



## Paternity Leave and Pay Policy for Schools and Academies

Effective from 1 September 2016

### 1. Introduction

Paternity leave gives eligible employees time off to care for a child or support a mother or adopter following the birth or placement for adoption of a child. Rights to Statutory Paternity Leave are separate to the normal holiday allowance.

Ordinary Paternity Leave provides for two weeks leave to be taken in a single block within eight weeks of the child's birth or adoption.

### 2. Scope of policy

The entitlements, eligibility and payment for Paternity Leave contained within this policy apply to all schools based employees.

Paternity Leave is not available to biological fathers who are not likely to have parental responsibility for their child. Nor is the leave available to someone who is a blood relative of an adopter, such as the adopters parent, grandparent, sibling, aunt or uncle. The leave is not available for privately arranged adoptions that do not involve the UK authorities.

Where the Governing Body wishes to deviate from this proposed policy or adopt any other policy, it is the responsibility of the Governing Body to arrange consultation with appropriate representatives from recognised trade unions or professional associations.

### 3. Legal Considerations

The law relating to Paternity Leave is contained within:

- The Employment Act 2002
- The Employment Rights Act 1996
- The Civil Partnership Act 2004
- The Civil Partnership Act 2004 (Amendments to Subordinate Legislation) Order 2005
- The Paternity and Adoption Leave Regulations 2002
- The Social Security Contributions and Benefits Act 1992
- The Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) Regulations 2002
- Work and families Act 2006

### 4. Maternity/Adoption support leave

In most cases the person supporting an expectant mother at or around the time of birth or the joint adoption will be the father of the child or the supporting partner. In these cases, that individual will be eligible for paternity leave.

In some cases, the expectant mother or joint adopter may nominate someone else as the primary carer e.g. their mother or a friend. In these cases, the primary carer will not qualify for paternity leave but will be eligible for maternity/adoption support leave. This is paid leave, normally to a maximum of 5 days. When applying for maternity/adoption support leave, the employee will need to provide a copy of the expectant mother's MATB1 form or the notification of the parent being

matched with a child. This will confirm the expected date of birth or placement for adoption as appropriate.

Please note that maternity/adoption support leave can only be granted when the nominated primary carer is not eligible for paternity leave. It cannot be granted in addition to paternity leave.

Further information about Maternity/Adoption Support Leave can be found in the Special Leave Policy.

## **5. Ante natal appointments**

Wherever possible, the employee should seek appointment times outside of his or her normal contractual working hours.

However, the father of an expected child, or partner of a pregnant woman, has a right to take unpaid time off work on two occasions attend ante natal appointments.

On each occasion amount of time allowed off work will be the amount needed to travel to and from and attend the appointment (up to a maximum of six and a half hours).

The Head Teacher may ask the employee for a signed declaration confirming:

- That he or she is:
  - the expectant mother's spouse, partner or civil partner, or
  - the expected child's father.
- That the purpose of the time off is to accompany the expectant mother to an ante natal appointment
- That the appointment is made on the advice of a registered medical practitioner, midwife or nurse, and
- The date and time of the appointment.

## **6. Eligibility for Paternity Leave**

Regardless of length of service, all employees are entitled to one week's ordinary paternity leave (OPL) on full pay (offset against statutory paternity pay if the employee is entitled to receive this). To be eligible for this paid paternity leave the employee must meet the following criteria:

### **Birth- the employee must:**

- be the biological father of the child or the mother's husband or partner or civil partner (including same-sex relationships). Paternity leave is not available to fathers who are not likely to have parental responsibility for their child;
- intend to support the mother or help care for the child; and
- have or expect to have responsibility for the upbringing of the child.

### **Adoption – the employee must:**

- be one of a couple jointly adopting a child (including same-sex relationships). Where a couple adopt a child jointly, one may take adoption leave and the other paternity leave. They are entitled to choose for themselves which parent takes which type of leave;
- intend to support the adopter or help care for the child; and
- have, or expect to have, responsibility for the upbringing of the child.

