entitlements. The policy will also restrict the maximum number of weeks of Neonatal Care Leave and Pay available at 12 weeks. The purpose of the maximum cap is to ensure the provision supports the majority of affected parents but with an upper limit to provide some certainty to employers. The minimum and maximum cap, 7 days and 12 weeks respectively, results in 30% of parents whose child needs neonatal care being eligible for Neonatal Care Leave and Pay.

- 69% of neonatal babies that stay less than 7 days and
- 1% of neonatal babies that stay more than 12 weeks

¹² <https://www.gov.uk/plan-shared-parental-leave-pay>

Policy summary: 1 week of neonatal care leave and pay for each week the baby is in neonatal care up to a maximum of 12 weeks. The baby must have a continuous stay in neonatal care of seven days or more for parents to be eligible.

41. To qualify for the leave entitlement, a parent would need to be an employee, therefore the self-employed are not eligible. To qualify for the pay, employees would also need to have continuous service of 26 weeks with their employer. However, all employees on the first day of their employment are eligible for Neonatal Leave.
42. This entitlement will be paid at the statutory rate (currently £156.66 per week or 90% of average weekly earnings, whichever is lower) as per other family-related statutory pay (Maternity, Paternity, Adoption, Bereavement, Shared Parental Pay etc.). Throughout this analysis we apply the £156.66 cost on the basis that the vast majority of parents will qualify for that.

Monetised costs and benefits

Modelling approach:

43. We have estimated the costs and benefits of introducing this new statutory entitlement of Neonatal Leave and Pay using the latest information available. The estimated costs will start to arise upon the implementation of the policy i.e., when the legislation comes into effect. The cost and benefit estimates throughout have been refined as we have engaged different stakeholder groups, including businesses, parents and charities likely to be affected by the legislation.
44. In order to estimate the costs and benefits, we first estimate the number of parents eligible for leave and pay in a given year. A take-up rate assumption is made and then applied to the eligible population over the leave period. For Exchequer costs, we first calculate the cost of providing paid leave at statutory rate (£156.66 for 2022/23). We make an adjustment to these costs to reflect that fact that employers cover a proportion of the statutory payments (small businesses can reclaim 103% of statutory payments and large businesses 92%). As with similar parental leave and pay schemes, there will also be a one-off implementation and recurring administrative costs accruing to HMRC in having to administer payments for a new entitlement upon policy implementation which is estimated by HMRC to cost £5 million. Regarding employer costs, we estimate the cost of absence resulting from employees taking leave, the wage-like costs (proportion of statutory payments not covered by the Exchequer) and recurring administrative costs of processing leave requests. In addition, we model the one-off familiarisation costs incurred as employers spend time to understand the new legislation in the first year the policy comes into force. This methodology mirrors approach taken in the Parental Bereavement Leave Impact Assessment¹³.

Eligible parents:

45. As with other family related entitlements, such as the Parental Bereavement Leave Impact Assessment, there are also additional qualifying conditions the individual must meet in order to receive the leave and pay. To qualify for the leave entitlement, a parent would need to be an employee, therefore the self-employed are not eligible. To qualify for the pay, employees would also need to have continuous service of 26 weeks with their employer whereas all employees on the first day of their employment are eligible for leave. These figures have been derived using Labour Force Survey microdata for those employee parents who meet the necessary length of service condition and have a youngest dependent under 1 years old.
46. The statutory leave and pay entitlement would be restricted to parents whose baby or babies have spent a minimum of seven days in a single spell of neonatal care (admission into neonatal care must be within 28 days following birth). This threshold limits the potential for a gap between the end of the father/partner's Statutory Paternity Leave (2 weeks) and the start of Neonatal Leave and Pay. Increasing the threshold would mean that fathers/partners may have to return to work between these two entitlements or rely on another form of leave. Cases where the baby is discharged from

¹³ https://www.legislation.gov.uk/ukia/2020/18/pdfs/ukia_20200018_en.pdf

hospital, only to be readmitted to hospital again at a later point in time are excluded unless one single stay lasted at least 7 days.

47. The entitlement to unpaid leave is a day-one right, thus employed parents whose baby spends a prolonged period (over 7 days) in neonatal care qualify for the leave regardless of their length of service with their employer. As with other family related pay entitlements, to qualify for statutory pay for this leave, the employee would need to have been working for their current employer for 26 weeks at the 15th week before the baby is due. This effectively means that the parent must have been employed by their current employer at the point the mother became pregnant (e.g., around 40 weeks).
48. To estimate the number of parents who would be eligible to claim Neonatal Leave and Pay, we make use of data provided by the Neonatal Data Analysis Unit (NDAU) at Imperial College London. Data is taken from the National Neonatal Audit Programme (NNAP), which routinely collects information on the length of stay for babies admitted to Neonatal units across England, Wales and Scotland¹⁴. The 2018 report found that nearly 105,000 babies born each year (around 1 in 7) require specialist neonatal care¹⁵. Whilst data on the length of stay is available on the report, this is on an admissions basis and thus the figures could be counting the same baby being readmitted multiple times to neonatal care. According to the National Neonatal Audit Programme, 10% of babies in neonatal care experience at least one transfer¹⁶. Furthermore, the data also aggregates the number of individual admissions to neonatal units, where transfers to different neonatal units are counted as a separated admission. Using this data directly could have the effect of underestimating the total amount of time the infant stays across different types of neonatal units, potentially underestimating the costs.
49. With this in mind, we commissioned NDAU to extract bespoke neonatal data at a more granular level, which would more accurately capture the amount of time a child spent in neonatal care and accurately aligns with the policy design. In turn, NDAU provided data on the length of stay of babies admitted to neonatal units with length of stay measured in days (and converted to full weeks) a baby stayed in a neonatal unit before being discharged home, death or moved to other wards for further care. The data collected is for the entire population of neonatal babies in neonatal wards and therefore we can be confident that we have captured the correct eligible population. However, this does not capture those babies in transitional care, who would require some medical treatment, but could be cared for at the same ward as their mother. Thus, even with this refined data, it is possible the costs could represent an underestimate. In response to this risk, we obtained additional Hospital Episode Statistics data from the NHS Information Centre, which identified a further 7,400 'neonates' who are receiving care for at least 7 days not in neonatal wards in 2019. We have incorporated these infants into the analysis, as the data provided shows the number of neonates in non-neonatal wards for each week they are in hospital. This therefore matches the NNAP data.
50. Table 1 presents the number of babies, which were admitted to neonatal units in or non-neonatal units in 2018, illustrating how the majority of stays last less than one week (almost 70% of admissions). In addition to this, only 1.25% of babies stay longer than 12 weeks in neonatal care and hence why it was decided that 12 weeks of leave would be the maximum entitlement.

¹⁴ It was not possible to collect data covering neonatal babies in Scotland, so an uplift was created based on the relative population of Scotland compared to England and Wales.

¹⁵ National Neonatal Audit Programme (NNAP), 2018 Annual report

¹⁶ <https://www.bliss.org.uk/research-campaigns/neonatal-care-statistics/statistics-about-neonatal-care#:~:text=According%20to%20the%20National%20Neonatal,in%20total%20involving%209%2C523%20babies.>

Table 1: Number of neonatal babies admitted into neonatal care units only by length of stay in England and Wales, 2018

Weeks	Neonatal Care units	Non-neonatal care units	Total number of neonatal babies
0 – 1 (0 to 6 days)	65,600	-	65,600
1 – 2 (7 to 13 days)	13,300	4,100	17,500
2 – 3 (14 to 20 days)	5,700	1,200	6,900
3 – 4 (21 to 27 days)	2,900	600	3,600
4 – 5 (28 to 34 days)	1,700	400	2,100
5 – 6 (35 to 41 days)	1,300	200	1,500
6 – 7 (42 days to 48 days)	1,000	200	1,200
7 – 8 (49 days to 55 days)	700	100	800
8 – 9 (56 days to 62 days)	600	100	700
9 – 10 (63 to 69 days)	500	100	600
10 – 11 (70 to 76 days)	400	100	500
11 – 12 (77 days to 83 days)	300	-	400
12 weeks or more (84+ days)	1,400	100	1,600
Total	95,400	7,400	103,000
Total 1 to 12 weeks	29,800	7,400	37,400

Figures rounded to the nearest 100

'-' indicates less than 50 cases

51. The consultation outlined that the entitlement would be restricted to those individuals who would have had the main responsibility for caring for the child, had it not been admitted to neonatal care. Thus, both the mother and father/partner of the baby or babies would be eligible for the entitlement. In addition, other groups of parents such as the mother's spouse, the intended parents in a surrogacy arrangement or intended parents in cases of adoption would also be eligible. The consultation considers whether the eligibility criterion should be widened i.e., to additional groups. With this in mind, the definition of a neonatal parent is still being refined, which could result in these additional groups being eligible for Neonatal Care Leave and Pay.
52. The ONS birth data identifies the people on the birth registration certificates and estimates that only 5% of registered births are sole registrations (where only the mother's details are included on the birth registration)¹⁷. Therefore, we believe it is a reasonable and cautious assumption to assume there will be 1.95 parents per child that could potentially qualify for the leave or pay¹⁸.
53. Box 1 below shows how we have derived the eligible population for both mothers and fathers/partners, accounting for the different labour market characteristics across gender. The population figures are then adjusted up by 7.2% based on the 2020 general population of births in Scotland compared to England and Wales. By doing this we therefore capture parents who would qualify for the leave or pay in Scotland¹⁹, which is not covered in the underlying neonatal data and will be in scope of this GB wide employment right (Employment Law is devolved to Northern Ireland).

