



**Schools' Personnel:  
get the chemistry right**

# **PATERNITY LEAVE PROVISIONS**

**(Also includes MATERNITY SUPPORT LEAVE for Support Staff)**

**FOR TEACHING AND SUPPORT STAFF IN MAINTAINED  
SCHOOLS, PRUs, ACADEMIES AND OTHERS**

**April 2024**

**(Replaces January 2018 version)**



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**INTRODUCTION**

The purpose of this guidance is to set out, for ease of reference for both schools and individual employees, entitlements to paternity leave and pay.

It is important to be aware that the provisions and entitlements contained within this guidance are those set out either by law, or as part of Conditions of Service. In these circumstances, they cannot normally be varied. (The exceptions to this are where Voluntary Aided, Foundation Schools or Academies may, as the employers of their staff, have set their own Local Conditions of Service or provisions. However, unless this is the case, the attached will apply, as appropriate to the individual circumstances and category of school).

## **PATERNITY LEAVE PROVISIONS**

### **For Teaching and Support Staff**

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Employees may be entitled to Paternity Leave and Pay if their partner is having a baby, adopting a child or having a baby through a surrogacy arrangement.

#### **Entitlement**

During the Paternity Leave period, the employee may be entitled to receive both Occupational Paternity Pay (OPP) and Statutory Paternity Pay (SPP) or OPP only.

Where an employee qualifies for the maximum entitlement, they would receive one week's leave at full pay and a second week at the current rate of SPP (or 90% of average earnings if this is less than the rate of SPP). The first week's leave is, therefore, an occupational enhancement of the statutory scheme for eligible employees.

Entitlement depends upon meeting certain conditions, as set out below.

**To qualify for one week's Paternity Leave** (which is a week's pay based on average weekly earnings including, if the employee is entitled to it, SPP) the employee must be:

- a) Responsible for the child's upbringing, **and be**
- b) The child's father, the husband or partner of the mother (or adopter), the child's adopter or, in the case of a parental order parent\*, the child's intended parent.

(Notes:

- **\*A parental order parent is a person who is part of a couple and who has a child through a surrogacy arrangement** and is eligible for and intends to apply for a parental order.
- In the case of a couple who are adopting only one adoptive/parental order parent may apply for Paternity Leave and the other adoptive/parental order parent may apply for Adoption Leave/Pay. This applies whether an adoptive couple work for the same employer or different employers).

- c) Taking time off to support their partner and care for the child.

An employee who does **not** meet entitlement conditions a), b) and c) above would not be entitled to Occupational or Statutory Paternity Leave/Pay.

**To qualify for a second week's Paternity Leave** at the current rate of SPP (or 90% of the employee's average earnings if this is less than the rate of SPP) only, the above conditions a) to c) must be met **and** the employee must also meet conditions d) and e) below:

- d) They must have at least 26 weeks' continuous employment with the London Borough of Enfield/Governing Body of an Enfield Local Authority Maintained School (or otherwise by their current employer if different, e.g. an Academy):

- i) By the end of the 15<sup>th</sup> week before the week the baby is due (applies also to a parental order parent), **or**
  - ii) The end of the week in which the child's adopter is notified of being matched with the child (UK adoptions), or the date the child enters the UK or when the employee wants their pay to start (overseas adoptions).
- e) They must have average weekly earnings above the National Insurance Lower Earnings Limit.

### **How the Leave May be Taken and the Pay Position**

**The entitlement is to two whole weeks' leave.** For SPP purposes, eligible employees may take the leave as a continuous block of two weeks together or it may be split into two separate blocks of one week. For SPP to be payable, Statutory Paternity Leave cannot be taken as odd days. SPP cannot be paid to an employee for a week during which they undertake any work. However, it should be noted that a week can start and finish on any day, for example, a Wednesday to a Tuesday inclusive.

**Within the local provisions set out within this document, the Occupational Paternity Leave and Pay Scheme** provides for one week's leave at full pay for those employees who meet the criteria in a) to c) above. This may be taken in odd days but Schools should be aware that they will not be able to reclaim the SPP element of the week's pay where an employee takes leave in this way. In addition, the employee would not be able to take a second week's leave and receive SPP where they had taken a week's Occupational Paternity Leave in odd days. This is due to the rules governing payment of SPP, as above.

**Note that a week's leave depends upon an employee's normal working week.** For example, an employee who works 3 days a week and is taking a week's leave would be entitled to take 3 working days as Paternity Leave. If an employee's working pattern varies, an average working week would need to be calculated.

**Only one period of leave may be taken regardless** of whether the pregnancy/adoption results in the birth/placement of one child or two or more.

### **When the Leave May be Taken**

Paternity Leave cannot be taken before the child is born, before the child is placed with the adopter (UK adoptions) or before the child enters the UK (adoptions from abroad), as appropriate.

