



# **Engage MAT**

## **Paternity leave and pay scheme**

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### **1. Introduction**

Paternity leave is for the purposes of caring for a child or supporting the child's mother.

This scheme is written to apply to all employees who are fathers. Therefore, this policy applies to support staff and teachers in schools who are:

- fathers who have partners who are pregnant/are fathering a child

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- fathers or secondary parents<sup>1</sup> who are adopting
- fathers or secondary parents who are expecting a baby via a surrogacy arrangement

This scheme aims to inform these employees what their entitlement to time off and pay is, when becoming a father. There are some differences in eligibility and information required by the school depending on how the employee is becoming a father so please read pages 1 and 2, which outline the entitlement to pay and time off and then click on Part A, B, C or D (see contents above) depending on which applies.

For other leave and time off options available to employees please see HR InfoSpace for information regarding:

- Shared parental leave and pay
- Parental leave
- Flexible working
- Annual leave (all year round support staff)

### **2. Equal Opportunities**

The school expects employees to adhere to this scheme in line with the school's/academy's obligations under equality legislation. Headteachers must ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

### **3. Scope**

It is the responsibility of Headteachers to ensure that employees for whom they are responsible are made aware of the provisions of this policy and that they are applied in a consistent manner.

### **4. Entitlement for fathers or partners**

#### **Paternity leave and pay**

A period of two weeks paid paternity leave is available to qualifying employees who have a partner or a surrogate mother expecting a child (through adoption or birth). Paternity leave is for the purposes of caring for a child or supporting the child's mother. During their paternity leave most employees will be entitled to statutory paternity pay (SPP) at a rate equivalent to that of statutory maternity pay. The current rate can be found at [www.gov.uk/paternity-pay-leave/pay](http://www.gov.uk/paternity-pay-leave/pay).

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<sup>1</sup> Secondary parents is the termed use for the parent not accessing maternity or adoption leave in a same sex relationship. The term 'secondary' only relates to the fact that they are not accessing maternity or adoption leave and pay, not to their status as a parent.

### **Contractual benefits whilst on Paternity Leave**

Employees are entitled to their usual terms and conditions of employment, except those relating to pay throughout the period of paternity leave. It follows that they are also entitled to the same protection from unfair treatment or dismissal for taking or seeking to take paternity leave. Employees who believe they have been treated unfairly will be able to complain to an employment tribunal.

## **Part A – Fathers/secondary parents whose partner is pregnant**

### **1. Time off for antenatal appointments**

Employees who are in a qualifying relationship with the pregnant woman or expected child can take unpaid time off to accompany to up to two ante-natal appointments. Someone is in a qualifying relationship if:

- they are the husband or civil partner of the pregnant woman
- they live with the pregnant woman in an enduring family relationship and are not a relative
- they are the expected child's father
- they are a parent of the expected child by virtue of the Human Fertilisation and Embryology Act 2008 (HFEA) (same sex partner treated as parent in case of assisted reproduction);
- they are the potential applicant for a parental order under the Human Fertilisation and Embryology Act 2008 under a surrogacy arrangement.

Certain declarations have to be made by the person requesting the time off. *Antenatal appointments - unpaid time off to accompany form F208j* on HR InfoSpace can be used to request this unpaid time off. There are no notice requirements but as much notice as possible will help the school to arrange cover.

### **2. Eligibility**

#### **Leave**

To qualify for leave the employee must:

- either be the biological father or be married to or be the partner of the child's mother. A partner is someone (whether of the same sex or different sex) who lives with the mother in an enduring family relationship but is not a blood or adoptive relative.
- have or expect to have the main responsibility for the upbringing of the child together with the mother.
- have 26 weeks' continuous service with current employer at the end of the 15<sup>th</sup> week before the earliest week of childbirth (EWC) – the week in which the expected date of the baby's birth falls, starting with the

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preceding Sunday and ending the following Saturday. If the expected birth date falls on a Sunday, that date is the first day of the EWC.

- not be taking adoption leave in respect of the child.
- be an employee of the school
- have notified intention to take paternity leave to their Headteacher.
- be taking the time off to support the mother and/or care for the baby.
- have not already taken any shared parental leave and pay (an employee is no longer entitled to paternity leave if they have already taken shared parental leave).

An employee's entitlement to both paternity leave and pay is unaffected by:

- the number of children born as a result of the pregnancy.
- the event of the child dying or being stillborn after 24 weeks of pregnancy.

In the event of a stillbirth occurring before the end of the 24<sup>th</sup> week of pregnancy, paternity leave would not be applicable and advice should be sought from Educator Solutions HR Services on 01603 307760 or [HRenquiry@educatorsolutions.org.uk](mailto:HRenquiry@educatorsolutions.org.uk)

### **Pay**

To qualify for pay the employee must:

- have 26 weeks continuous service with their current employer by the end of the 15<sup>th</sup> week before the earliest week of childbirth (EWC) – “the qualifying week” and be employed by that same employer up to the date the baby is born.
- have average weekly earnings (AWE) at or above the lower earnings limit for National Insurance contributions (NICs) that applies at the end of the qualifying week. Educator Solutions HR Services can provide the current lower earnings limit.

