



ORDINARY PATERNITY LEAVE GUIDANCE (Birth)

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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 OSPL

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
- whether they wish to take one or two continuous week's leave
- 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. Please note – 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 below]. This provision does not apply to teachers, but local arrangements may exist [see below].

4. The Entitlement to OSPL and how it can be Taken

4.1. The minimum 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.

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 SPPI 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 OSPL

- 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

- 7.1. Schools and academies may choose to determine a policy in respect of Contractual Paternity Pay (CPP) whereby they pay the employee in addition to any entitlement to OSPP. Where entitled, OSPP will be included in any payment, which must not exceed normal salary.

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. 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 both:

- 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. Please ask the employee to complete the attached form, retain the original signed copy on the employee's personnel file and send a copy of the completed form to your designated payroll adviser at the address indicated.

10.2. Sections A to E are to be completed by the employee. Section F is to be completed by the Senior Authorising Officer and must be signed by them to enable processing.

Application for Ordinary Statutory Paternity Leave (OSPL) and Pay (OSPP) [Births] and Maternity Support Leave and Pay

Section A – Employee Details (to be completed by the employee)

Employee name:	
Address for correspondence:	
Payroll reference:	
National Insurance No:	
Name of school/academy employing:	
Post title/s:	
Relevant service and notice week:	
Copy of evidence attached:	Yes: <input type="checkbox"/> No: <input type="checkbox"/>

Section B – Application for OSPL and/or Maternity Support Leave (where applicable)

1. I [insert name] _____ confirm that I meet the qualifying conditions for OSPL in that I: **(You MUST be able to confirm all three conditions, please tick)**

(Child to be read as children in the case of multiple births)

a) wish to take OSPL to care for the child and/or support the child's mother, and	<input type="checkbox"/>
b) will be responsible for the child's upbringing (apart from the mother), and	<input type="checkbox"/>
c) I am either:	
i) the biological father of the child; or	<input type="checkbox"/>
ii) not the biological father, but the spouse or civil partner of the child's mother; or	<input type="checkbox"/>
iii) not the biological father, but living with the child's mother in an enduring family relationship and am NOT the child's mother's parent, grandparent, sister, brother, aunt or uncle	<input type="checkbox"/>

2. The mother has received a medical certificate confirming the EWC, (i.e. MAT BI Form) and the expected EWC is:

Sunday date: _____

Actual date of birth: _____

3. I would like to take [one week OR two consecutive weeks'] **(Please delete as appropriate)** OSPL.

4. I would like my OSPL to start (Please select and, where necessary complete one of the following):	
a) On the date of birth	<input type="checkbox"/>
b) _____ [insert number] days after the date of birth	<input type="checkbox"/>
c) On _____ [insert date] (note that this date must be later than the expected week of childbirth)	<input type="checkbox"/>

Non-Teaching Employees Only – Maternity Support Leave Employed Under Green Book Terms

<p>5. I will be the child's father or the partner or nominated carer of an expectant mother at or around the time of birth. I wish to take 5 days paid maternity support leave in order to provide care for the child and support the mother commencing on [date]_____</p> <p>I also meet the qualifying condition for OSPL indicated under 1 above and wish to take 1 week's OSPL following this to commence on [date] _____</p>	
6. I am not eligible for maternity support leave. I intend to take (please tick):	
1 week OSPL	<input type="checkbox"/>
2 consecutive weeks OSPL	<input type="checkbox"/>
Commencing on [date] _____ which is:	
a) the date on which it is anticipated the child will be born; or	<input type="checkbox"/>
b) _____ [insert number of days] after the date on which the child is expected to be born	<input type="checkbox"/>
7. I understand that I must provide 28 days' written notice if I wish to change the start date of my OSPL.	<input type="checkbox"/>
8. I understand that all my OSPL must be taken within 56 days of the date of birth (except where the child is born earlier than the EWC-see the entitlement to OSPL and how it can be taken)	<input type="checkbox"/>
9. I understand that OSPL is not available if, in birth cases, I have taken any shared parental leave in respect of the child.	<input type="checkbox"/>

Section C – Application for Ordinary Statutory Paternity Pay (OSPP)

Please refer to the attached guidance document 'the entitlement to OSPP' and tick the **one** applicable statement.

a) I understand that I am not entitled to OSPP as I do not meet the earnings threshold. I am applying for OSPL only. (You will be sent form SPPI to confirm)

☐

b) I understand that I am entitled to OSPP. Please arrange payment of my 1 week.

☐

c) I understand that I am entitled to OSPP. Please arrange payment of my 2 weeks.

☐

If you have elected under Section B to take your entitlement to maternity support leave this will be paid.

Section D – Application for Contractual Paternity Pay (CPP) (where applicable)

I understand that in accordance with my contract I am entitled to CPP. Therefore, please arrange payment of my entitlement to:

1 week

☐

2 weeks'

☐

CPP

☐

Section E – Declaration

All of the information I have provided on this form is accurate

Print name:

Signed:

Date:

Please return this form to the Senior Authorising Officer.

Section F – Authorisation (to be completed by the Senior Authorising Officer)

I authorise the paternity leave and pay as detailed above.

Print name:

Signed:

Date:

This form should be retained on the employee's personnel file.

Please forward a copy for payroll processing.