¹⁷ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/datasets/birthsummarytables>

¹⁸ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/methodologies/userguidetobirthstatistics>

¹⁹ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/births/births-time-series-data>

Box 1: Eligible population

Mothers

No. of mothers with infants spending at least one week in neonatal care (England & Wales) = 37,100

No. infants spending at least one week in neonatal care (Great Britain) with mother = No. infants spending at least one weeks in neonatal care (England & Wales) x Scotland Uplift = $37,100 \times 1.07 = 39,800$

No. of employed mothers = $39,800 \times 74.6\% = 29,700$

No. of employee mothers = $29,700 \times 92.8\% = \mathbf{27,600}$ (eligible for Leave)

No. of employee mothers working at least 26 weeks = $27,600 \times 96.2\% = \mathbf{26,600}$ (eligible for Pay)

Fathers/partners

No. of father/partners with infants spending at least one weeks in neonatal care (England & Wales) = 37,100

No. of father/partners with infants spending at least one weeks in neonatal care (England & Wales) after accounting for 5% of registered births being sole registrations = 35,300

No. infants spending at least one weeks in neonatal care (Great Britain) = No. infants spending at least one weeks in neonatal care (England & Wales) x Scotland Uplift = $35,300 \times 1.07 = 37,800$

No. of employed fathers/partners = $37,800 \times 96.3\% = 36,400$

No. of employee fathers/partners = $36,400 \times 88.3\% = \mathbf{32,200}$ (eligible for Leave)

No. of employee fathers/partners working at least 26 weeks = $32,100 \times 93.2\% = \mathbf{30,000}$ (eligible for Pay)

All figures are rounded to the nearest 100

All employment related figures taken from BEIS analysis of LFS Microdata, July – September 2021

Take-up

54. Estimating how many parents will take-up Neonatal Care Leave and Pay is complex and influenced by multiple factors such as the nature of the care the child requires, availability of other leave rights (including annual leave), household income and even workplace culture. Take-up will also depend on each individual parents' personal circumstances (support networks etc). There is no direct, immediately applicable, evidence on likely take-up rates for this leave so we offer a broad range of take-up rate assumptions to capture the uncertainty.

55. The lower and upper range is the same for both mothers and fathers (25% to 75%) but there is evidence that different take-up rates will emerge as a result of the differing availability of existing parental leave entitlements, the time when the leave will be taken and evidence from the consultation which suggests fathers and partners are the primary group. Evidence from Bliss 2019 found that 95% of fathers/partners felt the leave currently available was not long enough, 23% felt the leave was not long enough and took unpaid leave, 36% were signed off sick while their baby was in neonatal care and 41% took unpaid parental leave and/or time off for dependants (and 22% solely took unpaid parental leave and/or time off for dependants)²⁰.

56. In our best estimate, we have used a take-up rate of 75% for men and 50% for women. The proposed 75% take-up rate for men is similar to the take-up rate seen for paternity leave, as

²⁰ <https://committees.parliament.uk/writtenevidence/5345/pdf/>

estimated by the Parental Rights Survey (74% of fathers/partners eligible for Paternity Leave take it up²¹). We assume that men are more likely to take the leave, as fathers/partners currently only have (exclusive) access to 2 weeks of Statutory Paternity Leave/Pay²², compared to 52 weeks of Statutory Maternity Leave for mothers (39 weeks of which are paid, 6 weeks at 90% and 33 at the flat rate). Therefore, it is likely fathers/partners will need additional weeks of leave, as they may have spent the whole of their paternity leave while the baby was still in hospital. Furthermore, fathers/partners will typically take this leave nearer to the point at which the leave need is greatest (i.e., after 2 weeks Paternity has come to an end and within the first 56 days of birth) compared to mothers who are most likely to take it after 9 months following the birth. For these reasons, our best estimate uses the top of the range for fathers/partners but is in the middle of the range for mothers.

57. It is likely that the take-up rate will change over time i.e., it will be different for parents whose baby has been in neonatal care for 1 week compared to parents of babies in neonatal for 12 weeks. This is because parents may start to feel financial pressures after taking long periods of leave at the statutory rate. The BEIS review of provisions for parents of PSM babies found that some parents had reported they had to return to work sooner than planned, as they had faced financial hardship, particularly in cases where the father/partner had taken unpaid leave to support the mother and child. Evidence from the MPRS shows that 24% of fathers/partners taking Paternity Leave did not take their full entitlement mainly because they could not afford to.

58. We know from the Parental Rights Survey that take-up of Statutory Paternity Leave is around 74% in the first week and falls to 66% for the second week²³ but there is limited evidence of how the take-up rate changes over a longer period of leave so, in the absence of evidence, we have cautiously tapered the take-up rate by 10% for every four weeks that a baby is in neonatal care (see Chart 1).

59. Table 2 below shows the take-up rates we have used for this analysis, the range is broad for both mothers and fathers/partners to reflect the inherent uncertainty in ex-ante estimation for this type of leave. However, we believe there is evidence to suggest that take-up will be at the higher end of the range for fathers/partners and in the middle of the range for mothers.

Table 2: Take up scenarios

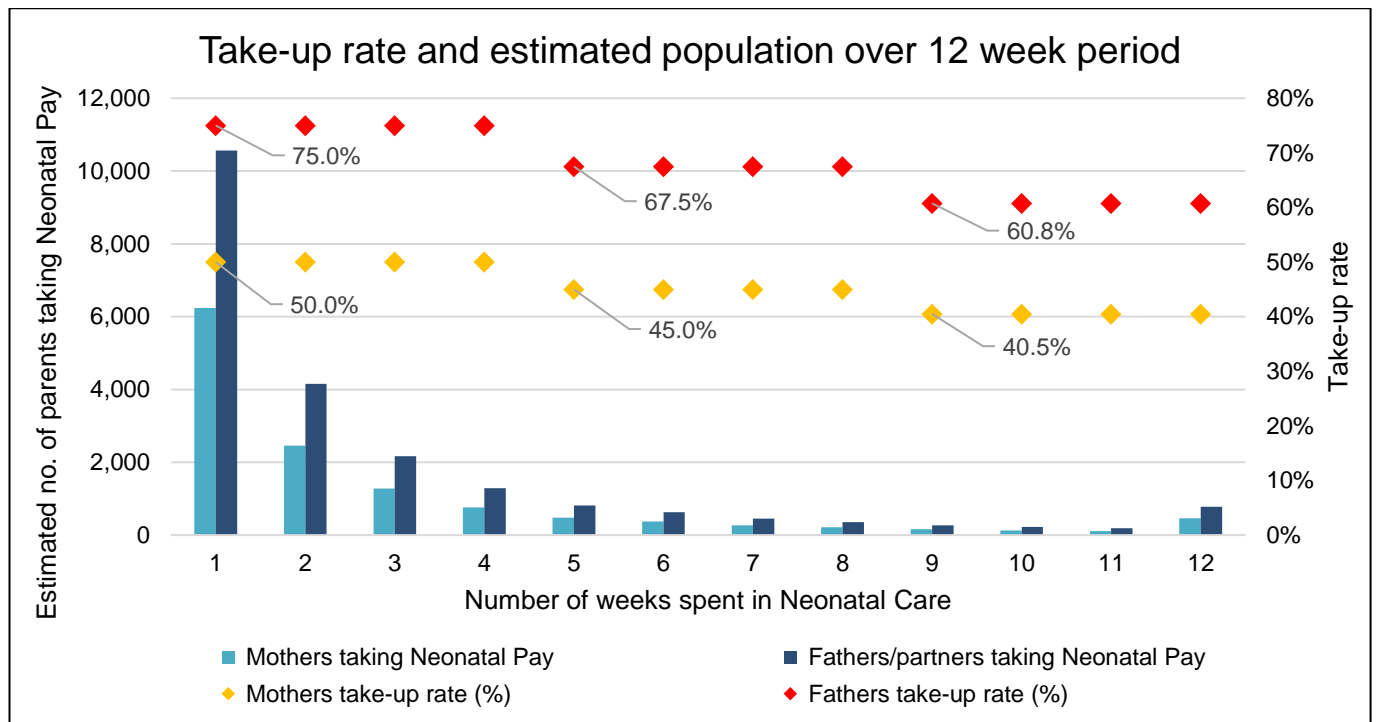
Scenario	Mothers	Fathers/partners
Best	50%	75%
Low	25%	25%
High	75%	75%

²¹ Parental Rights Survey, 2018/19 (Publication forthcoming)

²² Father/partners/partners can gain access to additional weeks of leave via the Shared Parental Leave scheme, but this requires mothers to curtail their Maternity Leave to free up weeks of leave for father/partner to take.