Where an employee meets the qualifying conditions, Paternity Leave may be taken:

- Up to 52 weeks (365 days) after the baby is born. However, if the baby is born prematurely, leave can be taken any time from the date of the actual birth up until 52 weeks following the week the baby was due. (Applies also to a parental order parent); *or*
- In the case of adoption within the UK, up to 52 weeks (365 days) from the date of the child's placement; *or*

- In the case of adoption from abroad, up to 52 weeks (365 days) from when the child enters the UK or is placed with the employee for the purposes of adoption.

Paternity Leave must end within the above timescales.

### **Premature Births and Stillbirths**

In the event of a premature birth, pay entitlements depend on the following:

Where the baby is born *after* the start of the 15<sup>th</sup> week before they were due – the baby's early arrival would not affect any entitlement an employee has to SPP unless they leave the employment of the London Borough of Enfield/Governing Body of an Enfield Local Authority Maintained School (or otherwise by their current employer if different, e.g. an Academy) and starts working for another employer.

Where the baby is born *before* the start of the 15<sup>th</sup> week before they were due - any entitlement to SPP depends on whether the employee is expected to be in the employment of the London Borough of Enfield/Governing Body of an Enfield Local Authority Maintained School (or otherwise by their current employer if different, e.g. an Academy) at the start of the 15th week i.e. the contract of employment is not due to end before this.

Paternity Leave will still be available if a child is stillborn from 24 weeks or if it is born alive at any point during the pregnancy.

### **Requirements When Making an Application for Paternity Leave**

#### **Childbirth** –

1. The employee must advise their employer of their entitlement to Paternity leave **by the end of the 15th week before the expected week of childbirth**, or as soon as reasonably practicable if the birth takes place earlier. (Applies also to a parental order parent). The employee must provide the employer with details of:

- The expected week of childbirth or, if the baby arrives early, the actual date of birth
- A declaration that they satisfy the conditions to take Paternity leave (as set out above)

2. The employee must advise their employer of their leave plans either:

a. **at least 28 days before the first day of the expected week of childbirth**, or as soon as reasonably practicable if the birth takes place earlier. (Applies also to a parental order parent).

**OR**

b. **at least 28 days before a specified number of days after the first day of the expected week of the child's birth**

**OR**

c. **at least 28 days before a requested start date**

The employee must provide the employer with details of:

- The expected week of childbirth or, if the baby arrives early, the actual date of birth
- Whether the intention is to take one or two weeks' leave at that time
- When the leave is to start.

For (a) and (b) above the employee does not have to give a precise date when they wish to start the leave (e.g. 1<sup>st</sup> June). Instead, a general time may be given, such as from the day of the birth or from one week after the birth.

**Adoption (within the UK)** – The employee must advise their employer of their plans **within 7 days of being notified by the adoption agency that a child has been matched**, unless this is not reasonably practicable in which case the employee should discuss the situation with their employer. The employee must provide their employer with details of:

- The date that the adopter was notified of a match with the child
- The date on which the child is expected to be placed
- Whether the intention is to take one or two weeks' leave at that time
- When the leave is to start.

**Adoption (from abroad)** – An employee intending to take Paternity Leave must notify their employer of:

- The date on which the other or main adopter received Official Notification from the UK authority. Official Notification means a written notification, issued by or on behalf of the relevant UK authority, that it either:
  - is prepared to issue a certificate to the overseas authority concerned with the adoption of the child
  - has issued a certificate and sent it to that authority.

In either case this confirms that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent. The employee must ask the person adopting the child from abroad when they received this and tell their employer. If they have already worked for the employer for 26 weeks at that date they must tell the employer this information within 28 days of the date the Official Notification from the UK authority was sent. If they have not already worked for the employer for 26 weeks when the Official Notification was sent, the employee must tell the employer within 28 days of the Sunday of their 26<sup>th</sup> working week.

- The date the child is expected to enter the UK. The employee must then tell the employer the date the child enters the UK within 28 days of that date.
- The date the employee wants their SPP and/or paternity leave to start and whether they want to take one or two weeks at least 28 days beforehand.

**If the employee finds out that the child will not be entering the UK**, they must inform their employer as soon as is reasonably practicable.

**An employee may change their leave plans provided their employer is given a minimum of four weeks' (28 days) notice** of the revised date, unless it is not reasonably practicable to do so.

### **Forms for Making an Application**

**Childbirth** – His Majesty's Revenue and Customs (HMRC) Form **SC3** (or, in the case of a parental order parent, the relevant section of **Form SC4** for parental order parents) together with a Paternity Leave Request Form should be completed. A copy of the MAT B1 (form from the midwife or GP stating the week the baby is due) should also be attached and given to the employer no later than four weeks before the commencement date of the Paternity Leave.

If the baby is born before the above action has been completed, the employee should complete the application form and provide a copy of the MAT B1 as soon as reasonably practicable.

**Adoption – His Majesty’s Revenue and Customs (HMRC) Form SC4 (relevant section for adoption within the UK) or Form SC5 (adoption from abroad)** together with a Paternity Leave Request Form should be completed. A copy of the Matching Certificate (adoption within the UK) or Official Notification (adoption from abroad) should also be attached and given to the employer no later than four weeks before the commencement date of the Paternity Leave.

