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## Parental & Maternity Policy

### 1. Introduction

This policy provides employees with information about West Lancashire Borough Council's maternity, adoption, paternity, maternity support, shared parental and parental leave provisions.

Unless otherwise specified, the terms and conditions of the National Joint Council for Local Government Service (Green Book) national scheme will apply. This policy should therefore be read in conjunction with the relevant paragraphs of the Green Book and the Council's Harmonisation and Single Status Document.

Further information about the rights of employees who are pregnant, or who are on maternity, adoption, paternity, shared parental or parental leave, can be found on the Directgov website ([www.direct.gov.uk](http://www.direct.gov.uk)), the website of the UK government. If employees require any further advice on issues not covered in this document, they should contact their line manager or a member of the Human Resources Team.

### 1.0 GENERAL PROVISIONS

#### 1.1 Time Off for Ante-Natal Care

A pregnant employee is entitled to reasonable paid time off for ante-natal care on production of a certificate from her doctor, registered midwife or registered health visitor stating that she is pregnant, and must provide evidence of the appointment (e.g. an appointment card) to her line manager.

Ante-natal care includes relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend in addition to medical examinations.

Fathers to be, partners, civil partners or nominated carers (the person identified by the expectant mother to assist in the care of the child and to provide support to the mother at or around the time of the birth) will be granted time off without pay for ante-natal care (e.g. to attend parent craft classes or to accompany the expectant mother when undergoing an ante-natal scan). This arrangement also extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a parental order for the child born through that arrangement.

Employees requesting this unpaid time off must complete an 'Application for Leave of Absence Form' indicating the reason for the request is to attend an ante-natal appointment.

Time off using annual or flexi leave, variation of the flexitime, core times (or similar arrangements for employees not on flexi) will also be acceptable to enable attendance at such appointments.

#### 1.2 Medical Support

To assist in the promotion of the health and wellbeing of all pregnant employees, medical support, can be arranged through the Council's Occupational Health Service, both during the pregnancy and after the birth, should the need arise.



### **1.3 Risk Assessment**

The Council will carry out a risk assessment in order to establish and take any necessary action with regard to the health and safety of employees who are pregnant, have recently given birth or who are breastfeeding in order to prevent any unnecessary stress or risk to the employee (or their baby) by their work or the environment in which they work.

Employees should notify their line manager as soon as possible of their pregnancy to enable a prompt assessment of their job role and working environment to take place. If it is considered that an employee may be at risk in her job, the Council will consider reorganisation of the work environment or provide alternative work, wherever practicable, on a temporary basis for the period of the pregnancy or on return to work after giving birth. If no suitable alternative work can be provided, consideration may be given to suspending the employee on full pay until the risk is removed or suitable alternative work can be provided.

### **1.4 Annual Leave**

Maternity leave, paid and unpaid, counts as service for the purpose of calculating annual leave entitlement.

Employees will accrue annual leave and statutory and extra statutory holiday entitlements during Ordinary Maternity Leave (OML) and Additional Maternity Leave (ADL).

A substitute day's leave will also be provided for each public holiday that falls within the period of OML and AML, equivalent to the amount they would have received had they been in work during that time. This will be added to the annual entitlement for the relevant leave year.

Wherever possible, employees should make arrangements to take accrued annual leave within the leave year it has been accrued. In most cases it should be possible to do this by taking it either at the beginning or end of a period of maternity leave. Exceptions to the normal restrictions on carryover of annual leave will be permitted in circumstances where this is not possible. For example, where maternity leave started early due to an early birth or pregnancy-related sickness; or where an employee's maternity leave overlaps with the annual leave year to a significant extent. It is advised that discussions about the timing of annual leave take place between employees and line managers as soon as reasonably practicable.

The above principle will also apply to those on adoption, paternity or shared parental leave.

### **1.5 Lump Sum and Essential Car User Allowance**

An employee in receipt of the essential user car allowance will continue to receive the lump sum payments in full for the duration of their maternity, shared parental or adoption leave.

### **1.6 Local Government Pension Scheme**



Pension contributions are deducted from all maternity/paternity/shared/parental pay and pensionable service during the paid part of is counted in full. Employees can elect to pay contributions, if they wish, on any unpaid leave. It should be noted that if they do not do so, that period of unpaid leave will not count as recognisable service.

### **1.7 Time Off to Attend Baby Clinics**

The Council will support and assist employees with requests for reasonable time off without pay to attend appointments in relation to development assessments, hearing assessments and vaccinations for new babies. Variation of the flexitime, core times, and similar arrangements for employees not on flexi, will be allowed to enable parents to attend such appointments.

### **1.8 Death of a Baby or Stillbirth**

Childbirth is defined as a live birth of a child or a stillbirth after a pregnancy lasting at least 24 weeks. In such circumstances, maternity leave will commence.

Termination means stillbirth, miscarriage or abortion after a pregnancy lasting less than 24 weeks. In such circumstances, sick leave arrangements will apply and not maternity/paternity leave.

In the event of a live birth occurring before a pregnancy reaches 24 weeks, the employee will be entitled to normal maternity/paternity/MSL rights, including leave and pay, even if the baby lives for only a short time

### **1.9 Contact during leave**

The Council reserves the right to maintain reasonable contact with employees from time to time during their leave. Before an employee's Maternity, Adoption, Shared Parental or Parental Leave begins, the line manager will discuss the arrangements for them to keep in touch where necessary. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

### **1.10 Childcare**

Information on registered child minders in West Lancashire can be obtained by contacting the Family Information Service on 0800 195 0137 or by visiting their website at [www.lancashire.gov.uk/childcare](http://www.lancashire.gov.uk/childcare).

As part of its on-going commitment to help working parents, the Council operates a Childcare Voucher Scheme whereby employees can give up part of their salary in exchange for childcare vouchers. Childcare vouchers can normally be used to pay for all or any of the following forms of childcare, providing that the childcare provider holds either a current OFSTED registration certificate or has approved status:

- Day nursery pre-school
- Nursery school
- Child minder



- Crèche
- Nanny
- Au pair
- Out of school club
- Holiday play scheme

Childcare vouchers are received instead of part of your salary through a system known as "salary sacrifice". Unlike your salary, you do not have to pay any tax or National Insurance contributions on childcare vouchers. For further details, contact Computershare Voucher Services (the Council's childcare voucher provider) on 0845 002 1111 or visit their website at [www.computersharevouchers.com](http://www.computersharevouchers.com).

