

APPENDIX 11 – PATERNITY, ADOPTION and PARENTAL LEAVE AND PAY POLICY

This policy has been amended due to the new statutory entitlements resulting from the Additional Paternity Leave and Pay Regulations (Northern Ireland) 2010. These apply to babies born on or after 3 April 2011. This policy sets out the rights and responsibilities of employees who wish to take paternity, adoption or parental leave.

Ordinary Paternity Leave (OPL)

OPL is for a period of two weeks which must be taken as a block of one or two weeks (not single days). Leave can start on any day of the week but it must be concluded within 56 days from the date of the child's birth. If the child is born early, it must be taken from the time of the birth but within 56 days of the expected date of childbirth.

Eligibility

Employees must satisfy the following conditions in order to qualify for OPL:

- Have or expect to have responsibility for the child's upbringing
- Be the biological father, spouse, partner or civil partner of the baby's mother
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due.
- Be still working for NICVA at the time of the birth
- The leave must be for the purpose of caring for the child.

Notification

An employee wishing to take OPL must notify NICVA in writing (using the HM Revenue and Customs SC4 form available from NICVA) of the expected date of birth, the date on which they wish the leave to commence and the duration of leave they wish to take. They must inform NICVA of this at least 15 weeks before the expected date of birth. If the employee then wishes to change the timing of the OPL, 28 days' written notice of the new dates must be given.

Ordinary Statutory Paternity Pay (OSPP)

Employees who qualify for OPL may also, subject to minimum earnings provisions, be entitled to payment of the lower of 90% of the employee's earnings and the standard weekly rate (currently £128.73*). NICVA will pay full pay (at the normal rate of pay) for the two weeks, inclusive of Statutory Paternity Pay. In cases where an employee does not meet the required qualifying criteria for the payment of OSPP, NICVA will pay the employee at the normal rate of pay for the paternity leave period of either one or two weeks.

*2011 rate, subject to change annually on 6 April according to HMRC.

Additional Paternity Leave (APL)

Employees who qualify for APL are entitled to a minimum of two weeks and a maximum of 26 weeks. The leave may start any time from 20 weeks after the birth and no later than two weeks before the end of the mother's full Additional Maternity Leave period. The leave must be taken in multiples of complete weeks and must be taken as one continuous period.

Eligibility

Employees must satisfy the following conditions in order to qualify for APL:

- Have or expect to have, the main responsibility for the child's upbringing, apart from any responsibility of the mother
- Be the biological father, spouse, partner or civil partner of the baby's mother who is due to give birth on or after 3 April 2011
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due.
- Continue to work for NICVA from the qualifying week into the week before they wish to take APL
- The leave must be for the purpose of caring for the child.

In addition, the mother of the child must satisfy the following conditions:

- Have been entitled to one or more of the following: Statutory Maternity Leave, Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay or Leave
- Have returned to work
- Have at least two weeks of unexpired Maternity Leave remaining

Notification

Employees must give eight weeks' notice of their intention to take APL and must confirm the date or expected date of birth, specify the period of leave and state the commencement date of the leave. The mother must then sign a declaration and the form used is the HM Revenue and Customs SC7 form available from NICVA.

On request by NICVA, the employee must produce the name and business address of the mother's employer and a copy of the child's birth certificate within 28 days of the request being made.

Employees must give six weeks' notice if they intend to change the date or period of their leave.

NICVA will respond in writing to the employee's notification of his/her additional paternity leave plans within 28 days confirming the relevant start and end dates of APL and Additional Statutory Paternity Pay.

Additional Statutory Paternity Pay (ASPP)

ASPP is paid to the employee at the same rate as OSPP. Employees will only receive ASPP during the time their partner would have been receiving Statutory Maternity Pay (SMP) or Maternity Allowance (MA) which is up to and including week 39 after the birth of the child. Employees must have at least two weeks of the mother's SMP or MA remaining to qualify for ASPP and must have average weekly earnings at or above the lower earnings rate for National Insurance contributions at the end of the 15th week before the expected week of childbirth (the Qualifying Week).

Contact during Additional Paternity Leave

During the paternity leave period, NICVA may make reasonable contact with an employee, and in the same way an employee may make contact with NICVA. The frequency and nature of the contact will depend on mutual agreement and a number of factors, such as:

- The nature of the work and the employee's post.
- Any agreement that the line manager and employee might have reached before paternity leave began as to contact.
- Whether either party needs to communicate important information to the other such as, for example, news of changes at the workplace that might affect the employee upon return.

NICVA will also keep the employee informed of promotion opportunities and other information relating to the job that the employee would normally be made aware of had the employee been in work.

