

## **Paternity Leave (Ordinary and Additional Paternity Leave)**

### **1. Who the policy applies to**

HM Treasury's paternity leave provisions apply to all employees i.e. it would not apply to agency workers but will apply to those employed on a fixed term contract as well as to permanent employees and those on loan. The eligibility criteria and notification requirements detailed below must be satisfied.

This policy applies to all employees regardless of sexual orientation or gender identity. Line Managers need to be sensitive when notified of a birth or adoption, particularly around confidentiality, as disclosure of information may be a breach of Data Protection legislation; for example under gender reassignment circumstances.

### **2. Type of Paternity Leave**

There are two types of paternity leave; ordinary paternity leave (OPL) and additional paternity leave (APL). Employees may be entitled to both.

OPL and APL cannot be taken as two consecutive periods and have different eligibility and pay criteria. If an employee would like to take more time off immediately following OPL the options are;

- Take a period of annual leave
- Apply for parental leave (refer to parental leave policy)
- Return to work and take Additional Paternity Leave once they are eligible (see below for APL eligibility criteria)

### **3. What is OPL?**

OPL applies to all full-time and part-time employees, no matter how many hours they work and regardless of their length of service, provided they satisfy all of the qualifying conditions.

Employees who are eligible for OPL after the birth or adoption of a child are entitled to 2 weeks paid leave.

This leave should be taken in blocks of a week or two rather than as odd days, although where there are exceptional circumstances, line managers have discretion to allow this.

#### **3.1. Birth parent**

Employees can choose to start their leave from:

- the date of the child's birth (whether this is earlier or later than expected) or
- on a chosen day after the date of the child's birth (whether this is earlier or later than expected) or

- from a chosen date which is later than the first day of the expected week of childbirth.

OPL must be taken within 56 days of the date of the child's birth. If the birth is premature, the leave must be taken within 56 days of the expected week of child birth.

Only one period of leave is available to employees irrespective of the number of children resulting from a single pregnancy.

### **3.2. Adoptive parent**

Employees can choose to start their leave from:

- the date of the child's placement (whether this is earlier or later than expected), or
- a chosen number of days or week after the date of the child's placement (whether this is earlier or later than expected), or
- a chosen date which is later than the date on which the child is expected to be placed with the adopter.
- If a child has been adopted from outside the UK, employees can choose to start their leave from:
  - the date the child enters the UK (whether this is earlier or later than expected), or
  - a chosen date after the child enters the UK

In the case of adoption from inside or outside the UK, leave can start on any day of the week on or following the child's placement/entry into the UK but must be completed within 56 days of the child's placement/entry into the UK.

Only one period of leave is available to employees irrespective of whether more than one child is placed together.

## **4. Roles and Responsibilities**

### **4.1. Employees must:**

- inform their line manager of the date from which they wish to take leave and provide all of the required information.
- comply with the procedures

### **4.2. Managers will:**

- have a duty to apply the OPL policy and accompanying procedures.
- maintain reasonable contact with the employee during the period of OPL to keep them up to date on any significant developments.

### **4.3. HR will:**

- Administer pay during OPL
- Record OPL on Oracle

## **5. Eligibility and notifications**

In order to be eligible for OPL all the following criteria must be satisfied.

### **5.1. Birth Parent**

- is the father of the child or the mother's husband or partner (including same-sex partner)
- has or expect to have responsibility for the upbringing of the child if they are the father or expect to have the main responsibility for the upbringing of the child if they are the mother's husband or partner but not the child's father (including same-sex partner)
- has parental responsibility for a partner-less daughter
- has given the correct notice.

In the unfortunate circumstances that the child is stillborn after 24 weeks of pregnancy, eligible employees still have the right to take paternity leave as detailed in this policy.

**5.1.1.** Employees are required to notify their line manager of their intention to take paternity leave at least 4 weeks before their ended leave date or as soon as is reasonably practicable. The employee should complete an Application for Paternity Leave form and submit along with a copy of the MATB1 to HR Services. (MATB1 will be issued from 20 weeks of pregnancy onwards).

### **5.1.2. Adoptive Parent**

- has or expects to have the main responsibility for the child's upbringing
- is married to, or the partner of the child's adopter
- has given the correct notice

If the adopter is told before paternity leave has started that the child will not be placed with them, the employee will not be able to take paternity leave. If the child is placed and a disruption occurs after placement, the employee will be entitled to paternity leave and pay as planned.

**5.1.3.** Upon receipt of written confirmation of being matched with a child from approved UK agency or upon receipt of the official notification from the relevant domestic authority in the event of adoption of a child from outside the UK, the employee should then complete an Application for Paternity Leave and submit along with a copy of the adoption notification to HR Services.

