



Paternity Leave

An EPM Guide

A Guide to Paternity Leave

Unlike maternity leave and pay, paternity leave and pay are much more limited, and the responsibilities of the employer are also less extensive. Recent changes provided some additional flexibility on how the leave is taken. Here is our key guidance on paternity related terminology, leave and pay.

Key Terms - Births

Expected week of childbirth (EWC): The week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.

Qualifying Week: The fifteenth week before the expected week of childbirth. The employee must have been continuously employed by the you (the employer) for at least 26 weeks up to any day in the 'qualifying week'.

Key Terms - Adoption

Adopter: A child's adopter is either the person who has been matched with the child for adoption or, where two people have been matched jointly, the person who has elected (at the time they are notified that they have been matched) to be the child's adopter for statutory adoption leave and pay purposes.

Prospective adopter: A prospective adopter is someone who has been approved as suitable to adopt a child and has been notified of that decision.

Child: A child is a person who is under the age of 18 when they are placed with the adopter for adoption.

Adoption agency: An adoption agency in England and Wales is defined by reference to section 2 of the Adoption and Children Act 2002 (ACA 2002) (either a local authority or registered adoption society in England and Wales).

Matched for adoption: A person is matched with a child for adoption when:

- An adoption agency decides that they would be a suitable adoptive parent for the child either individually or jointly with another person; or
- A decision has been made to place the child with a local authority foster parent who is also an approved prospective adopter and an adoption agency has identified them as the person with whom the child is to be placed.

Notification of being matched for adoption: A person is notified of having been matched with a child:

- When an adoption agency decides that they would be a suitable adoptive parent, on the date on which they receive notification of the adoption agency's decision.
- When a local authority foster parent is identified as an adoptive parent, on the date on which they receive notification of the adoption agency's decision.

The employee must have been employed for at least 26 weeks by the end of the week in which the child's Adopter is notified that they have been matched with a child to be eligible for Paternity leave and pay

Notification of being placed for adoption: A person is notified of a child being placed for adoption where either the child is:

- Placed for adoption under the ACA 2002; or
- Placed in accordance with section 22C of the Children Act 1989 with a local authority foster parent who is also a prospective adopter.

To be eligible for Paternity leave the employee must also be one of the following:

Parent: One of two people who will share the main responsibility for the child's upbringing (and who may be either the birthing parent, the other parent, or the birthing partner if not the other parent).

Or

Partner: Spouse, civil partner, or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

Ordinary Statutory Paternity Leave (OSPL)

A period that an individual takes off from work following birth or adoption of a baby.

Ordinary Statutory Paternity Leave is 2 weeks which can be taken consecutively or separately, within the 52 weeks from the birth or the date that the child is placed with the adopter

The earliest that Paternity leave can start is the day after the birth of the child or the date of placement.

Your employee's employment rights are protected while they are on Statutory Paternity Leave. This includes their right to pay rises, to accrue holiday, and to return to work. They may also be eligible to get Shared Parental Leave and Pay.

Ordinary Statutory Paternity Pay (OSPP)

Statutory Paternity Pay for eligible employees is either £184.03 a week or 90% of their average weekly earnings (whichever is lower).

OSPP is paid in the same way as your employee's wages (for example monthly or weekly). Tax and National Insurance will be deducted.

Maternity Support Leave for Non-Teaching Employees

In accordance with the Green Book, up to 5 days maternity support leave shall be granted to the non-birthing parent or the partner or nominated carer of the birthing parent at or around the time of birth. There is no length of service requirement.

A nominated carer is the person nominated by the birthing parent to assist in the care of the child and to provide support to the birthing parent at or around the time of the birth.

Maternity Support Leave is paid at the rate of normal salary. An employee who qualifies for both OSPL and maternity support leave will, therefore, be entitled to the first week's leave at full normal pay based on contracted hours, inclusive of Statutory Paternity Pay (SPP) where applicable. To qualify for the second week of statutory paternity leave and pay (at SPP rate or 90% of pay whichever is lower) it is necessary for the employee to meet the statutory criteria including length of continuous service and earnings criteria.

If unpaid statutory parental leave, or OSPL is requested in addition to Maternity Support Leave, the Maternity Support Leave is offset against the leave, it cannot be taken in addition to it.

The Green Book does not set out the same terms for adoption support leave, but schools should apply this to adoption paternity requests in the same way whereby the adopter nominates a carer to support them

You should be aware that more generous locally agreed arrangements may be in place, which encompass both Teachers and Non-Teachers, so check your School or Trust for specific contractual entitlements.

Important Notes

OSPL is not available if the employee has taken any Shared Parental Leave in respect of the child, if they have taken paid time off to attend up to five adoption appointments in respect of the child, or if they have already taken paternity leave in relation to the child as a result of the child being placed with a Prospective Adopter who at the same time of the placement is the employee's spouse, civil partner or partner. Therefore, taking account of any enhanced contractual entitlements they might have, parents intending to adopt should consider which right they wish the parent who is not the Primary Adopter to exercise: attending paid adoption appointments or OSPL.

For further information and details regarding Paternity Leave for Births and Adoptions, please see our detailed guidance on the website, including application forms.