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| Policy Title: | Paternity Leave Policy | |
| Date of Issue: | Autumn Term 2020 | |
| Date of Review: | Autumn Term 2022 | |
| Author & Role | County Model Procedure Adopted | |
| Ratified by: | Governors Policy Committee | |
| Date: | 19.11.2020 | |
| Policy Committee Responsibility: | Chair W Blundell | Vice Chair H McCann |
| Outcome: | This Procedure: Sets out paternity leave and pay provisions for staff in delegated schools, and the arrangements for requesting such leave and pay, following the birth or adoption of a child. | |
| Cross Reference: | Shared Parental Leave Policy | |

EQUALITY AND DIVERSITY STATEMENT

Astley Park School is committed to the fair treatment of all in line with the Equality Act 2010. An equality impact assessment has been completed on this policy to ensure that it can be implemented consistently regardless of any protected characteristics and all will be treated with dignity and respect.

POLICY REVIEW

To ensure that this policy is relevant and up to date, comments and suggestions for additions or amendments are sought from users of this document. To contribute towards the process of review, please contact the author of the policy.

Astley Park School

PATERNITY LEAVE POLICY FOR SCHOOLS DECEMBER 2019

1. PURPOSE

This policy sets out paternity leave and pay provisions for staff in delegated schools, and the arrangements for requesting such leave and pay, **following the birth or adoption of a child.**

2. SCOPE

The policy applies to all teachers and support staff in delegated schools and teachers in Centrally Managed Services.

3. ORDINARY PATERNITY LEAVE

Employees who meet certain qualifying conditions have a statutory right to take two weeks' paid paternity leave, known as Ordinary Paternity Leave (OPL), on the birth or adoption of a child for which they have or expect to have responsibility.

The right to take Paternity Leave is in addition to the statutory right to take Shared Parental Leave (SPL) to care for a child, which is subject to separate qualifying criteria.

3.1 Qualifying conditions – following the birth of a child

In order to take OPL after the birth of a child, an employee must:

- have at least 26 weeks' continuous service with the Council by the end of the 15th week before the Expected Week of Childbirth (EWC).
- be the child's biological father and have, or expect to have, responsibility for the child's upbringing; or
- be the spouse or partner or civil partner of the mother and have, or expect to have, the main responsibility for the child's upbringing, apart from the responsibility of the mother (same-sex partners are eligible).
- have formally notified the Headteacher of his or her intention to take OPL; and
- be willing and able to provide documentary evidence of his or her right to take OPL if required to do so (e.g. Birth Certificate)

3.2 Qualifying conditions – following the adoption of a child

In order for an adoptive parent (who is not taking Statutory Adoption Leave (SAL) or the partner of an adoptive parent) to be entitled to take OPL to care for a child adopted in the UK, he or she must:

- have at least 26 weeks' continuous service with the Council by the end of the week in which he or she is formally informed by an approved adoption agency that he or she (or his or her partner or civil partner) has been matched with a child for adoption;

- be the joint adopter of the child or be married to, or the partner or civil partner of, the adopter and have, or expect to have, the main responsibility for the child's upbringing, apart from the responsibility of the adopter;
- have formally informed the Headteacher of his or her intention to take OPL; and
- be willing and able to provide documentary evidence supporting his or her right to take OPL if required to do so (e.g. evidence of parental responsibility, Matching Certificate (for UK adoption), official notification of placement (overseas adoption))

Slightly different rules apply if the child is being adopted from overseas. In this case, the adoptive parent must have at least 26 weeks' continuous service and this must:

- end with the week in which the adoptive parent receives notification from the relevant domestic authority; or
- commence with the week in which the adoptive parent's employment began.

The latter criteria take into account the fact that notification of the placement may have been obtained some time before the child enters the UK and the employee may have changed employers during that time.

3.3 Period of leave

The following rules apply for the period of OPL:

- OPL is for a maximum of 2 weeks.
- Employees can choose to take either 1 week or 2 consecutive weeks.
- Leave cannot be taken in units of odd days.
- If an employee elects to take only 1 week's leave, he or she may not take a further week's leave at a later stage.
- The leave may begin on any day of the week, which may include the day on which an employee's child is born or adopted.
- The length of OPL is unaffected by multiple births or if more than one child is adopted as part of the same placement.
- OPL must be taken within 56 days of the birth of a child or, in the case of adoption, within 8 weeks of the child's placement.
- If the baby is born prematurely the employee may take OPL at any time from the actual date of birth up to the end of a period of 8 weeks after the week the birth was expected.
- OPL should be taken after the baby is born. So, where the baby is born after the date the employee notified the County Council that he or she wanted the OPL to commence, the employee must delay the start of the leave until the baby is actually born.
- Paternity leave must be taken before any SPL is taken. An employee will lose their right to paternity leave if they have already taken a period of SPL in respect of a child.