### **1.11 Sick Children**

Heads of Service have the discretion to grant one or two days' unpaid leave in accordance with the Time Off for Dependants provisions of the Council's Flexible Working/Family Friendly Policy in the case of a sick child who requires the attention of an employee. In addition, at their discretion and subject to the needs of the service, they may also temporarily adjust working hours or work pattern on request. In order to ensure consistency, and where required, the advice of the Human Resources Team should be sought.

### **1.12 Flexible Working Arrangements**

The Council will sympathetically consider requests from employees to work on a part-time basis or on some other flexible/changed work pattern (see the Council's Flexible Working/ Family Friendly Policy for further details). Consideration will also be given to requests to job share.

### **1.13 Tax Credits**

Tax credits are tax-free payments from the government. If you are responsible for a child or young person, you may qualify for Child Tax Credit. If you work but are on a low income, you may also qualify for Working Tax Credit.

Tax credits are paid in addition to Child Benefit and the level of payment will depend on your income. Further information can be found on the HM Revenue and Customs website (<http://www.hmrc.gov.uk/taxcredits/index.htm>)

## **2.0 MATERNITY LEAVE & PAY PROVISIONS**

### **2.1 Maternity Leave**

All pregnant employees, regardless of their hours of work or length of service, are entitled to take 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML) – a total of 52 weeks' continuous maternity leave.

The employee is required to inform the Council in writing, at least 28 days prior to the start of her maternity leave, of:

- the fact that she is pregnant;
- her expected week of childbirth; and



- the date on which she intends to start her maternity leave.

The employee must also provide a MAT B1 Form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it.

The Council will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52 week entitlement to maternity leave.

The employee is permitted to bring forward her maternity leave start date provided that she advises the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date provided that she advises the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

**NOTE:** Maternity leave can start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless her child is born prematurely before that date, in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If the employee gives birth before her maternity leave was due to start, she must notify the Council in writing of the date of the birth as soon as reasonably practicable.

The law obliges all employees to take a minimum of two weeks' maternity leave immediately after the birth of a child.

## 2.2 Maternity Pay

### Statutory Maternity Pay and Maternity Allowance

Employees who have less than one year's continuous Local Government (or other recognisable) service at the beginning of the 11<sup>th</sup> week before their expected week of childbirth will receive 39 weeks' Statutory Maternity Pay (SMP), where eligible (with effect from 6 April 2015, the rate of SMP is £139.58. For subsequent years, the current rate can be sought from Human Resources or [www.direct.gov.uk](http://www.direct.gov.uk)). An employee is entitled to SMP where she:

- has worked for the Council for at least 26 consecutive weeks up to and including the 15<sup>th</sup> week (the "qualifying week") before the week in which her baby is due;
- has average weekly earnings at the "qualifying week" (calculated over an 8 week period) that are not less than the lower earnings limit for payment of National Insurance contributions;
- is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides a MAT B1 form stating her expected week of childbirth; and



- she gives the Council proper notification of her pregnancy in accordance with the rules set out above.

Employees who do not qualify for SMP may qualify for 39 weeks' Maternity Allowance (MA), which is a weekly benefit paid by the Department for Work and Pensions through Jobcentre Plus. Further information about the qualifying criteria for MA can be found on the Directgov website ([www.direct.gov.uk](http://www.direct.gov.uk)) or by contacting Jobcentre Plus.

### Occupational Maternity Pay

Employees who have completed one year's continuous Local Government (or other recognisable) service at the 11<sup>th</sup> week before the expected week of childbirth will be entitled to Occupational Maternity Pay (OMP) in line with national conditions of service as follows:

- For the first 6 weeks of absence, the employee will be entitled to nine-tenths of a week's pay off-set against payments made by way of SMP (or MA), where eligible.
- An employee who declares in writing that she intends to return to work will, for the subsequent 12 weeks of absence, receive half her basic weekly pay plus SMP, where eligible, without deduction except by the extent to which the combined pay and SMP (or MA and any dependant allowances if the employee is not entitled to SMP) exceeds full pay. Alternatively, the equivalent amount (i.e. 6 weeks' full pay) may be paid over any other mutually agreed distribution.
- For the subsequent 21 weeks, the employee will be paid her SMP (or MA) entitlement, where eligible.

**NOTE:** Payments made by the Council in respect of half pay is made on the understanding that the employee will return to work for a period of at least three calendar months. In the event of an employee not returning to work, the 12 weeks' half pay must be repaid at the discretion of the Council. Any payment due in respect of outstanding leave (see section 13 below) may be off-set against any payment due. Payments made to the employee by way of SMP are not refundable.

For employees not intending to return to work, payments during the 33 week period following the first 6 weeks of absence shall be their SMP (or MA) entitlement, where eligible.

## **2.3 Working During Maternity Leave – Keeping in Touch Days**

Keeping in Touch (KIT) days are intended to facilitate a smooth return to work for women returning from maternity leave.

An employee on maternity leave can undertake 10 days' "work" for the Council during OML or AML without having to bring her maternity leave to an end.

"Work" includes the normal duties of the job, training or any activity undertaken for the purposes of keeping in touch with the workplace.

### **NOTES:**



- **No work can be undertaken during the first two weeks of maternity leave** (the compulsory maternity leave period).
- A day includes any part of a day and therefore cannot be split down into hours or half days.
- Maternity leave is not extended by the number of days worked.
- The work can be consecutive or not.
- Maternity pay continues at the appropriate rate during such days, however the Council will top up the employees' maternity pay to their normal pay for the actual number of hours worked (up to the maximum of a normal day's pay).
- **Undertaking such work is voluntary and neither the employee nor their line manager can insist upon it.**

In addition, the Council and the employee are able to keep in reasonable contact during the maternity leave period to discuss such issues as the return to work. The Council will also seek to keep the employee informed of vacancies, job opportunities, and significant proposals relating to the workplace and job developments. Such contact does not constitute "work" and would not count towards the 10 KIT days. Before the maternity leave begins, the line manager should meet with the employee to discuss and agree such voluntary arrangements for keeping in touch during her maternity leave period.

