

Paternity Leave Provisions – effective from April 2023

Paternity Rights – A guide for employees of The University of Bolton

What is Paternity Leave?

Paternity leave and pay entitles an eligible employee to take time off to care for a baby or support the mother in the first few weeks after birth.

What do I have to do to claim paternity leave?

Employees need to satisfy the following conditions in order to qualify for paternity leave. They must:

- have or expect to have responsibility for the child's upbringing
- be the biological father of the child or the mother's husband or partner*
- have worked continuously for the University for 26 weeks ending with the 15th week before the baby is due
- provide a self-certificate (SC3) as evidence that they meet the eligibility conditions to receive ordinary statutory paternity pay (OSPP).

*The DTI guidance explains “by partner we mean a person whether of a different sex or the same sex who lives with the mother in an enduring family relationship but is not an immediate relative”.

A member of staff requesting paternity leave should ensure they contact Human Resources in advance of the proposed leave dates to obtain the necessary information and form (SC3) for completion.

Length of Ordinary Paternity Leave

Ordinary paternity leave is normally paid leave as detailed below

Employees can choose to take either one week* or two consecutive weeks' paternity leave (not odd days).

*A week is determined by the employee's weekly working pattern/hours.

These can be either

- from the date of the child's birth (whether this is earlier or later than expected) or,
- from a chosen date.

Leave can start on any day of the week or following the child's birth but must be completed:

- within 56 days of the actual date of birth of the child, or

- if the child is born early, up to 56 days after the Sunday of the week in which the child was due.

Only one period of leave will be available irrespective of whether more than one child is born as the result of the same pregnancy.

What is Ordinary Statutory Paternity Pay?

During their paternity leave most employees will be entitled to Ordinary Statutory Paternity Pay (OSPP). It will be paid for either one or two consecutive weeks as the employee has chosen. The rate of OSPP will be the same as the standard rate of Statutory Maternity Pay (SMP) April 2020, this is £172.48 per week or 90% of average weekly earnings (AWE) if they are less than £172.48.

Employees who have average weekly earnings below the Lower Earnings Limit (LEL) (currently £123.00) for National Insurance purposes will not qualify for OSPP. An employee who does not qualify for OSPP should be notified on form OSPP1 which explains why we cannot pay them OSPP. They may be able to receive Income Support while on paternity leave. Further information is available from the Jobcentre Plus office.

Occupational Paternity Pay.

Employees of the University of Bolton are entitled to receive Occupational Paternity Pay during the first week of their paternity leave. This is paid at your weekly salary rate. Therefore you will receive your normal salary payment for the first week and OSPP during the second week. Please note that the first week's normal salary payment will include the OSPP element.

Is there a notification period?

Employees will be required to inform the University by completing form SC3 (Becoming a Parent) of their intention to take paternity leave. They must produce this evidence at least 28 days before the pay period starts.

You should notify both your line manager and Human Resources.

What if I change my mind about the dates I want the leave to start?

Employees will be able to change their mind about the date on which they want their leave to start providing they give notice at least 28 days notice in advance of the leave (unless this is not reasonably practicable).

You should notify both your line manager and Human Resources.

What happens to my terms and conditions?

During paternity leave employees are entitled to the benefit of their normal terms and conditions of employment, except salary. Following paternity leave employees will be entitled to return to the same job.

Additional Statutory Paternity Pay (ASPP)

ASPP was introduced for qualifying employees for babies due to be born on or after 3 April 2011 when their spouse or partner has had a baby.

ASPP is given to eligible fathers, partners and civil partners of mothers where there is an entitlement to SMP or Maternity Allowance (MA) and that payment has been brought to an end by the mother returning to work. The employee must be taking time off to care for their child.

ASPP is paid at the lower of £172.48 or 90% of AWE for pay weeks commencing on or after April 2015. The minimum ASPP that can be paid is 2 weeks and it will cease when the SMP or MA period ends.

Length of ASPP and Additional Paternity Leave (APL)

An employee has the right to choose when they want to take pay and leave within a set period.

- the earliest start date is 20 weeks after the child's birth.
- ASPP must end no later than the date the SMP or MA period ends.
- there must be at least two weeks SMP or MA remaining
- APL cannot exceed 26 weeks, except in exceptional circumstances, and must end no later than the child's first birthday
- an employee may take unpaid APL after the SMP or MA period ends.

Evidence for ASPP

An employee must apply for ASPP at least eight weeks before the ASPP is due to start. The application must be in writing and made to Human Resources. You can do this by submitting form SC7 which provides basic information, the employee's declaration and the mother's declaration. **You should also provide a copy of the child's birth certificate and the name and address of the mother's employer.**

Human Resources must respond to this in writing **within 28 days** setting out the start and end dates of the employee's ASPP period.

Once you have notified Human Resources of your intention to start APL, you can change the date but you must give at least six weeks written notice of the change. If this is not reasonably practical you must give written notice as soon as possible.

Qualifying Rules

An employee must:

- satisfy the conditions for entitlement to ASPP
- submit form SC7 at least 8 weeks before the start of the ASPP
- be employed continuously by the University for at least 26 weeks into the Qualifying week for maternity leave/pay purposes and continue to work for the University until the end of the week before the ASPP period begins.
- Have average weekly earnings which are not less than the Lower Earning Limit (LEL)

An employee not entitled to ASPP must be notified on form ASPP1, which explains why the University cannot pay ASPP. Form SC7 will be returned to the employee after taking a copy for our records.

'Keeping in Touch' days

An employee on ASPP can agree to work for you during their ASPP period without losing their ASPP or ending their APL. Any such work must be in agreement between the parties and there is no right for an employer to demand that an employee undertakes any such work, or for an employee to do such work. For the purpose of this provision 'work' may include training, or any other activity undertaken to assist in keeping in touch with the workplace.

Other Family Friendly Rights

- Parents of children under the age of 17, or under the age of 18 in the case of a disabled child, can apply for flexible working to enable them to care for their child. Please see the flexible working policy for further details.
- Parents of children who have completed one year's service are entitled to 13 weeks' (unpaid) Parental leave to care for their child. Parental leave can be taken from the date of birth up to the child's fifth birthday, or in the case of adoption up to five years from the date of placement.