²³ Internal analysis of Parental Rights Survey, 2018/19 (Publication forthcoming)

Chart 1: Estimated number of parents who will take up Statutory Neonatal Care Pay and assumed take-up rate, over the 12-week period



Costs and benefits

60. Both the costs and benefits identified in the Impact Assessment are categorised in the table below.

Table 3: Classification of costs and benefits

Type of cost/benefit	Further Information
Absence costs	<p>Re-organisation costs: Employers have to re-organise work among current staff, provide temporary cover or accept a small fall in output in response to employees going on leave.</p> <p>Wage-like costs: larger employers can reclaim 92% of statutory payments. Smaller employers can reclaim 103% dependent on the size of their National Insurance Contributions liability. There is a resulting net cost to larger businesses associated with the statutory payments.</p>
Familiarisation costs	<p>Employers must familiarise themselves with the new policy to understand how this affects their business.</p> <p>HMRC must update their IT systems upon introduction of the policy.</p>
Administrative costs	<p>Employers incur administrative costs as they administer requests for Neonatal Leave & Pay through their HR systems.</p> <p>Exchequer recurring administration costs: HMRC will incur a recurring admin cost from processing claims for pay.</p>

Exchequer costs	Statutory payment cost: The Exchequer is responsible for the cost of Statutory Neonatal Pay for each employee who qualifies for the paid element of the leave. This will be offset by the contribution employers make to these payments (wage – like costs).
Employee benefits	Employees will have a direct benefit from the statutory payment they receive for the amount of paid leave taken.

Monetised benefits

Statutory payments to employees

61. Assigning a value to the social benefits, which could arise from the proposals is uncertain and difficult to establish what this means for different individuals. The majority of benefits to employees are unobservable and therefore are hard to monetise, i.e., improved attachment to the labour market and their children. Similar family related pay entitlement analysis also faces this issue, such as in the Parental Bereavement Impact Assessment.

62. However, one of the more immediate monetary benefits to affected parents will be the statutory payments made by employers to employees, who are eligible for the entitlement and take it up. The benefit is equivalent to the annual Exchequer costs of the statutory payments and the proportion of these payments, which businesses contribute to (wage-like costs). Due to the simplifying assumption that there are no deadweight costs, benefits are additional, and the full value of the statutory payments accrues to the individual. As noted, before, the annex contains further information on how the statutory payments to individuals have been calculated. Table 4 below shows the estimated benefits flowing to employees in the form of statutory payments per annum. Box 2 shows how the statutory payments to individuals were calculated.

Table 4: Statutory payments to individuals

	Low Estimate (£m)	Best Estimate (£m)	High Estimate (£m)
Proposed policy option	£6.0	£15.1	£17.9

Box 2: Statutory payments to individuals

The amount of Neonatal Pay received by employees is determined by the amount of time their child spends in care. Neonatal payments are calculated across cases for a given week using the NNDA data using the following formula:

$$\text{Statutory Payments (£)} = \text{No. Cases (X)} \times \text{Statutory rate (£156.66)} \times \text{No. weeks (Y)}$$

Example calculation for parents with a baby in neonatal care for 1 week:

$$\text{£3.3m} = 16,800 \times \text{£156.66} \times 1$$

Non-monetised benefits

63. Many of the benefits to parents, children and employers that could flow from the policy upon implementation are likely to take the form of improved health and wellbeing, the outcomes of which are likely to be influenced by a range of different factors. It is hard to monetise and disentangle these benefits, and therefore we have described the benefits qualitatively and used stakeholder engagement to support our arguments. Where possible, we refer to existing literature on the linkages between well-being and improved economic benefits.

Employee benefits

64. Whilst having a baby will bring an immense joy to all parents, the experience of having to spend a period of time in neonatal care, tending to their child can bring a about a distressful experience for affected parents, especially in cases where the admission was unexpected. Such an experience can trigger many different emotions, all of which can have a negative impact on the health and wellbeing of parents in this situation. As previously noted, parents affected in this manner have reported their mental health suffering as a result²⁴. There is evidence to support the linkages between mental health problems and the impact on personal wellbeing. There have been attempts to estimate the total cost of mental ill-health across the UK which some have estimated to be over £100 billion²⁵. These costs fall into three different groups: direct spending on health care, spending on social security programmes and costs from lower labour market attachment. In giving parents the time and space to bond with their child after such a traumatic experience, parents could mitigate against the stress and uncertainty arising from having a baby spending time in neonatal care, ultimately improving the physical and mental health of the parents.

65. By providing a new leave entitlement, which is paid at statutory rates, most affected parents will have access to some financial support for the period in which they are absent. Having a dedicated right to neonatal leave may reduce them from expending other forms of leave (annual) for this purpose. In this period, parents will be able to spend time together with their child after a very stressful period, where they have used up their existing entitlements. In taking this time off, parents may not feel they have to choose between leaving their job and attending to their child and thus the parent is more likely to return to work and remain in employment.

Employer benefits

66. There is evidence showing that workplaces offering a range of extensive family related polices are more likely to have above average performance relative to workplaces without such practices²⁶. The review was focused on the costs and benefits to business adopting flexible working practices and family related pay policies²⁷ but a similar argument could be made for neonatal leave and pay, which would fall into the same category and would allow parents to temporarily leave the workplace to bond with their child and the same right to return to the workplace as other parents. Making use of case studies, the review found that a range of family related leave and policies could either reduce absence rates or better enable employers to manage employee absence in the workplace. Productivity benefits could arise if employees are able to return to work under less pressure and they are being treated well by the employer. The report concludes that financial performance and labour productivity are more likely to be above average and workplace exit lower for workplaces where family – friendly policies are available relative to those which only offer reduced hours.

67. Employee retention was also identified as a key benefit in stakeholder engagement on the policy proposals with employer representatives from the British Chambers of Commerce (BCC) and the Federation of Small Businesses (FSB) during the consultation phase. Stakeholder groups agreed

²⁴ <https://www.bliss.org.uk/news/bliss-releases-new-research-on-mental-health>

²⁵ [https://www.mentalhealth.org.uk/statistics/mental-health-statistics-global-and-nationwide-costs#:~:text=Cost%20of%20mental%20health%20problems%20in%20the%20UK,gross%20domestic%20product%20\(GDP\).](https://www.mentalhealth.org.uk/statistics/mental-health-statistics-global-and-nationwide-costs#:~:text=Cost%20of%20mental%20health%20problems%20in%20the%20UK,gross%20domestic%20product%20(GDP).)

²⁶ Gray, H. (2002) Family-Friendly Working: What a Performance! An Analysis of the Relationship Between the Availability of Family-Friendly Policies and Establishment Performance. CEPDP, 529. Centre for Economic Performance, London School of Economics and Political Science, London, UK.

²⁷ Maternity, Paternity and parental leave policies

that the reforms would better help employers maintain access to the skills and knowledge of their current staff and further costs would arise in the event they had to replace these if workers had left employment. In this event, employers could then incur substantial additional costs in having to recruit new staff to replace those who had left. A CIPD survey of HR professionals representing organisations of all sizes found the median cost of hiring an employee to be £2,000 in 2020. These costs were made up in of in-house resourcing, advertising, agency and search fees. The recruitment costs were even higher for senior managers/directors (£5,000), where there is a greater necessity to acquire the required skillset in the recruitment process²⁸.

68. Further reputational benefits could accrue to some employers if they enhanced their support to employees after the statutory minimum is introduced. In going beyond what is required under the legislation, employers would be able to distinguish themselves from other employers, which could help make them attractive to prospective and current employees. This would help employers appeal to a wider talent pool, which could yield further labour market benefits in the long term.

Benefits to neonates

69. Parents of neonates experience higher levels of anxiety, depression and post-traumatic stress compared to parents whose children are born at term can affect the quality of the early parent-child relationship with long-term implications for the health of both the parent and child²⁹. Reducing parent stress and improving self-esteem whilst on the unit and on taking their baby home can improve outcomes their children's cognitive outcomes, language development and reduce the length of stay in neonatal units³⁰. Infancy is a crucial time for brain development. In addition to this, there is increasing evidence that a child's ability to form and maintain healthy relationships throughout life may be significantly impaired by having an insecure attachment to a primary caregiver³¹. It is therefore important that babies and their parents are supported during this time to promote attachment.

Costs to Business

One-off familiarisation costs

70. The new policy will mean that businesses will have to spend time familiarising themselves with the regulation. However, due to the relatively low incidence of children spending a prolonged period of time (7 or more days) in neonatal care it is unlikely that many businesses, particularly small businesses, will experience any of their employees accessing the new entitlement. From engagement with employer representatives, it is feasible that small and medium size businesses will only familiarise themselves with the legislation at the point in which they have to i.e., when an employee has an infant who spends time in neonatal care and seeks statutory leave. At the point the legislation is introduced, businesses with fewer than 50 employees may opt to spend a short time viewing online guidance but little beyond this. In contrast, larger businesses with dedicated HR departments, responsible for understanding and disseminating knowledge of employment law will invest time in familiarisation at the point the legislation comes into effect. These businesses will also have a higher probability of an employee claiming Neonatal Leave and Pay by virtue of the higher number of people they employ.
71. The legislation will share many fundamental features of existing family related leave and pay (e.g., Statutory Paternity Leave) including being paid at the flat statutory rate, and mirroring key eligibility criterion, therefore we would expect familiarisation to only impose a limited burden on businesses. Some of the familiarisation could include understanding how employer's own leave schemes interact with a statutory provision and update their internal guidance accordingly. How far employers go beyond understanding the statutory requirements, updating systems and raising

²⁸ https://www.cipd.co.uk/Images/resourcing-and-talent-planning-2020_tcm18-85530.pdf

²⁹ Guillaume S, et al. Parents' expectations of staff in the early bonding process with their premature babies in the intensive care setting: a qualitative multicentre study with 60 parents. *BMC Pediatr.* 2013;13(1):18.

