



## **Paternity/Partner Leave Policy**

The University is fully committed to helping working parents to balance the needs of work and family life and appreciates the importance of providing greater choice for parents in how they arrange parental care during the first year of a child's life or following their adoption.

This policy is in addition to leave in respect of maternity and adoption (including eligible surrogacy arrangements subject to a Parental Order), and should be read in conjunction with these related policies.

**Scope:** All eligible employees

### **Key principles:**

1. Staff may take up to 2 working weeks Ordinary Paternity Leave (OPL) at full pay.
2. Eligible staff may also take a period of Additional Paternity Leave (APL) lasting between 2 weeks' and 26 weeks.
3. Staff may be eligible to receive a period of Additional Statutory Paternity/Partner Pay (ASPP) should the mother/co-adopter have not used their full entitlement to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA) before returning to work.
4. The provisions under this policy will also be applicable to eligible intended parents of a child born through a surrogacy arrangement, who will be subject to a Parental Order, for babies with an Expected Week of Childbirth (EWC) on or after 8<sup>th</sup> September 2013, (though 'equivalent' statutory payments will be made available as there is no statutory entitlement for such surrogacy arrangements).
5. All contractual benefits with the exception of pay will continue to accrue during the APL period.
6. Keeping in touch days are available to support continued communication during the paternity/partner leave.
7. Annual leave can be used flexibly outside of the APL; subject to departmental agreement/business needs to support effective planning.



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**How the University supports this policy:**

In addition to the above, there are also a number of family friendly policies aimed at supporting staff achieve work/life balance and meet demands faced when caring for dependents e.g. flexible working, parental leave, Parents@TUoS Network, the ability to purchase additional leave etc.

**What to do next:**

Full details explaining the provision of both OPL and APL, eligibility requirements and notification processes are detailed within the paternity/partner leave procedure and FAQs. A notification form can be downloaded from the main Family Leave page.

**Document control**

**Last updated:** 08/13

**Date of next review:** 08/15



## **Paternity/Partner Leave Procedure**

### **1. Introduction**

- 1.1 This procedure supports the implementation of the Paternity/Partner Leave policy, which incorporates both the ordinary and additional paternity/partner leave provisions.
- 1.2 Eligible staff can apply for either or both Ordinary (OPL) and Additional Paternity/Partner (APL) leave.
- 1.3 Reference to a 'partner' throughout this procedure is defined as a person (whether of the same or different gender) who lives with the mother or adopter and the child in an enduring family relationship but is not a relative of the mother or adopter.
- 1.4 This procedure will also apply to intended parents of a child, born through a surrogacy arrangement, who will be the subject of a Parental Order, though there is no statutory entitlement to either OPL/APL or pay. In such circumstances, the University will provide the intended parent with the entitlements available under this procedure, including payments 'equivalent' to statutory pay, whilst they remain employed by the University. This will be subject to: the provision of a copy of the 'Parental Order' within 6 months of the baby's birth; and the ability to fulfill the relevant eligibility/notification criteria defined within this policy/procedure.
- 1.5 The right to OPL/APL is available to one member only of a couple who have had a child placed with them for adoption, or subject to a parental order, that has not/is not applying for either maternity or adoption leave.
- 1.6 Having read the information below, any queries should be raised with the staff members Human Resources Team Contact or the Payroll Team.



## 2. OPL - Eligibility for leave and pay

- 2.1 All staff (male and female) regardless of the number of hours worked or the length of service, have the ability to take up to 2 weeks paid OPL (taken in one block of either one or two weeks' duration) after the birth or adoption of the child (or entry into the UK for overseas adoptions), subject to meeting the below criteria:

Eligibility Criteria for leave	Up to 2 weeks' leave in a continuous block of 1 or 2 weeks	Pay Entitlement
<ul style="list-style-type: none"><li>• Employed at the time of the child's birth/placement/entry into the UK,</li><li>• Have or expect to have responsibility for a child's upbringing,</li><li>• Are taking time off either to support the mother/adopter or care for the new child,</li><li>• Are the child's biological father; or husband, partner, civil partner of the child's mother or person adopting the child, or one of a couple who have jointly adopted a child (or one of the intended parents of a child born through a legal surrogacy arrangement subject to a Parental Order)</li><li>• Provide appropriate notification (see section 3)</li></ul>		Full Pay (inclusive of any Ordinary Statutory Paternity Pay (OSPP) where applicable).

