

Overview of/Guide to Paternity Leave, Pay and Post Paternity Rights – revised March 2011

This guide outlines the Statutory and Contractual rights and responsibilities / procedures to follow for employees who wish to take either, or both, ordinary or additional paternity leave, where the expected week of childbirth begins on or after 3rd April 2011. In addition it also provides details of post paternity rights and useful sources of information.

The University recognizes that employees may have questions or concerns relating to their paternity rights. It is the University's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the paternity provisions are complex, employees should clarify the relevant procedures by contacting a Personnel Adviser to ensure that they are followed correctly.

Ordinary and additional paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave. A separate guide is available in respect of adoption leave.

1. Eligibility: Ordinary Paternity Leave – An employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child is entitled to two weeks' ordinary paid paternity leave provided that he/she:

- has 26 weeks' continuous service by the end of the 15th week before the week in which the child is expected.
- is the baby's biological father or the partner/husband of the mother
- is making the request to take the leave for the specific purpose of caring for a newborn-child or to support the child's mother (or for the purpose of caring for a child newly-placed for adoption and supporting the adoptive parent)
- has, or expects to have, responsibility for the upbringing of the child

2. Statutory Ordinary Paternity Pay - An employee meeting the eligibility criteria above is entitled to two weeks paternity leave. Statutory Paternity Pay (SPP) is currently (April 2011) paid at £128.73 per week or at a rate equivalent to 90% of the employee's average weekly earnings if this figure is less than £128.73 per week. For current SPP rates please contact the Payroll Officer. An employee whose earnings are below the lower earnings limit for National Insurance purposes does not qualify for Statutory Paternity Pay, but may be entitled to other welfare benefits; please contact the Payroll Officer for advice.

If an employee has less than 26 weeks service - please see contractual paternity leave and pay section directly below.

3. Contractual paternity leave and pay – For an employee with 26 weeks continuous service by the end of the 15th week before the week in which the child is expected, they are entitled to 2 weeks contractual paternity leave:

- one which will be at full pay, and
- the other will be paid at Statutory Paternity Pay (SPP) – current rates available from the Payroll Officer

For employees with less than 26 weeks service they are entitled to:

- 1 week's paternity leave paid at full pay

4. Earliest start date ordinary paternity leave can commence from:

- The date of the baby's birth, or any day of the week following birth
- If the baby is born earlier than expected, then the leave must be completed within the period from the actual date of birth up to 56 days/approx 8 weeks after the expected date of birth

- Within 56days/approx 8 weeks of date of birth of baby
- 5. Ordinary paternity leave can be taken in two ways:**
- As a single week, or
 - As 2 weeks consecutively
- 6. Notification to take ordinary paternity leave** –an employee must advise his/her department manager/ the University of their intention to take paternity leave:
- by the end of the 15th week/approx 3 months before the baby is expected.

An employee must complete a self certification form, available at <http://www.hmrc.gov.uk/forms/sc3.pdf> and give this to the University, detailing:

- The week the baby is expected to be born in, and
- The length of leave they intend to take; either one or two consecutive weeks, and
- The start date of the leave to be taken

In the case of an adopted child, an employee must give written notice of his/her intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify:

- the date the child is expected to be placed for adoption,
- the date an employee intends to start ordinary paternity leave,
- the length of the intended ordinary paternity leave period, and
- the date on which the adopter was notified of having been matched with the child

7. Changing the start of ordinary paternity leave after giving notice – an employee can do this so long as they give at least 28 days notice before the new leave date. However in cases where a baby is born prematurely, and notice is not possible, then every reasonable effort will be made to accommodate such amended requests.

8. Eligibility: additional paternity leave - Eligible employees may take up to 26 weeks additional paternity leave within the first year of their child's life provided that the mother has returned to work before using her full entitlement to maternity leave.

Additional Paternity leave is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work before using his/her full entitlement to adoption leave.

In order to be eligible for additional paternity leave, an employee must satisfy each of the following criteria:

- He/she must be the father of the child or married to, the civil partner of, or the partner of, the child's mother, married to, the civil partner of, or the partner of, the primary adopter, and, in the case of a birth child, expect to have the main responsibility for the upbringing of the child (apart from the mother's responsibility). In the case of adoption, he/she must have been matched with the child for adoption. In both cases, he/she must be taking leave to care for the child.
- He/she must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which he/she was notified of having been matched with the child.
- He/she must remain in continuous employment until the week before the first week of additional paternity leave.
- The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance. In the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption pay. The mother or primary adopter must have returned to work and forfeited a portion of his/her maternity or adoption leave.

9. Additional statutory paternity pay - Salary may be replaced by statutory paternity pay for some of the additional paternity leave period if the employee is eligible to receive it. The remaining period of additional paternity leave is unpaid.