To qualify for the second week of paternity leave the employee must also have:

- 26 weeks continuous local government service or service with the school by:

- the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC) (birth);
- the end of the week in which the adopter is notified as being matched with a child (adoption within the UK);
- the end of the week in which the child's adopter received written "official notification" from the Secretary of State or commencing with the week in which the employee started employment with us, if this is later (overseas adoption). An official notification is a notification issued by the Secretary of State to the overseas authority concerned with the child's adoption confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent;
- and, average weekly earnings at or above the lower earnings limit for national insurance purposes (before tax).

The second week of paternity leave will be paid at statutory rates.

Paternity leave may be available to foster carers who go on to adopt the child through a UK adoption agency, provided the qualifying conditions are met.

An employee will not qualify for paternity leave if, in respect of the same child, the employee:

- is taking maternity or adoption leave.
- has taken paid time off for an adoption appointment.
- has taken shared parental leave.

## 7. Taking Paternity Leave

The employee can choose to take ordinary paternity leave in a single block of one week or two consecutive weeks'. Paternity leave **cannot** be taken in odd days or in blocks of two separate weeks.

Ordinary Paternity Leave must be taken and completed within 8 weeks of the child being born or placed for adoption, or if adopted from overseas, within 8 weeks of the child's entry into the UK.

If the child is born early, the leave can be taken between the actual date of birth and up to 56 days after the birth.

In the case of a multiple birth or when more than one child is being adopted as part of the same adoption arrangement, only one period of Ordinary Paternity Leave is allowed.

Ordinary Paternity Leave can still be taken if after 24 weeks of pregnancy the baby is miscarried or stillborn, or if the baby is born alive at any point in the pregnancy but does not survive.

## 8. Giving notice of taking Paternity Leave

The employee needs to give the Head Teacher notice of their intention to take ordinary paternity leave by completing and returning the Notification of Ordinary Paternity Leave form either:

- by the 15<sup>th</sup> week before the EWC, unless this is not reasonably practicable; or
- within seven days of the adopter being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable; or
- in the case of a child adopted from overseas, at least 28 days before the date on which the employee wishes the ordinary paternity leave to commence.

The employee will need to confirm the following in writing:

- the week the baby is due / the date the adoption agency notified the adopter of being matched with a child; and the date on which the child is expected to be placed with the adopter in the case of the latter;
- the length of leave they wish to take;
- the date on which they want the leave to begin; and
- that they meet the eligibility conditions.

If the child is adopted from overseas, the employee must inform the Head Teacher of the date the child entered the UK within 28 days of this occurring.

The Head Teacher must forward an original of the Notification of Ordinary Paternity Leave form to their payroll provider so that the employee's entitlement to SPP can be calculated

Notification of Paternity Leave Form (Birth) – Appendix 1

Notification of Paternity Leave Form (Adoption) – Appendix 2

## **9. Commencing Ordinary Paternity Leave**

Following a birth, the employee can choose to start paternity leave on:

- the date the child is born;
- a certain number of days after the child is born; or
- a predetermined date after the first day of the EWC.

Following adoption, the employee can choose to start paternity leave on:

- the date on which the child is placed with the adopter
- a certain number of days after the child is placed
- on a predetermined date later than the date the child is expected to be placed
- the date the child entered the UK or on a pre-determined date after the date the child is expected to enter the UK.

## **10. Changing the Ordinary Paternity Leave start date**

The employee can change the date that they wish ordinary paternity leave to start providing they give the Head Teacher 28 days written notice in advance (unless this is not reasonably practicable).

## **11. Paternity Pay**

### **Occupational Paternity Pay**

Under the Occupational Paternity Pay scheme, the employee will receive normal pay for the first week of ordinary paternity leave. This will be offset by Statutory Paternity Pay (SPP) if the employee is entitled to receive this. The total pay including SPP must not exceed full pay.

