




# The LETTA Trust

## Ordinary Paternity Leave and Pay (Birth)

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<b>Reviewed by:</b>	Trust Board Resources Committee	<b>Signed:</b>	



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## 1. Introduction

This document sets out the statutory minimum for 'Ordinary Statutory Paternity Leave' (OSPL) and 'Ordinary Statutory Paternity Pay' (OSPP). It is applicable to all employees in the case of births. It also contains information on relevant non-teaching contractual provisions and local arrangements.

## 2. Frequently Used Terms

The definitions in this paragraph apply in this guidance.

- The term **child** may be read as **children** and the term **birth** as **births**
- **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 meet all the following criteria:

- a) 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 15<sup>th</sup> week before the expected week of childbirth
- b) Be either the biological father of the child or spouse, civil partner or partner to the biological mother
- c) 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
- d) 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



- 3.2. If the employee is eligible and gives the required written notice they are entitled to take the leave. It cannot be refused or deferred.
- 3.3. **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 pay for paternity leave is determined in accordance with the statutory requirements in place at the time. These can be accessed at [www.gov.uk](http://www.gov.uk)
- 4.2. OSPL is not available if the employee has taken 'Shared Parental Leave' in respect of the child.
- 4.3. Any employee not entitled to OSPP will receive form SPP1 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 up to two weeks paid leave to be taken within 56 days of the birth date or adoption date. In the case of an adoption, employers must be informed of the intent to take leave up to 7 days after receiving notification of a match.
- 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 of their paternity leave they must give 28 days' written notice.
- 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 the school 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 arrangements**

- 7.1. Subject to meeting the above mentioned qualifying criteria the child's father or nominated carer (including same sex partners\*), will be entitled to 10 days Maternity Support Leave (2 working weeks) with normal pay (inclusive of SPP). This entitlement is open to all eligible employees and is not dependent on length of service.

## **8. Employment rights during leave**

- 8.1. An employee who takes OSPL will not 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 employees 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:

- a) An isolated period of leave
- b) 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:

- a) 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
  - In any other case, as they would have been had the employee not been absent
- b) On terms and conditions not less favourable than those which would have applied had the employee not been absent on OSPL.

## **10. Informing payroll that an employee will be taking OSPL**

10.1. Please 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

10.2. Sections A to E are completed by the employee. Section F is completed by the HR Manager and must be signed to enable processing.



## **11. Shared Parental Leave**

Please refer to the LETTA Trust Shared Parental Leave (Birth) and/or Shared Parental Leave (Adoption) policy.

## **12. Bereavement**

We recognise the profound impact the loss of a partner can have on a family. To support our employees during such a challenging time, our paternity leave policy includes the following provision:

**Bereavement Leave for Fathers and Non-Birthing Partners:**

In the unfortunate event that the mother of your child, or the person with whom a child is placed or expected to be placed for adoption, passes away, you will have an automatic right to day-one paternity leave. This ensures that you can take immediate time off to care for your child and manage your family's needs without the need for a minimum employment period.

This policy is in place to provide immediate support and alleviate some of the burdens during a time of loss. We hope this will help you focus on what matters most - your family.

## **13. Neonatal care leave**

Entitles eligible parents to take up to 12 weeks' neonatal care leave if their baby requires neonatal care. They will also be entitled to neonatal care pay if they meet further eligibility requirements. This entitlement is in addition to existing entitlements such as paternity leave and maternity leave.



<b>Application for Ordinary Statutory Paternity Leave OSPL and Pay OSPP (Births) and Maternity Support Leave and Pay</b>	
<b>Section A – Employee Details (to be completed by the employee)</b>	
Employee name:	
Address for correspondence:	
Payroll reference:	
National Insurance No:	
Name of school:	
Post titles:	
Relevant service and notice week:	
Copy of evidence attached:	Yes: <input type="checkbox"/> No: <input type="checkbox"/>

<b>Section B – Application for OSPL and/or Maternity Support Leave (where applicable)</b>	
1. I [insert name] _____ confirm that I meet the qualifying conditions for OSPL You MUST be able to confirm all three conditions, please tick	
a) I wish to take OSPL to care for the child and/or support the child's mother, and	<input type="checkbox"/>
b) I 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 mothers 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 or two weeks' (please delete) 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**

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]\_\_\_\_\_

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]\_\_\_\_\_

6. I am not eligible for maternity support leave. I intend to take (please tick):

1 week OSPL

☐

2 consecutive weeks OSPL

☐

Commencing on [date] \_\_\_\_\_ which is:

a) the date on which it is anticipated the child will be born; or

☐

b) \_\_\_\_\_[insert number of days] after the date on which the child is expected to be born

☐

7. I understand that I must provide 28 days' written notice if I wish to change the start date of my OSPL.

☐

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)

☐

9. I understand that OSPL is not available if, in birth cases, I have taken any shared parental leave in respect of the child.

☐**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 SPP1 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 Trust HR Manager**

#### **Section F – Authorisation to be completed by the Trust HR Manager**

**I authorise 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**