Additional statutory paternity pay may be payable during some of additional paternity leave. An employee is entitled to additional statutory paternity pay if:

- He/she is the father of the child or married to, the civil partner of, or the partner of, the child's mother, married to, the civil partner of, or the partner of, the child's primary adopter, and, in the case of a birth child, expects to have the main responsibility for the upbringing of the child (apart from the mother's responsibility) or, in the case of adoption, has been matched with the child for adoption, and in either case intends to care for the child during the additional statutory paternity pay period;
- He/she has a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which he/she was notified of having been matched with the child (the "relevant week");
- He/she remains in continuous employment until the week before the additional statutory paternity pay period begins;
- His/her average weekly earnings for the period of eight weeks ending with the relevant week are not less than the lower earnings limit for national insurance contributions;
- 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 before his/her full entitlement to statutory maternity pay/maternity allowance/statutory adoption pay has been exhausted;
- The mother or primary adopter has at least two weeks of his/her maternity or adoption pay period that remains unexpired; and
- He/she gives proper notification in accordance with the rules set out above.

Any statutory paternity pay during additional paternity leave will be paid at a standard rate of £128.73 per week (April 2011 figure), or at a rate equivalent to 90% of the employee's average weekly earnings if this figure is less than £128.73 (April 2010 figure).

Statutory paternity pay is payable whether or not the employee intends to return to work after his/her additional paternity leave.

10. Earliest start date of additional paternity leave

The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date.

Additional paternity leave will generally commence on the employee's chosen start date specified in his/her leave notice, or in any subsequent variation notice (see notification of additional paternity leave below).

11. Additional paternity leave must be taken as - a single block in multiples of complete weeks.

12. Minimum and maximum period of additional paternity leave

The minimum period is two consecutive weeks and the maximum period is 26 consecutive weeks.

13. Notification of additional paternity leave

Where an employee wishes to request additional paternity leave and pay, he/she;

- must give (his/her department manager) **eight weeks** written notice of the date on which he/she wishes to take the leave and, if applicable, additional statutory paternity pay to commence.
- The request form must be in writing and specify, in the case of a birth child, the date on which the child was expected to be born and the actual date of birth or, in the

case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption.

- In both cases, the notice must also specify the employee's name and intended start date and end date of additional paternity leave and statutory paternity pay.

An employee must also submit a written and signed self-certification form not less than eight weeks before the proposed start date of additional paternity leave and pay stating that

- the purpose of the additional paternity leave/statutory paternity pay is to care for the child, and
- that he / she satisfies the relationship eligibility conditions for additional paternity leave and pay.

14. Notification from the mother or primary adopter in respect of additional paternity leave

At the same time, the mother or primary adopter must submit a written and signed declaration form stating:

- His/her name, address and national insurance number;
- The date that he/she intends to return to work;
- That he/she has given notice to his/her employer of returning to work;
- That he/she is entitled to statutory maternity pay, maternity allowance or statutory adoption pay;
- The start date of his/her maternity or adoption pay period;
- Confirmation that the employee satisfies the relationship eligibility conditions;
- That he/she consents to the University processing the information contained in the declaration form; and
- That the employee is to his/her knowledge the sole applicant for additional statutory paternity pay and, in the case of the birth child, also that the employee is to his/her knowledge the only person exercising the entitlement to additional paternity leave in respect of the child.

15. Information an employee must provide in respect of request for additional paternity leave

On request by the University, the employee must produce the following information within 28 days:

- the name and business address of the mother's or primary adopter's employer
- a copy of the child's birth certificate or, in the case of an adopted child, evidence of the name and address of the adoption agency, the date on which he/she was notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

16. Changing the start date of additional paternity leave after giving notice

An employee is permitted to bring forward his/her additional paternity leave start date, provided that he/she advises the University in writing at least six weeks before the new start date or, if that is not possible, as soon as reasonably practicable. An employee may also postpone his/her additional paternity leave start date, or cancel his/her additional paternity leave altogether, provided that he/she advises the University in writing at least six weeks before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The University will formally respond in writing to the employee's notification of his/her additional paternity leave plans within 28 days, confirming the relevant start and end dates of additional paternity leave and pay.

17. Contact during additional paternity leave

Shortly before an employee's additional paternity leave starts, the University will discuss the arrangements for him/her to keep in touch during his/her leave, should he/she wish to do so. The University reserves the right in any event to maintain reasonable contact with the employee from time to time during his/her additional paternity leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or

training to be given to ease his/her return to work or simply to update him/her on developments at work during his/her absence.

18. Keeping-in-touch days during additional paternity leave

An employee can agree to work for the University (or to attend training) for up to 10 days during additional paternity leave without that work bringing the period of his/her additional paternity leave to an end and without loss of a week's statutory paternity pay. These are known as "keeping-in-touch days. Any work carried out on a day shall constitute a day's work for these purposes.