### **Statutory Paternity Pay**

To qualify for Statutory Paternity Pay the employee must:

- be the biological father of the child, or the mother's spouse, partner or civil partner or be one of a couple jointly adopting a child (including same sex relationships) and have, or expect to have responsibility for the child's upbringing;

- have continued to work in local government or within the school without a break for at least 26 weeks up to and including the 15th week before the baby is due; or employed up to and including the week the adopter was given notification of being matched with a child
- continue to work for the school without a break in service up to the date the child is born or placed for adoption
- have average earnings at or above the lower earnings limit for national insurance purposes (before tax).

Employees who do not qualify for SPP will be issued with form SPP1. They may be entitled to other government help and should contact their local Jobcentre Plus office or Department for Work and Pensions office.

Statutory Paternity Pay is paid in the same way and at the same time as normal salary. It is treated as normal pay, so tax and National Insurance will be deducted as usual. An employee cannot be paid Statutory Paternity Pay for any week they are at work. No extra SPP or Occupational Paternity Pay is payable for multiple births or where more than one child is being adopted as part of the same arrangement.

The employee must give 28 days notice of the date they expect any payments of Ordinary Paternity Pay to start unless this is not reasonably practicable.

Employees who are eligible to take two weeks' paternity leave will receive Statutory Paternity Pay only during the second week of leave.

### **Paying an employee who has more than one job with the School/Council**

Generally OSPP is not payable for any week (period of seven days) during any part of which the employee works for an employer. If the employee has more than one job, and their earnings are not aggregated by Payroll for National Insurance Contribution purposes, it will need to be determined whether they qualify for more than one payment of OSPP and whether their earnings were high enough in each employment to be eligible for more than one payment.

If the employee is only eligible for one payment of OSPP they should take the same time off from each job otherwise they will lose some of their OSPP if they are working in one or other of their jobs, which is not permitted under the regulations.

If the employee is entitled to more than one payment of OSPP, they can choose to take different time off from each job without losing their entitlement to OSPP. Please contact the payroll provider to clarify employee eligibility which will be based on HRMC Guidance.

The Head Teacher must forward an original of the appropriate Notification of Paternity Leave Form to their payroll provider so that the employee's entitlement to OSPP can be calculated.

## **12. Employee terms and conditions during Paternity Leave**

### **Annual Leave**

An employee on paternity leave will continue to accrue annual leave during the period of absence.

### **Employee is sick**

If an employee is sick and qualifies for Statutory Sick Pay (SSP) before the start of their paternity leave they must delay the start of their paternity leave until they are well.

If this is not possible within the time limits for taking their paternity leave, their entitlement to paternity pay will be reduced by each week in which they have been paid SSP. If the employee becomes sick during their paternity pay period and are entitled to be paid SSP, they cannot be paid paternity pay for any week in which they qualify to get any SSP.

### **13. Returning to work following Paternity Leave**

#### **Rights on returning to work following Paternity Leave**

An employee is entitled to return to the same job following ordinary paternity leave unless a redundancy situation has arisen.

#### **Employee is not returning to work**

If the employee is not returning to work they must still be paid paternity pay. An employee cannot be asked to repay it.

### **14. Contributions to Occupational Pension Schemes**

#### **Local Government Pension Scheme**

If the employee is a member of the Local Government Pension Scheme they will continue to pay contributions during the period of paid paternity leave. These contributions will be based on any pensionable pay they actually receive, but will allow service to be treated as if they were working normally.

Further information is available from LGSS Pensions.

#### **Teacher's Pension Scheme**

If the employee is a member of the Teachers' Pension Scheme, pension contributions can be paid on the pay actually received. However, this period of contribution will be treated, in pension terms, as if the employee was working normally.

Further advice on buying service is available from the Teachers' Pensions website:  
[www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

### **15. Taking other leave**

An employee may be entitled to shared parental leave and pay if they meet certain eligibility criteria. If the employee's spouse, civil partner or partner returns from maternity leave or adoption leave early, the remaining period of maternity leave and statutory maternity pay (if any) or adoption leave and statutory adoption pay (if any) may be eligible to be shared between the employee and his or her partner.

