

***CAERPHILLY COUNTY BOROUGH  
COUNCIL***

***PATERNITY LEAVE SCHEME  
NOTES OF GUIDANCE***

***JUNE 2016***

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A copy of this document is available in Welsh, on request.

## **GLOSSARY**

### **PATERNITY LEAVE**

You must be taking time off to look after the child and be one of the following:-

- The father
- The husband or partner of the mother
- The child's adopter
- Have or expect to have responsibility for the child's upbringing (surrogacy)

### **PATERNITY LEAVE IN RELATION TO ADOPTION**

In an adoption situation, partner in relation to a child's adopter means a person (whether of the same or the opposite sex) who lives with the adopter and the child in an enduring family relationship, but is not a relative of the adopter. "Relative" for these purposes means the adopter's father, mother, grandfather, grandmother, sister, brother, aunt or uncle.

In terms of adoption, adopter means, a person by whom the child has been or is to be adopted, or where the child has been or is to be adopted jointly by two people, whichever of them has elected to take adoption leave in respect of the child.

"Adoption from overseas" means the adoption of a child who enters Great Britain from outside the UK in connection with or for the purposes of adoption that does not involve the placement of the child for adoption under the law of any part of the UK.

"Official notification" means written notification, issued by or on behalf of the relevant domestic authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent. The "relevant domestic authority" in the case of an adopter to whom the Intercountry Adoption (Hague Convention) Regulations 2003 apply and who is habitually resident in Wales is the National Assembly of Wales.

### **HMRC FORMS**

- SC3 [SC3 - Becoming a Parent - Birth](#)
- SC4 [SC4 - Becoming A Parent - UK Adoption](#)
- SC5 [SC5 - Becoming A Parent - Adoption Overseas](#)

## PATERNITY LEAVE SCHEME TOOLKIT

### Entitlement To Paternity Leave

In order to be entitled to paternity leave an employee must satisfy a number of criteria and these will depend on whether the caring responsibility for the child comes from a birth or adoption.

**In terms of birth**, employees are entitled to one week's paternity leave or two consecutive weeks' paternity leave for the purpose of caring for the child or supporting the child's mother if they:

- have been continuously employed for a period of 26 weeks with Caerphilly County Borough Council or more by the end of the 15<sup>th</sup> week before the mother's expected week of childbirth (or would have satisfied that condition but for the fact that the child was born before the end of that 15<sup>th</sup> week, was stillborn after 24 weeks of pregnancy or has died).
- are the child's biological father and has (or expects to have) responsibility for the child's upbringing, or is the mother's husband, civil partner or partner (but not the child's biological father) and has or expects to have the main responsibility (apart from any responsibility of the mother) for the child's upbringing; and
- have formally notified their Line Manager of the date on which they intend to take their paternity leave and, where applicable, have produced evidence supporting their claim for paternity leave.

Employees who are not eligible for paternity leave may be eligible for five days paid Maternity Support Leave. Maternity Support Leave is available to employees who do not have the qualifying service to be entitled to paternity leave or if they are the nominated carer for the expectant mother. A nominated carer is defined as 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.

**In terms of adoption**, employees are entitled to one week's or two consecutive weeks' paternity leave for the purpose of caring for the adopted child or supporting the child's adopter if they

- have been continuously employed for a period of not less than 26 weeks with Caerphilly County Borough Council by the end of the week in which the child's adopter is formally notified by an approved adoption agency that they have been matched with a child for adoption. In the case of someone adopting from overseas an employee must have worked continuously for the Council for at least 26 weeks ending with the 15<sup>th</sup> week before the baby is due, or the end of the week in which the employee is notified as being matched with a child (UK adoption) or the date the child enters the UK (overseas adoptions)
- are married to, the civil partner of, or the partner of the child's adopter, and has or expects to have the main responsibility (apart from any responsibility of the adopter) for the child's upbringing; and
- have formally notified their Line Manager of the date on which they intend to take paternity leave and, where applicable, have produced evidence supporting the paternity leave claim. This is the matching certificate from the Adoption Agency.

Employees who are on a period of paternity leave over a Bank Holiday will receive a day in lieu of the Bank Holiday. This can either be added to the end of the period of leave or added to the employee's annual leave entitlement.

For example if an employee commences their two weeks' paternity leave on Friday 1<sup>st</sup> May, they will be due back in work on 15<sup>th</sup> May. However, Monday 4<sup>th</sup> May was a Bank Holiday. Therefore they can either add that day on to the end of this period of paternity leave and return to work on 18<sup>th</sup> May or return as planned on 15<sup>th</sup> May and add the day to their annual leave entitlement to be used at a later date.

### **Notice for the Taking Of Paternity Leave**

When giving notice to take paternity leave, an employee must inform you of a number of pieces of information and these will depend on whether the caring responsibility for the child comes from a birth or adoption.

