

## Conditions of Service Additional Paternity Leave & Pay Provisions

### 1. Introduction.

- 1.1 Additional paternity leave (APL) and pay provisions allow parents to share a period of leave between them following the birth of a child or an adoption placement.
- 1.2 The rationale behind APL is that rather than the mother/primary adopter taking the full 52 weeks maternity/adoption leave, they may choose to return to work early so that the father/partner or co-adopter may take a period of leave themselves as APL. The purpose of APL is to care for the child (not the mother). This means that fathers/partners or co-adopters will not be eligible unless they genuinely intend to use the period of leave to care for the child.

### 2. Additional Paternity Leave – Entitlement.

- 2.1 Up to a maximum of 26 weeks can be taken by an employee who is the father, partner or co-adopter, if the mother or co-adopter has returned to work. This is in addition to the two weeks paid Maternity & Paternity Support Leave (See Condition of Service – Maternity & Paternity Support Leave & Pay Provisions).
- 2.2 APL can be taken in the period from 20 weeks after the birth of the child and up until the first birthday of the child or the first anniversary of the child's placement.

#### Note:

**Only one period of APL will be available to employees at any one time. This is irrespective of whether more than one child is born or more than one child is placed for adoption.**

### 3. Conditions.

- 3.1 To qualify for APL the employee must:
- Be taking time to care for the child.
  - Have completed at least 26 weeks continuous service:
  - By the beginning of the 15th week before the Expected Week of Childbirth (EWC);
  - In the case of adoption, by the end of the week in which the employee is notified that they have been matched with a child; or
  - On the date of the child enters the UK for the purposes of adoption (overseas adoptions).
  - Be the biological father of the child.
  - Be the mother's husband, partner or civil partner or adopter's spouse, partner or civil partner.

The child's mother must also:

- Have been eligible for one or more of the following – maternity leave, maternity pay, maternity allowance or adoption leave or pay.
- Have returned to work, stopped claiming any relevant pay and have at least two weeks of their Maternity Pay, Adoption Pay or Maternity Allowance period remaining.
- Not be on a period of annual, sick or parental leave which directly follows Maternity or Adoption Leave.

## 4. Pay.

**4.1** Although up to 26 weeks APL can be taken, Additional Paternity Pay (APP) is only payable during the period of the mother or adopter's 39 week Maternity Pay, Adoption Pay or Maternity Allowance period. It is paid at the rate of Statutory Paternity Pay plus 50% of a weeks average pay and for up to a period of 19 weeks.

## 4.2 Unpaid Additional Paternity Leave.

All APL taken after the end of the mothers or adopter's 39 week Maternity Pay, Adoption Pay or the Maternity Allowance period is unpaid.

Where an employee does not qualify for APP, they should be given a copy of the Inland Revenue ASPP1 Form, explaining the reason why.

If the employee does not qualify for APL or APP, they may be able to request annual leave or unpaid parental leave instead. They may also request a more flexible working pattern.

## 5. Notification & Certification.

**5.1** Eight weeks notice of APL should be given by the employee. To apply for APL an APLP1 Form must be completed, this provides declarations by the employee and the mother or adopter.

**5.2** For the employee the APL1 form includes and confirms:

- The date the baby was due or matched for adoption.
- The actual date of the baby's birth or placement
- When the employee wants to start and finish APL.
- The purpose of the leave is to care for the child.
- The employee is the child's father, or partner of, the child's mother or adopter.
- The employee has the main responsibility (along with the mother/adopter) for the upbringing of the child.
- He or she has been matched with the child for adoption.

For the mother or adopter it includes and confirms:

- Their name and address.
- Their date of return to work.
- Their national insurance number.
- That the employee is the child's father, or partner of, the child's mother or adopter.
- That the employee has the main responsibility (along with the mother/adopter) for the upbringing of the child.
- That the employee is, to the mother's knowledge, the only person exercising the right to take APL in respect of the child; and
- Their consent to the employer processing this data.

**Note:**

**HMRC are responsible for carrying out compliance checks with the partner's employer to confirm they returned before APL started.**

- 5.3** The employee should also provide a copy of the child's birth certificate. Alternatively, documents issued by the adoption agency showing: the name and address of the adoption agency. In relation to an adoption from overseas, a copy of the official notification document and evidence of the date on which the child entered the UK will be required.
- 5.4** The employee should be advised in writing within 28 days of receipt of the form, confirming when their APL and APP will start and finish.
- 5.5** If an employee wants to change the start date of the leave six weeks notice should be given. If the date on which the mother gives birth or a child is placed with the adoptive parent changes from the date previously notified, the employee is required to notify their service as soon as is reasonably practicable of the new date.