## 2.4 Returning to Work

An employee will be formally advised by the Council of the date in which she is expected to return to work if she takes her full 52 week entitlement to maternity leave. An employee is expected to return on this date unless she notifies the Council otherwise.

If an employee is unable to attend work at the end of her maternity leave period due to sickness or injury, the Council's normal arrangements for sickness absence will apply and she will be covered by the Council's sickness scheme.

If an employee wishes to return to work earlier than her expected return date, she must provide the Council with at least 21 days' notice of her new intended return date. If she wishes to postpone her return, she must provide the Council with at least 21 days' notice of this prior to her original return date.

## 2.5 Resignation

If an employee takes maternity leave but subsequently decides not to return to work, she must give written notice of her resignation in accordance with the terms of her contract of employment, although the final date of employment can be agreed between the employee and Manager as full notice may be cut short if mutually acceptable. If she has received 12 weeks' half pay as part of her Occupational Maternity Pay, she will be required to repay this.

If an employee has taken more annual leave than she was entitled to, on the assumption that she would be returning to work, she will be required to refund payment for any excess days taken. Alternatively, any leave outstanding at the date of termination will be paid.

## 2.6 Rights on Return from Maternity Leave

An employee returning from OML is entitled to return to the same job as before, on the



same terms and conditions of employment, unless a redundancy situation arises (in which case she is entitled to be offered a suitable and appropriate vacancy if one exists).

An employee returning from AML is entitled to return to the same job unless it is not reasonably practicable for the Council to allow her to do so. In such circumstances, an employee is entitled to be offered a suitable and appropriate position. Again, if an employee's position is made redundant, she is entitled to be offered a suitable vacancy if one exists.

## 2.7 Breastfeeding

On return to work, if a facility for breast-feeding is requested, this will be provided. Further advice is available from your line manager or Human Resources Team.

## 3.0 MATERNITY SUPPORT LEAVE

Maternity Support Leave (MSL) of 5 days with pay will be granted to the child's father, or the partner, civil partner or nominated carer of an expectant mother, at or around the time of the birth. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth. MSL will be granted in accordance with the following guidelines:

- Leave will be allowed within 56 days from the beginning of the expected week in which the baby is due or actual date of birth and should be taken as one period of leave. This is in line with the timescales for Ordinary Paternity Leave provisions.
- Leave will be granted upon production of a signed nomination letter from the mother stating who the nominated carer is, showing her name and address and stating the expected week of childbirth.
- Where the mother and person taking MSL are both employees of the Council, maternity leave and MSL will be allowed.
- Time off will be granted in terms of contractual hours in a standard/average working week.
- Employees will be required to give their line manager notice, when the application for MSL is made, of the date on which they expect their MSL to commence.
- Once the leave has been taken the employee should complete an 'Application for Maternity Support Leave'. This should be signed by the Manager and forwarded to the Human Resources Team.

### **NOTES:**

Employees who are entitled to both MSL and Ordinary Paternity Leave are only entitled to a total of two weeks' leave, to be taken consecutively, at or around the time of the child's birth (see Ordinary Paternity Leave below) i.e. one week to be paid in full under the MSL provisions and one week paid as Statutory Paternity Pay (see section 4.2 below). A separate form should be completed for each request and these can be found on the Council's Intranet.



## 4.0 PATERNITY LEAVE & PAY PROVISIONS

Employees who meet certain qualifying conditions have a statutory right to take two weeks' paid paternity leave, known as Ordinary Paternity Leave (OPL), on the birth or adoption of a child for which they have or expect to have responsibility.

Refer to section 4.2 for further information relating to pay.

**NOTE:** Employees who are entitled to both MSL (see section 3.0) and Ordinary Paternity Leave are only entitled to a total of two weeks' leave, to be taken consecutively, at or around the time of the child's birth i.e. one week to be paid in full under the MSL provisions and one week paid as Statutory Paternity Pay (see section 4.2). A separate form should be completed for each request and these can be found on the Council's Intranet.

### 4.1 Ordinary Paternity Leave

#### Qualifying Conditions – After the Birth of a Child

In order to take OPL after the birth of a child, an employee must:

- have at least 26 weeks' continuous service with the Council by the end of the 15<sup>th</sup> week before the Expected Week of Childbirth (EWC);
- be the child's biological father and have, or expect to have, responsibility for the child's upbringing; or
- be the spouse or partner or civil partner of the mother and have, or expect to have, the main responsibility for the child's upbringing, apart from the responsibility of the mother (same-sex partners are eligible);
- have formally notified the Council of his or her intention to take OPL; and
- provide documentary evidence of his or her right to take OPL.

#### Qualifying Conditions – After the Adoption of a Child

In order for an adoptive parent (who is not taking Statutory Adoption Leave (SAL) or the partner of an adoptive parent) to be entitled to take OPL to care for a child adopted in the UK, he or she must:

- have at least 26 weeks' continuous service with the Council by the end of the week in which he or she is formally informed by an approved adoption agency that he or she (or his or her partner or civil partner) has been matched with a child for adoption;
- be the joint adopter of the child or be married to, or the partner or civil partner of, the adopter and have, or expect to have, the main responsibility for the child's upbringing, apart from the responsibility of the adopter;
- have formally informed the Council of his or her intention to take OPL; and
- have provided documentary evidence supporting his or her right to take OPL.

Slightly different rules apply if the child is being adopted from overseas. In this case, the adoptive parent must have at least 26 weeks' continuous service with the Council and this must:



- end with the week in which the adoptive parent receives notification from the relevant domestic authority; or
- commence with the week in which the adoptive parent's employment began.

The latter criteria take into account the fact that notification of the placement may have been obtained some time before the child enters the UK and the employee may have changed employers during that time.

### Period of Leave

The following rules apply for the period of OPL:

- OPL is for a maximum of two weeks.
- Employees can choose to take either one week or two consecutive weeks.
- Leave cannot be taken in units of odd days.
- If an employee elects to take only one week's leave, he or she may not take a further week's leave at a later stage.
- The leave may begin on any day of the week, which may include the day on which an employee's child is born or adopted.
- The length of OPL is unaffected by multiple births or if more than one child is adopted as part of the same placement.
- OPL must be taken within 56 days of the birth of a child or, in the case of adoption, within eight weeks of the child's placement.
- If the baby is born prematurely the employee may take OPL at any time from the actual date of birth up to the end of a period of eight weeks after the week the birth was expected.
- OPL should be taken after the baby is born. So where the baby is born after the date the employee notified the Council that he or she wanted the OPL to commence, the employee must delay the start of the leave until the baby is actually born.