³⁰ <https://systematicreviewsjournal.biomedcentral.com/articles/10.1186/s13643-018-0850-2#Sec44>

³¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5330336/>

awareness of the entitlement would be at their own discretion and therefore our estimates do not account for this. There is relatively little evidence available on how employers currently support neonatal parents but, we do know, from a 2017 Bliss survey that only 17% of parents reported their employer made special arrangements to accommodate their needs. In addition, paragraph 33 reports evidence from a 2019 Bliss survey which clearly outlines the need for further workplace support³².

72. We distinguish between small and large businesses in how they familiarise with the policy by assuming that businesses with fewer than 50 employees will not spend time on familiarisation when the policy is introduced. Instead, we assume they will spend additional time when they are processing requests (recurring administrative costs) to account for their lack of familiarity but making it dependent on estimated case numbers. We assume that for employers with 50 or more employees, a HR manager/director will be responsible for familiarisation and will spend 3 hours on average, which will include: understanding the regulation, interaction with existing employer support, updating HR systems to process leave claims and updating any internal guidance for employees and managers. This approach is consistent with the Carer’s Leave Impact Assessment, as well as other similar family-related leave entitlements.

73. Across all companies, resource costs are estimated using data from the Annual Survey of Hours and Earnings (ASHE) 2021. For businesses with 50 employees or more we assume a HR Manager/Director will lead on familiarisation. This follows the approach taken in the Carer’s Leave Impact Assessment. Using ASHE, the mean hourly wage of a HR Manager/Director is £26.51 per hour. This is uprated by 17.95% to £31.27 per hour to include non-wage labour costs³³. Box 3 shows how we have calculated these costs in practice.

Box 3: Derivation of one-off familiarisation costs

The standard approach used in similar family-related leave entitlements to costing familiarisation has been used. Since these are one-off familiarisation costs, frequency is assumed to have value 1.

Familiarisation cost

$$= \text{Average wage rate per hour (HR Director)} \times \text{time spent on activity} \\ \times \text{no. businesses affected} \times \text{frequency}$$

74. Using the 2021 BEIS Business population estimates for the whole economy, we estimate total one-off familiarisation costs to be £4.7m.

Table 5: One-off familiarisation costs for Neonatal Leave & Pay

Business size (number of employees)	Number of businesses	Assumed familiarisation time (hrs)	Estimated cost to business
50-99	25,800	3	£2.4m
100-199	12,000	3	£1.1m
200-249	2,500	3	£0.2m
250-499	5,000	3	£0.5m
500+	5,400	3	£0.5m
Total	1,445,400		£4.7m

³² <https://www.bliss.org.uk/news/2017/bliss-responds-to-new-government-advice-to-help-support-working-parents-with-premature-babies>

³³ ONS, Index of Labour Costs per Hour UK (2019 Q4 - 2020 Q3 average)

Source: BEIS estimates based on 2021 Business Population Estimates and 2021 ASHE. Note that columns may not sum to total due to rounding.

(a) The Business Population Estimates only provides a category for the public sector for businesses with zero or one employee. We have used the ratio of the private sector and applied it to the whole economy. Private sector businesses make up the vast majority of the business population, so aggregate results are not strongly affected by this.

Administrative costs

75. The cost of processing requests for Neonatal leave and Pay are estimated based on the number of individuals taking up the entitlement. We assume that businesses with fewer than 50 employees will spend longer in processing an application to account for the lack of familiarity with the new policy compared to larger businesses. The simplifying assumption is small businesses will spend 1.5 hours processing a case (which includes one hour spent on familiarisation). This additional time for small businesses could include time in consulting ACAS guidance or calling helplines for specialised advice. Conversely, we assume a large business will spend 30 minutes processing a leave request, as they will already be familiar with the entitlement. Similarly, to familiarisation costs, we assume that for a large business an HR Manager/Director will process any claims. For businesses with fewer than 50 employees, we have assumed this task would be undertaken by a Manager/Director/Senior Official as they are unlikely to have a dedicated HR team. This approach is consistent with the analysis undertaken in the Parental Bereavement Impact Assessment.

76. Based on ASHE data, we use the uprated average wage (including non-wage labour costs) for an HR Manager/Director of £31.27 per hour. For a Manager/Director/Senior Official (for businesses with fewer than 50 employees) we estimate an uprated wage rate of £31.30 per hour. The cap on the number of weeks available does not impact the recurring administrative costs. The costs are based on the number who would qualify for the leave entitlement.

Table 6: Recurring Administrative Costs

	Low Estimate	Best Estimate	High Estimate
No. parents eligible for paid leave entitlement	58,100	58,100	58,100
No. parents taking up paid leave entitlement	13,800	34,800	41,300
Large and Medium businesses			
Employees in workplaces with 50 or more people (%)	71%	71%	71%
Time per case (hrs)	0.5	0.5	0.5
Eligible parents in large businesses	10,000	25,500	30,000
Uprated hourly rate of HR Manager/Director	£31.27	£31.27	£31.27
Recurring costs (£million)	£0.2m	£0.4m	£0.5
Small businesses			
Employees in workplaces with 50 or more people (%)	29%	29%	29%
Time per case (hrs)	1.5	1.5	1.5

Eligible parents in large businesses	4,000	10,500	12,300
Uprated hourly rate of Manager/Director/Senior Official	£31.30	£31.30	£31.30
Recurring costs (£million)	£0.2m	£0.5m	£0.6m
Total (£million)	£0.4m	£0.9m	£1.1m

Sources: Employment shares are taken from the 2021 BEIS Business Population Estimates, wage data from 2021 ASHE. Summary figures might not add up to the sum of components due to rounding.
(a) Figures rounded to the nearest £0.01m. Figures may not sum to totals due to rounding

Absence costs

77. These costs fall upon businesses as a result of employees taking Neonatal Leave. This is split into two elements:

- i) **Reorganisations costs:** These include the costs of employing temporary cover, which is likely to be more expensive in the short term and less productive than the absent worker. Costs could also include reallocating work among existing staff, which could also drive-up costs, either because overtime is paid to maintain output or that in reallocating work, other work is dropped, resulting in a loss of output. Lastly, some work could be dropped altogether, which also leads to output loss.
- ii) **Wage – like costs:** This includes the cost of not being able to reclaim the entire amount of statutory payments made from the employer to the employee. Since large businesses cannot re-claim the full amount, this yields additional costs for some employers.

Reorganisation costs

78. Reorganisation costs are incurred by employers regardless of whether the leave taken is paid or not. As with the Parental Bereavement Impact Assessment, we have made use of a CBI survey³⁴, to measure the cost of impact as a percentage of total weekly labour costs (wages and non-wages). Following this approach, we find that absence costs equate to 35% of total labour costs, which is then applied to the number of weeks an individual is on leave (see Annex of a full description on the methodology). Box 4 provides a description over the overarching approach to estimating the absence costs.

³⁴ <https://www.cbi.org.uk/media-centre/articles/time-for-employers-to-place-workplace-health-and-wellbeing-front-of-mind-cbibupahca-heathcare/>

Box 4: Reorganisation costs

A key determinant of the magnitude of the overall reorganisation costs is the duration of leave taken, which is determined by the amount of time a parent’s child has spent in neonatal care and the take-up rate of the policy. We calculate the reorganisation costs for a given number of weeks each parent is entitled to received, which is capped at 12 weeks. Annex A provides a breakdown of how the weekly reorganising cost is derived.

$$\text{Reorganisation costs} = \text{No. Cases} \times \text{Reorganisation cost per week} \times \text{No. weeks}$$

Example for a baby who spends 1 week in Neonatal care:

$$\begin{aligned} &\text{Reorganisation costs (where child has spent 1 weeks in care)} \\ &= 17,500 \left(\text{population of parents who take Neonatal Leave and Pay and spend} \right. \\ &\quad \left. \text{between 7 and 13 days in care} \right) \\ &\times \pounds 203.60 \text{ (Reorganisation cost per week)} \times 1 = \pounds 3.6\text{m} \end{aligned}$$

Cases where the child has spent 12 or more weeks in neonatal care are grouped in one category.

Table 7: Absence costs for Business

	Low Estimate	Best Estimate	High Estimate
Proposed option	£8.2m	£20.8m	£24.5

Wage-like costs

- 79. Employers administer statutory pay on behalf of Government. Large employers (defined as those with a National Insurance (NI) contributions bill of £45,000) are able to recover 92% of statutory payments from HMRC meaning they contribute 8% of statutory payments. Conversely, small businesses with a NI bill below the £45,000 threshold (we have approximated this to be businesses with under 20 employees), are able to recover 103% of the statutory payments made to their employees. Accounting for the size distribution of the business population, we find that on average businesses contribute 5.7% to statutory payments. See the Annex B for further information on how this estimate has been obtained.
- 80. In order to obtain the business contribution to statutory payments, we must first calculate the total value of statutory neonatal payments made to employees and then apply the 5.7% figure to derive the business contribution. This is calculated in the same fashion as the reorganisation costs, albeit with the statutory rate applied. This approach is also taken in the Parental Bereavement Leave Impact Assessment. See box below for formula on costs.

