



Circular Letter 0069/2016

**To:
The Presidents of Institutes of Technology and Dublin Institute of Technology**

PATERNITY LEAVE SCHEME FOR ALL ELIGIBLE STAFF IN INSTITUTES OF TECHNOLOGY

The Minister for Education and Skills directs you to implement the regulations and procedures regarding the Paternity Leave arrangements for all eligible staff whose posts are wholly funded by monies provided by the Oireachtas.

The regulations and procedures are to be implemented by each employer from 1st September 2016 and all employees must adhere to the terms of the attached paternity leave scheme.

This circular supersedes all previous circulars, memoranda, rules and regulations in relation to paternity leave arrangements for all staff.

Please ensure that copies of this circular are brought to the attention of all employees in your employment including those on leave of absence.

This Circular can be accessed on the Department's website under www.education.ie Home – Education Staff – Breaks/Leave – Paternity Leave.

Philip Crosby
Principal Officer
External Staff Relations
24th October 2016

PATERNITY LEAVE SCHEME

Definitions

For the purposes of the scheme the following terms have the meanings assigned to them here unless the context indicates otherwise:

DSP – means the Department of Social Protection.

Employee – means a member of staff who is in receipt of incremental salary under a permanent contract, contract of indefinite duration(CID), or fixed term contract as defined in the Protection of Employees (Fixed Term Work) Act 2003.

Paternity Benefit - means a payment made by the DSP to those on paternity leave and who meet the qualifying criteria for the benefit.

Relevant Parent – the term relevant parent refers to an employee (other than the mother of the child) who is the

- father of the child
- spouse /civil partner /cohabitant of the birth or adopting mother of the child
- spouse/civil partner/ cohabitant of the sole male adopter of the child
- parent of the child, under section 5 of the Children and Family Relationships Act 2015, where the child is a donor-conceived child.

Sole Male Adopter – means a male employee, in whose sole care, subject to the approval of the Adoption Authority of Ireland, a child has been placed, or is to be placed.

Surviving Parent – means the adopting parent of the child, or the mother of the child in relation to a child whose relevant parent has died.

The Department – means The Department of Education and Skills.

1. General Information

- 1.1 Paternity Leave is a period of two consecutive weeks paid leave available to a relevant parent on the birth/adoption of a child, where the date of birth/day of placement falls on or after 1st September 2016.
- 1.2 Paternity Leave is available for stillbirths after 24 weeks of pregnancy.
- 1.3 The leave is to allow the relevant parent to provide or assist in the care of the child or to provide support to the mother/relevant adopting parent of the child.
- 1.4 Paternity leave may commence at any time from the date of birth or date of placement of the child to 26 weeks thereafter, except in the event of hospitalisation of the child and postponement of the leave.
- 1.5 A relevant parent on paternity leave is deemed for all purposes to be in employment at that time including remuneration and superannuation. The absence therefore is fully reckonable for all other purposes including seniority, access to the redeployment panel, and progression on the incremental salary scale.
- 1.6 A relevant parent absent on paternity leave may not engage in any other type of paid employment.

2. Entitlement to Paternity Leave

- 2.1 Paternity leave may begin on such a date as the relevant parent selects. However, the commencement date must not be earlier than the date of birth/day of placement of the child and end no later than 26 weeks after that date.
- 2.2 Only one period of paternity leave shall be granted in respect of each birth regardless of the number of children born. In the case of multiple births/adoptions the maximum period of 2 weeks still applies.
- 2.3 In general, only one person who is a relevant parent in relation to a child shall be entitled to paternity leave in respect of that child.
- 2.4 A job sharing employee who is a relevant parent will be entitled to paternity leave on a pro-rata basis.
- 2.5 The entitlement to paternity leave is subject to the condition that it is used for the provision of care to the child or to provide support to the relevant adopting parent or mother of the child concerned as the case may be, or both.

- 2.6 A relevant parent may not avail of paternity leave where they are availing/have availed of adoptive leave, with the exception of where the leave may be transferred on the death of the other relevant parent.

3. Notification and Recording of Paternity Leave

- 3.1 A relevant parent must provide written notification to their employer of their intention to take paternity leave not less than 4 weeks before the commencement of such leave and provide for the employer's inspection the following,

In the case of a birth:

- a copy of the medical certification as provided by the mother to her employer or other appropriate certificate from a registered medical practitioner confirming the pregnancy and specifying the expected date of birth of the child concerned or
- a copy of the birth certificate where notification is given after the birth.