If the employee does not qualify for SPP, they will be given a completed SPP1 to pass on to Jobcentre Plus.

### **Maternity support leave, adoption support leave and paternity leave (support staff only).**

The maternity support leave and adoption support leave green book schemes enable employees who are partners of the mother/primary parent or nominated carers to take 5 days' paid leave (pro rata for part time employees) at contractual pay at or around the time of the birth/placement of a child, or children. Adoption support leave applies to eligible couples who are adopting and eligible couples who are receiving a baby via a surrogacy arrangement.

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Support staff employees (green book) who qualify for both maternity support leave (MSL)/adoption support leave (ASL) and paternity leave will have their first week of statutory paternity pay automatically 'topped up' with MSL/ASL. This means another person is not able to take MSL/ASL in respect of the same expectant mother/primary parent. If the employee is 'topping up' their paternity leave with either MSL or ASL then they need to complete form *Paternity leave and pay – support staff (F208a)* if they want to take MSL and *Paternity leave and pay – adoption (support staff) F208n* or *Paternity leave and pay – surrogacy (support staff) F208q* if they want to take ASL. If the nominated carer is not the partner of the mother/primary parent e.g. a grandparent then they need to complete form *Maternity support leave – support staff (F208m)* for MSL or *Adoption support leave – support staff F208p* for ASL.

MSL/ASL cannot be taken before the birth/placement of the child and employees cannot take both MSL/ASL and paternity leave to take three weeks leave.

The mother/primary parent does not have to be a school/academy employee and only one nominated carer per expectant mother/primary parent can take advantage of MSL/ASL.

MSL must be taken around the time of the birth or up to 56 days after the birth. ASL must be taken at or around the time of placement.

### **3. Notification**

An employee must self-certify their eligibility for SPP and give notice that they wish to take paternity leave and pay. Notification can be given by completing the *Paternity leave and pay – support staff F208a* or *Paternity leave and pay form – Teachers F208l* by the end of the 15<sup>th</sup> week before the EWC or as soon as reasonably practicable.

An employee wishing to commence leave on a predetermined date must give 28 days' notice of the date on which they intend to begin their paternity leave or as soon as is reasonably practicable. Leave will begin on the date last specified by the employee unless the baby has not been born by that date. In such cases the employee must choose another date or option.

If an employee has given notice that their leave will commence from the date of birth and they are at work on that date the leave will commence on the following day.

An employee must inform the employer of the actual date of birth as soon as possible after the event.

#### **4. Commencement of paternity leave**

An employee can choose to take either 1 or 2 consecutive weeks' leave (not odd days and if taking two weeks they must be consecutive) and must take the leave within 56 days of the birth. The exception to this is cases of premature birth when the leave must be taken within 56 days of the expected week of childbirth, thus allowing fathers of very premature babies to take leave when a baby is brought home from hospital.

Leave cannot start until the date of birth. However, an employee may choose to start leave on:

- the actual date of the birth (whether this is earlier or later than expected),
- a chosen number of days after the birth, or
- the date as notified by the employee falling after the first day of the EWC. If the baby is born later than this date, the employee must delay their leave until the date of the actual birth.

In the case of a premature birth leave must be taken within the period between actual birth and 56 days after the EWC.

An employee can change the date but must give 28 days' notice of the change prior to when they previously had requested to start their leave unless this is not reasonably practicable. If this is the case, a new notification form must be completed. *Paternity leave and pay – support staff F208a* or *Paternity leave and pay form – Teachers F208I* on HR InfoSpace can be used.

### **Part B – Adopting parents including foster to adopt<sup>2</sup> (UK adoptions)**

Where a couple is adopting they will be able to choose which one of them takes statutory adoption leave and the other will be eligible for paternity leave and pay for adoption.

#### **1. Time off for adoption appointments**

Where a couple are adopting jointly, and they have been notified that a child is to be placed with them for adoption, the employee who has not elected to take paid time off to attend appointments can elect to take unpaid leave. Appointments may cover things such as having contact with the child, or meeting with the child's

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<sup>2</sup> A child placement in which birth parents' rights have not yet been severed by the court or in which birth parents are appealing the court's decision but foster parents agree to adopt the child if/when parental rights are terminated. Social workers place the child with specially-trained foster-adopt parents who will work with the child during family reunification efforts but who will adopt the child if the child becomes available for adoption. The main reason for making such a placement is to spare the child another move.

