

Paternity Leave and Pay

1.0 Ordinary and Additional Paternity Leave

The Employment Act 2002 provides a statutory right to 1 or 2 weeks **Ordinary Paternity Leave** for a new father, or partner or spouse of the mother (or child's adopter) who wishes to take time off work to care for the child or support the mother. Unless the employee's average weekly earnings are below the lower earnings limit for National Insurance purposes, leave will be paid at a specified rate of Statutory Paternity Pay (SPP).

These Guidance Notes incorporate these statutory rights with the University's established Paternity Leave entitlements for staff with one year's continuous service.

Additional Paternity Leave and Pay Regulations also apply to parents of children due on or after 3 April 2011 and to adoptive parents notified of having been matched on or after that date. This additional leave gives eligible employees a right to up to six months' leave to care for a child under the age of one, if the child's mother or (in the case of adoptions) the primary adopter returns to work without exercising the full entitlement to maternity or adoption leave.

2.0 Qualifying for Paternity Leave

The Human Resources Division will confirm, upon application, whether an employee qualifies for Paternity Leave. As a general guide, to qualify for Paternity Leave the following rules should be satisfied:

- the employee must have been continuously employed for not less than 26 weeks ending with the 15th week before the expected week of childbirth (the 'qualifying week') and must continue to be employed from the qualifying week up until the birth of the baby (for Ordinary Paternity Leave) or until the date on which Additional Paternity Leave commences (for Additional Paternity leave); **or**
- in the case of adoption the employee must have been continuously employed for not less than 26 weeks before the end of the qualifying week and continue to work up to the date of the placement (for

Ordinary Paternity Leave) or until the date on which Additional Paternity Leave commences (for Additional Paternity leave); and

- the employee is the biological father; or married to the mother; or partner¹ of the mother; **or**
- in the case of adoption be the primary adopter's spouse or partner; **and**
- the employee is taking the time off to support the mother and/or care for the new child; **or**
- in the case of adoption have, or expect to have, responsibility for the child's upbringing; **and**
- in the case of Additional Paternity Leave, the mother or primary adopter must have returned to work before the end of their full entitlement to maternity or adoption leave.

3.0 Duration of Paternity Leave

3.1 Ordinary Paternity Leave can be up to 2 weeks and can only be taken in one continuous block. The employee can decide whether they wish to take 1 or 2 weeks leave, if choosing choose to take 2 weeks, these must be taken together.

3.2 Additional Paternity Leave can be of any duration between 2 and 26 weeks and can only be taken in one continuous block of whole weeks.

4.0 University Paternity Leave Benefits

In addition to the **Ordinary Paternity Leave** entitlement, employees with ***more than one year's continuous service*** at the intended start date of the leave will be entitled to extend the period of statutory Paternity Leave up to 4 weeks as part of the UEA's current Paternity Leave arrangements. It should be noted that in these circumstances the first week of SPP will be "topped up" to be a week's full pay (or full pay will apply in the first week if the employee is not eligible for SPP), however, leave other than that qualifying for SPP will be unpaid.

¹ by partner we mean a person whether of a different sex or the same sex who lives with the mother or primary adopter in an enduring family relationship but is not an immediate relative

5.0 When paternity leave can be taken

- 5.1 **Ordinary Paternity Leave** cannot start before the actual date of birth (or date of placement for adoption) and can only be taken during the 56 days after the actual date of birth (or placement), or if the child is born early, up to 56 days after the expected date of childbirth.
- 5.2 **Additional Paternity Leave** cannot start before the date on which the child's mother or primary adopter has returned to work and the child is either over 20 weeks old or has been with its adoptive parents for 20 weeks. The leave must be completed before the child's first birthday (or before the end of the first year of placement in the case of adoption).

6.0 Paternity Pay

- 6.1 During the period of **Ordinary Paternity Leave**, most employees will be entitled to Statutory Paternity pay (SPP).
- To receive paternity pay, the employees' average weekly earnings must be at least as much as the lower earnings limit for National Insurance contributions, which applies at the end of their qualifying week.
 - Employees not qualifying for SPP will receive Form SPP1 explaining why. Employees may qualify for other benefits and should contact the local Social Security/Jobcentre Plus Office to find out more.
 - Where an employee qualifies for paternity leave and has at least one year's continuous service at the University they will automatically be entitled to one week's paid leave as part of the UEA's present Paternity Leave arrangements.
- 6.2 During the period of **Additional Paternity Leave**, employees will be entitled to Additional Statutory Paternity Pay (ASPP) if they are not working during their spouse or partner's maternity or adoption pay period (for a maximum of 13 weeks and such that the period of maternity or adoption pay and the period of Additional Statutory Paternity Pay does not exceed 39 weeks in total). To be eligible, the mother or primary adopter must have been entitled to maternity allowance, statutory maternity pay or statutory adoption pay and have returned to work.
- 6.3 The **rate of statutory paternity pay (SPP)** is a weekly State benefit, the conditions and amount of which are determined statutorily by the Department for Works and Pensions. The **Additional Statutory Paternity Pay (ASPP) rate** will be the same as that for SPP, where ASPP is payable.

7.0 Notification and Claiming Paternity Leave and/or Pay

7.1 Ordinary Paternity Leave Period

Where an employee qualifies for Ordinary Paternity Leave he or she should notify the Human Resources Division during the 15th week before the expected week of childbirth or, if this is not possible, as soon as is reasonably practicable. In the case of adoption, notification should take place at the latest during the notification period – which begins on the date the adopter receives notification of having been matched with the child and lasts for the following seven days. Employees will need to advise the Human Resources Division of:

- the date the baby is due (or the date the adopter was notified of being matched and the expected date of placement);
- the date they intend to start their paternity leave ;
- whether the employee wishes to take either 1 or 2 weeks leave (or the option to extend by a further 2 weeks, subject to service qualification).