In the case of an adoption:

- a declaration/official placement order in the case of an adoption
- a copy of the placement certificate where notification is given after the date of placement
- In the case of foreign adoption, the adopting employee must obtain a *Declaration of Suitability and Eligibility* from the Adoption Authority of Ireland, in advance of the date of placement. As soon as possible after the date of placement the adopting employee should provide written confirmation of placement to their employer.

- 3.2 Notification may be withdrawn in writing by the relevant parent concerned to his/her employer not later than 4 weeks before the commencement of such leave.
- 3.3 Where, as the case may be, the day of placement is postponed or the date of birth occurs after the date selected by a relevant parent in his/her notification given to the employer, the relevant parent shall be entitled to select another date on which the paternity leave shall commence.
- 3.4 The relevant parent must complete the Application Form at Appendix A as soon as possible but no later than 7 days after commencement of the leave and forward it to the employer with a copy of the birth certificate/official placement order for the child.
- 3.5 On approval of the leave, the relevant parent shall notify their employer when the date of birth/placement is reached.

- 3.6 Where the date of birth occurs in a week that is 4 weeks or more before the expected date of birth, the relevant parent shall inform the employer immediately and will be deemed to have complied with the notification period. The formal written notification must be given within 7 days commencing on the day of birth.
- 3.7 Where the paternity leave has commenced and the relevant parent is employed under a fixed term/specified purpose contract and the contract is due to expire then the last day of the paternity leave shall be the day on which the contract expires.

4. Entitlement to Paternity Leave on the Death of the Relevant Parent

- 4.1 In the event of the death of the relevant parent entitled to the paternity leave within a period of 28 weeks after the birth or placement of the child and before availing of some or all of the paternity leave, then the leave shall transfer to the surviving parent.
- 4.2 In such circumstances and in the event that the surviving parent is an employee, he/she must notify the employer in writing of the following, but not later than the day on which the transferred paternity leave begins
- of the death of the relevant parent
 - their intention to take the transferred paternity leave
 - the length of the leave they believe they are entitled to and
 - if requested by the employer, provide a copy of the death certificate.
- 4.3 In the case of a surviving parent being entitled to maternity leave, a period of transferred paternity leave will commence immediately after the end of the maternity leave. In the case of adoptive leave, immediately after the end of the adoptive leave concerned.

5. Postponement of Paternity Leave through Illness

- 5.1 In the event of illness of the relevant parent immediately prior to the commencement of his/her paternity leave, the paternity leave may be postponed.
- 5.2 The relevant parent must immediately inform the employer and must provide written notification of the postponement of the leave due to illness and include appropriate medical certification. Such absences shall be treated in the same manner as an absence from duty due to illness.
- 5.3 It should be noted that such postponed leave can be resumed on a date which is agreeable to the relevant parent and the employer, to be taken not later than 7 days after the relevant parent has been certified fit to resume, and provided that the postponed leave is taken within the time limit of 28 weeks after the date of birth or placement of the child.

6. Postponement of Paternity Leave on Hospitalisation of Child

- 6.1 In the event of the hospitalisation of the child a request may be made to the employer for a postponement of the paternity leave.
- 6.2 Postponement of the leave will require the absent relevant parent to resume duties during the period of postponement.
- 6.3 An application for postponement must be made in writing to the employer, accompanied by certification from the hospital in which the child is hospitalised. The employer must notify the relevant parent in writing as soon as possible of its decision. If the leave is postponed the employer and the relevant parent must agree the date of return to work.
- 6.4 The relevant parent must provide the employer with a letter or other appropriate document from the hospital or the child's doctor confirming the child's discharge date.
- 6.5 The postponed leave shall be taken as a continuous period beginning not later than 7 days after the child is discharged from hospital or such other date as may be agreed between the relevant parent and the employer.
- 6.6 If, during the postponement of the paternity leave during the hospitalisation of the child, the relevant parent becomes ill having returned to work and before he/she has taken the postponed leave, he/she will be considered to have started the postponed leave on the first day of absence due to illness unless the relevant parent notifies the employer that he/she does not wish to begin the postponed leave. If this happens he/she will forfeit the postponed leave and the absence will be treated as sick leave. The normal procedures in relation to sick leave should then be followed, including the furnishing of a medical certificate where appropriate.

