

## PATERNITY LEAVE AND PAY

In addition to Maternity Support Leave, qualifying employees may claim an additional 4 days Paternity Leave at the statutory rates (Statutory Paternity Pay – SPP).

### 1. Qualifying Criteria

1.1 To qualify for Paternity Leave an employee must meet all of the following criteria:

- Have at least 26 weeks continuous service with Hackney by:-
  - The 15<sup>th</sup> week before the baby is due.
- or**
- The end of the week in which they are notified of being matched with the child in case of Adoption.

#### And

- Have or expect to have responsibility for the child's upbringing
- and**
- Is the father of the child or the mother's husband or partner\*  
**or**  
Is the partner of an individual who adopts, or one of a couple adopting jointly who is not taking adoption leave

\*A partner is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative. Partners include same sex partners.

### 2. Paternity Pay

- 2.1 The additional four days is paid at the rate of Statutory Paternity Pay (SPP); which the Council will pay to the employee and claim back from the government. The employee will be on no-pay from the Council for these days.
- 2.2 The Statutory Paternity Pay (SPP) is paid at statutory weekly rate or 90% of the employee's average weekly earnings, whichever is lower.

**\*Note: current SPP can be found at <https://www.gov.uk/employers-maternity-pay-leave>**

### 3. Starting and Ending Paternity Leave

- 3.1 An employee can chose to start their leave:
- **From the date of the child's birth** (whether this is earlier or later than expected)
  - **From a chosen number of days after the date of the child's birth** (whether this is earlier or later than expected) e.g. 10 days after the child is born.
  - **From a chosen date after the baby is expected to be born**

- ***From the date of the child's birth if the baby is 'stillborn' at 24 weeks or more.***
- ***Born alive at any point in the pregnancy but later dies.***

3.2 Normally, paternity leave must be taken within 8 weeks of the birth of the child. However, if the baby is premature, then the 8 weeks starts from the expected date of childbirth. If the baby is born late, the 8 weeks starts from the actual birth of the baby.

3.3 Paternity leave must be taken after the birth of the baby. So if the baby hasn't been born by the date the employee chose to start their paternity leave, then the employee must wait (i.e. delay their paternity leave until the baby is actually born).

3.4 If an employee chooses to start their paternity leave from the date the baby is born and he/she is at work on that date, then the paternity leave will begin the next day.

3.5 Where the child is adopted within the UK, an employee can choose to start their leave:

- on the date the child is placed; *or*
- from a chosen number of days after the date the child is placed (e.g. 10 days after the child is placed); *or*
- from a chosen date after the child is expected to be placed

Paternity leave must be taken after the child is placed. So if the baby hasn't been placed by the date the employee chose to start their paternity leave, then the employee must wait (i.e. delay their paternity leave until the baby is actually placed).

3.6 Where the child is adopted from overseas, an employee can choose to start their leave:

- the date the child enters Great Britain; *or*
- from a chosen date after the child enters Great Britain.

3.7 Employees should not be pressured to alter their chosen dates, even if it is inconvenient.

#### **4. Notification**

4.1 The employee must tell their line manager that he/she intends to take paternity leave at least 15 weeks before the baby is expected, unless this is not reasonably practicable. The employee should provide details of:

- The week the child is due
- When he/she wants to start his/her leave.

4.2 The employee must give their manager:

- A completed declaration (self-certificate) as evidence of his/her entitlement to SPP ( Form SC3 Available on the Intranet). Complete and return to your manager
- A copy of the MAT B1 certificate

- Declaration Form SC3 is for a non-adopting parent (Available on the Intranet).
- Declaration Form SC4 is for an adopting parent (Available on the Intranet)

- 4.3 The employee must tell their manager when their child was actually born or adopted as soon as is reasonably practicable after the birth or placement.
- 4.4 Where the baby is adopted within the UK, employees should notify their manager no later than 7 days after the date he/she is notified of being matched with a child.
- 4.5 Where the child is adopted from abroad, employees should notify their manager no later than 28 days after receipt of the official notification; or the completion of 26 weeks service (needed to qualify for paternity leave), which ever is later.

The employee must give at least 28 days notice of the date he/she wants the paternity leave to begin.

Managers must write to the employee confirming the date that the paternity leave will start and finish.

## **5. Notification of a Change**

- 5.1 An employee may change their mind about when he/she wants the leave to start. The employee must give their manager at least 28 days notice of the new dates, unless this is not practicable.

## **6 Return to Work**

- 6.1 The employee is entitled to return to the job they left on the same terms and conditions.

## **7. Surrogacy**

Where the employee is the biological father or the partner of someone who is adopting the baby through an approved agency, then paternity leave will apply.

Qualifying employees will be eligible for unpaid parental leave once they have got a parental order.

## **8. Stillbirths**

- 8.1 A qualifying father/partner is entitled to paternity leave if:-

- the baby is born dead after the 24<sup>th</sup> week of pregnancy (i.e. a 'stillbirth'); *or*
- the baby is born alive at any stage of the pregnancy and dies
- *or*
- The mother dies in childbirth.

## **9. Miscarriage**

- 9.1 If the baby is born dead before the 24<sup>th</sup> week of pregnancy, then this is a 'miscarriage', and the father/partner is not entitled to paternity leave or pay.

## **10. Bank Holidays**

- 10.1 If the employee is on paternity leave on a Bank Holiday, then he/she may take a day off in lieu at a later date.

<b>Adopting Parents and Partners</b>
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1. A parent or partner (including same sex partners) in an adoption, who is not taking Adoption Leave may take 6 days paid leave and 4 days at Statutory Paternity Pay rates (where he or she qualifies) in line with the provision for Maternity Support Leave and Paternity Leave.

## Key Dates for Paternity Leave and Pay

**15 weeks** before the baby is due or the **end of the week** in which the employee is notified of being matched with the child (in the case of adoption in the UK)

Qualifying date for Paternity Leave and Pay. Employees must have at least 26 weeks service with Hackney.

**15 weeks** before the baby is due or within of being notified of the match (in the case of adoption in the UK) or within **28 days** of receipt of notification (in the case of adoption from abroad).

Employee must notify their manager of their intention to take Paternity leave.

Within **56 days** of the birth (or expected birth where the baby is premature)

Paternity leave must have been taken (in a block of one or two weeks)