- 2.2 Leave can start on any date following the actual birth/placement of the child or entry into the UK and must be completed within eight weeks of this date (or in the case of an early birth within eight weeks of the expected week of childbirth).



### 3. OPL – Notification requirements

- 3.1 Written notification of the intention to take OPL should be provided through the submission of an OPL notification form, at the earliest date possible, and wherever practicable no later than:
- 15 weeks before the EWC for the birth of a baby (including those staff who are the intended parents of a child born through a surrogacy arrangement, subject to a Parental Order)
  - 7 days after the date on which notification of the match with the child was given by the adoption agency.
  - 28 days prior to the date which the employee has chosen as the date on which their period of paternity/partner leave should begin for overseas adoptions.
- 3.2 This notification, which includes a self-declaration as to the staff member's eligibility, should be submitted to his/her manager for signature, and forwarded to the individuals Human Resources Team Contact, who will acknowledge the notification and confirm leave arrangements as appropriate.
- 3.3 A staff member may change his/her mind about the date on which they want their leave to start providing they inform their manager and Human Resources at least 28 days in advance (or as soon as is reasonably practicable for example in the case of seeking to accommodate the early or late arrival of the baby/placement of the child).



**4. APL - Eligibility for leave and pay**

4.1 APL must be taken as a single block, in multiples of complete weeks, for between 2 to 26 weeks, at any time between 20 and 52 weeks after the child is born/ placed for adoption or arrives in the UK (for overseas adoption). To end in all cases no later than the child's first birthday, or one year after the child was placed for adoption/entered the UK.

<b>Eligibility Criteria for Leave</b>
Has been continuously employed for at least 26 weeks - by the end of the: 15 <sup>th</sup> week (i.e. the qualifying week) before the baby is due <b>OR</b> by the end of the week in which the child's adopter is formally notified of being matched with the child for adoption (or in the case of overseas adoption received official notification)
Remains in continuous employment with the University up to the start of the APL and /or ASPP period.
Have or expect to have the main responsibility (apart from any responsibility of the mother/co-adopter) for a child's upbringing, and be taking the leave to care for the child
Is the child's biological father of the child; or spouse, partner, civil partner of the child's mother or co-adopter and have been newly matched with the child for adoption by an approved adoption agency (or be the adopter's spouse/partner for overseas adoptions) (or one of the child's intended parents under a legal surrogacy arrangement, subject to a parental order) who has not also applied for the Adoption or Maternity Leave.
Provides appropriate notification (see below) including a staff members and mother/co-adopters declaration.
The child's mother/adopter/intended parent must also: <ul style="list-style-type: none"> <li>• *be entitled to one or more of: statutory maternity/adoption leave; statutory maternity pay (SMP); statutory adoption pay (SAP) or maternity allowance (MA), (*not a requirement for intended parents of a child born through a surrogacy arrangement, subject to a Parental Order), and</li> <li>• have returned to work.</li> </ul>



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4.2 During APL staff will not be entitled to pay, however eligibility to ASPP may be applicable if they meet the above eligibility criteria for APL and:

Eligibility for Additional Statutory Paternity/Partner Pay (ASPP)	Pay Entitlement
Be taking the time off to care for their child during their partner's 39 week SMP, MA, SAP (or unpaid for intended parents subject to a Parental Order) period. (Any leave after this combined period of 39 weeks will be unpaid)	ASPP (or 'equivalent' for surrogacy arrangements where the baby will be subject to a Parental Order) will be paid at the lower of either:
*Have a minimum of 2 weeks remaining of their partners statutory pay entitlement [*not applicable for surrogacy arrangements that will be subject to a Parental Order, unless in receipt of equivalent SAP]	<ul style="list-style-type: none"><li>• a rate set by the government for the relevant tax year, see <a href="http://GOV.UK">GOV.UK</a> for current values)</li></ul>
Have average weekly earnings, not less than the lower earnings limit for national insurance contributions, for the eight week period ending: with the 15 <sup>th</sup> week before the expected week of childbirth (or in the case of adoption ending with the week in which the child's adopter is notified of being matched with the child for adoption)	<p><b>OR</b></p> <ul style="list-style-type: none"><li>• 90% of the member of staff's average weekly earnings calculated over a period of eight weeks;</li></ul>
The partner has returned to work AND has *stopped claiming SMP, SAP or MA	