Box 5: Average business contributions towards the statutory payments

The amount of Neonatal Pay received by employees is determined by the amount of time their child spends in care and the level of the cap. Neonatal payments are calculated across cases for a given week using the NNDA data using the following formula:

$$\text{Statutory Payments (£)} = \text{No. Cases (X)} \times \text{Statutory rate (£156.66)} \times \text{No. weeks(Y)}$$

The wage-like costs incurred by business is calculated by applying the average 5.7% contribution to the total value of statutory payments. This is explained further in Annex B

$$\text{Wage – like costs (£)} = \text{Statutory rate} \times \text{average business contribution}$$

$$= \text{£156.66} \times 5.7\% = \text{£8.91}$$

$$\text{Business Contributions (£)} = \text{£8.91} \times \text{No. weeks employee takes Neonatal Pay}$$

81. The table below shows the average contribution by businesses to statutory payments based on the 5.7% figure for each option. The annex contains a full derivation of the statutory payments received by employees, a proportion of which are paid by businesses.

Table 8: Wage-like costs for Business

	Low Estimate (£m)	Best Estimate £m)	High Estimate £m)
Proposed option	£0.3m	£0.9m	£1.0m

Deadweight Costs

82. Deadweight refers to outcomes that occur without Government intervention. Within the context of this policy, deadweight could arise because:

1. Some employers already provide a comparable leave entitlement to parents who are affected by their child spending prolonged periods of time in neonatal care i.e., “compassionate leave” or “special leave”.
2. Some employers provide paid leave to employees affected by the circumstances outlined above either at or beyond the statutory rate.
3. Employees use other forms of leave (annual leave)

83. In these circumstances, the introduction of the policy would not yield an additional cost to employers who were already providing a comparable right to Neonatal Leave and Pay but it would mean employers could reclaim the costs of Statutory Pay from the Exchequer. This would mean costs are transferred from business to the Exchequer with no additional benefit in terms of individuals taking neonatal leave. Furthermore, these benefits which accrue from Neonatal Leave and Pay will not be additional if employees use annual leave instead of this entitlement. Parents might have a preference to use annual leave as it is paid at full rate. Therefore, there is a financial disincentive to use Neonatal Leave and Pay over annual leave. However, employees have a finite amount of annual leave and requests can be delayed by the employer so Annual Leave may not be utilised.

84. We have assumed that all costs generated by the proposal would be additional, that is, there would be no deadweight costs. The Carer’s Leave Impact Assessment states that 39% of businesses offer 4-6 days of paid compassionate leave. This policy gives parents the right to take up to 12 weeks paid leave in addition to any maternity or paternity leave that might have been taken and therefore it is unlikely that businesses routinely offer extended periods of paid leave. Furthermore, employers may not

recognise the need to offer additional leave to parents of babies in neonatal care, as they assume that Maternity and Paternity Leave is sufficient.

Costs to the Exchequer

Statutory Payments

85. The introduction of a new entitlement means there will be additional costs for the Exchequer in the form of payments at the statutory rate (currently £156.66). However, this will somewhat be offset by the business contribution to statutory payments. Large employers can reclaim via HMRC 92% of the statutory payments they pay to employees. For smaller employers (defined as those with a National Insurance contributions Bill less £45,000) they can reclaim 103% of the statutory payments they pay to their employees. See box below for further details on how Exchequer costs are calculated. The approach taken is the same as analysis in the Carer's Leave Impact Assessment.

Box 6: Calculating Statutory Payment costs to the Exchequer

Exchequer costs are based on the length of stay and aggregated across cases for a given amount of leave. Earlier analysis showed that businesses overall contribute 5.7% to the costs of statutory payments made to employees. The Exchequer is estimated to pick up the remaining proportion of these payments (94.3%). Then for each week a baby is in neonatal care, the Exchequer costs are calculated in the following fashion:

Exchequer costs

$$= \text{No. of people taking paid Neonatal leave} \\ \times \text{No. weeks spent in care} \times \text{Statutory rate} \times 94.3\%$$

86. Following the above approach, the estimated costs of statutory payments incurred by the Exchequer can be found in the table below.

Table 9: Statutory payment costs for the Exchequer

Option	Low Estimate	Best Estimate	High Estimate
Proposed option	£5.6	£14.2m	£16.8

One-off HMRC implementation cost

87. In addition to this, HMRC have estimated one-off implementation costs of around £5 million. This is the cost to HMRC of setting up an IT system to allow employers to record and reclaim Neonatal Leave and Pay and accounts for 5 years' worth of support and maintenance.

Summary

88. The table below summarises all the monetised costs and benefits presented within the Impact Assessment for the proposed policy. Both the costs and benefits of this policy will be realised when the regulations come into effect, which we expect would come in at 2024 at the earliest.

Table 10: Summary of costs and benefits

	COSTS		
	Low Estimate (£m)	Best Estimate (£m)	High Estimate (£m)
Business costs			
One-off (familiarisation costs)	£4.7	£4.7	£4.7
Recurring (annual) costs	£8.9	£22.5	£27.4
<i>Of which absence costs</i>	£8.2	£20.8	£25.7
<i>Of which wage-like costs</i>	£0.3	£0.9	£1.1
<i>Of which recurring admin costs</i>	£0.2	£0.6	£0.7
<i>Of which recurring familiarisation costs</i>	£0.1	£0.3	£0.4
Exchequer costs			
One-off implementation cost	£5.0	£5.0	£5.0
Recurring statutory payment cost (discounted by amount covered by business)	£5.6	£14.2	£17.6
BENEFITS			
Recurring additional statutory leave payments	£6.0	£15.1	£17.9

Costs rounded to nearest £0.1m

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach):

89. We have commissioned new data analysis, made use of existing data sources available to us and drawn on relevant academic research to evidence our assumptions and policy development. We have taken a proportionate approach to the analysis for this IA and used evidence in relation to other family-related leave and pay that enable parents to take time off work prior to and after the birth of their child to inform the potential take-up rates.

90. As well informed as these assumptions might be there is always a large degree of uncertainty around the take-up of such a policy. We propose a different take-up rate for fathers/partners and mothers (in the best estimate scenario) to reflect the different availability of existing parental leave entitlements and evidence from the consultation which suggests fathers and partners are a key group for this leave. The proposed 75% take-up rate assumption for men is similar to the take-up rate seen for paternity leave scheme as estimated by the Parental Rights Survey (74% of fathers/partners eligible for Paternity Leave take it up). We propose a lower take-up assumption for mothers (50%) as the qualitative evidence from stakeholders indicated that the policy is expected to support fathers/partners primarily. Despite this a good deal of uncertainty remains and we have attempted to address this by conducting sensitivity analysis by including a broad range of take-up rate covering 25% to 75%.

91. In addition to this, there is evidence from the BEIS review and the Parental Rights Survey (formerly Maternity and Paternity Rights survey) that the take-up rate is different for parents whose baby has been in neonatal care for 1 week compared to parents of babies in neonatal for 12 weeks, as parents may start to feel financial burdens after taking large amounts of leave at the statutory rate.

Therefore, we have tapered the take-up rate by 10% every four weeks. However, there is limited evidence of how the take-up rate changes over such a long period.

Data sources

92. The evidence underpinning the population of neonatal parents in this Impact Assessment is comprehensive, as we have identified a high-quality administrative database, namely 'The National Neonatal Research Database'³⁵. The collaborative was established in 2012 and is used to support UK neonatal units in improving patient care and outcomes, service delivery and evaluation and national audit. It uses Electronic Patient Records to record patient information. The data is quality assured and anonymised before entry into the National Neonatal Research Database. The checks include quantification of missing data, and identification of duplicate, out-of-range, and internally inconsistent variables. BEIS commissioned bespoke analysis from the Neonatal Data Analysis Unit within Imperial College London to reliably estimate the number of babies and their length of stay in neonatal care. In addition to this, we commissioned the NHS Information Centre to capture babies who fall within the scope of the policy but are not treated in a neonatal care unit.
93. This approach is more cost-effective than commissioning a survey and provides more reliable findings that do not rely on parent recall etc. This evidence has informed the analysis throughout. Across England and Wales, the number of infants spending at least 1 complete week in neonatal is around 37,000.
94. In addition to this, we have used Labour Force Survey (LFS) microdata to estimate the percentage of Neonatal parents who would be eligible for Neonatal Leave and Pay. The LFS dataset does not provide data on whether someone has a child in neonatal care and so we have used the employment rates of parents with a child under 1 – we believe that this is a reasonable approximation for neonatal parents in the absence of more specific data. Subsequently, we calculated the percentage of these parents who have employee status and have been in employment for more than 26 weeks. This data estimates that 66.6% of mothers and 79.3% of father/partners who have a child in neonatal care will be eligible for Neonatal Leave and Pay.

Small and Micro – Business Assessment (SaMBA)

95. We do not plan to exempt small and micro-businesses from this new entitlement. Exempting them would not help in meeting the policy objectives for parents of children who spend a prolonged period time in neonatal care and happen to work in smaller businesses. Allowing for the provision of the entitlement to differ across employers would create problems in the overall delivery of the policy objectives. Benefits described above such as improving labour force attachment and productivity savings would not materialise if some businesses were exempted from the policy. Whilst these benefits are yet to be quantified, where possible, their existence is independent of the size of the business.
96. Using the latest Business population statistics³⁶, we estimate that around 96% of businesses affected are small and micro businesses³⁷, with these businesses accounting for 29% of employees. We have no specific information on the size of the employer that parents of neonatal babies are employed in so instead we use a proxy, employee parents of children under the age of 1. We have little reason to believe these groups would have markedly different employment characteristics and use LFS to identify how this group is split across small and large businesses. However, using LFS we find that respondents are only asked how many employees are reported to work at the respondent's workplace instead of organisation. Using the former will underestimate the number of employees working at the organisation level, upon which the costs estimated throughout

³⁵ <https://www.imperial.ac.uk/neonatal-data-analysis-unit/neonatal-data-analysis-unit/contributing-to-the-national-neonatal-research-database/>

³⁶ BEIS Business Population Figures, 2021

³⁷ Defined here as having fewer than 50 employees as per Eurostat (<https://ec.europa.eu/eurostat/web/structural-business-statistics/structural-business-statistics/sme>)

are based on. We therefore assume that 29% of eligible individuals are likely to work for small and micro-businesses.