Note that the above forms are not attached to this document but will be made available on request.

**Where an Employee Leaves the Employment of the London Borough of Enfield/Governing Body of an Enfield Local Authority Maintained School (or otherwise by their current employer if different, e.g. an Academy).**

If the employment ends before the baby is born, or the child is placed, or enters the UK (adoption from abroad) the employee will not be entitled to Occupational or Statutory Paternity Pay.

If the employment ends after any of these events, the employee would receive any Statutory Paternity Pay to which they were entitled, provided that they have not started working for another employer.

## **OTHER TYPES OF RELATED LEAVE ENTITLEMENT**

### **For Teaching and Support Staff**

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#### **Ante Natal Appointments**

**Fathers, partners and civil partners of a pregnant woman** are entitled to unpaid time off during working hours to accompany her to 2 ante natal appointments. The time off is capped at six and a half hours for each appointment.

There is no legal right to paid time off for fathers/partners to attend ante natal appointments.

The employer is not entitled to ask for evidence of the appointment. This is because the appointment card belongs to the expectant mother. However, the employer can ask for a signed declaration stating the date and time of the appointment and confirming that the employee is in a qualifying relationship with the pregnant woman or her expected child and that the purpose of the time off is to accompany her to the appointment, made on the advice of a GP or midwife.

**Those who will become parents through a surrogacy arrangement, if they expect to satisfy the conditions, and intend to apply, for a Parental Order for the child,** have the right to unpaid time off work to accompany the birth mother to two antenatal appointments, as above.

**In relation to adoption, the main adopter** will be able to take paid time off for up to 5 adoption appointments. **The secondary adopter** will be entitled to take unpaid time off for up to 2 appointments.

#### **Entitlement to the following types of leave depend upon eligibility and qualifying criteria:**

- (i) Mothers may choose to end their Maternity Leave early and exchange it for **Shared Parental Leave and Pay**. They and their named partner will then need to decide how they wish to share this entitlement.

Shared Parental Leave is designed to give parents more flexibility in how to share the care of their child in the first year following birth. They are able to share a pot of leave, enabling them to share the care evenly or have one parent taking the main caring role. They can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

- (ii) Eligible employees can take unpaid **Ordinary Parental Leave** to look after their child's welfare. Entitlement is to 18 weeks' leave for each child, up to their 18<sup>th</sup> birthday. Parental leave that may be taken by each parent in a year is 4 weeks for each child.

**Further information and details of eligibility and entitlements to Shared Parental Leave and Ordinary Parental Leave are available from the employee's place of work.**

## **MATERNITY SUPPORT LEAVE PROVISIONS**

### **For Support Staff ONLY**

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**In circumstances where an expectant mother's husband/partner/civil partner/baby's father will not be providing the main care to support her and the child at or around the time of the birth**, for whatever reason, a nominated carer may instead qualify for leave to care for her and her baby around the time of the birth.

#### **Nominated Carer**

To qualify for the leave, the employee must be the expectant mother's nominated carer. A nominated carer is the person (other than the expectant mother's husband/partner/civil partner/baby's father) who will be the mother's primary provider of care and support around the time of the birth.

Note that Maternity Support Leave is not available if someone else is applying for Paternity Leave. It is only available to a carer who is nominated by the mother to provide her with support instead of the husband/partner/civil partner/baby's father.

#### **Leave Period and How the Leave May be Taken**

If the nominated carer works full-time (36 hours per week) they may apply for five days' leave. If the nominated carer works part-time, they would have a proportional entitlement. For example, an employee working 18 hours per week would be entitled to 2½ days' leave.

The leave may be taken in odd days or all together.

Only one period of leave may be taken even if the pregnancy results in more than one birth.

#### **When the Leave May be Taken**

The leave may be taken at any time from the birth up until 8 weeks (56 days) afterwards. If the baby is born prematurely, the leave may be taken at any time from the actual birth until 8 weeks after the week the baby was due.

#### **Pay while on Maternity Support Leave**

Eligible nominated carers will be paid full pay for the period of the Maternity Support Leave.

#### **Requirements for Making an Application for Maternity Support Leave**

The employee must advise their Headteacher/Manager of their leave plans at least **15 weeks before the expected week of childbirth** (or as soon as reasonably practicable if the birth takes place earlier). The employee must provide the employer with details of:

- The expected week of childbirth or, if the baby arrives early, the actual date of birth
- The dates of the leave.

The employee may change their leave plans provided their employer is given a minimum of four weeks' (28 days) notice of the revised date, unless it is not reasonably practicable to do so.

### **Form for Making an Application for Maternity Support Leave**

No later than 4 weeks before the commencement of the Maternity Support Leave is due to commence, a Maternity Support Leave Request Form should be completed. A copy of the MAT B1 (form from the midwife or GP stating the week the baby is due) should also be attached and given to the employer.

If the baby is born before the above action has been completed, the employee should complete the application form and provide a copy of the MAT B1 as soon as reasonably practicable.

Note that the above form is not attached to this document but will be made available on request.