**In terms of birth**, an eligible employee intending to exercise their right to paternity leave must inform their Line Manager of their intention by the end of the 15<sup>th</sup> week before the mother's expected week of childbirth (EWC). In doing so, they must specify:

- the mother's EWC (or, if birth has already occurred, the date of the child's birth);
- whether they wish to take one or two weeks' leave; and
- when they want the period of leave to start.

An employee who has given notice of their intention to take paternity leave to care for the child or support the mother must sign a declaration confirming the nature of their relationship with the child and its mother and asserting that they have (or expect to have) responsibility for the child's upbringing or (if they are the mother's husband, civil partner or partner but not the child's biological father) that they have, or expect to have, the main responsibility (apart from any responsibility of the mother) for the child's upbringing.

**In terms of an adoption within the UK**, eligible employees wishing to exercise their right to paternity leave must inform their Line Manager of their intention no more than seven days after the date on which the adopter is notified by an approved adoption agency that they have been matched with a child for adoption (or if it is not reasonably practicable to give notice within that seven-day period, as soon as is reasonably practicable). In doing so, employees must specify:

- when the child is expected to be placed with the adopter (or, if placement has already occurred, the date of the placement);
- whether they wish to take one or two weeks' leave; and
- when they want that leave to start.

**In terms of an adoption from overseas**, eligible employees intending to exercise their right to paternity leave must within 28 days of the adopter receiving the official notification notify their Line Manager of:

- the date on which the child's adopter received the "official notification"; and
- the date on which the child is expected to enter Great Britain.

Employees must then (or subsequently) give their Line Manager at least 28 days' advance notice of:

- when they want their paternity leave to start; and
- whether they wish to take one or two weeks' leave.

No later than 28 days after the date the child entered Great Britain, the employee must inform their Line Manager of this date.

In all 3 situations above, employees must give notice of their intention to take paternity leave in writing on the relevant HMRC documentation for Paternity Pay to their Line Manager prior to sending it to HR for processing.

In the case of both birth and adoption, employees may change their mind about the date on which they intend to start their paternity leave so long as they inform their Line Manager of the amended start date at least 28 days before the date in question (or as soon as is reasonably practicable, if they are not in a position to give the prescribed 28 days' notice).

In the case of adoption, employees must also sign a written declaration confirming that the adopter has received an "official notification", the nature of their relationship with the child's adopter, and that they have (or expect to have) the main responsibility (apart from the responsibility of the child's adopter) for the child's upbringing.

### **Timing of Paternity Leave**

The timing of a period of paternity leave must be such as to enable an employee to take their full entitlement to leave (one week's leave or two consecutive weeks' leave, as the case may be) either:

- within 56 days of the child's date of birth or, if the child was born prematurely, within the period from the actual date of birth up to 56 days after the first day of the mother's expected week of childbirth;
- in the case of adoption, within 56 days of the date on which the child was placed for adoption with the employee and/or their partner (whether that date occurs sooner or later than expected) or within 56 days of the child's entry into Great Britain;

There is no provision for an employee to take less than one week's leave or two consecutive weeks' leave at any one time or to interrupt or foreshorten either period of leave, e.g. by taking one or two days' leave here, and two or three days' leave there.

**In relation to a birth**, the employee may choose to begin their leave from the date of the child's birth (whether this is earlier or later than expected), or from a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected) or from a predetermined date.

**In relation to an adoption**, the employee may choose to begin their period of paternity leave from the date of the child's placement with the adopter (whether this is earlier or later than expected), or from a chosen number of days or weeks after the date of the child's placement (whether this is earlier or later than expected) or the child's entry into Great Britain, or from a predetermined date.

A period of paternity leave may start on any day of the week on or following the child's placement with the adopter, but must be completed within 56 days of the date on which the placement occurred.

For surrogate parents paternity leave can start on the date that the child is born or the day after.

## **Pay During Paternity Leave**

Employees taking paternity leave will qualify for their normal salary during their period of paternity leave.

## **Rights During Paternity Leave**

An employee's contract of employment continues to remain in force during the period of paternity leave, unless either the Manager or the employee expressly ends it or it expires. This means that while they are on paternity leave, employees are entitled to benefit from all their normal terms and conditions. An employee continues to accrue annual leave while on paternity leave. An employee taking paternity leave should be treated in the same way as any other employee when a redundancy situation arises. This includes treatment relating to consultation about the redundancy and consideration for any other vacancies.

Pension contributions remain unchanged during a period of paternity leave.

## **Return To Work After Paternity Leave**

An employee who returns to work after a period of paternity leave is entitled to return to work to the job in which they were employed in immediately before the absence.

An employee is entitled to take a period of parental leave directly following their paternity leave as long as their Manager has received the correct notifications. See the Council's Parental Leave Scheme.

## **Sickness And Paternity Leave**

If an employee cannot return to work, because of illness, at the end of a period of paternity leave, they should follow the notification procedure laid down in the Council's Managing Sickness Absence Procedure.

If an employee is ill prior to the commencement of their paternity leave they should postpone it. The fifty-six day period within which they should take the leave is not extended in these circumstances.

**AUGUST 2016**