The University has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during his/her additional paternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between the University and the employee. Any keeping-in-touch days worked do not extend the period of additional paternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's statutory paternity pay for any week in which he/she agrees to work for the University. It may also bring the additional paternity leave period to an end.

19. Returning to work after additional paternity leave

An employee will have been formally advised in writing by the University of the end date of his/her additional paternity leave. The employee is expected to return on the next working date after this date, unless he/she notifies the University otherwise.

20. Returning to work delayed by sickness or injury after additional paternity leave

If he/she is unable to attend work at the end of additional paternity leave due to sickness or injury, the University's normal arrangements for sickness absence will apply. In any other case late return without prior authorization will be treated as unauthorized absence.

21. Mentoring on return to work

There may be occasions when the university offers staff who has recently returned from long term absence or whose role is undergoing change the opportunity to have a mentor. The mentor is there to support them as they settle back into work and this includes staff returning from maternity, adoption or additional paternity leave. If this is something that is of interest to you, please discuss this with your line manager in the first instance.

22. Returning to work earlier than expected after additional paternity leave

If an employee wishes to return to work earlier than the expected return date, he/she must give the University at least six weeks' notice of his/her date of early return, preferably in writing. If he/she fails to do so, the University may postpone his/her return to such a date as will give the University six weeks' notice provided that this is not later than the expected return date.

23. Not returning to work after additional paternity leave

If an employee decided not to return to work after additional paternity leave, he/she must give notice of resignation as soon as possible and in accordance with the terms of his/her contract of employment. If the notice period would expire after additional paternity leave has ended, the University may require an employee to return to work for the remainder of the notice period.

24. Rights during and after ordinary and additional Paternity Leave –

During the period of ordinary and additional paternity leave, the employee's contract of employment continues in force and he/she is entitled to receive all his/her contractual benefits, except salary. Any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.

On resuming work after both ordinary and additional paternity leave (in the latter case where it was an isolated period of leave or taken with certain other types of statutory leave), an employee is entitled to:

- return to the same job
- return to the same terms and conditions of employment
- not be subjected to a disadvantage, unfair treatment or dismissal

25. University Fixed Days and/or public holidays occurring during paid ordinary and additional paternity leave

An employee will be given additional days of leave, pro rata if the employee is part time, for any University Fixed Days and/or public holidays that occur during either his/her Ordinary or Additional paternity leave. These days of leave will be added to an employee's annual leave for the year in which they return to work, and can be booked through the normal system of requesting leave with their line manager.

26. Increments, Pay Awards and Contribution Related Pay during ordinary and additional paternity leave

Any Increments, Pay Awards or Performance Related Pay that become effective during an employee's paternity leave period will be actioned within the month they become effective, or if this is not practicable then as soon as reasonably possible.

27. Pension during paternity

Local Government Pension Scheme

An employee's pension contributions will continue to be made during his **paid** paternity leave. However, during any unpaid paternity leave pension contributions will be suspended. An employee will therefore have a break in pensionable service unless they elect to make additional equivalent payments to fill the gap. Local Government Pension Scheme will automatically contact an employee on their return to work to give them the opportunity to make additional pension payments. Employees are advised to contact Local Government Pension Scheme for further information.

Teachers Pensions

An employee's contributions will continue to be made during paid paternity leave. During any period of unpaid leave, including unpaid paternity leave, both the employee's and employer's contributions will stop, and on return to work an employee will have the option to buy in 'additional pension benefits' to cover this gap. Employees are advised to contact Teachers Pensions for further information.

28. Additional rights following paternity leave

Right to request flexible working patterns

- An employee who is (or is the spouse, civil partner or live-in partner of) the parent, adoptive parent, guardian, special guardian or foster parent of a child under the age of 17 (or under the age of 18 if the child is disabled) has the legal right to submit a written application to his or her employer requesting a more flexible pattern of working hours
- An employee who has caring responsibilities for an adult aged 18 or over who is the employee's spouse, civil partner or live-in partner, a relative, or someone living at the same address as the employee has the legal right to request flexible working.
- To qualify to apply for flexible working an employee must have been continuously employed by his or her employer for 26 or more weeks and have, or expect to have, responsibility for a child, or care for, or expect to care for, a person who is aged 18 or over.

Employers have a statutory duty to seriously consider an employee's application. It is important to note that any change agreed becomes a permanent change to an employee's contract, although parents have the right to make one request in each 12 month period.