## **6. Extended Additional Paternity Leave.**

### **6.1 Entitlement.**

An employee may qualify for an extended period of APL if the child's mother or the main adopter dies:

- Before the child is one year old; or
- In the first year of an adoption placement for UK adoptions; or
- In the first year after the child adopted from overseas entered the UK.

If an employee is on a period of APL at the time of the mother or adopter's death, they can extend their leave. The employee does not need to have started APL or previously intended to take APL to qualify.

Extended Additional Paternity Leave may last up to 52 weeks if the mother or main adopter qualified for leave but had not started it. To take Extended Additional Paternity Leave the employee must have met the qualifying conditions for APL. If an employee has taken their full entitlement to APL before the mother or main adopter dies, extended APL can not be taken.

## 6.2 Pay.

Extended APP is paid at the statutory rate for the 39 weeks their partner would have received Maternity Pay, Adoption Pay or Maternity Allowance plus 50% of a weeks average pay for up to a period of 19 weeks.

## 6.3 Notification & Certification.

The employee does not have to give notice before they start their leave, provided they inform us verbally of the mother or adopter's death as soon as possible. Employees should provide written notice of the mother or adopter's death by completing the EAPL1 Form and providing:

- A copy of either the child's birth certificate, matching certificate or official notification and evidence of the child's entry into the UK; and
- The employment details of the mother or adopter.

This information should be provided within 28 days or the employee may lose their entitlement.

## 7. Keeping in Touch (KIT) days.

Employees can work up to ten days during their APL without ending their entitlement to pay or leave. These might only be relevant when significant periods of APL are taken, such as a leave period covering months rather than a few weeks.

### 7.1 Entitlement.

All employees, by agreement with their manager, can work up to ten days under their contract of employment whilst on APL (pro-rata for part-timers). The KIT days may be undertaken at any stage during APL.

### 7.2 Payment/Time of in Lieu (TOIL).

Employees are entitled to TOIL or payment for that work without it having effect on their leave payment, if agreement is reached with their manager.

### 7.3 Other contact during APL.

The manager should maintain contact with the employee (and vice versa) to discuss the employee's plans to return to work, provide updates on important developments at work and to inform the employee of relevant promotional opportunities or job vacancies that arise during APL.

## 8. Return to Work.

APL should last no longer than stated in the employee's original application.

- 8.1** An employee who is unable to return to work due to sickness can receive sickness allowance if the APL has ended and the provisions of the Sick Pay Scheme are satisfied.

- 8.2** Employees intending to return to work earlier than originally stated on their APL application are required to notify their manager in writing, six weeks in advance of their return. If an employee does not provide the appropriate notice, their manager may postpone their return to a date that will secure the full period of notice. This postponement cannot extend beyond the end of the employees full APL entitlement.

Upon return to work after 26 weeks or less, employees will return to the post held before their leave. This protection also applies where the employee also takes up to four weeks' parental leave in addition to their APL.

- 8.3** If the employee's child dies during APL (or during the period of notice that the employee was given to take APL), the period of APL will terminate at the end of the week that falls 8 weeks after the death of the child.
- 8.4** If the planned return date occurs less than 8 weeks after the death of the child, the planned date will prevail.

This also applies where the child returns to adoption agency.

## **9. Application of Other Scheme Provisions to Additional Paternity Leave.**

- 9.1** APL should not be taken into account in calculating an employee's sick leave entitlement under the Sick Pay Scheme.  
Employees who have not started APL are entitled to Statutory Sick Pay and Occupational Sick Pay.
- 9.2** Absence, which occurs out with the period of APL (whether before or after the period of leave), will be treated in accordance with the provisions of the Annual Leave, Parental Leave or Sick Pay Scheme.
- 9.3** When a designated Public Holiday occurs during the period of APL, the employee will be granted a day in lieu upon their return to work, and at the convenience of the service.
- 9.4** An employee may extend their overall leave period by combining Annual Leave, Parental Leave etc and taking this before the start and/or at the end of the APL period. The employee should make all requests for leave at the same time if possible, whilst taking into account the notification requirements detailed under each of the separate provisions.

All leave requests must be agreed with the manager in advance of APL being taken.