An employee is still entitled to take OPL in instances where:

- a child is stillborn, provided that the mother had reached her 24th week of pregnancy; or

- a child has been placed for adoption and a disruption occurs to the placement (e.g. the child is returned to the adoption agency).

3.4 Notification requirements – following the birth of a child

In order to take OPL after the birth of a child, an employee must notify the Headteacher of his or her intention to take OPL by the end of the 15th week before the mother's EWC, or as soon as is practicable thereafter, using the application form at Annex 1 of this Policy.

3.5 Notification requirements – following the adoption of a child

In order to take OPL after the adoption of a child in the UK, the employee must notify the Headteacher of his or her intention to take OPL no later than 7 days after the date on which notification was received from the adoption agency of the match with the child, using the application form at Annex 1 of this Policy.

If the child is being placed from abroad, the employee must notify the Headteacher, in writing, of:

- the date the adoptive parent received official notification of the placement; and
- the date on which the child is expected to enter the UK.

This notification must be done within 28 days of the adoptive parent receiving the official notification of the placement, or within 28 days of the employee completing 26 weeks' continuous service (whichever is later). The employee must give at least 28 days' notice of the date on which OPL is to start. They must also inform the Headteacher, in writing, of the date that the child entered the UK, within 28 days of the child's date of entry, and provide documentary evidence (e.g. a plane ticket) to confirm the child's arrival.

3.6 Commencement of OPL

As long as the employee takes his or her entitlement to one or two weeks of OPL within 56 days of the birth or adoption of the child, he or she can choose when to start the leave. In general, OPL starts on the date specified in the employee's notice.

In the case of birth, an exception to this is when the employee chooses to start his or her OPL on the day the baby is born and he or she is at work on that date. In such a case, the leave would start the next day. It is not possible for prospective fathers or partners to take OPL before the birth of a baby.

3.7 Variation of start date

If, having provided notification of his or her intention to take OPL on a specified date, the employee wishes to change the start date, he or she must give the Headteacher at least 28 days' notice as to the revised start date unless this is

not reasonably practicable. Notice of the variation should be given as soon as possible and must be in writing.

3.8 Further notice

In all cases, once the baby has been born or the child has been placed for adoption, the employee must inform the Headteacher, in writing, of the date of birth or placement.

3.9 Ordinary Statutory Paternity Pay (OSPP)

To be eligible for Ordinary Statutory Paternity Pay (OSPP), the employee's average weekly earnings over a certain 8-week period must not be less than the lower earnings limit for National Insurance contributions. Employees who earn less than this limit may still take OPL, but they are not entitled to receive OSPP.

For those who qualify, OSPP is paid at a flat rate (the standard rate of Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP) or 90% of the employee's average weekly earnings, whichever is the lesser amount.

3.10 Rights during OPL

An employee's contract of employment continues in full throughout the period of OPL with the exception of normal remuneration.

3.11 Right to return after OPL

An employee returning to work after either 1 or 2 weeks' OPL has the right to return to the job they held immediately before their leave began, on the same terms and conditions of employment.

After a period of 1 or 2 weeks of OPL there is no requirement for the employee to give notice of his or her return date.

NOTE: Where an employee is also entitled to Maternity Support Leave (MSL) under national conditions of service, the employee would be entitled to MSL of 1 week at full pay and 1 week OPL paid at the OSPP rate stated above. MSL and OPL do not need to be taken consecutively.

Astley Park School

ANNEX 1: APPLICATION FORM FOR REQUESTING MATERNITY SUPPORT LEAVE (MSL) AND/OR ORDINARY PATERNITY LEAVE (OPL)

I confirm that I am requesting MSL*/OPL* because I am becoming a parent*/ becoming an adoptive parent (UK adoption)*/adopting a child from abroad* (**delete as appropriate*)

Section 1: (to be completed by the Employee)

| | | | |
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| Name: | | | |
| Job Title: | | | |
| School/Establishment name: | | | |
| LCC Continuous Service start date: | | Employee No: | |
| Type of leave requested: | | | |
| | Number of days | Date from: | Date to: |
| Maternity Support Leave | | | |
| Ordinary Paternity Leave | | | |
| Please indicate the reason for the request: | | | |

Please note that you may be asked to provide evidence to support your application e.g. child's birth certificate, adoption matching certificate, evidence of parental responsibility

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| Please state the child's due date/placement date (for adoption) | | |
| Signed: | | Date: |

Section 2: (to be completed by the Line Manager/Headteacher)

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| Name: | | Job title: | |
| Please indicate whether the relevant criteria have been met for the type of leave requested: | | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| Please indicate whether you agree to the request: | | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| Supporting comments for your decision: | | | |
| Signed: | | Date: | |