- 4.3 During APL the staff member may receive ASPP (or 'equivalent' payments), in place of any unused SMP/SAP (or equivalent) by the mother/adopter/intended parent for up to a maximum of 19 weeks. That is ASPP will be payable only during the period that the mother/co-adopter (or intended parent under a surrogacy arrangement subject to a Parental Order) would have received statutory maternity/adoption pay or maternity allowance had s/he not returned to work. The remaining period of Additional Paternity Leave is unpaid.
- 4.4 ASPP is payable whether or not the staff member intends to return to work after his/her APL. However, the University will not continue to pay the 'equivalent' of ASPP to an intended parent of a child born through a legal surrogacy subject to a parental order, once they have left the University's employment for whatever reason.
- 4.5 Staff whose average weekly earnings are below the Lower Earnings Limit for National Insurance purposes will not qualify for ASPP (or equivalent payments). In such cases, the payroll team will provide the member of staff with an ASPP1 exclusion form, within 28 days of the notification that he or she intends to take additional statutory paternity leave.
- 4.6 Any gap between the mother/co-adopter/intended surrogate parent returning to work and the partner taking APL will impact on the amount of ASPP (or equivalent) that will be available for the partner. This is because the 39 week entitlement commences at the start of the mother/adopters maternity/adoption leave and continues uninterrupted, even if the partner delays commencing their period of APL following the mother/adopters return to work.
- 4.7 ASPP (or equivalent) is subject to deductions of income tax and National Insurance contributions and is paid in the normal way as salary.
- 4.8 Exceptionally where a department is unable to fund the costs associated with a period of APL (not any replacement), a case can be made by the Head of Department to the Human Resources Team contact for central funds.

## **5. APL - Notification requirements**

- 5.1 It is important that the member of staff notifies their manager as soon as possible in relation to their plans to take APL, so that the manager can begin planning for the anticipated absence.
- 5.2 Formal written notification to their manager and the Payroll Team should be provided as soon as is practicable and no later than at least 8 weeks before the start of leave, via the completion of the APL paternity/partner leave notification form. This includes:
- a signed declaration stating that the leave is being taken to care for the child
  - a signed declaration from the mother/partner or adopter including a statement of their intended return to work date.



- 5.3 Where, the baby is born through a surrogacy arrangement subject of a 'Parental Order', the University retains the right to reclaim all payments made in relation to the APL period, and cease the period of leave, if the member of staff fails to provide a copy of the Parental Order within 6 months of the baby's birth.
- 5.4 Different end dates can be chosen for the leave and pay, for example, if a period of unpaid additional paternity/partner leave is to be taken after the pay period has ended.
- 5.5 Following receipt of the fully completed notification form, a letter will then be sent from the Payroll Team to acknowledge the notification and confirm the paternity leave arrangements as appropriate.
- 5.6 At least six weeks' notice must be provided, (effective from either the original start/end date, or the new date, whichever falls first), to change the date of a period of APL, cancel or withdraw notification. If insufficient notice is provided the University does not have to accept the notice if it cannot reasonably accommodate the requested changes. In this instance, the University may require the employee to take unpaid leave from the date the leave was due to start, and end no later than 6 weeks after notice was given (or the date the leave was due to end if that is earlier).
- 5.7 If the birth/placement occurs earlier than anticipated and prior to the planned APL period, the manager and the Payroll Team should be notified in writing of the revised commencement date as soon as is reasonably practicable.
- 5.8 The Payroll Team will acknowledge a requested change(s), confirming the dates of the leave and pay/withdrawal.
- 5.9 In addition to the information below pertaining to both APL and OPL, further provisions solely applicable to APL are detailed from Section 12 onwards.