Parental Leave, 13 weeks unpaid

The right to parental leave entitles all parents who have one year's service with their employer to take a period of:

- up to 13 weeks unpaid leave (in total, not per year) to care for each of their children, up to the child's fifth birthday, or up to five years after the placement date of an adopted child; or

- up to 18 weeks for each disabled child, (in total, not per year) up to the child's 18th birthday .
- Parental leave may be taken in blocks or multiples of one week only, subject to a maximum of four weeks' parental leave in any one year - unless the employee's child has been awarded disability living allowance, in which case the leave may be taken one day at a time or in blocks or multiples of one day.
- The right applies to mothers and fathers and to a person who has obtained formal parental responsibility for a child under the Children Act. Parents are able to start taking parental leave as soon as the child is born or placed for adoption, or as soon as they have completed the required one year's qualifying service with their employer, whichever is later.

Right to unpaid time off for Family Emergency – this right applies to all employees

In many cases an employee now has the right to take time off work to deal with an emergency involving someone who depends on them. A husband, wife or partner, child or parent, or someone living with them as part of their family can all be considered as depending on them. Others who rely solely on them for help in an emergency may also qualify. An employee can also take time off if a dependant dies and they need to make funeral arrangements or attend the funeral.

The amount of time an employee can take off is as long as it takes to deal with the immediate emergency. For example, if their child falls ill they can take enough time off to deal with its' initial needs, such as taking them to the doctor and arranging for their care. But an employee will need to make other arrangements if they want to stay off work longer to care for them themselves.

29. Childcare Vouchers – Salary Sacrifice

The University operates the childcare voucher scheme where any University of Worcester employee who is a parent of a child under 16 can apply for childcare vouchers up to the current value, as at April 08, £243 per month/£56 per week (for each parent) free from NI and income tax. An employee's gross salary is reduced by the value of the vouchers they choose to take and employees are required to sign up for a 12 month period, though an opt out is provided for life changing events that may occur. The scheme may also impact on the pension contributions an employee makes; guidance on this is available from the Payroll Officer

The vouchers can be used for any childcare service, provided they are officially registered. This includes the services provided at the University - the nursery and vacation schemes.

30. University Childcare Provision

The University has a fee-paying nursery which is available to all employees and students. The Nursery is located on the University St John's campus. It is self contained and has a large outdoor area. The Nursery is registered with Ofsted to provide day care for 36 children aged from 3 months to 5 years. It is open Monday – Friday, 8am – 6pm, 51 weeks of the year, excluding bank holidays and University fixed holidays. For further information an employee should contact the nursery on: 01905 855277 or email: unitots@worc.ac.uk

31. Childcare Salary Sacrifice

As the University operates a registered workplace nursery we are able to offer employees who use this facility the option for a free nursery place in return for taking a reduction in basic pay, usually equivalent to that of their nursery fees. The scheme works because under current legislation the provision of a free place at a qualifying workplace nursery does not give rise to a taxable benefit in kind – in effect the employee swaps taxable pay for a non-taxable benefit (the free nursery place) resulting in savings in tax and NI. The total tax and NI saving is shared between the employee and the University to produce the mutual benefits under the scheme. Because the scheme depends on tax savings it is therefore only suitable for an employee if they pay tax on their University salary. The scheme may also impact on the pension contributions an employee makes; guidance on this is available from the Payroll Officer.

32. University school vacation schemes –

The University runs a variety of supervised activities within the Sports Centre; employees can obtain details of these from the Sports Centre Manager.

33. Useful sources of information:

Benefits Agency – local Worcester office 01905 684600 Haswell House, Sansome Street Worcester WR1 1UZ

Department for Trade and Industry (DTI) www.direct.gov.uk site provides Tailored Interactive Guidance on all employment rights including paternity, maternity and adoption www.direct.gov.uk/en/Employment/index.htm

Health and Safety Executive offer advice on maternity/pregnancy and health and safety 08701 545 500 (8am – 6pm) www.hse.gov.uk

National Childbirth Trust a registered charity which offer advice on pregnancy and baby care, and can be contacted on: 0870 112 1120 or at: www.nct.org.uk/home

Personnel Department – please contact one of the personnel advisers to discuss any queries or concerns you have: **01905 85(5175)** or personnel@worc.ac.uk

The Advisory, Conciliation and Arbitration Service (Acas) offer free, confidential and impartial advice on employment rights issues. You can call the Acas helpline on 08457 47 47 47 from 8.00 am to 6.00 pm Monday to Friday. www.acas.org.uk

The Trade Union Council (TUC) publishes a series of free booklet explaining your rights at work, including paternity, maternity and adoption www.tuc.org.uk
Working Families advice for parents, carers and employers on balancing work and family life 020 7253 7243 www.workingfamilies.org.uk

Worcestershire's Family Information Service can provide information for children aged 0 – 19 years on: Childcare; Sport and leisure activities; Support services for families. You can contact them on 01905 790560; or email: familyinfo@worcestershire.gov.uk or visit the website: www.worcestershire.gov.uk/familyinfo