Employees who wish to take both paternity leave and shared parental leave must take their period of paternity leave first. An employee cannot take paternity leave if he/she has already taken a period of shared parental leave in relation to the same child.

Further details are available in the Shared Parental Leave Policy.

### KEY FACTS ABOUT PATERNITY AND OTHER LEAVE – BIRTH

WHO	WHAT	WHEN	ELIGIBILITY	LENGTH	POLICY	NOTES
<b>Birth</b> Person supporting mother or adopter is not father of child or partner/civil partner e.g. is a parent or friend	Maternity Support Leave	Around time of birth	Provision of expectant mother's MATB1.	5 days	Special Leave Policy	This leave cannot be taken in addition to paternity or parental leave.
<b>Birth</b>  Biological father of child or  Mother's husband or partner/civil partner	Ordinary Paternity Leave	Within 8 weeks of the child being born.	<ul style="list-style-type: none"> <li>• Must intend to support the mother or help care for the child.</li> <li>• Must have or expect to have responsibility for the upbringing of the child</li> </ul>	Up to two consecutive weeks	Paternity Leave Policy  Policy also outlines eligibility criteria for paternity pay.	Cannot be taken in individual days or blocks of two separate weeks
<b>Birth</b>  Fathers and partners of mothers	Shared Parental Leave (SPL)	From after 2 compulsory weeks of maternity leave have been taken.	<ul style="list-style-type: none"> <li>• For employees to be eligible to take SPL, both parents must meet certain eligibility criteria. See the Shared Parental Leave Policy for full details.</li> </ul>	Remainder of untaken 52 week maternity leave entitlement (maximum of 50 weeks)	Shared Parental Leave Policy	Important notification requirements apply.  SPL must be taken in blocks of a week or more.  SPL can be separated into a maximum of 3 separate blocks of leave.

This guidance must be read in conjunction with the appropriate policy

### KEY FACTS ABOUT PATERNITY AND OTHER LEAVE - ADOPTION

WHO	WHAT	WHEN	ELIGIBILITY	LENGTH	POLICY	NOTES
<p><b>Adoption</b></p> <p>Person supporting mother or adopter is not father of child or partner/civil partner e.g. is a parent or friend</p>	Adoption Support Leave	Around time of placement of child	Provision of the notification of the parent being matched with a child	5 days	Special Leave Policy	This leave cannot be taken in addition to paternity or parental leave.
<p><b>Adoption</b></p> <p>One of a couple jointly adopting a child</p> <p>Has chosen not to take adoption leave</p>	Ordinary Paternity Leave	Within 8 weeks of the child being placed for adoption.	<ul style="list-style-type: none"> <li>• Must intend to support the adopter or help care for the child.</li> <li>• Must have or expect to have responsibility for the upbringing of the child</li> </ul>	Up to two weeks	<p>Paternity Leave Policy</p> <p>Policy also outlines eligibility criteria for occupational and/or statutory paternity pay.</p>	Cannot be taken in individual days or blocks of two separate weeks
<p><b>Adoption</b></p> <p>One of a couple jointly adopting a child</p> <p>Has chosen not to take adoption leave</p>	Shared Parental Leave	From 2 weeks after the date of placement.	<ul style="list-style-type: none"> <li>• For employees to be eligible to take SPL, both adopters must meet certain eligibility criteria. See the Shared Parental Leave Policy for full details.</li> </ul>	Remainder of untaken 52 week adoption leave entitlement (maximum of 50 weeks)	Shared Parental Leave Policy	<p>Important notification requirements apply.</p> <p>SPL must be taken in blocks of a week or more.</p> <p>SPL can be separated into a maximum of 3 separate blocks of leave.</p>

This guidance must be read in conjunction with the appropriate policy