7. Termination of Paternity Leave

- 7.1 Paternity leave may be terminated by the employer if there are reasonable grounds to believe that the leave is being used for a purpose other than the care of the child or to provide support to the relevant adopting parent or mother of the child.
- 7.2 Before terminating the leave the employer is obliged to
 - notify the relevant parent in writing that the matter is under consideration, and invite the relevant parent to make representations within 7 days
 - consider any representations from the relevant parent before making a final decision
 - notify the relevant parent in writing of the decision summarising the grounds

The final decision notification should inform the relevant parent of his/her obligation to return to work on a specified date.

8. Statutory Annual Leave/Public Holiday Entitlement

- 8.1 In general full time employees are entitled to 20 days annual leave. Employees who work less than full hours are entitled to annual leave on a pro rata basis.
- 8.2 Any entitlements in respect of public holidays occurring while on paternity leave will be addressed by additional annual leave.
- 8.3 These annual leave entitlements are to be taken at a time outside of the period of paternity leave.

9. Pay Arrangements and Paternity Benefit

- 9.1 Continuation of salary during paternity leave is not a statutory entitlement and is contingent upon compliance with the agreed terms and conditions of this scheme.
- 9.2 Any action which necessitates an adjustment to a relevant parent's pay should be notified to the Employer immediately.
- 9.3 Under the DSP regulations, PRSI contributors at the modified rate (Class D) have no entitlement to Paternity Benefit. Therefore no deduction is applied to their salary and they remain on their ordinary rate of pay.
- 9.4 Under the DSP regulations any Paternity Benefit payable by the DSP to PRSI contributors at the full rate (Class A), will issue directly to the relevant parent in question. A deduction from salary equivalent to the maximum weekly rate of Paternity Benefit payable to the relevant parent will be applied by the Employer.
- 9.5 If the amount of benefit payable to the relevant parent is less than the maximum, or if an employee is not entitled to any Paternity Benefit, they should notify their payroll section immediately to ensure that the salary adjustments are correct. Changes to the automatic deduction can be made provided the relevant parent furnishes a copy of the DSP's written notice of the actual Benefit rate applicable, if any, to the relevant payroll. Deductions, where appropriate, will be made during the period of Paternity leave. If the absences are recorded late any arrears due will have to be deducted from salary after the date of notification.
- 9.6 Paternity Benefit payment is a taxable income.

10. Correspondence Address

- 10.1 The employer will address all necessary correspondence to the employee at the address last notified by the employee and no fault shall lie with the employer in the event that the employee does not receive such correspondence.

11. Compliance

- 11.1 All employees/employers must adhere to the regulations and procedures set out in this circular. Failure to abide with the regulations and procedures will be dealt with under the agreed disciplinary procedures and may lead to the cessation of salary in the case of employees.
- 11.2 All documentation relating to paternity leave must be retained by the employer with the relevant personnel records for 8 years. These records may be selected for inspection by nominated Department officials.

12. Further Information

- 12.1 In accordance with the introductory paragraph, the regulations in this circular are to be implemented by the employer. Thus all queries should initially be brought to the attention of the HR Department of the Employer in the first place.

Appendix A

Application Form for Paternity Leave on the birth/placement of a child

This application must be fully completed and retained by the Institute of Technology for record and audit purposes. It should be completed within 7 days of commencement of the Paternity Leave.

This application is NOT to be submitted to the Department of Education and Skills.

If the applicant pays Class A PRSI contributions the relevant form should be submitted to the Department of Social Protection.

To be completed by the Relevant Parent:

Name: _____

_____ Contact No: _____

PPSN: _____

Date of Birth of the child: _____ / _____ / _____

Date of Placement of the child: _____ / _____ / _____

I wish to commence my paternity leave on _____ / _____ / _____

I wish to apply for the above leave in accordance with the scheme as set out in Circular 0069/2016 *Paternity Leave Scheme for all eligible staff in Institutes of Technology*.

Signature of Relevant Parent: _____ **Date:** _____

Approval and Verification by Employer

I certify that I have approved the above leave in accordance with the scheme as set out in Circular 0069/2016 *Paternity Leave Scheme for all eligible staff in Institutes of Technology* and I have retained on file the following documents for audit purposes:

- 1) Written notification of intention to take Paternity Leave and relevant certification:
- 2) Application for Paternity Leave:
- 3) Certificate showing date of birth/placement of the child:

Signature: _____ **Date:** _____
(On behalf of Employer)