Some employees will be happy to stay in close touch with the workplace. Others, however, will prefer to keep such contact to a minimum. NICVA will respect the wishes of individual employees.

Keeping in Touch Days

Employees may undertake up to ten 'Keeping in Touch Days' during their paternity leave, allowing work under their contract of employment, by agreement with NICVA.

Such days are different to the reasonable contact that NICVA and employees may make with one another; employees can actually carry out work, for which they will be paid.

The type of work that the employee undertakes on KIT (Keeping in Touch) days will be agreed between NICVA and the employee prior to the work being carried out. They may be used for any activity which would ordinarily be classed as work under the employee's contract, for which pay would be afforded, but could be particularly useful in enabling an employee to attend a conference, undertake a training activity or attend for a team meeting for example.

Working for part of a day will count as one day's work. It is always the employee's right to refuse to work on a KIT day.

If the employee is entitled to occupational pay and a KIT day falls during the period of full occupational pay, then NICVA will pay the employee for an additional day's paternity leave at the occupational rate.

If the KIT day falls within a basic APL period, the employee will be paid ASPP as normal during the week in which they worked a KIT day. NICVA will then top up the ASPP for the day on which the employee has worked in order to make it up to a normal day's pay.

Any KIT day worked during unpaid APL would be paid at normal full pay.

The employee will also be offered the option of a taking a KIT day as paid time off in lieu at the end of maternity leave, to be taken before returning to work.

Antenatal appointments

The employee will also be allowed a reasonable period of time off with pay (up to four hours per trip, and up to six antenatal appointments) for attendance at antenatal clinics with their partner. This may be extended at the discretion of the Chief Executive in special circumstances.

Right to Return to Work

The employee will have been formally advised in writing by NICVA of the end date of the APL. The employee is expected to return on the next working day after this date unless notification is given otherwise.

If the employee wishes to return to work earlier than the expected return date, at least six weeks' notice of the of the date of early return must be given to NICVA, preferably in writing.

On resuming work after both ordinary and additional paternity leave, the employee is entitled to return to the same job as was occupied before commencing paternity leave on the same terms and conditions of employment as if the employee had not been absent.

Annual Leave and Paternity Leave

Employees on ordinary and additional paternity leave will continue to accrue their occupational entitlement to annual leave throughout the APL. They will also accrue any public or bank holidays during this period which must be taken at the end of the paternity leave, before returning to work. The public or bank holidays will be accrued on a day for day basis or pro rata where the employee works part time.

Employees will normally only be allowed to carry nine days' accrued annual leave into a new leave year. Employees will therefore be able to and should take any leave which otherwise would be lost at the end of the OPL or APL and before returning to work. Arrangements to carry accrued annual leave into the following leave year or to amend working hours to use annual leave on return from maternity leave can be arranged with agreement from the line manager and Director of Corporate Services.

ADOPTION LEAVE

Requests for adoption leave are treated as if the employee is the natural parent. All such requests must be supported by documentation confirming the adoption. Provision for adoptive leave for both adopting parents will be equivalent to maternity and paternity provisions available to natural parents, the couple may decide which parent will take the maternity or paternity leave. Therefore, it may be necessary for the Human Resources Officer to liaise with the employer of the other parent to seek or provide written confirmation of the type of leave requested.

PARENTAL LEAVE

NICVA will grant parental leave to mothers and fathers as follows:

- (1) An employee who has been continuously employed for one year and has or expects to have responsibility for a child is entitled to unpaid parental leave of thirteen weeks (normally up to four weeks in any one year) in respect of each child born or adopted. This right is extended to eighteen weeks where the child has a disability.
- (2) Employees must give a minimum of 21 days' notice of their intention to take parental leave. Should they wish to take longer than four weeks leave, the employee should apply in writing to the Chief Executive whose decision will be final. If the request is granted, the notice required will be equivalent to the leave requested. For example, six weeks' absence will necessitate six weeks' notice, rising to a maximum thirteen weeks' notice for those wishing to take the full thirteen weeks entitlement as one period of leave.

- (3) Each parent is entitled to this leave in respect of each child up to their 5th birthday or their 18th birthday where the child is entitled to Disability Living Allowance. For adopted children, the entitlement is five years from the date of placement or up to the child's 18th birthday, whichever is earlier.
- (4) Parental Leave may be postponed by NICVA if approval would result in damage to the work of the organisation. However postponement cannot be longer than six months from the date on which the employee wished to start their leave.
- (5) The contract of employment will continue during parental leave therefore all contractual benefits will continue during leave, eg accrual of annual leave and pension contributions.
- (6) Any employee shall be entitled to special leave for the purposes of making arrangements to adopt a child. They shall apply to the Chief Executive for this leave and the period of leave shall be at the Chief Executive's discretion.