## **6. Accrual and use of annual leave**

- 6.1 Contractual annual leave (including bank holidays/closure days) will be accrued during any paternity leave period. (Guidance in relation to calculating public holidays for part time staff is available at: [www.shef.ac.uk/hr/guidance/leave/ptleave](http://www.shef.ac.uk/hr/guidance/leave/ptleave)).
- 6.2 The member of staff will be responsible in conjunction with their manager, for planning and arranging their annual leave around their paternity/partner leave period. Annual leave can be taken at any time (outside of the paternity/partner leave period), including being tagged onto the beginning or end of this leave period, subject to the agreement of their manager.
- 6.3 Annual leave cannot be taken during a period of paternity/partner leave and any period of annual leave taken following the commencement of the paternity/partner leave will be deemed to be a return to work i.e. the end of the paternity/partner leave period.



- 6.4 Staff are expected to take their annual leave in the leave year it is accrued, as in most cases there is sufficient notice to plan for this type of leave. However, the ability to carry over accrued annual leave into the following leave year may be feasible subject to departmental approval/business need. Such requests should be raised with the manager as soon as practicably possible to support the department's consideration of this request, and if relevant plan their ability to accommodate this.
- 6.5 Where a member of staff leaves the University, and has taken more annual leave than they would have accrued prior to their end date, the University has the right to recover any overpayments, e.g. via deductions made from the staff member's salary, as appropriate.
- 6.6 Staff transferring to part time work on their return, should take their outstanding full-time annual leave allowance prior to returning/subject to the needs of their department.

## **7. Contractual entitlements**

- 7.1 During the whole period of OPL and APL the staff member is entitled to receive all his/her contractual benefits with the exception of terms relating to salary. This includes all non-cash benefits such as childcare vouchers that the employee is benefiting from prior to commencing paternity/partner leave. For additional information please see: [www.shef.ac.uk/hr/reward/mybenefits](http://www.shef.ac.uk/hr/reward/mybenefits), and the FAQ's.

## **8. Pension**

- 8.1 During periods of OPL at full pay the contribution arrangement will remain as normal.
- 8.2 During periods of ASPP (or the equivalent) pension contributions will be deducted as a percentage of the actual salary payment received (including ASPP or equivalent where applicable). However, pensionable benefits will be based on the pay the staff member would have received had they not been on additional paternity/partner leave (notional pay).
- 8.3 During periods of unpaid APL a staff member's membership of their pension scheme will be suspended and pensionable service will not be earned. If a staff member wishes to continue with pension contributions over this period, s/he would have to cover the cost of both the staff member's and the employer's contribution.
- 8.4 Members of staff are advised to contact the Pensions Team ([pensions@shef.ac.uk](mailto:pensions@shef.ac.uk)) to discuss their pension position.



## **9. Continuity of service**

- 9.1 Where a member of staff returns to work following a period of OPL or APL, this absence will not affect the individual's recognised continuous service for employment rights purposes e.g. redundancy, pensions etc.

## **10. Ill-Health**

- 10.1 Should a member of staff be unable to return to their post at the end of the OPL or APL due to ill-health this will be managed in accordance with the University's Sickness Absence Management Policy. A medical certificate will be required for absence immediately following on from the date of the end of the paternity/partner leave even if this subsequent absence is for 7 days or less.

## **11. Multiple births/adoptions**

- 11.1 Only one period each of OPL/APL will be available to eligible members of staff, irrespective of whether more than one child is born or placed as a result of the same pregnancy or adoption arrangement.

## **12. Contact during leave (Applicable to APL Only)**

- 12.1 The staff member and their manager are encouraged to maintain reasonable contact during the APL period. It is recommended that staff discuss arrangements with their manager on the type, frequency and method of contact before commencing the leave. This should also include a discussion about 'keeping in touch' (KIT) days.
- 12.2 The University has the right to maintain reasonable contact with the member of staff from time to time during his/her APL. This for example may be to discuss: the member of staff's plans for return to work, or simply to provide an update on developments at work during the absence.

## **13. 'Keeping-in-touch' (KIT) days (Applicable to APL Only)**

- 13.1 A staff member can agree to work for the University (or to attend training) for up to 10 days during his/her paternity/partner leave period, without that work bringing the period of the leave to an end and without loss of a week's ASPP (or equivalent statutory provision). These are known as 'keeping-in-touch' (KIT) days.
- 13.2 The type of work to be undertaken should be agreed between the member of staff and their manager. (See toolkit for further information).



