

Additional Paternity Leave & Additional Statutory Paternity Pay – Teachers

This document which reflects the provisions of both The Additional Paternity Leave Regulations (Northern Ireland) 2010 and The Additional Statutory Paternity Pay (General) Regulations (Northern Ireland) 2010 should be read in conjunction with the Teachers' Occupational Maternity Leave Scheme (TNC 2008/1), the Teachers' Paternity Leave Scheme (TNC 2003/3) and the Teachers' Occupational Adoption Leave Scheme (TNC 2003/2) and its provisions apply to teachers expecting a baby on or after 3rd April 2011 or those adopting a child on or after this date. In the event of any doubt as to contents of this document or the applicability of the new arrangements reference should be made to the 2010 Regulations referred to above.

Previously, employed partners could take up to two weeks' ordinary paternity leave and pay with mothers receiving a maximum of 52 weeks maternity leave of which up to 39 weeks were paid. The new arrangements, which aim to give mothers and partners more choice in child care responsibilities and a more equitable sharing of leave entitlements, enable:

- families to have the choice to transfer up to six months' leave to the mother's partner which can be taken by the partner once the mother has returned to work;
- partners to start to take this leave from 20 weeks after the child is born, or placed for adoption, giving parents the option of dividing a period of paid leave entitlement between them;
- some of the leave may be paid if taken during what would have been the mother's 39 week statutory pay period. Partners would receive the same rate of statutory maternity/adoption pay as the mother would have received;
- parents to "self-certify" by providing details of their eligibility to their employer.

Eligibility

The teacher must have been eligible for ordinary paternity leave (i.e. have been continuously employed by the same employer for at least 26 weeks by the 15th week before the baby is due, or in the case of adoption, be employed for 26 weeks by the week the adopter is matched with the child for adoption) and still be in the same employment until the week before the start of additional paternity leave.

The teacher must have, or expect to have, the main responsibility for the upbringing of the child (apart from that of the mother).

The mother must have been eligible for:

- maternity/adoption leave;
- Statutory Maternity Pay (SMP)/Statutory Adoption Pay (SAP); or
- Maternity Allowance (MA); and

have signed a declaration (see below) and have returned to work.

Application

The teacher must inform the Principal of his/her intention to take Additional Paternity Leave and provide the following information not less than eight weeks before the date chosen for additional paternity leave to begin.

1. Details of the expected week of the child's birth (or date the adopter was matched with the child), the actual date of the child's birth (or date when the child was placed with the adopter) and the dates chosen for the leave to commence and end.
2. Confirmation that he/she expects to have, the main responsibility (apart from any responsibility of the child's mother) for the upbringing of the child, is the biological father, or married to, or the partner, or civil partner of the child's mother or adopter and will be taking leave for the purpose of caring for the child.
3. A declaration from the mother confirming her name and address, the date she intends to return to work and her National Insurance number. She must also confirm her eligibility for maternity/adoption leave, that her partner (the teacher making application) is the only person taking paternity leave and that the information can be processed by her partner's employer.

The teacher shall supply a copy of the child's birth certificate and the name and address of the mother's employer, which must be provided within 28 days of the date of application. In the case of adoption, a document from the adoption agency showing the name and address of the agency, the date that the adopter was notified of matching and the expected date of placement.

The teacher should complete and submit Form SC7 / SC8 through the school Principal to Teachers' Pay and Pensions Team, Department of Education, 75 Duke Street, Gbolascale, Londonderry, BT47 6FP.

4. Entitlement to Additional Paternity Leave can be withdrawn if the conditions no longer apply (e.g. if the teacher is living with the mother as her partner when the request is made, but the couple then split up and he/she no longer has a role in the child's upbringing). In such a case there is a requirement to give six weeks' notice of withdrawal of the leave notice; if the leave notice is withdrawn less than six weeks before the leave is due to begin, and if it is not reasonably practicable for the Principal to accommodate the teacher at short notice, the Principal can require the teacher to take the part of the leave falling within the six weeks following the withdrawal notice
5. The Principal, having received a leave notice, or notice of variation, is required within 28 days to confirm the dates on which Additional Paternity Leave will start and end. Written notice must also be given as soon as reasonably practicable of the dates of any leave imposed on the teacher because short notice of a variation or withdrawal of the original application has been given.

Period of Leave

Leave must be taken in units of whole weeks in one continuous block, with a minimum of 2 weeks and a maximum of 26, and be taken between 20 weeks after the birth of the child or its placement for adoption, and 12 months after the birth or placement, but no earlier than the date notified in the teacher's original notification.

Other Rights and Obligations

Return to Work

Subject to the following paragraph, a teacher's right to return to work is a right to return to the job in which he/she was employed under his/her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to him/her if he/she had not been absent. "Job", for this purpose, means the nature of the work which he/she is employed to do and the capacity and place in which he/she is so employed.

Where it is not practicable by reason of redundancy to permit him/her to return to work in his/her job as defined in the above paragraph, the teacher shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to him/her and appropriate to the circumstances, and that the capacity and place in which he/she is to be employed and his/her terms and conditions of employment are not substantially less favourable to her than if he/she had been able to return to the job in which he/she was originally employed.

Notification of Early or Later Return to Work

A teacher must notify their Principal, in writing at least 28 days before the day on which he/she proposes to return, of the date of his/her intended return if this is before or after the date specified on the SC7 / SC8 Form. Where this notification is not given, the Principal can postpone his/her return for a period of up to 28 days, but not to a date after the end of the mother's maternity leave or adopter's adoption leave period previously specified.

Contact During Paternity Leave

The school may make reasonable contact with the teacher from time to time whilst he/she is on paternity leave in order to discuss, for example, arrangements for his/her return to work or to keep him/her informed of developments at the workplace.

Keeping In Touch Days

A teacher may agree with the school to work for up to 10 keeping in touch (KIT) days during his/her paternity leave without losing SPP entitlements or bringing his/her paternity leave to an end as a result. Normal full pay, abated by any SPP payments, is payable for any days worked. Although working for part of a day will count as one of the 10 KIT days, any entitlement to payment will be calculated using the net hours actually worked.

This provision is intended to help to ease the teacher's return to work. It is different to contact during paternity leave described above. For the purposes of this arrangement "work" means any work done for the employer under his/her normal contract of employment and may include training or any activity undertaken by the teacher for the purposes of keeping in touch with the

workplace. Any KIT days worked under this provision must be by agreement between the teacher who is on paternity leave and his/her employer. The employer has no right to demand that any such KIT work is undertaken and the teacher has no right to undertake such work.

Any days work carried out as specified above shall not have the effect of extending the total duration of the paternity leave.

Continuous Service

Continuous service is not broken by school holidays provided that the teacher continues to be employed up to the start of a holiday period and resumes work immediately after it whether or not with the same employing authority.

A period of paternity leave shall count for the purposes of the award of any points awarded for experience to which the teacher may be entitled.

Protection from Detriment and Dismissal

A teacher is entitled not to be subjected to any detriment by any act, or any deliberate failure to act, by his or her employer or unfair dismissal for reasons related to taking, or seeking to take additional paternity leave.

Additional Statutory Paternity Pay

A teacher who is eligible for additional paternity leave may be entitled to additional statutory paternity pay (ASPP), although there are a number of conditions.

The teacher will only be eligible for additional statutory paternity pay if:

- The child's mother was entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) or the child's adopter was entitled to Statutory Adoption Pay (SAP).
- The child's mother (or adopter) has returned to work with at least two weeks of her statutory pay remaining.

The teacher will qualify for additional standard paternity pay if his/her normal weekly earnings are above the lower earnings limit for National Insurance purposes (£102 per week from 6th April 2011) for the eight weeks before the relevant week (i.e. 15th week before the baby is due, or in the case of adoption the week the adopter is matched with the child for adoption).

If he/she qualifies, the teacher will be eligible to receive additional statutory paternity pay only during the mother's maternity or adoption pay period. i.e. the remainder of the 39 weeks following the date she commenced her Statutory Maternity or Adoption Pay.