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social worker or current carer, up to the date of the placement. This is limited to two appointments. The employee can be asked to provide evidence that the appointment has been made by, or at the request of, the adoption agency, including the date and time of the appointment.

### **2. Eligibility**

#### **Leave**

To qualify the employee must satisfy all of the following:

- have a prescribed relationship with the child or the adopter,
- have or expect to have responsibility for the upbringing of the child and be either the adopter's partner or the joint adopter who has chosen not to receive statutory adoption pay,
- have 26 weeks continuous service with their current employer into the week in which the child is matched for adoption (matching week),
- have continuous service from the matching week until the child is placed with the adopter,
- If they are the joint adopter the employee must declare that they have chosen not to take statutory adoption pay. This declaration can be made by filling in *Paternity leave and pay form – Adoption (Teaching staff) F208d* or *Paternity leave and pay form – Adoption (Support staff) F208n* and returning this to their Headteacher.
- have not already taken any shared parental leave and pay (an employee is no longer entitled to paternity leave if already taken shared parental leave).

#### **Pay**

To qualify for pay the employee must:

- have average weekly earnings (AWE) at or above the lower earnings limit for National Insurance contributions (NICs)
- self-certify their eligibility for SPP. This can be done by completing form *Paternity leave and pay form – Adoption (Teaching staff) F208d* or *Paternity leave and pay form – Adoption (Support staff) F208n* on HR InfoSpace and providing this to their Headteacher 28 days before SPP is due to start.

If the employee doesn't qualify doesn't qualify for statutory pay they will be given a SPP1 to pass on to the jobcentre plus.

### **3. Notification**



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An employee must give notice of their intention and date that they wish to take paternity leave for adoption within 7 days of the matching date and where possible 28 days before they want to be paid.

In practice there is often very little time between the dates in which the adopter is matched with a child and when the child is placed. If the employee is giving late notice because of this it must be accepted, this can be asked for in writing.

### **4. Commencement of paternity leave**

An employee can choose to take either 1 or 2 consecutive weeks' leave (not odd days and if taking two weeks they must be consecutive). The leave can be taken from the date the child is placed with the employee or at a date later than this, but must be within 56 days (eight weeks) after the date the child is placed with the adopter.

An employee can change their mind of the date on which they would like to take the Paternity leave for adoption, but should give 21 days' notice of their intended date. Headteachers will need to be flexible where possible given the possible differences between the expected date of placement and the actual date of placement.

## **Part C – Adopting parents (adopting from abroad)**

When an employee or their partner adopts a child from abroad they can get paternity leave and pay for the adoption if the adoption process includes an application to the relevant UK authority to assess the adopter. In these circumstances if the appropriate board agree that they are suitable to adopt a child from abroad, the UK authority will send a Certificate of Eligibility to the overseas authority and the employee will receive Official Notification that they have done this.

If the employee would like to take paternity leave for the adoption a copy of the Official Notification should be given to the Headteacher for record keeping.

### **1. Time off for adoption appointments**

Where a couple are adopting jointly, and they have been notified that a child is to be placed with them for adoption, the employee who has not elected to take paid time off to attend appointments can elect to take unpaid leave. Appointments may cover things such as having contact with the child, or meeting with the child's social worker or current carer, up to the date of the placement. This is limited to two appointments. The employee can be asked to provide evidence that the appointment has been made by, or at the request of, the adoption agency, including the date and time of the appointment.

## **2. Eligibility**

To qualify for pay the employee must:

- have been sent Official Notification that the relevant UK authority has issued a Certificate of Eligibility to the overseas authority involved in the adoption, the employee must notify the school/academy on the date on which this occurred.
- have 26 weeks continuous service with their current employer into the week in which the adopter was sent the Official Notification form or by the time they want to start their paternity pay period.
- have average weekly earnings (AWE) at or above the lower earnings limit for National Insurance contributions (NICs) that applies at the end of the week in which the Official Notification is received by the adopter. Educator Solutions HR Services can provide information on the current lower earnings limit.
- have given notice of 28 calendar days before they want to start their paternity leave and pay.
- declare that they are not receiving statutory adoption leave. This declaration can be made by completing *Paternity leave and pay form – Adoption (Teaching staff) F208d* or *Paternity leave and pay form – Adoption (Support staff) F208* on HR InfoSpace and provide evidence that the child has entered the UK to live with them i.e. plane tickets or copies of entry clearance documents.
- have not already taken any shared parental leave (an employee is no longer entitled to paternity leave if already taken shared parental leave).

## **3. Notification**

There are three stages when the employee should give notice:

### First stage:

The employee must inform their Headteacher of:

- the date on which the adopter received official notification from the relevant UK authority of their eligibility to adopt from overseas,
- the date the child is expected to enter the UK,
- if 26 continuous weeks service has been completed at this time the employee must inform their Headteacher within 28 days of receiving the notification.