- 13.3 Any work carried out on a day shall constitute a day's work for these purposes.
- 13.4 The University does not have the right to require a member of staff to carry out any work, and the member of staff has no right to undertake any work, during the APL period.
- 13.5 For any work undertaken, the member of staff will normally receive time off in lieu equivalent to one day, or exceptionally, payment for one day's work. This should be agreed in advance of the keeping-in touch day being undertaken.
- 13.6 Any KIT days worked do not extend the period of paternity/partner leave. Once the KIT days have been used up, the member of staff will lose a week's ASPP (or equivalent statutory provision) for any week in which s/he agrees to work for the University.
- 14. Extended APL if the event of the death of the mother or adopter (Applicable to APL Only)**
- 14.1 In the event of the death of the mother/co-adopter/other member of the intended couple, during the first year of the child's life/adoption, the staff member must inform their manager or their Human Resources Team Contact as soon as is reasonably practicable but at least within 8 weeks of the death.
- 14.2 If the death occurs before or during the APL period the staff member may be eligible to take extended APL of up to a maximum of 52 weeks within the first 12 months of the child's life/adoption. The employee may also be entitled to ASPP during the extended Additional Paternity Leave. This is paid during the 39 weeks the mother/co-adopter would have received Statutory Maternity/Adoption Pay or Maternity Allowance.
- 14.3 Human Resources will provide guidance in these circumstances.
- 15. Returning to work after a period of APL (Applicable to APL Only)**
- 15.1 A member of staff will return to work following the end of their APL period. However, where a period of annual leave has been agreed between the member of staff and their department, that is due to commence immediately following the end of the APL period, a physical return to work is not required until the end of the approved annual leave period.
- 15.2 On resuming work after 26 weeks or less of APL a member of staff is entitled to return to the same job as they occupied before commencing the leave on the same terms and conditions as if they had not been absent.



- 15.3 On resuming work after more than 26 weeks of APL e.g. after extended APL, a member of staff is entitled to return to the same job as they occupied before commencing the APL on the same terms and conditions as if they had not been absent. However, if it is not reasonably practicable for this to occur they will be offered suitable alternative work, on terms and conditions that are no less favourable than would have applied if they had not been absent.
- 15.4 If a member of staff decides not to return to work after APL, s/he must give notice of resignation as soon as possible and in accordance with his/her terms and conditions. If the notice period would expire after the APL period has ended, the University may require the member of staff to return to work for the remainder of the notice period.
- 15.5 Intended parents of a child born through a surrogacy arrangement subject to a Parental Order, who received 'equivalent' statutory payments during a period of APL, will be expected to return to work for 3 months or to the end of the contract, whichever date is sooner. Where this does not take place the University reserves the right to reclaim all the payments made relating to the paternity/partner leave period.

## **16. Flexible Working Arrangements (Applicable to APL Only)**

- 16.1 Full consideration will be given to requests from members of staff who wish to change their working commitment and/or arrangements upon returning from APL. Such requests should be submitted as far in advance of the return date as reasonably practicable, to allow adequate time for the request to be fully considered and where appropriate, the necessary departmental arrangements to be put in place. For further details please refer to the University's policies and procedures on flexible working.

## **17. Other Provisions (Applicable to APL Only)**

- 17.1 In the event of either the child dying or (in respect of adoption) the placement being disrupted, the member of staff's entitlement will come to an end after 8 weeks following the death or the end of the placement. Where the staff member's paternity leave is due to end within this eight week period, the individual's leave will end on the scheduled end date.
- 17.2 In such circumstance the staff member must inform their manager as to this, as soon as is practicable; who will in turn need to inform the Payroll Team to ensure the revised end date is acknowledged. Human Resources will be able to explain other potential support available.



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## 18. Review

- 18.1 This revised policy was implemented by Human Resources with effect from 5th August 2013, and will be reviewed on a regular basis to ensure compliance with relevant legislation.

### Document control

**Last updated:** 08/13

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