An employee is still entitled to take OPL in instances where:

- a child is stillborn, provided that the mother had reached her 24<sup>th</sup> week of pregnancy; or
- a child has been placed for adoption and a disruption occurs to the placement (e.g. the child is returned to the adoption agency).

### Notification Requirements – After the Birth of a Child

In order to take OPL after the birth of a child, an employee must notify the Council of his or her intention to take OPL by the end of the 15<sup>th</sup> week before the mother's EWC, or as soon as is practicable thereafter.

### Notification Requirements – After the Adoption of a Child

In order to take OPL after the adoption of a child in the UK, the employee must notify the Council of his or her intention to take OPL no later than seven days after the date on which notification was received from the adoption agency of the match with the child.

If the child is being placed from abroad, the employee must notify the Council of:



- the date the adoptive parent received official notification of the placement; and
- the date on which the child is expected to enter the UK.

This notification must be done within 28 days of the adoptive parent receiving the official notification of the placement, or within 28 days of the employee completing 26 weeks' continuous service with the Council (whichever is later). The employee must give at least 28 days' notice of the date on which OPL is to start. They must also inform the Council of the date that the child entered the UK, within 28 days of the child's date of entry, and provide documentary evidence (e.g. a plane ticket) to confirm the child's arrival.

#### Commencement of OPL

As long as the employee takes his or her entitlement to one or two weeks of OPL within 56 days of the birth or adoption of the child, he or she can choose when to start the leave. In general, OPL starts on the date specified in the employee's notice.

In the case of birth, an exception to this is when the employee chooses to start his or her OPL on the day the baby is born and he or she is at work on that date. In such a case, the leave would start the next day. It is not possible for prospective fathers or partners to take OPL before the birth of a baby.

#### Variation of Start Date

If, having provided notification of his or her intention to take OPL on a specified date, the employee wishes to change the start date, he or she must give the Council at least 28 days' notice as to the revised start date unless this is not reasonably practicable. Notice of the variation should be given as soon as possible and must be in writing.

#### Further Notice

In all cases, once the baby has been born or the child has been placed for adoption, the employee must inform the Council of the date of birth or placement. This must be in writing.

### **4.2 Ordinary Statutory Paternity Pay (OSPP)**

To be eligible for Ordinary Statutory Paternity Pay (OSPP), the employee's average weekly earnings over a certain eight-week period must not be less than the lower earnings limit for National Insurance contributions. Employees who earn less than this limit may still take OPL, but they are not entitled to receive OSPP.

For those who qualify, OSPP is paid at a flat rate (the standard rate of Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP) or 90% of the employee's average weekly earnings, whichever is the lesser amount).

The standard rate of OSPP is paid at the equivalent rate of SMP. From 1 April 2015 this is £139.58. (or 90% of normal weekly earnings whichever is lesser). This is reviewed on an annual basis by the Government. For the up to date rate post 6 April 2016, please contact Human Resources who will provide the updated figure.



When the commencement date is known, employees wishing to claim OSPP should complete an 'Application for Paternity Leave' form, which should be agreed and signed by their manager before submission to Human Resources.

### Rights During OPL

An employee's contract of employment continues in full throughout the period of OPL with the exception of normal remuneration.

### Right to Return After OPL

An employee returning to work after either one or two weeks' OPL has the right to return to the job they held immediately before their leave began, on the same terms and conditions of employment.

After a period of one or two weeks of OPL there is no requirement for the employee to give notice of his or her return date.

## **5.0 SHARED PARENTAL LEAVE & PAY PROVISIONS**

With effect from 1 December 2014, eligible employees have a new statutory entitlement to shared parental leave and/or pay. This applies where their baby was due (or placed for adoption) on or after 5 April 2015 and replaces the additional paternity leave scheme. Existing rules on maternity and ordinary paternity leave and pay remain the same. It should be noted that as the regulations on Shared Parental Leave/Pay are complicated, an early discussion with your line manager and/or Human Resources is encouraged when considering options and to ensure the relevant procedures are followed.

### **5.1 Overview**

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child.

All eligible employees have a statutory right to take Shared Parental Leave (SPL). There may also be an entitlement to some Shared Parental Pay (ShPP).

**Shared Parental Leave (SPL)** will be created where an eligible mother or adopter brings their maternity or adoption leave to an end early (although there is still a legal requirement to take 2 weeks following the birth). This is called "curtailing" maternity/adoption leave. The untaken weeks of maternity/adoption leave can then be taken as **SPL** by either parent from a pot of up to a maximum of 50 weeks. They may choose to take this leave at the same time but it must be taken before the child's first Birthday.

**Statutory shared parental pay (ShPP)** will also be created where an eligible mother adopter chooses to bring their maternity or adoption pay or maternity allowance to an end early. The untaken statutory maternity/adoption pay or maternity allowance will then become available as **ShPP** from a pot of up to a maximum of 37 weeks. For further information on the amount of pay that may be received, refer to section 5.5.



NB In the case of adoptive parents, leave/pay may start following a period of either Statutory Adoption Leave or Ordinary Paternity Leave been taken. The adoptive parent(s) may alternatively choose to take SPL from the day the child is placed. The period of leave/pay will end of the first anniversary of the placement, rather than first birthday. This increases the potential maximum number of weeks available to 39 for pay and 52 for leave.

## 5.2 Eligibility

SPL can only be used by two people:

- The mother/adopter **and**
- One of the following:
  - the father of the child (in the case of birth)or
  - the spouse, civil partner or partner of the child's mother/ adopter.

For either to qualify, both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

The right of one parent to take leave is not only dependent on them satisfying their own eligibility criteria, but is also dependent on their partner also satisfying certain conditions.

### 5.2.1 Eligibility of a Council Employee who is the Mother/Adopter

For the purposes of SPL, where two people have been matched jointly, the 'adopter' is the person who elected to take Statutory adoption leave.

**For the mother/adopter to be eligible for SPL they must satisfy the following criteria:**

- Have 26 weeks' continuous service by the end of the 15<sup>th</sup> week before the EWC (relevant week) and have remained in continuous employment up to the week before any shared parental leave is taken.
- Have been entitled to statutory maternity leave (SML)
- Have ended her entitlement to statutory maternity leave by 'curtailing' her leave or returning to work

**For the mother/adopter to be eligible for ShPP, in addition to the above, they must also satisfy the following criteria:**

- They must be/have been entitled to statutory maternity/adoption pay or maternity allowance
- They must intend to care for the child, and be absent from work, for each week in which ShPP is to be paid to her (apart from in those situations where it is permissible for him to work e.g. SPLIT days – see section 5.16)
- They must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date of not less than the lower earnings limit in force for national insurance contributions;
- They must remain in continuous employment until the first week of ShPP has begun;
- They must provide a notice of their entitlement and intention to take SPL, 8 weeks before the first period of leave to be taken
- They must provide evidence of the birth and/or their partners employer's details



- In the case of adoptions, they should provide documentation from the adoption agency including; the name and address of the agency; the date the adopter was notified of being matched and the date the agency expect to place the child with the Adopter; and/or their partners employer's details
- Their partner must satisfy the employment and earnings test (see 5.2.3)

**Note:** Where the mother/adopter wishes to end Maternity Leave and opt for Shared Parental Leave/Pay, her entitlement to Occupational Maternity Pay will also end and the entitlement to Shared Parental Pay will be as stated at section 5.5

### 5.2.2 Eligibility of a Council employee who is the Father/Partner

**For the Father/Partner to be eligible for SPL they must satisfy the following criteria:**

- Have 26 weeks' continuous service by the end of the 15th week before the EWC (relevant week) and have remained in continuous employment up to the week before SPL is taken.

**For the Father/Partner to be eligible for ShPP, in addition to the above, the employee must also satisfy the following criteria:**

- The mother/adopter must be entitled to statutory maternity pay or maternity allowance.
- The mother/adopter must satisfy the employment and earnings test (see 5.2.3)
- The father/partner must intend to care for the child, and be absent from work, for each week in which ShPP is paid to him (apart from in those situations where it is permissible for him to work e.g. SPLIT days – see section 5.16)
- The father/partner must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
- Provide evidence of the birth and the mother/adopter's employer's details (see below),
- The must provide a notice of their entitlement and intention to take SPL, 8 weeks before the first period of leave to be taken

**Note:** If an employee takes shared parental leave with his or her partner, it is the employer of the partner who is responsible for paying their ShPP

### 5.2.3 The Employment and Earnings Test

To satisfy the employment and earnings test, a parent must have been employed or self-employed for any part of at least 26 of the 66 weeks immediately before the EWC and have average weekly earnings in any 13 of those 66 weeks of at least £30 (subject to annual review by the Government).

### 5.2.4 Eligibility of Self Employed Mothers/Partners



If the mother of a child is self-employed and eligible for maternity allowance (*the test for maternity allowance is the same as the employment and earnings test set out above*), the father/partner, can take shared parental leave, provided that they meet the eligibility criteria as stated above.

Similarly, if the father/partner of an employee is self-employed and meets the employment and earnings test, the mother can take shared parental leave provided that she meets the eligibility criteria. Whilst the mother will not be able to share the leave with her partner as he is not an employee, she may choose to curtail her maternity leave and take shared parental leave instead so that she can take her leave in a more flexible way i.e. return to work and take a further period of SPL at a later date.

### 5.3 Methods of Providing a notice

In order to take SPL and/or ShPP, the regulations specify a number of 'notices' that must be provided in writing. These include:

The '**Notice of Entitlement**' (section 5.4) stating the intention to take SPL and providing at least 8 weeks' notice before the first period of leave;

At the same time as the above, if the mother/adopter has not returned to work she should also provide a:

- '**Curtailment Notice**', confirming the end of Maternity/Adoption Leave and/or pay

Finally, **either** at the same time as the above or subsequently a:

- '**Period of Leave/Booking Notice**' to book the leave requested. 8 weeks' notice for each period is required unless the request is for a period of discontinuous leave.

Notices delivered in person or by email will be taken to have been given on the day they were transmitted or delivered. A notice sent by post is taken to have been given on the day it was posted.

### 5.4 Shared Parental Leave Entitlement (SPL)

This is generally 52 weeks, less the amount of statutory maternity/adoption leave the mother/adopter has already taken or intends to take. *If a mother is not entitled to maternity leave (because she is not an employee), it is 52 weeks less the number of weeks of SMP or Maternity Allowance she has had or intends to have (up to 39 weeks are available).* As a woman must take two weeks' compulsory maternity leave after the birth, that leaves a maximum of 50 weeks' leave to be shared. Leave can be taken at the same time but the total cannot exceed their total maximum entitlement.

The father/partner can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

The father/partner can start leave while the mother/adopter is still using her statutory maternity/adoption entitlements provided she has given notice to curtail her maternity/adoption entitlement and the required 8 weeks' notice to book SPL has been provided.



SPL will generally commence on the employee's chosen start date specified in their 'Period of Leave/Booking Notice' and in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay (ShPP) this may be paid for some, or all, of the SPL (see "Shared Parental Pay" below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

## 5.5 Shared Parental Pay Entitlement (ShPP)

The total number of weeks during which either partner can receive ShPP is 39, less the number of weeks' maternity allowance or Statutory Maternity Pay (SMP)/Statutory Adoption Pay (SAP) the mother/adopter has already, or will take. Again, as a woman must take two weeks' compulsory maternity leave, this will mean that there is a maximum of 37 weeks' ShPP to share.

ShPP will be paid at the equivalent to the basic rate of SMP/SAP. From 1 April 2014 this is £138.18. (or 90% of normal weekly earnings whichever is lesser). This is reviewed on an annual basis by the Government. For the up to date rate post 1 April 2015, please contact Human Resources who will provide the updated figure.

### **Example: Considering what leave arrangements work best**

Sunita is due to have a child in two months' time. She and her partner would like to share in caring for the child. Under the Maternity Leave provisions Sunita is entitled to SMP of 90% for the first 6 weeks of her maternity leave following by SMP plus OMP for the following 12 weeks, while her partner has access to statutory pay rates under SPL and has not taken any annual leave so far in this year. Sunita and her manager also want her to remain involved in a high-profile work project that will continue for some time.

### **Reasons SPL may suit Sunita**

SPL offers a good opportunity for the couple to equally share the time to raise the child between them.

She could still take advantage of her occupational maternity pay by continuing maternity leave for 18 week, but reducing her total entitlement. This means her partner can still take a period takes a period of SPL.

She could stay involved in the project through the use of SPLIT days.

### **Why SPL might not suit Sunita**

it makes financial sense for Sunita to take advantage of her enhanced maternity pay scheme for at least 18 weeks.

While her partner wants more than the two weeks' paternity leave to care for the child, he might prefer to use his annual leave for this purpose instead of SPL

## 5.6 Notice of Entitlement

An employee wishing to take SPL and/or ShPP must first provide their line manager with written notice of their entitlement including:



- their partner's name
- maternity leave start and end dates (section 5.5)
- the total amount of SPL and ShPP available
- How much they and their partner intend to take
- An indication of when of the start and end dates of SPL and ShPP (this is not binding and notice to vary the leave requested can be made – see section 5.9)
- that they're sharing childcare responsibility with their partner
- The child's date of birth (unless the notice is provided before the birth, in which case the employee must provide this as soon as reasonably practicable following the birth)

It must also include a signed declaration from the partner stating:

- their name, address and National Insurance number
- that they satisfy the [qualifying requirements](#) for their partner (the Council employee)
- to take SPL and ShPP
- that they agree to their partner (the Council employee) taking SPL and ShPP

Upon receipt, the manager will submit the 'Notice of Entitlement' to Human Resources who will write to the employee and confirm their entitlement. If the notice also includes a request to book SPL leave the manager is required to respond to the request in writing within 14 days. (A template letter with suggested wording can be found on the Council's Intranet).

## 5.7 Curtailing Maternity/Statutory Adoption Leave

The entitlement to SPL is created by the mother/adopter ending her maternity/adoption leave before she has taken her full entitlement to maternity leave and/or pay, the remaining period then becomes SPL.

She can do this in two ways; by providing the usual 21 days' notice to return to work early and then, once back at work (but before the child's first Birthday or anniversary of placement) choose to use any remaining entitlement to SPL. Alternatively, prior to, or during her Maternity/statutory adoption Leave, she can provide a 'leave curtailment notice', which will bring forward the date that her ordinary or additional maternity leave or adoption leave will end at a future point. For example, she could give her employer a leave curtailment notice when the baby is born, specifying that her maternity/statutory adoption leave will end on a date in six months' time.

## 5.8 Curtailing Statutory Maternity Pay

Where the mother/adopter is entitled to statutory maternity/adoption pay or maternity allowance, the notice must also state her intention to curtail her entitlement to remaining statutory maternity pay to allow the unused amount to become statutory shared parental pay. Again, 8 weeks' notice must be provided.

Any additional entitlement to Occupational Maternity Pay will also end upon curtailment.

A pay curtailment notice is also required where a woman has already ended her maternity/adoption leave by returning to work. This is due to the fact that the maternity pay period continues to run (albeit lying dormant when a woman is at work) throughout



the 39 week period. The notice in this situation takes effect, according to government guidance, on the last day of the pay week in which the notice is given

## 5.9 Cancelling or 'Revoking' a leave Curtailment Notice

There are limited circumstances where the mother/adopter may change her mind about curtailing her maternity/adoption leave as long as the planned end day has not already passed and the mother/adopter has not already returned to work.

One of the following must also apply

- a) It is discovered during the 8 week notice period that neither partner is eligible for either ShPP or SPL
- b) It is less than 6 weeks after the birth and the mother/adopter gave notice prior to the birth/placement
- c) The death of the partner

Also see variations to arranged Shared Parental leave (section 5.7.3)

## 5.10 Booking Shared Parental Leave

In addition to providing a 'Notice of Entitlement' to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

Not only do qualifying employees have the legal right to choose to take SPL, they can also determine when they take it and must not suffer any detriment for using, or seeking to use SPL. However, whereas a period of continuous leave cannot be refused, a request for discontinuous leave may be refused on business grounds (see section 5.7.2)

SPL can only be taken in complete weeks but may begin on any day of the week. For example, if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

## 5.11 Continuous leave notifications

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the 'notice of entitlement') and the employer has been given at least eight weeks' notice.



An employee may submit up to three separate notifications for continuous periods of leave and at least 8 weeks' notice must be given to start each of them.

## 5.12 Discontinuous leave notifications

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

All requests for discontinuous leave will be carefully considered on a case by case basis, weighing up the potential benefits to the employee and to the Service against any adverse impact on the Service. However, the Council has the right to refuse a request for discontinuous leave.

Where there is concern over accommodating discontinuous leave, the line manager or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the service.

.A request may be granted in full or in part: for example, the line manager may propose a modified version of the request.

Please refer to section 5.10 for guidance on what will happen where a request for discontinuous leave must be refused.

### **Example of a refusal of Discontinuous Leave**

Jim and his wife are hoping to split SPL equally to care for their child. His wife would like to take discontinuous leave because this would enable her to continue to be involved in an important project. She would therefore like to work one month in every two. Jim therefore puts in a discontinuous leave notification to his employer that mirrors his wife's.

Jim and his manager discuss the notification. His manager is concerned it will not work because his role means he needs regular contact with service users or someone else to take over completely. Jim's manager writes to him within 14 calendar days of the notification to advise that she cannot agree to his request. It makes clear that Jim is entitled to take the whole period off in one continuous block and that this will begin on the start date he originally requested unless he confirms a different date.

Having discussed it with his manager Jim understands why it was difficult to agree to. He and his wife decide that it will be best for Jim to take the continuous block. His wife will withdraw her request for discontinuous leave, work on the project during this time, and take a period of continuous leave once Jim's leave finishes.

## 5.13 Variations to arranged Shared Parental Leave

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise their line manager in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.



Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the organisation requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the line manager.

#### 5.14 Discussions regarding Shared Parental Leave

An employee considering/taking SPL is encouraged to contact their line manager and/or a member of the Human Resources team to arrange an informal discussion as early as possible to discuss their potential entitlement and intended plans.

Upon receiving a leave booking notice the line manager will usually arrange a meeting to discuss it. However, where a notice is for a single period of continuous leave, or where a request for discontinuous leave can, without further discussion, be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave, the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and for the needs of the service, and what the outcome may be if no agreement is reached.

At the meeting the employee may, if they wish, be accompanied by a workplace colleague, trade union representative or even their partner

#### 5.15 Responding to a Period of Leave/Booking Notice

Once the **line manager** receives the leave booking notice, it will be dealt with as soon as possible, but a response in writing will be provided no later than the 14th day after the leave request was made. (A template letter is provided at Appendix 3. A copy should also be submitted to Human Resources). Any discussions as above, should have taken place during the 14 day period.

The Council may request at this time. a copy of the child's birth certificate and the name and address of the partner's employer. In order to be entitled to SPL, the employee must then produce this within 14 days of the employer's request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

#### 5.16 Shared Parental Leave in Touch days (SPLIT days)



An employee can agree to work for the Council (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

The Council has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work during the employee's SPL. Any work undertaken is a matter for agreement between the Council and the employee. An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of their manager, may use SPLIT days to work part of a week during SPL. The organisation and the employee may use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

Please ensure that a 'SPLIT' day notification form has been completed and submitted to the Human Resources team by 12 noon on the 2<sup>nd</sup> working day of the month in order to process your pay correctly.

## **5.17 Returning to work after Shared Parental Leave**

The employee will have been formally advised in writing by the line manager of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they provided notification otherwise.

If they are unable to attend work due to sickness or injury, the Council's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation may be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must provide at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the organisation does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

An employee is entitled to return to the same job they had before taking SPL where their total statutory leave taken in relation to that child is 26 weeks or less. This statutory leave could be made up of, for example, a certain number of weeks of ordinary maternity leave, plus a couple of periods of SPL, but provided the total does not exceed 26 weeks the employee is entitled to return to their previous job.

However, if the employee takes more than 26 weeks' statutory leave, any additional maternity leave or parental leave of more than four weeks, they are entitled to return to their previous job, or where this is not reasonably practicable for the employer, to another job which is both suitable and appropriate for the employee to do in the circumstances.



As with maternity leave, if an employee's position is made redundant during the period of SPL she/he is entitled to be offered a suitable vacancy if one exists.

**5.18 Fraudulent Claims** It is the employee's responsibility to check they are eligible for SPL and ShPP and these will be granted based on the information and declaration they submit. If it is subsequently discovered that ShPP was wrongly or incorrectly paid, the Council will seek to recover the appropriate amount as an overpayment of salary

The Council can, where there is a suspicion that fraudulent information may have been provided or where information is received from by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the disciplinary procedure.

### 5.19 Further information

Law relating to this document:

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

Useful Websites include

- [www.directgov.uk](http://www.directgov.uk)
- [www.acas.org.uk](http://www.acas.org.uk)

## 6.0 ADOPTION LEAVE & PAY PROVISIONS

### Entitlement

Statutory Adoption Leave (SAL) and Statutory Adoption Pay (SAP) are available to:

- individuals who adopt; or
- one member of a couple where the couple adopt jointly.

Where a couple adopt a child jointly, only one of them is entitled to take SAL and the couple can choose which. The other parent may, depending on his or her circumstances, be entitled to Statutory Paternity Leave (see Ordinary and Additional Paternity Leave below). Employees should also refer to the Council's Maternity Support Leave and Shared Parental Leave provisions (set out above).

**NOTE:** SAL and SAP does not apply to stepfamily adoptions or currently, adoptions by a child's existing foster carer.

With affect from 5 April 2015, the [Children and Families Act 2014](#) permits parents who have a child through a surrogacy arrangement or a "foster to adopt" arrangement to take either ordinary paternity leave and pay, or adoption leave and pay and shared parental leave and pay, provided that they meet the eligibility criteria. Further guidance can be sought from a member of the Human Resources Team.



## 6.1 Adoption Leave

Those who are eligible are entitled to up to a total of 52 weeks' leave as follows:

- 26 weeks' Ordinary Adoption Leave (OAL); immediately followed by
- 26 weeks' Additional Adoption Leave (AAL).

To qualify for adoption leave, an employee must satisfy the following criteria:

### Qualifying Criteria

From 5 April 2015 Adoption Leave will be available from the first day of employment, where the child has been matched after that date.

To qualify for SAL where a child is being adopted within the UK, an employee must:

- have been matched with a child for adoption by an approved agency, or be one of a couple that has been jointly matched with a child;
- **From** have notified the agency that he or she agrees with the placement; and
- have complied with the notification procedures (set out below).

To qualify for SAL where a child is being adopted from overseas, an employee must:

- be the child's adopter;
- have complied with the notification procedures (set out below).

### Notification Procedures – Adoptions within the UK

To exercise the right to SAL, eligible employees must do the following:

- Inform the Council of their intention to take SAL within seven days of having been notified by the adoption agency that they have been matched with a child for adoption;
- Provide documentary evidence in the form of a certificate provided by the adoption agency; and
- Advise the Council of the date on which the child is expected to be placed with them for adoption and when they want their adoption leave to start.

Wherever practicable, at least 28 days' notice should be given before the absence is due to begin.

Employees can choose to start their leave from the date of the child's placement or from a fixed date, which can be up to 14 days before the expected date of placement.

Employees may change their mind about when they intend their leave to start but must give at least 28 days' notice of the amended start date or, where this is not reasonably practicable, give notice as soon as is reasonably practicable.

Once notified of the date on which an eligible employee intends to start his or her adoption leave, the Council will write to the employee within 28 days, setting out the date the employee will be expected to return to work if his or her full entitlement to adoption



leave is taken.

### Notification Procedures – Adoptions from Overseas

Eligible employees adopting a child from overseas must do the following:

- Inform the Council of their intention to take SAL within 28 days of receiving an official notification from the relevant domestic authority;
- Notify the Council of the date on which the official notification was received;
- Produce a copy of the official notification; and
- Inform the Council of the date the child is expected to enter the UK.

Employees must give at least 28 days' notice of the date on which SAL is to start. They must also inform the Council of the date that the child entered the UK, within 28 days of the child's date of entry, and provide documentary evidence (e.g. a plane ticket) to confirm the child's arrival.

The adoption leave may begin on the date the child enters the UK or on a predetermined date that is no later than 28 days after the child entered the UK.

Employees may change their mind about when they intend their leave to start but must give at least 28 days' notice of the amended start date or, where this is not reasonably practicable, give notice as soon as is reasonably practicable.

Once notified of the date on which an eligible employee intends to start his or her adoption leave, the Council will write to the employee within 28 days, setting out the date the employee will be expected to return to work if his or her full entitlement to adoption leave is taken.

## **6.2 Statutory Adoption Pay (SAP)**

SAP is payable for the first 39 weeks of SAL. The remainder of SAL is unpaid with effect from 1 April 2015; the first 6 weeks will be paid at 90% of the employee's weekly earnings and the remaining 33 weeks at the standard rate of SAP in line with SMP. **From 6 April 2015**, the rate of SMP is £139.58. For subsequent years, the current rate can be sought from Human Resources or [www.direct.gov.uk](http://www.direct.gov.uk)).

To qualify for SAP, an employee must have earnings of at least the lower earnings limit for National Insurance as at the end of the matching week (or week when official notification is received for an overseas adoption) and have complied with the notification requirements for SAL. In addition, employees are required to notify the Council of when they want to receive SAP at least 28 days before the date that they would like it to begin or as soon as reasonably practicable.

### Rights During SAL

An employee on either OAL or AAL has the right to the continuation of all contractual terms and conditions of employment, except pay. Although not entitled to be paid, the employee may qualify for SAP (see 'Statutory Adoption Pay' above).

### 'Keeping in Touch' Days



An employee on SAL may work for up to 10 'Keeping in Touch' (KIT) days without this affecting the employee's SAP entitlement, or his or her entitlement to continue on adoption leave until the due return date.

### Redundancy During SAL

Where a suitable alternative position exists, an employee whose job becomes redundant while they are on SAL is entitled to be offered (before the end of their employment under their existing contract) this in preference to other candidates who are not on maternity, adoption or additional paternity leave.

### Returning to Work Following SAL

It is presumed that employees will return to work at the end of their full SAL entitlement. However, if they intend to return to work before the end of the SAL period they must write to the Council giving at least eight weeks' notice of their intended date of return. If the employee fails to do so, the Council may delay their return until the eight week period has expired, or the end of the OAL or AAL period, whichever is earlier.

The Council may make reasonable contact with an employee to plan their return to work.

The Council will sympathetically consider requests from employees to return to work on a part-time basis or on some other flexible/changed work pattern (see the Council's Family Friendly Policy for further details). Consideration will also be given to requests to job share.

### Disrupted Placement

If, after an employee has begun his or her SAL, the expected placement does not occur, or the newly adopted child dies, is returned to the adoption agency or ceases to live with the adopter, the employee's SAL period will end eight weeks after the start of the OAL period (if the placement did not occur) or eight weeks from the end of the week in which death occurred or the child was returned to the agency (if the placement did take place and the disruption occurred later).

The same applies if a child adopted from overseas dies or ceases to live with the adoptive parents. For these purposes, a "week" is a period of seven consecutive days beginning with Sunday.

### Rights on Return from SAL

An employee returning from OAL is entitled to return to the same job as before on the same terms and conditions of employment, unless a redundancy situation arises (in which case they are entitled to be offered a suitable and appropriate vacancy if one exists).

Where an employee takes OAL followed immediately by more than four weeks' parental leave, an employee has the right to return to the job in which they were employed before their absence or, if it is not reasonably practicable for the Council to permit them to return to that job, to another job that is both suitable and appropriate for them to do in the circumstances.



An employee returning from AAL is entitled to return to the same job unless it is not reasonably practicable for the Council to allow him or her to do so. In such circumstances, the employee is entitled to be offered a suitable and appropriate position. Again, if the employee's position is made redundant, he or she is entitled to be offered a suitable vacancy if one exists.

## 7.0 PARENTAL LEAVE

**Parental Leave should not be confused with Shared Parental Leave as detailed in Section 5.0.**

Employees who are birth parents (named on the child's birth certificate or who have or are expected to have parental responsibilities for the child e.g. a guardian), or who are adoptive parents, are entitled to parental leave to care for the child.

In addition, the Council will make parental leave available to other employees with parental responsibilities (e.g. foster parents, adoptive parents prior to placement and grandparents with a significant parenting role and stepparents).

Parental leave is unpaid.

Caring for the child means looking after the welfare of the child and can include making arrangements for the good of the child. Examples of the way in which parental leave may be used include:

- spending more time with the child in early years;
- to accompany the child during a stay in hospital;
- checking out new schools; or
- settling a child into new childcare arrangements;

Parental leave is available to all employees who have worked for the Council continuously for a period of one year.

Both parents are entitled to 18 week's parental leave in total per child.

In the case of birth parents, they can take leave up to and including the child's 18<sup>th</sup> birthday. Adoptive parents can take leave up to the 18th anniversary of the child's placement for adoption or up to the child's 18<sup>th</sup> birthday, whichever comes first.

A week is equal to the amount of time an employee is normally required to be in work and as such can be a number of days or hours depending upon the employee's normal working arrangements. Where the number of days/hours in a week varies then an average working week needs to be calculated.

Parents of disabled children are also entitled 18 weeks' parental leave. The right to take parental leave in respect of a disabled child lasts until the age of 18. A disabled child is a child for whom an award of Disability Living Allowance has been made.

Parental leave must normally be taken in one week blocks up to a maximum of four weeks in a 12 month period. However, subject to being able to maintain adequate staffing cover, consideration will also be given to taking leave as follows:

- As a single block of up to 18 weeks



- As a number of shorter periods of a minimum of half a day.
- In patterns that provide a part time or reduced hours working arrangement for a period of time equivalent to taking 18 weeks' leave as a single block.

A minimum period of 21 days' notice of the intention to take parental leave is expected to be given, specifying when the leave is to begin and end. In exceptional circumstances, and by mutual agreement, a lesser period of notice may be agreed.

### Postponement

The Council may postpone the leave where the operation of the service would be unduly disrupted but under no circumstances can the leave be postponed for more than six months. Parental leave cannot be postponed where the employee wants to take it immediately after their child is born or placed with them for adoption.

**NOTE:** Where parental leave is taken as a full block following maternity leave, the requirement to return to work for three calendar months following the receipt of Occupational Maternity Pay applies from the date of return to work following parental leave. Where parental leave is taken during the three month period following the return to work, the period will normally be extended by the period of leave that is taken.