



West Norfolk  
Academies Trust

# **WNAT Paternity Policy (Birth)**

**Reviewed by: Trustees**

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**Consulted with recognised trade unions on 3<sup>rd</sup> July  
2019**

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## 1. Scope

- 1.1** The following guidance sets out the **statutory minimum** required by regulation in respect of Ordinary Statutory Paternity Leave (OSPL) and Ordinary Statutory Paternity Pay (OSPP) rights, which are applicable to all employees in the case of births. It also comments on relevant non-teaching contractual provisions and local arrangements. In the case of multiple births the term child may be read as children and the term birth as births.
- 1.2** In the case of adoption, please refer to the Ordinary Paternity Leave and Pay (Adoption) Management Guidance Notes and Employee Application Form.

## 2. Frequently Used Terms

- 2.1** The definitions in this paragraph apply in this guidance.
- **Expected week of childbirth (EWC):** The week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.
  - **Parent:** One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father).
  - **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.
  - **Qualifying Week:** The fifteenth week before the expected week of childbirth.

## 3. Eligibility for Ordinary Statutory Paternity Leave

- 3.1** The employee must:
- Have been continuously employed by the employer for at least 26 weeks up to any day in the 'qualifying week'. The 'qualifying week' is the 15th week before the expected week of childbirth and
  - Be either the:
    - biological father of the child; or
    - spouse, civil partner or partner; and
- 3.2** Be taking the time off to support the mother or care for the child and have or expect to have responsibility for the child's upbringing; and
- 3.3** Give written notice no later than the end of the 15th week before the expected week of childbirth, [EWC] or as soon as is reasonably practicable of
- the expected date of the child's birth
  - The amount of OSPL that the employee intends to take (that is, either one week or two consecutive weeks);
  - when they want their OSPL to start [see below]

- 3.4** If the employee is eligible and gives the required written notice they are entitled to take the leave; it cannot be refused or deferred by the employer.
- 3.5** Non-teaching staff who are employed under Green Book conditions of service may be entitled to Maternity Support Leave, irrespective of length of service, and relationship to the mother or child, provided that they are the 'nominated carer of an expectant mother at or around the time of birth' (see 6.). This provision does not apply to teachers, but local arrangements may exist (see 7.).

#### **4. The Entitlement to Ordinary Statutory Paternity Leave and how it can be Taken**

- 4.1** The minimum Ordinary Statutory Paternity Pay (OSPP) for the leave will be determined in accordance with the statutory requirements in place at the time. These can be accessed at [www.gov.uk](http://www.gov.uk).
- 4.2** OSPL is not available if the employee has taken any Shared Parental Leave in respect of the child.
- 4.3** Any employee not entitled to OSPP will receive form SPP1 from their payroll provider explaining why they are not eligible; they may then be able to claim income support during OSPL.
- 4.4** The entitlement is to up to two weeks (either one week or two consecutive weeks) paid leave, to be taken within 56 days of the birth date.
- 4.5** The leave can start on any day of the week, and whilst an employee can apply to take the leave on any date falling after the first day of the EWC, the leave cannot actually commence prior to the date on which the child is born. If the child is born later in the EWC, or later than the EWC, the leave must be delayed until the birth.
- 4.6** If the child is born earlier than expected, OSPL must be taken between the date of birth and 56 days from the first day of the EWC.
- 4.7** If an employee specifies the date of birth as the day they wish to start their leave and they are at work on that day, their leave will begin on the next day.

#### **5. Changing the Start Date of Ordinary Statutory Paternity Leave**

- 5.1** If the employee wants to change the start date they must give the following written notice:
- If they want to change their leave so it starts on the date of birth, at least 28 days before the first day of the EWC
  - If they want to change their leave so it starts on a particular date, 28 days before that date
  - If they want to change their leave so it starts a specified number of days after the birth, at least 28 days (minus the specified number of days) before the first day of the EWC; e.g. if the employee wants to start their leave 14 days after the birth and the EWC begins on 16 July, they must notify you of the new date on 2 July i.e. 28 days before 14 days after 16 July

- 5.2 When it is not possible to give the required written notice, for example when a child arrives late or early, the employee should inform you as soon as reasonably practicable as to any date changes that may occur.
- 5.3 Where an employee has changed the start date of their leave, they should fill in a new application form.

## **6. Maternity Support Leave for Non-Teaching Employees**

- 6.1 In accordance with the Green Book, up to 5 days maternity support leave shall be granted to the child's father or the partner or nominated carer of an expectant mother at or around the time of birth. There is no length of service requirement.
- 6.2 A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
- 6.3 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.
- 6.4 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.

## **7. Local Arrangement for Teaching Employees**

- 7.1 West Norfolk Academies Trust have chosen to pay the employee in addition to any entitlement to OSPP. This arrangement is to equalise the maternity support leave for all staff, regardless of whether they are teaching or support. Section 6 of this policy therefore sets out the local arrangement for Teaching Employees.