The employee may choose to begin this period of leave on:

- the date on which the baby is born (or the date on which the child is placed with the adopter);
- the date falling a chosen number of days after the date the baby is born;
- a pre-determined date (which, in the case of adoption, must be later than the date on which the child is expected to be placed).

Employees will be able to change the date on which they want their additional paternity leave date to start, providing they tell the Human Resources Division at least 28 days in advance (unless this is not reasonably practical).

7.2 Additional Paternity Leave Period

Where an employee qualifies for Additional Paternity Leave they must notify the Human Resources Division at least eight weeks before they wish the Additional Paternity Leave period to commence, or, in circumstances where the paternity leave may commence less than 20 weeks after childbirth or adoption placement, as soon as is reasonably

practicable (see 10.3, below). Employees will need to advise the Human Resources Division of:

- the date the baby was born (or, for adoptive parents, the date of placement); and
- the date they intend to start and end additional paternity leave.

The employee may choose to begin this period of leave on a date at least 20 weeks after the child was born (or 20 weeks after the date on which the child is placed with the adopter).

Employees will be able to change the date on which they want their leave date to start, providing they inform the Human Resources Division at least 28 days in advance (unless this is not reasonably practical).

8.0 Self-Certification

- 8.1 Where an employee qualifies for SPP and/or ASPP they will need to complete a self certificate form SC3 ("becoming a parent"), confirming their eligibility. In the case of an adopter Form SC4 ("becoming an adoptive parent") should be completed.
- 8.2 For Statutory Paternity Pay, 28 days' notice of the start date of the SPP payments must be given. The employee must confirm to the Human Resources Division, in writing, the actual date of birth, or placement, as soon as is reasonably practicable in order that the Salaries Office may be notified.
- 8.3 For Additional Statutory Paternity Pay, 8 weeks' notice of the start date of ASPP must be given and this will include a declaration to be given by the child's mother (or primary adopter).

9.0 Returning to work after Paternity Leave

- 9.1 When an employee returns to work after Paternity Leave, the employee will be entitled to return to the same job on the same terms and conditions of employment as if they had not been absent, unless a redundancy situation has arisen. The employee will be entitled to benefit from any general improvements to the rate of pay or other terms and conditions, which may have been introduced while they were away.
- 9.2 When an employee returns to work after Paternity Leave followed by Parental leave (or vice versa), the employee is entitled to return to the same job on the same terms and conditions as if he or she had not been absent, unless a redundancy situation has arisen. The employee will be

entitled to benefit from any general improvements to the rate of pay or other terms and conditions, which may have been introduced while they were away.

- 9.3 If the employee is unable to return to work at the end of their paternity leave because of sickness the contractual arrangements for sickness absence in the job apply.

10.0 Exceptional Circumstances

10.1 Premature birth

If the baby is born prematurely the employee will still be able to take paternity leave and pay if they were eligible for it had their child been born later.

10.2 Late birth

If the employee's baby is born after the expected week of childbirth the employee will be able to take Paternity Leave and pay if they qualify for it.

However, special notice arrangements will apply and the employee will be required to give 28 days' notice of their absence. This will mean that the employee will not automatically be entitled to leave or pay from the date of birth itself. However, it may be agreed that employees can start their leave before the end of the 28-day period.

10.3 Death of the mother within one year of birth or death of primary adopter within one year of placement

In such cases, Additional Paternity Leave can commence sooner than 20 weeks after the date of birth or placement, and can be taken for a period longer than the usual maximum 26 weeks.

11.0 Time off for Ante-natal Care

Employees are not entitled to time off to attend ante-natal or parent-craft classes under the statutory right to paternity leave.

12.0 Pensions contributions during Paternity Leave

- 12.1 If the employee is a member of the Universities Superannuation Scheme (USS) or the UEA Staff Superannuation Scheme (UEASSS) the employee will have the option of maintaining their contributions to the relevant scheme during a period of unpaid Paternity Leave. The employee should contact the Pension Office on extension 2676 or extension 1081 to discuss the options available to them.

- 12.2 Where SPP or ASPP applies, the employer's contributions for pensions purposes will be worked out as if the employee is working normally and receiving the normal remuneration payable for doing so. The employee's contributions for pension purposes will be based on the amount of statutory or additional statutory paternity pay which is actually being paid to the employee.

13.0 General

- 13.1 An employee will continue to be employed during the period of Paternity Leave.
- 13.2 A Paternity Leave period counts towards the period of continuous employment for the purposes of an employee's entitlement to statutory employment rights and for assessing pension rights and other personal length of service payments such as pay increments under the contract of employment.
- 13.3 The contract of employment continues throughout Paternity Leave, unless either the employer or the employee expressly ends it or it expires.
- 13.4 Employees are not entitled to receive remuneration (i.e. wages and salary) during their Paternity Leave (unless they qualify for University Occupational Paternity Leave Benefits) but they have the right to benefit from all other terms and conditions of employment, which would have applied to them if they had been at work instead of on Paternity Leave.
- 13.5 Annual leave will continue to accrue whilst on Paternity Leave, including the entitlement to the equivalent of 4 weeks paid annual leave under the Working Time Regulations 1998. An employee is not, however, entitled to take annual leave during Paternity Leave but, subject to agreement, a period of annual leave can be taken immediately before or after Paternity Leave.