



Service Instruction 0659 Paternity

“An Excellent Authority”

Document Control

Description and Purpose

This document is intended to give guidance to managers and parents regarding the benefits provided by the Authority in relation to paternity leave and pay.

Active date	Review date	Author	Editor	Publisher
Jan 2015		Amanda Cross	Nick Mernock	Sue Coker
Permanent	X	Temporary	If temporary, review date must be 3 months or less.	

Amendment History

Version	Date	Reasons for Change	Amended by
Old WLB booklet	unknown	Updated because of equality legislation	A cross
1.1	14.07.11	Updated in line with the APL	A Cross
1.2	09.05.14	Update to Govt website names and future developments	A Cross
1.3	Jan 2015	Updates to SHPL regulations	ACross

Equalities Impact Assessment

Initial	Full	Date	Reviewed by	Document location
	X	June 2010	DAG	E&D Portal/EIA 2014/POD

Related Documents

Doc. Type	Ref. No.	Title	Document location
Policy	PODPOL03	Work life balance	Portal
SI	SI 0658	maternity	Portal
SI	SI 0661	Parental	Portal
SI	SI 0654	Adoption	Portal

Contact

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Target audience

All MFS	Ops Crews	Fire safety	Community FS
X			
Principal officers	Senior officers	Non uniformed	

Relevant legislation (if any)

Equality Act 2010, Children and Families Act, Shared Parental Leave Regulations 2014, Maternity and d adoption Leave(Curtailment of Statutory Rights to Leave) Regulations 2014 The Shared Parental Pay (General) Regulation's 2014

Paternity Leave

Introduction

There are 2 types of paternity leave: ordinary and shared parental leave (SHPL).

Ordinary Paternity Leave is a period of one week's leave or two weeks taken together for fathers or partners (including same sex partners) to take following the birth or adoption of a child. It may also be granted to the partner or nominated carer of an expectant mother at or around the time of birth or adoption.

Shared Parental Leave allows parents to have flexibility in when to take time off to care for the new baby or child, if placed via adoption. Shared parental leave replaces the current paternity processes for babies due on or after 5 April 2015 or children placed with adopters after this date. The mother can choose to end her maternity or adoption leave early, at any time after the compulsory two weeks leave period following the birth of the child, the time the child has been placed has been taken. The parents can then choose how to split up the remaining weeks of leave between them. Shared parental leave can be taken by each parent separately or at the same time.

For the ease of reading : "mother" is used to denote the birth mother or primary adopter regardless of the sex of this partner, "father" is used to denote the biological father, or other parent regardless of the sex of this partner.

Eligibility

Births

An employee will qualify for Paternity Leave on the birth of a baby, regardless of length of service, if they:

- Have or expect to have responsibility for the baby's upbringing.
- Are the biological father of the baby and/or the mother's husband/ partner (including same-sex partner or civil partner). A partner is someone who lives with the mother of the baby in a family relationship but is not an immediate relative.
- Have notified the Service of their intention to take Paternity Leave – please see section below

Adoptions

All employees will qualify for **two weeks** Paternity Leave when adopting a child, regardless of length of service, if they:

- Are either one of two parents jointly adopting a child or the partner of someone adopting a child individually.
- Have or expect to have responsibility for the child's upbringing with the other joint adoptive parent or the individual adopter
- **Are Surrogate parents who have been granted a "parental order"**
- Continue to work for the Authority up to the date of the child's placement or entry to the UK
- Have given the correct notification as detailed below.

Exigencies of the Service may mean that there may be practical difficulties for operational employees to take this leave at particular times. Each case will be viewed on its particular circumstances and discussed with the individual along with their trade union representative if they so wish.

Notification and Applying for Paternity Leave

An application form is available on the portal. Employees should send their complete form via e-mail to the "Attendance Management" email address.

Births

An employee must apply as above no later than the end of the 15th week before the expected week of childbirth (EWC), or inform the Service as soon as is reasonably practicable of:

- The expected date of the baby's birth
- Whether they wish to take one or two weeks' leave
- When they intend to take their leave.

Applications should be accompanied by a certificate from a registered medical practitioner or a certified midwife stating the EWC. This is known as a Mat B1 form. If only 1 copy is issued, a second copy can be requested from the midwife.

Adoptions

- **UK Adoptions**

An employee must apply, as above, no more than 7 days after the adopter is notified they have been matched with a child by an adoption agency giving details of:

- their intention to take Paternity Leave
- Whether they wish to take one or two weeks
- When they want their leave to start
- The date the adopter was notified they had been matched with the child
- The date, from the matching certificate, that the child is expected to be placed for adoption

- **Overseas Adoptions**

Employees adopting from overseas must give the Authority notice in writing three stages

- From the date the child enters the UK
- From a fixed date which is later than the date the child enters the UK
- Leave must be taken within 56 days of the date the child enters the UK.

Surrogate Parents

The intended parents should supply a copy of the parental order in line with the MatB1 timescales above.

Nominated Carers

Employees who are applying for Paternity Leave as a nominated carer will be required to follow the procedure to apply for leave following the same process for Births.