## **8. Employment Rights During Leave**

- 8.1 An employee who takes OSPL has the right not to be dismissed or subjected to any other detriment by reason of taking the leave. Continuous service will continue to accrue during paternity leave for both teaching and non-teaching employees.
- 8.2 During OSPL an employee has a statutory right to continue to benefit from all the terms and conditions of employment which would have applied to them had they been at work, except for the terms relating to wages or salary. Performance management processes and pay progression considerations will still apply. The employee remains bound by their obligations of good faith, as well as any contractual terms relating to the giving of notice, disclosure of confidential information, acceptance of gifts and benefits and freedom to participate in another business/work elsewhere.

## **9. The Right to Return from OSPL**

- 9.1** An employee who has exercised their right to take OSPL usually has the right to return to the same job that they were employed to do immediately prior to taking the leave. This right depends on the OSPL having been one of the following under regulation 13:
- An isolated period of leave.
  - The last of two or more consecutive periods of statutory leave (maternity, adoption, shared parental leave, parental and paternity leave) which did not include any:
  - Period of parental leave of more than four weeks; or Period of statutory leave which when added to any other periods of statutory leave (excluding parental leave) taken in relation to the same child means that the total statutory leave taken in relation to that child totals more than 26 weeks.
- 9.2** If the above does not apply, and it is not reasonably practicable for the employer to return the employee to the job they were doing before their OSPL, the employer is entitled to propose an alternative job for the employee to return to which is both suitable for them and appropriate for them to do in the circumstances.
- 9.3** The employee's right to return under regulation 13 is a right to return:
- With their seniority, pension rights and similar rights:
    - In a case where the employee is returning from consecutive periods of statutory leave which included a period of additional maternity leave or additional adoption leave, as they would have been if the period(s) of their employment prior to the additional maternity or adoption leave [as the case may be] were continuous with the period of employment following it; and
  - In any other case, as they would have been had the employee not been absent:
    - On terms and conditions not less favourable than those which would have applied had the employee not been absent on OSPL.

## **10. Informing EPM Payroll that an Employee will be taking OSPL**

- 10.1** Payroll will request that the employee completes the attached form. The original signed copy will be retained on the employee's personnel file. A copy of the completed form will be sent to the Trust's payroll adviser.
- 10.2** Sections A to D are to be completed by the employee. Section E is to be completed by the relevant Headteacher, and must be signed by them to enable processing.

# Notification of Maternity Support Leave and Application for Maternity Support Pay

Notification of Maternity Support Leave and Application for Maternity Support Pay
<b>Section A – Employee Details/Entitlement (to be completed by the employee)</b>
<p><b>Personal Details</b></p> <p>Employee Name: _____ Payroll Reference Number: _____</p> <p>Address for correspondence: _____ _____</p> <p>School: _____</p> <p>Post title: _____</p> <p>Relevant Week (15<sup>th</sup> week before EWC/week notified of placement if adoption): _____</p> <p>Copy of evidence attached (MAT B1 Form / adoption matching certificate): <span style="float: right;">Yes/No</span></p>
<b>Section B – Notification of Maternity Support Leave (to be completed by employee)</b>
<p>I confirm that I meet the qualifying conditions for maternity support leave in that I will be:</p> <p>(a) the father of the child(ren) with responsibility for the upbringing of the child(ren)*</p> <p>(b) not the father, but married to the child(ren)'s mother/adopter and mainly responsible (apart from the mother/adopter) for the upbringing of the child(ren)*</p> <p>(c) not the father, but the partner of the child(ren)'s mother/adopter and mainly responsible (apart from the mother/adopter) for the upbringing of the child(ren)*</p> <p>(a) The adopter has received a 'matching certificate' from an approved adoption agency, and the expected week of placement of the children is: .....</p> <p>(b) The mother has received a medical certificate confirming the EWC, (i.e. MAT BI Form) and the expected week of childbirth (EWC) is: Sunday .....</p> <p>I wish to take maternity support leave in order to provide care for the child(ren)/support the mother/adopter. I intend to commence my paternity leave on: .....</p> <p>I intend to take 1 week/2 weeks* paternity leave. If I intend to take 2 weeks leave I understand that these weeks must be taken consecutively</p> <p>I understand that I must provide 28 days' written notice if I wish to change the start date of my paternity leave.</p> <p>I understand that all my paternity leave must be taken <b>within 56 days</b> of the date of childbirth/placement.</p> <p>(*please delete as appropriate)</p>

**Section C – Application for Statutory Paternity Pay (to be completed by employee)**

Please refer to Section A and cross through either statement 1a or 1b, whichever does not apply.

1a. I understand that I am not entitled to SPP.

1b. I understand that I am entitled to SPP. Please arrange payment of my 1 week/2 weeks\* SPP.

(\*please delete as appropriate)

**Section D – Declaration (to be completed by the employee)**

Signed: .....

Date: .....

Please return this form to the Headteacher.

**Section E – to be completed by the Headteacher**

**Contractual Paternity Pay (Support Staff automatically qualify to receive 1 week CPP (in the form of Maternity Support Leave)**

\* Please delete as appropriate

\*Please do not arrange payment of Contractual Paternity Pay

\*Please arrange for the employee to receive payment of \*1 week / 2 weeks Contractual Paternity Pay.

NB. Any payment of Contractual Paternity Pay will be offset against any entitlement to Statutory Paternity Pay.

Signed: .....

Date: .....

A copy of this form should be retained on the employee's personal file. Please forward a copy to EPM payroll for processing: