



**The King's (The Cathedral) School**

**Paternity Leave and Pay (Birth) Policy**

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Ratified By:	Governing Body
Date Reviewed:	October 2023
Next Review Date:	October 2025

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## 1. Scope

- 1.1 The following guidance sets out the **statutory minimum** required by regulation in respect of Ordinary Statutory Paternity Leave (OSPL) and Ordinary Statutory Paternity Pay (OSPP) rights, which are applicable to all employees in the case of births. It also comments on relevant non-teaching contractual provisions and local arrangements. In the case of multiple births, the term child may be read as children and the term birth as births.
- 1.2 In the case of adoption, please refer to the Paternity Leave and Pay (Adoption) Management Guidance Notes and Employee Application Form.
- 1.3 Staff with more than 2 years' service at the Expected Week of Childbirth (see MatB1 provided to the Mother) will be entitled to two weeks' Contractual Paternity Pay which is equal to full pay. This sum to include the statutory element of pay.

## 2. Frequently Used Terms

- 2.1 The definitions in this paragraph apply in this guidance.

**Expected week of childbirth (EWC):** The week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.

**Parent:** One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father).

**Partner:** Spouse, civil partner or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

**Qualifying Week:** The fifteenth week before the expected week of childbirth.

## 3. Eligibility for Ordinary Statutory Paternity Leave

- 3.1 The employee must:
  - Have been continuously employed by the employer for at least 26 weeks up to any day in the 'qualifying week'. The 'qualifying week' is the 15<sup>th</sup> week before the expected week of childbirth **and**
  - Be either the:
  - biological father of the child; or
  - spouse, civil partner or partner; **and**
- 3.2 Be taking the time off to support the mother or care for the child and have or expect to have responsibility for the child's upbringing; **and**
- 3.3 Give written notice no later than the end of the 15th week before the expected week of childbirth, [EWC] or as soon as is reasonably practicable of
  - the expected date of the child's birth
  - whether they wish to take one or two continuous week's leave
  - when they want their OSPL to start [see below]

- 3.4 If the employee is eligible and gives the required written notice they are entitled to take the leave; it cannot be refused or deferred by the employer.

#### **4. The Entitlement to OSPL and how it can be Taken**

- 4.1 The minimum OSPP for the leave will be determined in accordance with the statutory requirements in place at the time. These can be accessed at [www.gov.uk](http://www.gov.uk).
- 4.2 OSPL is not available if the employee has taken any Shared Parental Leave in respect of the child.
- 4.3 Any employee not entitled to OSPP will receive form SPP1 from their payroll provider explaining why they are not eligible; they may then be able to claim income support during OSPL.
- 4.4 The entitlement is to up to two weeks (either one week or two consecutive weeks) paid leave, to be taken within 56 days of the birth date.
- 4.5 The leave can start on any day of the week, and whilst an employee can apply to take the leave on any date falling after the first day of the EWC, the leave cannot actually commence prior to the date on which the child is born. If the child is born later in the EWC, or later than the EWC, the leave must be delayed until the birth.
- 4.6 If the child is born earlier than expected, OSPL must be taken between the date of birth and 56 days from the first day of the EWC.
- 4.7 If an employee specifies the date of birth as the day they wish to start their leave and they are at work on that day, their leave will begin on the next day.

#### **5. Changing the Start Date of OSPL**

- 5.1 If the employee wants to change the start date they must give the following written notice:
- **If they want to change their leave so it starts on the date of birth**, at least 28 days before the first day of the EWC
  - **If they want to change their leave so it starts on a particular date**, 28 days before that date
  - **If they want to change their leave so it starts a specified number of days after the birth**, at least 28 days (minus the specified number of days) before the first day of the EWC; e.g. if the employee wants to start their leave 14 days after the birth and the EWC begins on 16 July, they must notify you of the new date on 2 July i.e. 28 days before 14 days after 16 July
- 5.2 When it is not possible to give the required written notice, for example when a child arrives late or early, the employee should inform you as soon as reasonably practicable as to any date changes that may occur.
- 5.3 Where an employee has changed the start date of their leave, they should fill in a new application form.

#### **6. Employment Rights During Leave**

- 6.1 An employee who takes OSPL has the right not to be dismissed or subjected to any other detriment by reason of taking the leave. Continuous service will continue to accrue during paternity leave for both teaching and non-teaching employees.
- 6.2 During OSPL an employee has a statutory right to continue to benefit from all the terms and conditions of employment which would have applied to them had they been at work, except for the terms relating to wages or salary. The employee remains bound by their obligations of good faith, as well as any contractual terms relating to the giving of notice, disclosure of confidential information, acceptance of gifts and benefits and freedom to participate in another business/work elsewhere.

## **7. The Right to Return from OSPL**

7.1 An employee who has exercised their right to take OSPL usually has the right to return to the same job that they were employed to do immediately prior to taking the leave. This right depends on the OSPL having been one of the following under regulation 13:

- An isolated period of leave.
- The last of two or more consecutive periods of statutory leave (maternity, adoption, shared parental leave, parental and paternity leave) which did not include any:
- Period of parental leave of more than four weeks; or
- Period of statutory leave which when added to any other periods of statutory leave (excluding parental leave) taken in relation to the same child means that the total statutory leave taken in relation to that child totals more than 26 weeks.

7.2 If the above does not apply, and it is not reasonably practicable for the employer to return the employee to the job they were doing before their OSPL, the employer is entitled to propose an alternative job for the employee to return to which is both suitable for them and appropriate for them to do in the circumstances.

7.3 The employee's right to return under regulation 13 is a right to return both:

- With their seniority, pension rights and similar rights:
- In a case where the employee is returning from consecutive periods of statutory leave which included a period of additional maternity leave or additional adoption leave, as they would have been if the period(s) of their employment prior to the additional maternity or adoption leave [as the case may be] were continuous with the period of employment following it; and
- In any other case, as they would have been had the employee not been absent.
- On terms and conditions not less favourable than those which would have applied had the employee not been absent on OSPL.



Application for Ordinary Statutory Paternity Leave (OSPL) and Pay (OSPP) [Births] and Maternity Support Leave and Pay

Section A – Employee Details (to be completed by the employee)

Employee name:

Payroll reference:

Post/s:

Copy of evidence attached:

Yes:

☐

No:

☐

Section B – Application for OSPL and CPP

1. I **[insert name]** \_\_\_\_\_ confirm that I meet the qualifying conditions for OSPL in that I: **(You MUST be able to confirm all three conditions, please tick)**  
(Child to be read as children in the case of multiple births)

a) wish to take OSPL to care for the child and/or support the child's mother, **and**

☐

b) will be responsible for the child's upbringing (apart from the mother), **and**

☐

c) I am either:

i) the biological father of the child; or

☐

ii) not the biological father, but the spouse or civil partner of the child's mother; or

☐

iii) not the biological father, but living with the child's mother in an enduring family relationship and am NOT the child's mothers' parent, grandparent, sister, brother, aunt or uncle

☐

2. The mother has received a medical certificate confirming the EWC, (i.e. MAT B1 Form) and the expected EWC is:

**Sunday date:** \_\_\_\_\_

**Actual date of birth:** \_\_\_\_\_

3. I would like my OSPL/ CPP to start (Please select and, where necessary complete one of the following):

a) On the date of birth

☐

b) _____ [insert number] days after the date of birth	<input type="checkbox"/>
c) On _____ [insert date] (note that this date must be later than the expected week of childbirth)	<input type="checkbox"/>
4. I understand that all my OSPL/ CPP must be taken within 56 days of the date of birth (except where the child is born earlier than the EWC-see the entitlement to OSPL and how it can be taken)	<input type="checkbox"/>
5. I understand that OSPL is not available if, in birth cases, I have taken any shared parental leave in respect of the child.	<input type="checkbox"/>
6. I understand that all my OSPL must be taken within 56 days of the date of birth (except where the child is born earlier than the EWC-see the entitlement to OSPL and how it can be taken)	<input type="checkbox"/>
7. I understand that OSPL is not available if, in birth cases, I have taken any shared parental leave in respect of the child.	<input type="checkbox"/>

### Section C – Application for Contractual Paternity Pay (CPP) (where applicable)

I understand that in accordance with my contract I am entitled to CPP. Therefore, please arrange payment of my entitlement to:

1 week	<input type="checkbox"/>
2 weeks'	<input type="checkbox"/>

### Section E – Declaration

**All of the information I have provided on this form is accurate**

Print name:

Signed:

Date:

Please return this form to the Headteacher

### Section F – Authorisation (to be completed by the Headteacher)

**I authorise the paternity leave and pay as detailed above.**

Print name:

Signed:

Date:

**This form should be retained on the employee's personnel file.**

**Please forward a copy to Finance**