

Paternity scheme

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Document History

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1. Introduction

- 1.1 There are a number of options open to those employees who qualify for paternity leave and this document is designed to let you know what you may be entitled to.
- 1.2 Employees can either apply for or be granted maternity support leave as outlined below in Section 2, OR statutory paternity leave, but not a combination of the two schemes and/or both.
- 1.3 However an employee is able to apply for both statutory paternity leave and pay (two weeks) and also Shared Parental Leave and Pay. See the Shared Parental Leave Scheme for more details.

2. Maternity support leave

- 2.1 Service Directors are authorised to grant up to five days (pro rata for part time employees) paid leave to employees who are the nominated carer of an expectant mother. This leave is to be taken at or around the time of the birth.
- 2.2 A nominated carer is the person nominated by the mother as their primary provider of support at or around the time of the birth; this could be the baby's father or someone who has a caring relationship with the mother and/or the child. See the [compassionate and special leave procedure](#) for more details and the family related request form (you can get this from you manager).
- 2.3 If you take Maternity Support Leave you may not also take Statutory Paternity Leave.

3. Paternity leave - general

- 3.1 Employees may be eligible for Statutory Paternity Leave and Statutory Paternity Pay if:
 - their partner is having a baby
 - they or their partner is adopting a child
 - they are having a baby through a surrogacy arrangement.

4. Before commencing paternity leave

- 4.1 You have an obligation to inform your manager and the HR and Payroll Transactions Team of your intention to take paternity leave as soon as possible but there are different time lines depending on whether you are the partner of a pregnant woman, adopting or in a surrogacy arrangement. See below.
- 4.2 Notifications must be received as follows:
 - If you are the partner of the pregnant woman, 28 days before leave is to be taken
 - If you are adopting, 28 days notice is required
 - If you are in a surrogacy arrangement, 28 days before leave is to be taken
- 4.3 You must provide the following details:
 - the start date of the leave to be taken (can be changed with reasonable notice)
 - the duration of leave to be taken e.g. one or two weeks
 - the week the baby is expected (if partner of pregnant woman or if applying for a Parental Order as part of a surrogacy arrangement) **OR**
 - the date the child will be placed with you (UK adoptions) **OR**
 - the date the child entered the UK (overseas adoptions)
 -

4.4 You must also be one of the following:

- the biological father
- the husband, civil partner or partner of the mother (or adopter)
- child's adopter
- intended parent (if having a baby through a surrogacy arrangement)

4.5 You will be required to complete a paternity leave request form which your line manager must sign to authorise.

5. Statutory paternity leave

5.1 Paternity leave can be taken as either one week or two weeks leave. It can be taken as two non-consecutive weeks if you wish to do so. The amount is the same even if there is more than one child e.g. twins.

5.2 Paternity leave cannot start before the birth of the child.

5.3 Paternity leave can start on one of the following:

- the actual date the baby is born or
- an agreed number of days after the birth
- any time during the 52 weeks of leave after birth
- the date on which the child is placed with the adopter or the following day
- a specified pre-determined date, which is later than the date on which the child is expected to be placed with the adopter
- a date falling a number of days after the date on which the child is placed with the adopter which you may specify

5.4 In order to be eligible for Paternity Leave in all cases you must:

- be classed as an employee
- be employed up to the date the child is born or placed with the adopter
- give the correct notice (see paragraph 4.2)
- be taking time to look after the child or your partner
- be responsible for the child's upbringing
- have been in continuous employment for 26 weeks by the end of the 15 week before the expected week of childbirth (known as the qualifying week)
- or have been in continuous employment for 26 weeks by the end of the week you/your partner were matched with the child (UK adoptions)

or

- have been in continuous employment for 26 weeks by either the date the child arrives in the UK or when you want your pay to start (overseas adoptions)
- confirm in writing that your partner is getting Statutory Adoption Pay (if adopting).

5.4.1 Additional requirements for adoption.

You must

- confirm in writing that you are not taking Statutory Adoption Leave
- confirm in writing that you have not taken paid time off work to attend adoption appointments
- be the spouse, civil partner or the partner of the child's adopter.

5.4.2 Additional requirements for surrogacy

- be eligible for and intend to apply for a Parental Order in respect of the child
- expect to have main responsibility for the child (with the other parent on the Parental Order)

5.5 Employees who fulfil the above criteria can request paternity leave in accordance with the statutory paternity leave scheme paternity leave request form.

6. Paternity pay

If you qualify for paternity leave you **may** also be entitled to paternity pay.

