

## **Paternity Leave Policy**

### **Purpose and scope**

The purpose of this policy is to confirm and communicate the Company's paternity leave arrangements and application procedures to ensure that all employees requesting paternity leave are treated fairly and consistently throughout the organisation.

This policy applies to all employees and covers applications for paternity leave and pay in respect of children who are either born or adopted. Employees who claim paternity leave in respect of a child, may not also claim maternity or adoption leave [under the Company's separate Maternity or Adoption Policy] [in accordance with the statutory provisions for maternity and adoption] in respect of the same pregnancy or placement.

The Company's paternity arrangements can apply to both female and male employees so long as the eligibility criteria has been met.

Your statutory rights to paternity leave and pay are contained in various pieces of employment-related legislation and the Company will fully comply with these rules. Some main provisions of the statutory entitlements are summarised below for your information. In the case of any discrepancy between the provisions below and the statutory provisions, the statutory provisions will apply. [This policy is not intended to give you any rights different from those laid down in relevant legislation.]

This policy does not form part of employees' contracts of employment and the Company may amend it at any time.

### **Entitlement to Paternity Leave ("PL")**

PL is for the purposes of caring for the child or supporting the child's mother or adopter (or co-adopter, if you are jointly adopting), and for these purposes only.

Subject to the above, in order to be eligible for PL you must:

- In birth cases, be the:
  - biological father of the child; or
  - spouse, civil partner or partner of the child's mother
- In adoption cases, be the child's adopter, or spouse, civil partner or partner of the child's adopter
- Have at least 26 weeks' continuous service with the Company by the end of the 15<sup>th</sup> week before the expected week of childbirth or, in the case of adoption, the end of the week in which the adoption agency gave you or the child's adopter notification of having been matched with the child.
- If you are the child's biological father, have some responsibility for the upbringing of the child.
- If you are not the child's biological father but you are the biological mother's spouse, civil partner or partner, have or expect to have the main responsibility (apart from any responsibility of the mother) for the upbringing of the child.
- In respect of a child being placed for adoption, have or expect to have the main responsibility (apart from the responsibility of the child's adopter or, if you are jointly adopting, together with the other adopter) for the upbringing of the child.

A "partner" is defined as a person, of the opposite or same sex, who is living with the mother or adopter and the child in an enduring family relationship, but who is not a relative of the mother or adopter (such as a parent, grandparent, sister, brother, aunt or uncle of full or half blood).

"Expected week of childbirth" is defined as the week, beginning on a Sunday, in which the biological mother is expected by her doctor or midwife to give birth.

### **Paternity Leave Allowance**

Employees who satisfy the above criteria are entitled to take up to two weeks' PL.

You may choose to take PL either as a block of two consecutive weeks or you can take one week only. You cannot elect to take two separate blocks of one week.

Only one period of PL is available to an employee irrespective of whether more than one child is born as a result of the same pregnancy, or more than one child is placed as part of the same arrangement in cases of adoption.

You may choose when you would like your PL and paternity pay to start, which can be:

- On the date of the birth or placement of the child. If you are at work on the day in question, your leave will commence the day following.
- A specified number of days after the birth or placement.
- A predetermined date that is later than the date on which the child is expected to be born or placed for adoption.

### **But:**

- PL cannot be taken before the birth or placement of the child, and if necessary will have to be postponed.
- PL must be taken within 56 days of the child's birth or within 56 days of the beginning of the expected week of childbirth, whichever is the later. In the case of adoption, the leave must be taken within 56 days of the date on which the child was placed for adoption.

Part time employees are entitled to leave in proportion to the amount of time that they work.

### **Time off to Accompany Pregnant Woman to Ante-Natal Appointments or Primary Adopter to an Adoption Appointment**

If you are:

- The joint adopter of the child
- The spouse or civil partner of a pregnant woman
- Not related to but living in an enduring family relationship with a pregnant woman
- The father of an expected baby
- Part of a same sex couple who is to be treated as the child's other parent under assisted reproduction provisions
- The potential applicant of a parental order in relation to a child expected to be born to a surrogate mother

Then you may take [unpaid] leave in order to accompany the pregnant woman/primary adopter to an ante-natal appointment or adoption appointment.

This is limited to a maximum of two appointments. Time off for each appointment is limited to a maximum of 6.5 hours.

You should discuss any intention of using this leave with your manager as soon as possible.

Your manager will require you to sign a declaration confirming your relationship to the pregnant woman/primary adopter and confirming the time and date of the appointment.

The Company reserves the right to refuse a request where it is reasonable to do so.

### **Statutory Paternity Pay (SPP)**

You are not entitled to receive your normal salary during a period of PL. However, you may be entitled to receive SPP which is currently [**£**] per week or 90% of your normal weekly earnings, whichever is the lesser. SPP is subject to income tax and NI deductions.

In order to qualify for SPP, you must:

- Fulfil the eligibility criteria and notification requirements to take PL.
- Your normal weekly earnings must not be less than the lower earnings limit for the payment of NI contributions.
- Stay in employment with the Company until the day the child is born or placed for adoption.

Your normal weekly earnings will be calculated as your average pay over the eight weeks immediately before the 15th week before the expected week of childbirth, or, in the case of adoption, the eight weeks before the week in which the adoption agency gave you or the adopter notification of the approved match.

[The Company, in its discretion, has chosen to enhance the statutory pay provisions for those with [*enter any service requirement e.g. 26 weeks service*]. The Company Paternity Pay Scheme entitles the employee to receive payment for [*enter the number days e.g. 3 days*] at [*enter the rate e.g. equal to his/or her full rate of pay.*]

Any payment made to you by the Company will be offset against any ordinary statutory payment to which you are entitled and will not be made in addition to any such payment.]

### **Other terms and conditions**

With the exception of terms relating to remuneration, all other terms and conditions of your employment remain in force during a period of PL.

Your annual leave will continue to accrue during your absence at your normal rate and the Company's rules regarding the taking of holiday will continue to apply.

As a general rule, for pension purposes, any period of paid paternity leave, when you are receiving [contractual and/or] SPP, will be treated as if you were working in the normal way, except that your pension contributions will be based on the actual amount of paternity pay you receive. You are advised to contact [the Scheme Administrator] for full details and any further advice.

### **Notification of Paternity Leave**

You must notify the Company of your intention to take paternity leave and claim paternity pay by completing the relevant self-notification form, which can be obtained from [the Intranet] [the HR Department] [your manager].

Your completed self-notification form must be given [to the HR Department][your Manager] at least 15 weeks before the expected week of childbirth or, in the case of adoption, no

later than seven days after the date on which the adoption agency notified the adopter (or you, if you are jointly adopting) of having been matched with a child.

Prior to commencing leave, you may cancel or vary the length and start date you have chosen by confirming the revised arrangement in writing to [the HR Department][your manager]. Amended requests for PL should be made at least 28 days before the new start date, or the date on which you originally intended your leave to begin, whichever is the earlier.

If you are unable to notify the Company within the specified timescales, you must give notice as soon as reasonably practicable or otherwise you could affect your entitlement to paternity leave and pay [and risk disciplinary action].

[The Company may request a copy of the birth certificate or documents from the adoption agency verifying the date the child was matched and placed and, where applicable, may ask you for details of your spouse, civil partner or partner's employer.]

### **Rights on and after returning to work**

You will not normally be required to give the Company any further notice of your return to work, as intended, on the date confirmed in your self-notification form.

Following a period of PL, you are in most cases entitled to return to work to the same job in which you were employed immediately before your absence.

### **Shared Parental Leave**

Employees may be eligible to shared parental leave [as detailed in our Shared Parental Leave Policy].

### **Breach of policy**

If you feel that you have suffered a detriment as a result of requesting or taking PL, or that such leave has been unfairly postponed, you should, in the first instance, raise the matter in accordance with the Grievance Policy.

The Disciplinary Policy may be invoked by the Company if you are found to have intentionally misled the Company in respect of any matter relating to your entitlement to take paternity leave or to have breached this policy in any other way.

In need of practical and commercial legal advice? Contact Clarkslegal LLP on 020 7539 8000 or [contact@clarkslegal.com](mailto:contact@clarkslegal.com)

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