### Second stage:

The employee must inform their Headteacher at least 28 days before they want the leave and pay to start and whether or not they will be taking 1 or 2 consecutive weeks. This can be done by completing *Paternity leave and pay – Adoption (Teachers and support staff) F208d* on HR InfoSpace.

Third stage:

The employee must inform their Headteacher of the date the child enters the UK within 28 days of their arrival with evidence of their arrival.

#### **4. Commencement of paternity leave**

The employee can choose to start their leave and paternity pay from:

- the date the child enters the UK or the following day,
- on a predetermined date after the child has entered the UK,
- the leave must be taken within 56 days (eight weeks) of the child entering the UK.

If an employee or their partner has adopted a child without involving the UK authorities they will not be entitled to SPP as they will not have Official Notification as no Certificate of Eligibility would have been issued. Statutory paternity pay and leave cannot start until the child has entered the UK, if the adoption does not continue the employee will need to notify their Headteacher.

An employee can change their mind of the date on which they would like to take paternity leave for adoption, but should give 21 days' notice of their intended date. Headteachers will need to be flexible where possible given the possible differences between the expected date of placement and the actual date of placement.

### **Part D – Surrogacy**

Where a couple are the parents in a surrogacy arrangement and they are eligible to apply for a parental order (one or both of the couple has to have a genetic link to the baby) they will be able to choose which one of them takes statutory adoption leave and the other will be eligible for paternity leave and pay.

#### **1. Time off for antenatal appointments**

Employees who are in a qualifying relationship with the expected child can take unpaid time off to accompany the pregnant woman to up to two ante-natal appointments. Someone is in a qualifying relationship if:

- they are the husband or civil partner of the pregnant woman,
- they live with the pregnant woman in an enduring family relationship and are not a relative,
- they are the expected child's father,
- they are a parent of the expected child by virtue of the Human Fertilisation and Embryology Act 2008 (same sex partner treated as parent in case of assisted reproduction) or,

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- they are the potential applicant for a parental order under the Human Fertilisation and Embryology Act 2008 under a surrogacy arrangement.

There are no notice requirements but employees should give as much notice as possible which will help to arrange cover.

### **2. Eligibility**

#### **Leave**

To qualify the employee must satisfy all of the following:

- have a prescribed relationship with the child or the surrogate parent taking adoption leave,
- have or expect to have responsibility for the upbringing of the child and be either the surrogate primary parent's partner or the joint parent who has chosen not to receive statutory adoption pay,
- have 26 weeks continuous service with their current employer into the expected week of childbirth,
- average weekly earnings (AWE) at or above the lower earnings limit for National Insurance contributions (NICs),
- if they are the joint parent the employee must declare that they have chosen not to take statutory adoption pay,
- have not already taken any shared parental leave (an employee is no longer entitled to paternity leave if already taken shared parental leave).

#### **Pay**

To qualify for pay the employee must:

- have 26 weeks' continuous service with their current employer by the week in which the baby is placed with them,
- have average weekly earnings at or above the lower earnings limit for NICs,
- self-certify their eligibility for SPP. This can be done by completing the *Paternity leave and pay form – Surrogacy (Teaching staff) F208k* or *Paternity leave and pay form – Surrogacy (Support staff) F208q* on HR InfoSpace. This can then be provided to their manager at least 28 days before the SPP is due to start.

If the employee doesn't qualify for SPP, they will be given a completed SPP1 to pass on to Jobcentre Plus.

### **3. Notification**

An employee must give notice of their intention and date that they wish to take paternity leave 28 days before they want to be paid.

### **4. Commencement of paternity leave**

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An employee can choose to take either 1 or 2 consecutive weeks' leave (not odd days and if taking two weeks they must be consecutive). The leave can be taken from the date the child is placed with the employee or at a date later than this, but must be within 56 days (eight weeks) after the date the child is placed with the employee.

An employee can change their mind of the date on which they would like to take the paternity leave for surrogacy but should give 21 days' notice of their intended date. Headteachers will be flexible where possible given the possible differences between the expected date of placement and the actual date of placement.

### **5. Data Protection**

When managing an employee's paternity leave and pay, the school processes personal data collected in accordance with its data protection policy. Data collected from the point at which an employee informs the school that they plan to take paternity leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their paternity leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.

### **6. Associated documents**

Paternity leave and pay form – support staff (F208a)  
Paternity leave and pay form – Teachers (F208l)  
Paternity leave and pay form – Adoption (Teaching staff) (F208d)  
Paternity leave and pay form – Surrogacy (Teaching staff) (F208k)  
Paternity leave and pay form – Adoption (Support staff) (F208n)  
Paternity leave and pay form – Surrogacy (support staff) (F208q)  
Antenatal appointments – Unpaid time off to accompany form (F208j)  
Maternity support leave - support staff (F208m)  
Absence - Staff Return Form (F213o)