**5.1.4.** The Treasury appreciates that the dates for leave may change due to the early or late birth of a child and any unforeseen changes to the adoption placement date. Should such circumstances occur the employee is required to give as much notice as possible to their line manager to change their proposed leave dates and line managers will do their best to accommodate their request.

## **6. Pay and benefits**

Employees will be entitled to pay which is equal to a total of 2 weeks pay at their normal pay rate (excluding any overtime). This will be paid directly to the employee on their normal pay date.

## **7. Contractual benefits**

All employees are entitled to the benefit of their normal terms and conditions of employment throughout the OPL period. Employees will continue to remain bound by any obligations arising under their contract of employment.

## **8. Return to work**

Employees are entitled to return to the same job and terms and conditions following OPL.

## **Additional Paternity Leave**

### **9. What is APL?**

APL allows employees to take up to 26 weeks leave to care for their new child once the mother or primary adopter has returned to work.

The earliest that this leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of the placement of the child for adoption, and it must end no later than 12 months after that birth/placement date. It can only be taken where the mother or primary adopter has returned to work.

### **10. Roles and responsibilities**

Employees must:

- provide at least 8 weeks' notice in writing of the date from which they wish to take leave and provide all of the required information.
- comply with the procedures

Managers will:

- have a duty to apply the APL policy and accompanying procedures.
- maintain reasonable contact with the employee during the period of APL to keep them up to date on any significant developments.

HR will:

- confirm the employees entitlement to APL in writing
- administer pay during APL
- record APL in oracle

## **11. Eligibility & Notifications**

In order to be eligible for APL, each of the following criteria must be satisfied

### **11.1. Birth Parent**

- The employee has been continuously employed within the Civil Service for at least 26 weeks, ending with the 15<sup>th</sup> week before the expected week of childbirth and remains in continuous employment with the Civil Service until the week before APL starts. This continuity is not broken by movement between Departments, and;
- Has or expects to have the main responsibility for the upbringing of the child (apart from any responsibility of the mother), and;
- Be the biological father of the child or be married to, or be the partner or civil partner of, the child's mother, and;
- The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance, and;
- The mother must have returned to work before APL can start.

### **11.2. Adoptive Parent**

- Has been continuously employed within the Civil Service for at least 26 weeks ending with the week in which the primary adopter is notified of having been matched with a child and remains in continuous employment within the Civil Service until the week before APL starts. This continuity is not broken by movement between Departments, and;
- Be married to or be the partner or civil partner of the primary adopter and have been matched with the child for adoption, and;
- The primary adopter must be entitled to one or both of: adoption leave; or statutory adoption pay, and;
- The primary adopter must have returned to work before APL can start.

11.3. For both birth and adoptive parents, please note the effect of the following types of absence on continuous service:

- A strike day would not break continuity of service but suspends it for the period of the strike. For example if an employee was on strike for one day, then they would need to have worked for 26 weeks and one day to achieve continuity of service.
- Unpaid APL does not break or suspend the period of continuous service for up to the end of the 12 month period pay period.

## **12. Notification Requirements**

The employee must notify their line manager and complete the Application for Paternity Leave form at least 8 weeks prior to the chosen start date. Both the mother/primary adopter must sign written declarations.

If the employee wants to change the start date or cancel the leave, they must give their line manager 6 weeks written notice and notify HR to ensure that pay changes correct.

HR will respond in writing to the request within 28 calendar days of receipt, confirming whether the employee is entitled to the leave and the relevant start and end dates.

If you are not entitled to APL HR will inform you in writing of the reasons why.

### **13. Pay & Benefits**

#### **Additional Statutory Paternity Pay**

13.1. Employees may qualify for Additional Statutory Paternity Pay for some of the APL period if each of the following criteria is satisfied:

- The employee is eligible for APL, and;
- The employee remains in continuous employment with the Civil Service until the week before the Additional Statutory Paternity Leave begins, and;
- The mother is entitled to statutory maternity pay or maternity allowance or, in the case of adoption; the primary adopter is entitled to statutory adoption pay, and;
- The mother or primary adopter has returned to work at least 2 weeks before his/her full entitlement to Statutory Maternity Pay/Maternity Allowance/Statutory Adoption Pay has been exhausted and;
- The employee must pay Class One National Insurance Contributions (NICs) to be eligible for Additional Statutory Pay and have paid these in the relevant 8 week period and;
- The employee gives the required notification under this policy.

The employee will be paid Additional Statutory Paternity Pay for the remainder of the mother or primary adopter's untaken 39 week statutory pay period.

- Any leave taken after the 39<sup>th</sup> week of the statutory pay period will be unpaid. As at April 2011, the rate is £128.73 per week or if it is a lower amount, 90% of average weekly earnings.
- Additional Statutory Paternity Pay is payable whether or not the employee intends to return to work and will start the day APL starts.
- The mother/primary adopter must have returned to work to enable the eligible employee to take APL. A period of annual, sick or parental leave taken immediately after the maternity leave, but during the maternity or adoption pay period, is not a return to work.

### **14. Disagreements**

If the employee thinks that they are eligible for pay and the Department's decision not to pay Additional Statutory Paternity Pay is wrong, then the employee should ask

the department for the reason. The Department should explain the reason for the decision in writing. If the employee is not satisfied they can provide additional information to support their reasons, they should do so as soon as possible. The Department will review the case and inform the employee of the final decision as soon as possible.

If the employee still disagrees, they can raise a grievance/complaint using Departmental procedures. Employees can contact their Trade Union for advice.

#### **15. Contractual Benefits**

The employee's contract remains in place and the employee will continue to accrue all contractual benefits except for salary, when they are on this leave. Annual Leave and Public/Privilege days will continue to accrue. The Department will carry on making their usual contributions to a pension during any paid period of APL but not during any unpaid period; employee contributions will be based on actual pay received.

#### **16. Keeping in Touch Days**

Employees may work up to 10 days during their leave by mutual agreement with their Line Manager. This is to enable the employee to remain in touch with their workplace. If more than 10 days are worked then the APL will end.

If an employee works on a keeping in touch day, they are entitled to the rate of pay that they would normally be contractually entitled to.

#### **17. Return to Work**

If employees decide to change their return date, at least 6 weeks' written notice of the new date is required. If this requirement is not met, the Department may postpone the employee's return until such time as will ensure that the department has 6 weeks' notice of the employee's return date.

At least two weeks before the employee is due to return to work, the Department should contact the employee in writing to discuss their return to work.

On returning from up to 26 weeks of APL the employee has the right to return to the same job. This also applies for those who opt to take up to 4 weeks' unpaid parental leave at the end of the APL.

If the employee returns after a longer period, the employee has the right to return to the same job unless it is not reasonably practical. In this case the employee has the right to a suitable and appropriate alternative job at the same level. This provision is the same as the rights to return to work following maternity leave.

If an employee decides not to return to work, then they must provide written notice to their Line Manager in accordance with the terms of their contract.

## **18. Restructuring and redundancy situations**

It is very important that the employee is informed and consulted about future restructuring exercises if their designated post is subject to change or is at risk.

If a redundancy situation arises in an employee's absence, the department must make all reasonable efforts to find alternative work for the employee. Where there is a suitable available vacancy the employee on APL will have priority over other employees in the redundancy exercise in the same way as staff that are returning from maternity or adoption leave.

Employees who are on this leave, are legally protected from detriment for any reason connected with the fact that they have requested or taken APL.

## **19. False Declarations**

If the employee fraudulently or negligently gives incorrect information or makes a false statement or declaration about their circumstances, this will be considered a disciplinary offence. Action should be taken in accordance with departmental disciplinary procedures.

## **20. Confirming Information**

The regulations specifically empower an employer to be able request an employee to provide mothers/primary adopters employment details. Treasury may contact that employer to confirm this information this will be done through a random sampling process.

## **21. Further Support available**

### **In the event of a partners pregnancy**

The Treasury offers reasonable time off for employees to accompany their pregnant partner to antenatal clinics regardless of length of service. This time off will be paid as long as the amount of time off required is confirmed by the line manager as reasonable. Employees must provide their Line manager with evidence of their partners' pregnancy and written confirmation of an antenatal appointment if requested.

### **In the event of Adoption**

All employees, regardless of length of service, have the right to reasonable time off to attend meetings with the relevant approved agency to arrange the adoption. This time off will be paid as long as the amount of time required is reasonable. Should an employee adopt a child from abroad and the meetings with the agency are to take place abroad, they will usually be entitled to paid leave for the dates of the meetings with the agency only. Any remaining time taken should be taken as annual or unpaid leave. employees must provide their Line Manager with evidence of the meetings upon request.



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The Treasury recognises that during the Adoption process there is often a period of Introduction with the child, which can be crucial to the success of the placement. The introduction period usually involves both parents both adoptive parents spending time in the foster/care home with the child and is followed by a gradual introduction to the adoptive parents home prior to the actual date of placement. Employees are encouraged to use their annual leave entitlement to cover this period. In the event that this is not possible employees should request unpaid leave from their line manager giving as much notice as possible. All decisions will be made on a discretionary basis.

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