6.1 Statutory Paternity Pay (SPP) – The Details

6.1.1 Statutory paternity pay (SPP) is paid for one or two whole weeks at the lower figure;

either

- the standard statutory paternity pay rate which can be found [here](#)

or

- 90per cent of Average Weekly Earnings (AWE) if your earnings are less per week than the statutory rate.

6.1.2 Statutory Paternity Pay is subject to PAYE (pay as you earn) and NI (national insurance) deductions and is paid on the usual salary pay day.

6.1.3 SPP is not payable in the following circumstances:

- in a week in which the person receives statutory sick pay
- following the death of the person receiving SPP
- where the person claiming SPP is detained in custody or in prison following sentence.

6.2 Qualifying for Statutory Paternity Pay

There are different requirements depending on whether you are the spouse, civil partner or partner of the pregnant woman, an adopter, the spouse, civil partner or partner of an adopter or a parent who will be named on a Parental Order when in a surrogacy arrangement.

6.2.1 Qualifying as the spouse, civil partner or partner of the pregnant woman

You must:

- earn on average at least the lower earnings limit a week (current limits can be obtained via HR services)
- give the correct notice
- have worked for the council continuously for at least 26 weeks up to the qualifying week

6.2.2 Qualifying as an adopter, the spouse, civil partner or partner of an adopter

You must:

- have at least 26 weeks continuous service at the “qualifying week”
- continue to be employed by the council until the date on which the child is placed

- have earned on average at least the lower earnings level in the eight weeks period leading up to the week in which you were notified you had been matched with the child you are adopting
- have elected to receive statutory paternity pay, be married to, the civil partner or the partner of the adopter and have the main responsibility for the care of the child (together with the other parent).

6.2.3 Qualifying as a parent who will be named on a Parental Order when in a surrogacy arrangement

You must:

- be an employee
- have at least 26 weeks continuous service at the 15 week before the week in which the baby is due
- continue to be employed by the council until the birth of the child
- have earned on average at least the lower earnings level in the eight weeks period leading up to the 15 week before the expected week of childbirth.
- be eligible for and or intend to apply for a Parental Order in respect of the child
- have elected to receive statutory paternity pay, be married to, the civil partner or the partner of the other Parental Order parent and have the main responsibility for the care of the child (together with the other parent).

6.2.4 In all cases if you have less than 26 weeks continuous service, by the end of the qualifying week or if your earnings are below the national insurance lower earnings limit you will **not be** entitled to SPP.

6.2.5 If you do not qualify for SPP the HR and Payroll Transactions Team will provide you with a SPP1 form outlining why you are not eligible. You should then contact the Department for Work and Pensions to ascertain if you are eligible for other welfare benefits.

6.3 Qualifying Week

6.3.1 The qualifying week for an employee who is the spouse, civil partner or partner of a pregnant woman is the 15 week before the week in which the baby is due (the expected week of childbirth).

6.3.2 The qualifying week for adopters (UK adoptions) is the week in which the prospective adopter is notified that they have been matched for adoption with a child.

6.3.3 The qualifying week for adopters (overseas adoptions) is the date the child enters the UK or the date when you want the paternity leave to start.

6.3.4 The qualifying week for those in a surrogacy arrangement is the 15 week before the week in which the baby is due (the expected week of childbirth).

7. Antenatal appointments

7.1 The right to unpaid time off to attend two antenatal appointments exists for the child's father or the expectant mothers spouse or civil partner. The unpaid time off is limited to six and a half hours for each appointment. (See the Compassionate and special leave procedure for more details.)

8. Fostering to adopt

8.1 Where paternity leave is taken at the time of a child being placed with the family in accordance with section 22C of the Children Act 1989 (initially for fostering) they are not

entitled to a further amount of statutory paternity leave when the adoption process begins. There is only one entitlement to paternity leave and pay in respect of that child.

9. Multiple births

9.1. The amount of paternity leave is the same even if there are multiple births e.g. twins. The entitlement remains at two weeks leave to be taken either as two non-consecutive weeks leave, or as a consecutive two week period.

10. Death of a baby and still births

10.1 If a baby dies or is still-born after 24 weeks of pregnancy the employee will still qualify for paternity leave and pay.

10.2 Where death occurs before 24 weeks (miscarriage) sympathetic consideration will be given to the circumstances and special leave or sick leave may be granted. Each case will be examined on its merits.

10.3 The [compassionate and special leave procedure](#) can be found on the Intranet or from your line manager.

11. Useful contact details

Address: HR and Payroll Transactions Team, 3rd Floor Town Hall

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Email: hrrservices@luton.gov.uk