Table 11: Number of businesses and employers by Business Size

Business Size (no. employees)	No. Businesses	No. employees
1	130,800	136,200
2-4	771,100	2,197,000
5-9	272,600	1,883,000
10-19	142,500	1,999,000
20-49	77,600	2,422,000
50-99	25,800	1,831,000
100-199	12,000	1,708,000
200-249	2,500	569,000
250-499	5,000	1,760,000
500+	5,400	15,064,000
Total in small and micro businesses	1,394,600	8,638,000
Share in small and micro businesses	96%	29%

Source: BEIS estimates based on 2021 Business Population Estimates.

(0) The Business Population Estimates only provide a category for the public sector for businesses with zero or one employee. We have used the ratio of the private sector and applied it to the whole economy to derive an estimate for the number of single employee businesses and their turnover. Private sector businesses make up the vast majority of the business population, so aggregate results are unlikely to be strongly affected by this.

97. Based on earlier view that small and micro-businesses familiarise on a case-by-case basis we include these costs as part of the recurring administrative costs and assess these to see if the smallest businesses bear a disproportionate burden. The table below shows how the total annual costs are split between different sized businesses for each option.

Table 12: Share of costs by business size

	Small & Micro (fewer than 50 employees)	Medium/Large (at least 50 employees)
Neonatal Leave and Pay	27.4%	72.6%

98. Small businesses are expected to bear around 27% of overall annual costs³⁸, which does not seem disproportionate when compared to the share of employees working in these businesses (29%). Whilst we have used the overall employee distribution to model these costs, this is on the basis that the employment characteristics of the proxy population (employee parents with children under 1) was very similar to the overall employee population in terms of how they were distributed across small & large.

Competition Assessment

99. As part of seeking clearance for a regulatory proposal through developing an Impact Assessment, it is recommended that policy makers give consideration to the potential impact of the reforms on competition. In order to complete a competition impact assessment, policy makers are required to first consider the following question:

“Does the measure affect a market where products or services are supplies by a private or public sector organisation?”

100. We do not expect the market share for products and services provided by either the private or public sector to be affected by this policy. This policy would apply to all employers and is unlikely to adversely affect the competitiveness of any sector given the relatively small number of businesses that will be affected (likely to be in the order of low tens of thousands). If the measure is not anticipated to impact any particular market, no additional steps are required to fulfil the competition impact assessment.

³⁸ Includes wage-like costs, absence and admin processing request costs

Equality Assessment

101. As a part of the Equality Act 2010, the Department for Business, Energy and Industrial Strategy (as a public body) is legally obligated to have due regard for equality issues as part of the Public Sector Equality Duty (PSED). The PSED must have due regard to the need to:
- i. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - ii. Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - iii. Foster good relations between people who share a protected characteristic and those who do not.
102. The protected characteristics consist of nine groups: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. This Equalities Assessment considers the potential equality impacts of the preferred option across as many of these characteristics as possible.

Age

103. The policy is aimed at parents whose children spend a prolonged period in neonatal care so will benefit those employees falling into group, who are more likely to be between 25 and 39 brackets based on demographics of new parents (Table 11). However, there is no age-related criterion for this policy and all employee parents of neonatal children (with a stay of 7 or more days) would be able to access the new entitlement.

Table 13: Age distribution of employees

Age	Parents with youngest dependent under 1	All employees
20 – 24	4.1%	5.1%
25 – 29	19.1%	19.0%
30 – 34	37.1%	35.6%
35 – 39	27.1%	25.9%
40 – 44	9.9%	9.7%
45 – 49	1.8%	1.9%
50 – 54	0.6%	0.9%
55 – 59	0.1%	1.1%
60 – 64	0.1%	0.5%
65 – 69	-	-
70+	-	-
Total	100%	100%

Source: BEIS internal analysis, Labour Force Survey, Jul-Sep 2021

Disability

104. The policy is designed to have a positive impact on all parents which find themselves in the position of tending to their child in neonatal care. The policy is unlikely to create any barriers to equality in terms of an employee’s disability. Furthermore, we do not expect employers employing individuals with disabilities will be unduly affected by the proposals. The table below shows there are no marked differences between the overall employee population and the comparable population of employees with a young dependent under 1.

Table 14: Distribution of employees by disability

Disability	Parents with youngest dependent under 1	All employees
Equality Act Disabled	11%	11%
Not Equality Act Disabled	89%	89%
Total	100%	100%

Source: BEIS internal analysis, Labour Force Survey, Jul-Sep 2021

Gender

105. Both fathers/partners, mothers and potentially parents in a surrogacy arrangement (this will be decided in the regulations) will benefit from having access to the entitlement, subject to meeting the other eligible criterion. In addition to this, mothers already have access to extensive leave (52 weeks of Statutory Maternity Leave) while fathers/partners only have two weeks of paternity leave so we anticipate take-up will be higher among fathers/partners.

Table 15: Distribution of employees by gender

Gender	Parents with youngest dependent under 1	All employees
Male	55%	55%
Female	45%	45%
Total	100%	100%

Source: BEIS internal analysis, Labour Force Survey, Jul-Sep 2021

Pregnancy and Maternity

106. The design of the policy is to give parents an entitlement to replace the leave, where their child has spent time in neonatal care. As this will be provided in addition to existing leave, affected mothers will benefit from the entitlement. This also applies to any individual who would have the main responsibility for the child. The policy directly supports pregnant women and new mothers.

Ethnicity

107. It is important to assess how the policy impacts different ethnic groups. Exploration into the proxy population group (parents with a child under 1) reveals that ethnic groups make up a larger share of parents with young children relative to their overall employee share. This suggests that the proposal will benefit ethnic minority groups. Furthermore, analysis conducted by Bliss, highlights that ethnic minority groups are more likely to benefit from the entitlement as, neonatal mortality rates in babies whose mothers are of white ethnicity have decreased between 2015-2017, whereas babies born to mothers of Asian/Asian British, Black/Black British ethnicity have increased between 2015-2017.

Table 16: Distribution of employees by Ethnicity

Ethnicity	Parents with youngest dependent under 1	All employees
White	75.5%	75.2%
Mixed/Multiple ethnic groups	0.7%	2.1%
Asian/Asian British	9.8%	6.5%
Black/African/Caribbean/Black British	4.3%	3.2%
Chinese	0.1%	0.5%
Arab	0.5%	0.3%
Other ethnic groups.	1.7%	1.2%
Total	100%	100%

Source: BEIS internal analysis, Labour Force Survey, Jul-Sep 2021

Remaining Characteristics

The policy is intended to have a positive impact on parents of children spending time in neonatal care. There is no evidence to suggest a greater or lesser likelihood of requiring neonatal care among people with any of

the remaining characteristics. The proposed changes are unlikely to create any barriers to equality as a result, nor will they disproportionately negatively affect any group because of their sexual orientation, gender reassignment. Furthermore, the policy is consistent with existing parental rights whereby biological parents, partners (including same-sex partners), adopters and intended parents (in surrogacy arrangements) are eligible for the leave and pay.

Impact on Trade and Investment

108. This is a regulatory policy concerned with giving affected parents a new employment right proportionate to the amount of time their child has spent in neonatal care. There would be no exemptions for small and micro business firms with the measure applying to firms of all sizes. Given the relatively small number of cases where a child spends a prolonged period of time in neonatal care, it is not anticipated the proposals will have impact either Trade or Investment.

Risks and Assumptions

Modelling risk and assumptions

109. The analysis within the Impact Assessment is dependent on a number of key assumptions. We have identified areas where the existing evidence base supporting these assumptions is very limited in places and outline the key risks to the model and estimated costs below:

Assumptions Log		
Assumption	Detail	Discussion
Eligible population – employment characteristics	The eligible population is determined using high quality admin data on the number of neonatal babies each year. The number of parents eligible for this policy is calculated by applying an assumed employment rate and the proportion who have worked for 6 months or more to the initial data based on a proxy (all employee parents with a child under 1).	With limited information on the characteristics of parents of neonatal babies specifically we instead focusing on parents with youngest children under 1 as a suitable proxy. We believe this to be an appropriate match for the population of interest but nevertheless there is a risk that the actual costs fall outside the range of the figures estimated. This proxy is supported by reliable administrative data on the number of neonatal babies which provides a strong foundation for the analysis.
Take-up rate	Further to the steps outlined above, an assumed take-up rate is then applied which is tapered at a rate of 10%; our best estimate is 75% for fathers/partners and 50% for mothers.	The take-up rate assumption is based on evidence from measured take-up of other labour market policies such as the Paternity Leave scheme. It is therefore uncertain and may not capture the true demand for this policy. This will be monitored using HMRC data on the number of individuals in receipt of Statutory Neonatal Pay.
'Deadweight'	Deadweight in this scenario refers to the possibility that some employers are already providing comparable levels of leave to neonatal parents at their own expense. Therefore, the introduction of the policy will see no additional take-up behaviour and a transfer of existing costs from business to the Exchequer (as they will now be able to reclaim).	With minimal evidence on the current level of support employers provide to employees in this situation (beyond consultation evidence indicating limited support), we make the simplifying assumption that employers do not have comparable policies to those under discussion (up to 12 weeks additional paid leave). This in effect means there would be no 'deadweight' costs and all estimated costs to business would be additional.