NB For further advice and guidance please see Service Instruction 0654 Adoption.

How much Paternity Leave am I entitled to?

All eligible employees are entitled to two weeks Ordinary Paternity Leave and can choose to take a single block of either one or two weeks leave. It cannot be taken as odd days or as two separate weeks

When can an employee start their leave?

- **Births**

An employee cannot start their leave until the birth of the baby. Otherwise, an employee can choose to start their leave:

- On the actual date of the baby's birth
- On a date – as the employee has notified– falling a specified number of days after the actual birth date
- On a date – as the employee has notified– falling after the first day of the EWC. If the baby is born later than this date, they must delay their leave until the date of the actual birth.

Leave must be taken within 56 days of the actual birth date

- **Adoptions**

- **UK Adoptions**

An employee who has adopted a child from the UK can choose to start their leave on one of the following:

- The date on which the child is placed with the adopter, even if this is earlier or later than the expected date of placement
- A predetermined date after the expected date of placement.
- A date falling a specified number of days after the expected date of placement.
- Leave must be taken within 56 days of the date that the child is placed with the parent.

- **Overseas Adoptions**

An employee who has adopted a child from overseas can choose to start their leave on one of the following:

- From the date the child enters the UK
- From a fixed date which is later than the date the child enters the UK
- Leave must be taken within 56 days of the date the child enters the UK.

Changing the Start Date for leave

A baby may arrive prematurely or late. If an employee wishes to change the start date for leave to commence, they must give the Authority as much notice as practicably possible.

Definition of a weeks leave for Paternity

For Uniformed operational employees on the Wholetime duty system, one week will be classed as four consecutive duty shifts or equivalent for employees working an agreed flexible duty system.

For uniformed operational employee's working self rostering duty systems one week will equate to 48 hours or 4 duty shifts of work.

For uniformed day staff one week will be 5 consecutive days.

For Non Uniformed employees, one week will be one contracted week of your employment pattern. For part time employees one week will be for the number of contracted days.

Paternity Pay

Paternity Leave will be paid as follows:

Week One

All employees are entitled to the first week of leave on full pay.

Week Two

The second week of Ordinary Paternity Leave will be paid at rate of Statutory Paternity Pay (SPP) rate which **is revised by the Government each year**.

The second week of Paternity Leave must be taken immediately following the first week of Paternity Leave. For shift-based employees this will be the next tour of duty. **Paternity leave must be taken before the parents can utilise Shared Parental Leave.**

Benefits during Paternity Leave

An employee's contract of employment continues throughout the leave period.

During leave, 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 during the second week.

Other Information

Multiple births

Paternity Leave is two weeks regardless of the number of children resulting from a single pregnancy.

Death of a baby and stillbirth.

In the unfortunate event that the baby dies or is still born after 24 weeks pregnancy, the scheme will apply and the Authority will offer appropriate additional support. If a miscarriage occurs before 24 weeks, sympathetic consideration will be given to individual circumstances and where necessary, discretionary leave or sick leave will be granted in respect of the individual needs of the employee and medical opinion have been considered.

Shared Parental Leave (SPL)

If a mother decides not to take her full maternity/adoption leave entitlement, she and the father will be able to opt into shared parental leave.

Eligibility criteria

The Service is required to ask employees who wish to take shared paternity leave to provide evidence that both parents meet the eligibility criteria.

- They must have been continuously employed for at least 26 weeks by the end of the 15th week before the expected week of childbirth.
- Their partner must meet the “Work and Earnings” criteria- (their partner must have been in 26 weeks of employment/self-employment in the 66 weeks before the expected week of childbirth (EWC) and have earned an average weekly salary of £30 over 13 weeks in the 66 weeks before the EWC).
- They must remain continuously employed until the week before any period of shared parental leave starts.
- They already have or expect to have main responsibility for caring for the child.
- The mother is entitled to statutory maternity leave.
- The mother has reduced her entitlement to maternity leave or has returned to work “curtailing”.
- They have provided their respective employers with notice of entitlement and intention to take SPL (see below).

The employee should provide any evidence requested by their respective employer within 14 days of the request. Depending on the reason for paternity leave this may include:

- a copy of the birth certificate,
- or a declaration from the parents confirming the date and place of the child’s birth if the birth certificate is not yet available,
- a matching certificate or the parental order
- the name and address of the other parent’s employer.

SPL will also be available to a father where the mother works, but does not qualify for statutory maternity leave, such as where she is self-employed. Where the mother has received statutory maternity pay or maternity allowance during a period of not working, the father can still qualify for shared parental leave if this maternity pay period is ended early.

Amount of shared parental leave available

The maximum amount of leave that can be shared between the parents is 50 weeks. The leave can be taken during the 12 months following the birth of the child, but cannot begin earlier than two weeks following the child’s birth.

SPL only becomes available once the mother has given notice to end “curtail” her entitlement to maternity leave, this is binding. As a result, any period of maternity leave taken by the mother will be deducted from the period of 50 weeks’ SPL, with the balance available to be shared between the parents.

The leave can be taken by the parents separately or at the same time, subject to the following requirements:

- the minimum period of leave must be one week,
- the leave must be taken in multiples of complete weeks, and
- The leave may be taken as one continuous period or discontinuous periods. However, where a temporary employee has been employed to back fill a maternity leave it might not be possible to grant discontinuous leave.

If both parents take SPL off together they need to be aware that they will use up the remaining leave time at twice the rate. For example, if one parent takes 1 week of SHL off this counts as one week, if both parents are off together they have used 2 weeks from their allowance.

Notice to end maternity leave

The mother must give the Service (or her employer) eight weeks' notice to curtail her entitlement to maternity leave early. This notice can be given before or after the birth. If it is given after the birth, the notice is binding.

However, if notice is given before the birth, the mother is able to revoke the notice up to six weeks after the birth – this is in case an unplanned situation arises following the birth of the child.

Notice of entitlement and intention to take shared parental leave

If one or both parents wish to take SPL they must submit a written 'notice of entitlement' at least eight weeks before the start of the first period of shared parental leave. This forms part of the audit trail and may be shared with the other employer for accuracy.

The notice should include the following information, including:

- the mother's and father's names and national insurance numbers,
- the start and end date of any period of statutory maternity leave taken/to be taken by the mother to calculate the remaining leave allowance and therefore the total amount of shared parental leave available,
- the amount of any statutory maternity pay or maternity allowance received or to be received by the mother .
- the expected week of childbirth and/or actual date of birth of the child,
- confirmation that the mother/father is sharing child care responsibilities with their partner,

- a non-binding indication of how much shared parental leave both parties intend to take with the proposed start and end dates of such leave, and
- a signed declaration from each parent confirming that:
 - the mother satisfies the eligibility criteria,
 - the father satisfies the eligibility criteria,
 - that the information given is accurate, and
 - That if either parent ceases to meet the conditions of entitlement to shared parental leave then they will immediately notify the Service.

Due to the complexity of information required the Service will provide a checklist for the parents to complete and sign to ensure all the criteria are provided.

The parents may vary the amount of SPL they intend to take by giving written notice to their employers.

Period of leave notice

Parents must also provide their employers with a written 'period of leave' notice by giving the requested start and end dates of the periods of leave. This notice triggers a discussion with the Service to agree the leave. It,

- Must be given not less than eight weeks prior to the requested start date.
- can be for one or more periods of leave.
- If the notice has been given before the child is born then the start date may be expressed as a number of days from the date the child is born.

Only three period of leave notices in total can be given by each parent, including requests to vary a period of leave that has already been arranged.

Continuous periods of shared parental leave:

If an employee simply requests one period of continuous shared parental leave, they are entitled to take that period of leave.

Discontinuous periods of shared parental leave:

Agreement is necessary if an employee requests discontinuous periods of shared parental leave – meaning two or more periods of leave separated by periods at work. Within two weeks of the date of the period of leave notice the Service may:

- agree to the periods of leave requested,
- propose alternative dates, or

- Refuse the leave without proposing alternative dates.

If the parties can agree the periods of leave within this two week period then the employee is entitled to take that leave on the agreed dates.

If the parties cannot agree the periods of leave then the employee may either withdraw the request or take the total amount of leave requested as one continuous period of leave.

The default position is that leave should be taken in a single block commencing on a date specified by the employee but with at least eight weeks' notice to the Service.

Where employees have been recruited as cover for maternity leave, the Service may not be able to grant discontinuous leave to the mother.

Entitlement to shared parental pay (ShPP)

A maximum of 37 weeks of shared parental pay will be available to be shared between the parents, depending on what entitlement the mother has left from her maternity pay.

Statutory shared parental pay is paid at the **lower** of the statutory prescribed rate (which is advised on Gov.uk) or 90 per cent of the relevant parent's normal weekly earnings (subject to the lower earnings limit as advised by Gov.uk).

The remaining 13 weeks of SPL are unpaid.

Statutory shared parental pay is paid at the lower level throughout the leave period, even if the mother returns from maternity leave after only two weeks, during the period she could have received the higher level of maternity pay. Employees should therefore consider whether it is financially prudent to forfeit enhanced maternity pay for Shared parental pay.

The Service reserves the right to contact the other parent's employers to ensure that the correct amount of pay and leave is being administered.

Pension Considerations

The parents should contact pay and pensions to discuss how SPL affects their pension contributions. For example, if a parent takes SPL during the 13 weeks unpaid window they will need to make up their contributions and those that the employer would normally make.

Shared Parental Leave in Touch Days (SPLIT)

An employee can agree to attend work or work related training for up to 20 days during their SPL without bringing their SPL to an end. Any work carried out on a day or part of a day constitutes a day's work for these purposes.

Returning to work after SPL

The employee will have agreed a return to work date with the Service. If they are unable to attend work due to an absence they are expected to comply with the Authority's Absence Management process. In any other case later return without prior permission will be treated as unauthorised absence.