Familiarisation costs	Familiarisation costs are captured explicitly for large firms, whereas they are included as part of admin costs for small and medium firms (therefore familiarisation occurs when requests arise). This broadly mirrors the approach taken in Parental Bereavement Leave Impact Assessment.	Due to the low numbers of babies going into neonatal care for over a week each year, it is likely that many businesses (especially small businesses) will not experience any employees seeking to use their entitlement to Neonatal Leave and Pay and therefore familiarisation will be relatively small. We will assess this assumption in any Post Implementation Review.
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Other key assumptions

110. The total number of babies in England and Wales with a neonatal stay of at least 7 days is estimated to be 29,700 in 2018 and interim analysis from NHS Hospital Episode Statistics suggests there are a further 7,400 infants aged up to 28 days who are admitted to non-neonatal care units for at least 7 days bringing the total to 37,4100 infants. From this we have made the following key adjustments/assumptions:

- We assume there are 1.95 eligible individuals per neonatal infant as ONS data shows that the vast majority of births are joint registrations³⁹.
- 85.5% of parents with a child under 1 are employed⁴⁰.
- Of which, 90.6% are employees
- Of which, 94.7% have been continuously employed for 6 months or more
- This is then uplifted by 7.6% to account for neonatal stays in Scotland (proportion of births in Scotland relative to England and Wales)⁴¹.

³⁹ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/methodologies/userguidetobirthstatistics>

⁴⁰ Source: BEIS internal analysis, Labour Force Survey, Jul-Sep 2021

⁴¹ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/births/births-time-series-data>

Annex A: Estimating absence costs to employers

111. The policy assessed in this impact assessment covers the introduction of Neonatal Leave and Pay legislation. This policy will result in absence costs to employers as employee parents (of children staying in neonatal care) would have a right to take a period of leave equivalent to the time their child has spent in care. Subject to additional criterion, they could also be eligible for paid leave at the statutory rate. This annex explains the underlying assumptions and derives re-organisation and wage-like costs.

Type of absence costs:

112. **Wage costs** - if the employee is paid by the employer despite being absent. While smaller employers will not incur such costs, larger employers will incur wage-like costs, since they cannot recover the entire statutory pay during the paid leave period.

113. Reorganisation costs

- Employing temporary cover, which is likely to be more expensive than the absent employee and may also be less productive.
- Re-allocating work among existing staff, which is costly because either additional overtime is paid so that output remains constant, or because in re-allocating work, some other work is dropped, resulting in a loss of output.
- Not covering the absent employee's work and accepting a loss of output.

114. The choice between different types of cover will be influenced by four factors: the duration of absences and their nature (planned or unplanned, with for example, firms less likely to employ temporary cover for shorter absences), the size of the company/workplace, the nature of the business, and the skills needed in the particular job. While we recognise that differences in these factors mean that employers may use different methods to cover absence in different cases, we consider that in terms of employer costs, the same assumptions apply in each case. While these might not describe the situation for each employer perfectly, we feel that this simplified approach describes the overall impacts on employers sufficiently well without overcomplicating this impact assessment.

115. All absence costs estimated in the Impact Assessment are assumed to be additional as we do not have sufficiently robust information that employers have existing policies to manage absences that would result from parents taking leave to care for their child. Therefore, no estimate of deadweight costs has been made in the Impact Assessment.

Reorganisation costs

116. Quantifying the impact of absence from the policies under discussion is difficult for several reasons i.e., identifying productivity loss from someone being away from work and accordingly having to rely on temporary cover. We rely on earlier analysis to model the impact on business, making use of the PBL impact assessment, which had similar eligibility conditions. This first involves estimating the cost of reorganisation, which makes use of the most recent absence cost estimates from survey on absence and workplace health published by the Confederation of British Industry (CBI)⁴².

117. The survey found an average cost of absence of £720 per employee per year, based on an average of 5.2 days absence per employee. This figure includes the wage costs of absence, as well as an estimate of the reorganisation costs and non-wage labour costs, such as national insurance contributions. This yields a median cost of absence of £692 per work week.⁴³ To derive the wage costs, we use ASHE 2017 data to allow for a fair comparison since the absence survey was carried out in 2017, finding median weekly wage costs of £434 per employee. However, these indirect costs do not provide an accurate picture of re-organisation costs, because the estimated weekly absence costs include non-wage labour costs such as national insurance contributions and employer pension contributions, which also must be accounted for in the labour costs. Failing to uprate the average weekly wage costs to include National Insurance and employers' pension

⁴² Absence and workplace health survey 2017, CBI.

⁴³ $(£720/5.2) \times 5 = £692$

contributions would implicitly assume that such costs only arise in the case an employee is absent (as they are included in the absence costs), but not when the employee is present at work.

118. Based on ONS data⁴⁴, we find that that non-wage labour costs are 19.75% of wage costs. Including non-wage costs, we uplift the wage costs by this percentage to derive total labour costs of £512. Deducting this figure from the median absence cost estimate above yields a reorganisation cost of £180 (35.1% of labour costs). We then convert this into 2021 prices.

Box 7: Derivation of Reorganisation costs

Median Absence cost = £720 per employee (5.2 days per year)

Median Absence cost per work week = [£720 per employee ÷ 5.2] × 5 = £692

Reorganisation costs = Total Absence Costs – Total Labour Costs

Total Labour Costs = Wage costs × nonwage uplift = £434 × 1.1975 = £512

Reorganisation Costs = £692 – £512 = £180 (35.1% of Labour Costs)

Reorganisation Costs in 2021 prices = 35.1% × Uplifted average 2021 wage = £203.60

Total reorganisation costs

= No. weeks × Weekly reorganisation costs × (Eligible parents × Take – up rate)

Annex B: Estimating wage-like costs

119. Firms which paid less than £45,000 in NIC in the previous tax year are defined as small and can recover the full amount (103%) of statutory payments paid to their employees. Employer NICs are 13.8% on weekly earnings above £184. Average weekly earnings in 2021 were £583 per week, therefore the average weekly employer NIC contribution was £80 per week. Overall, average yearly contribution by an employer per employee was around £4160 and therefore to have a total NICs bill of more than £45,000 per year, we estimate a business needs to have around 12 employees. However, the business population estimates are banded and so we cannot derive a precise estimate for the number of businesses with 11 or fewer employees. Thus, for the purpose of calculating the wage-like cost to employers, we define a small employer as one with fewer than 20 employees. This will likely mean we are treating more employers as small in terms of being able to reclaim statutory payments than in reality, which will overestimate the Exchequer costs.
120. Using Business Population Estimates 2021 we find 9% of businesses have at least 20 employees and are therefore expected to pay greater than £45,000 in NIC contribution (large businesses), and 92% of businesses have fewer than 20 employees and are therefore expected to pay less than £45,000 in NIC contribution (small businesses).
121. Large employers (those with a National Insurance contributions bill of over £45,000) can recover 92% of statutory payments and will therefore face costs of $0.08 \times £156.66$ (2021/22 rates) = £12.53 for each week of leave taken. Non-wage labour costs are already accounted for in the reorganisation costs and the £12.53 has therefore not been uprated further. Smaller employers (those with a National Insurance contributions bill of £45,000 or less) can reclaim 103% of statutory payments made to their employees through HMRC. They will on average receive $1.03 \times £156.66 = £161.36$ and derive a benefit of £4.70 in terms of wage-like costs per additional week of leave taken. The Box below shows how we have calculated the weighted contribution to the neonatal payments.

⁴⁴ ONS, Index of Labour Costs per Hour UK (2019 Q4 - 2020 Q3 average)

Box 8: Calculating overall wage-like costs

To derive the overall contribution to the statutory payments (wage-like costs) we must also consider the distribution of employees across small and large firms, as well the amounts firms contribute to the statutory payments or in the case of small firms, receive a small compensatory amount per employee per week The Box below shows how we have calculated the weighted contribution to the neonatal payments.

Weighted contribution to statutory payments per employee per week

$$= (\% \text{ of employees at small firms} \times \text{contribution to statutory payments per employee}) + (\% \text{ of employees at large firms} \times \text{contribution to statutory payments per employee})$$

Weighted contribution to statutory payments per employee per week

$$= (21\% \times -£4.70) + (79\% \times £12.53) = -£0.99 + £9.90 = £8.91$$

The figure is negative for small firms as they receive a small abatement of 3% in addition to the full amount of statutory payments, which they can recover. The weighted contribution is in level terms, to calculate this as %, we divide by the statutory rate for 2021/22, which yields:

$$\text{Weighted contribution to statutory payments per employee per week} = (£8.91 \div £156.66) = 5.7\%$$

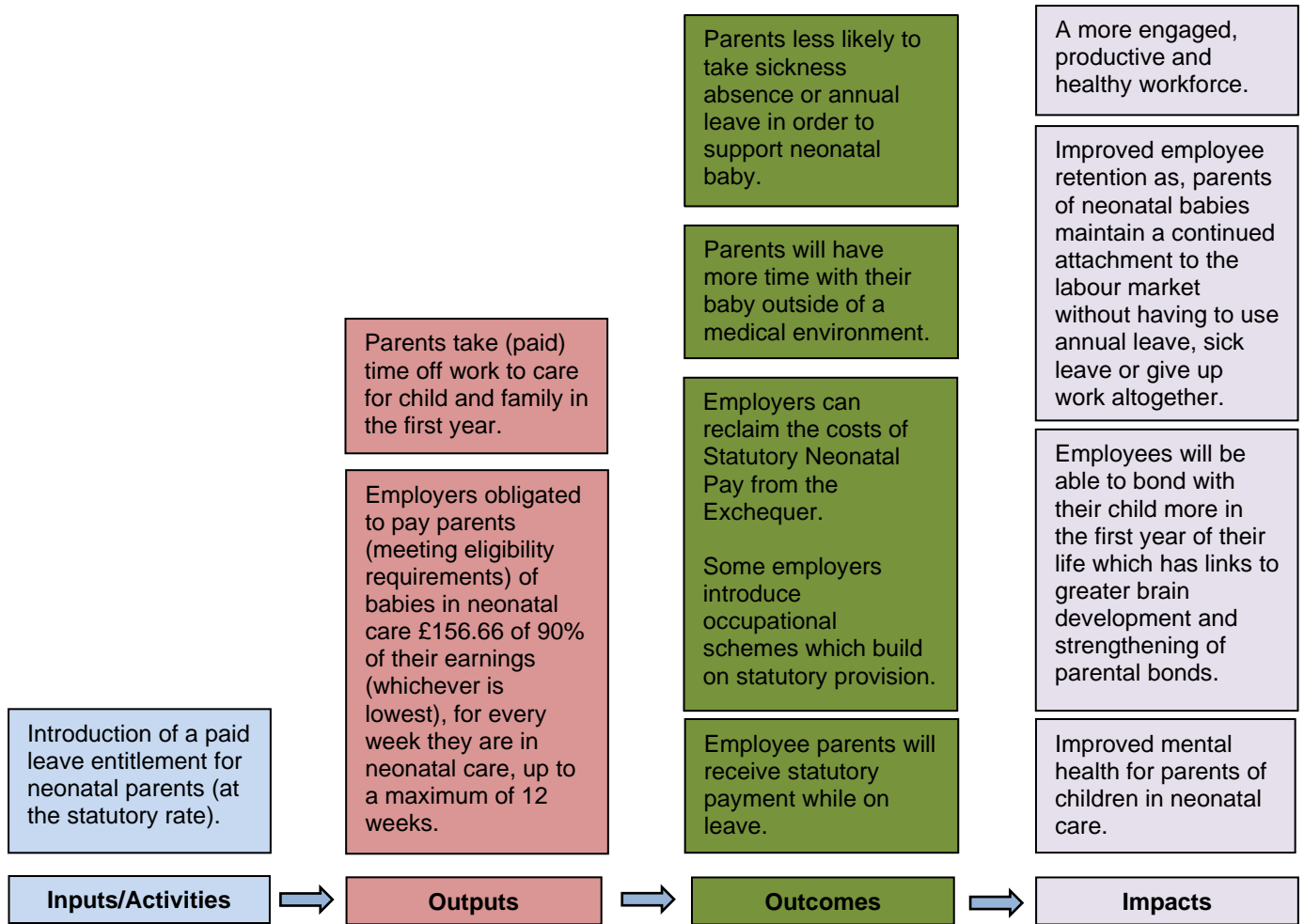
This is then applied to each employee estimated to take-up the policy to derive both Exchequer and the business contribution to statutory payments at an aggregate level.

Table 15: Estimated number of parents taking Neonatal Care Leave/Pay by length

Length of stay (weeks)	Mothers Take-up rate (%)	Fathers Take-up rate (%)	No. eligible mothers who take-up the entitlement	No. eligible fathers who take-up the entitlement	Statutory Rate (weekly)	Additional Weeks	Total costs
1	50	75	6,200	10,600	£156.66	1	£2.6m
2	50	75	2,500	4,200	£156.66	2	£2.1m
3	50	75	1,300	2,200	£156.66	3	£1.6m
4	50	75	800	1,300	£156.66	4	£1.3m
5	45	67.5	500	800	£156.66	5	£1m
6	45	67.5	400	600	£156.66	6	£0.9m
7	45	67.5	300	500	£156.66	7	£0.8m
8	45	67.5	200	400	£156.66	8	£0.7m
9	40.5	60.8	200	300	£156.66	9	£0.6m
10	40.5	60.8	100	200	£156.66	10	£0.6m
11	40.5	60.8	100	200	£156.66	11	£0.5m
12 or More	40.5	60.8	500	800	£156.66	12	£2.3m
Total			12,500	21,100			£15.1m

Annex C: Theory of Change

122. The Theory of Change below demonstrates how introduction of Neonatal Care Leave and Pay will lead to the policy objectives. This is the causal basis on which we will evaluate the impact and success of the policy.



Annex D: Monitoring and Evaluation

123. To determine whether the policy has met its objectives, we will be monitoring its impacts as well as undertaking a non-statutory Post-Implementation Review (PIR) of this policy after, at least, 5 years following introduction. The policy is expected to be implemented through primary legislation and therefore falls outside of the statutory review requirements under the Small Business Enterprise and Employment Act 2015.

124. Any engagement with stakeholders and analysis of administrative data will be undertaken using internal resources within BEIS. The non-statutory PIR published by BEIS will summarise the evidence that we gather on the policy's effectiveness, as well as any learnings that can be applied to future policymaking.

Basis of the review:

It is proposed to introduce Neonatal Care Leave & Pay, with an assumed implementation date of 2024. A review of this new policy would then likely take place after 2029, when the new right has had time to be sufficiently established.

Review objective:

The objective of the review would be to assess the effectiveness of the policy in achieving the following objective:

- Enable parents to be away from work to deal with the immediate challenges of having a baby in neonatal care and also to replace the weeks their baby spends in neonatal care; to support the other parent and care for other children; to provide time to care for and bond with the child outside of a medical environment which will provide a sure foundation for the future.
- Provide a societal benefit associated with a more engaged, productive and healthy workforce, allowing parents of neonatal babies to maintain a continued attachment to the labour market without having to use annual leave, sick leave or give up work altogether.
- Help create a minimum standard for an issue which may be difficult to navigate by employers and employees. In the absence of standard minimum requirements, with the provision of leave at the discretion of individual employers, some of these benefits may not be realised.

Review approach and rationale:

Considering the comparatively small numbers of parents in scope of this entitlement, it would be difficult and disproportionately expensive to adopt a random sampling survey approach to find individuals who have taken neonatal leave. Therefore, we will focus our monitoring and evaluation plan on HMRC administrative data on statutory payments data. This data reports the number of individuals for which employers have reported and reclaimed Statutory Neonatal Pay. This provides a reliable estimate of take-up of paid leave and similar data has proved to be valuable in monitoring the maternity, paternity, adoption and shared parental leave/pay policies. In addition, we will seek evidence (both qualitative and quantitative) from key stakeholders including employer organisations and groups representing neonatal parents to assess the effectiveness of the legislation against the policy objectives, specifically looking at:

- The number of individuals (split by gender) using Neonatal Care Leave and Pay and information on duration of paid leave used (as measured by HMRC data)
- Employer's and parents' awareness and experiences of taking and using Neonatal Leave and Pay (Stakeholder evidence)
- We recently undertook a large parental rights survey in 2018/19 (part of a series dating back to the 1970s) and some of the evidence on wider parental rights is used in this report but the survey development predates policy development on neonatal leave. There are no confirmed plans to repeat this survey at the moment, however it typically operates in 5 to 10-year cycles. Any future survey represents the best opportunity to collect detailed data from parents assessing their awareness, use, decision-making, experiences and wider impacts of taking leave.

Baseline:

As discussed in this impact assessment, there is uncertainty around potential take-up behaviour and the use of the proxy employment rate pattern of parents with children under 1 for neonatal parents. However, as stated in paragraph 45, the analysis is underpinned by the National Neonatal Research Database and the NHS Information Centre data collectively which create a high accuracy data source for the population of neonates in Great Britain.

Success criteria:

- Evidence that parents of children in neonatal care are sufficiently aware of their statutory employment rights.
- Evidence that parents of children in neonatal care use the Neonatal Leave they are entitled to and that the estimates set out in the IA remain broadly reliable.
- Evidence that the processes surrounding requests for leave are straightforward for employers to administer and that costs are manageable
- Where employers go beyond the statutory minimum in the provision of paid neonatal leave is evidence that they clearly see the value of supporting parents in these circumstances.

Monitoring information arrangements:

Data and information will be monitored post implementation through administrative data from HMRC on parental pay recipients. HMRC are responsible for overall data quality and both BEIS and HMRC use this data to respond to parliamentary questions and Freedom of Information requests etc. This data will be provided monthly and will detail the number of people in receipt of Neonatal Pay in a given period (monthly, quarterly, yearly). This data will be split by gender, age and possibly other characteristics such as region to form the key performance indicators. This will allow us to review whether the policy is being used by the numbers expected at the overall level and then to assess whether it is being used by more men (as the consultation evidence suggests). There will also be ongoing discussions with key stakeholders in this area to ensure the legislation is effective and proportionate.