

## Family Friendly Policy Framework

### Introduction

- 1.1 Manchester City Council is supportive of working parents and [carers](#). Managers are expected to treat employees as individuals, using this Family Friendly Policy Framework together with our [flexible working](#) offer to support an effective work/life balance for employees with responsibilities outside of work. This includes parents expecting a child either by birth or adoption, and foster carers.
- 1.2 The Council is committed to attracting and retaining high quality employees, which will in part be achieved through [Our Ways of Working](#), meaning we should work smarter through better flexible working options wherever possible. Flexible working helps to reduce absence rates, improve productivity, and reduce the amount of stress or pressure felt by employees. As such, it is an essential part of the Council's ambition to develop a world class workforce.
- 1.3 This policy framework reflects the Council's commitment to equality in the workplace. No one will be discriminated against, be subject to detriment, or lose career development opportunities by taking leave under this policy.
- 1.4 The subject of maternity, paternity, adoption, parental and shared parental leave/pay is a complex area of employment law. This is particularly so in local government, where the legal rights under various Employment Acts are supplemented (or replaced) by rights under National Conditions of Service. This policy is intended to bring together and rationalise the information in one document with the aim of making it more accessible to employees and managers.
- 1.5 This policy framework sets out eligibility criteria for:
  - Maternity Leave
  - Maternity Support Leave (and occupational Parental Leave)
  - Adoption Leave
  - Shared Parental Leave

These are collectively referred to as family friendly leave.

- 1.6 This document incorporates the requirements of the following legislation:
  - The Shared Parental Leave Regulations 2014
  - The Shared Parental Pay (General) Regulations 2014
  - The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
  - Employment Rights Act 1996
  - Child and Families Act 2014
  - Equality Act 2010

## **Scope**

**1.7** These arrangements cover employees of Manchester City Council, excluding staff directly employed by schools.

## **Confidentiality**

**1.8** All family-friendly leave requests will be dealt with confidentially. Any documentation will be stored in accordance with GDPR and record retention schedules.

## **Family Friendly Leave Commonalities**

**1.9** The following applies to Maternity Leave, Adoption Leave, Maternity Support Leave, and Shared Parental Leave:

### **1.10 *Annual Leave and Bank Holidays***

An employee continues to accrue all of their paid annual leave (including bank holidays where applicable) while on family friendly leave. Annual leave can be taken before the leave starts, or after it comes to an end, subject to normal management approval. It is important to note that annual leave cannot be taken at the same time as Maternity, Adoption, or Shared Parental Leave.

### **1.11 *Sickness Absence***

Statutory or occupational sick pay cannot be paid during the same period in which statutory or occupational pay is being received for family friendly leave as in this policy document. If an employee has indicated that they are returning to work and then become ill, then this will be treated as sickness absence under the procedures in the Council's [Managing Attendance Policy](#).

### **1.12 *Rights during Family Friendly Leave***

Employees are entitled to receive all of their normal terms and conditions of the contract of employment, including annual holiday entitlement, with the exception of normal pay as the pay during family friendly leave will be subject to the rules that relate to the type of family friendly leave that has been taken.

An employee is entitled to return to the same job on the same terms and conditions as if they had not been absent, where their total statutory leave taken in relation to that child is 26 weeks or less in aggregate (even if the leave is taken in discontinuous blocks under Shared Parental Leave). However if a position is disestablished during the leave period the employee will be entitled to be offered suitable alternative work on terms and conditions no less favourable than if they continued to be employed in their old job.

If an employee has taken any combination of statutory leave, any additional maternity/adoption leave or ordinary parental leave which totals more than 26 weeks', they are entitled to return to the same job. If, however, there is some reason (other than redundancy) why it is not reasonably practicable for an employee to return to their original job they will be entitled to be offered suitable alternative work on terms and conditions no less favourable than if they continued to be employed in their old job.

# Maternity

## 2.1 Introduction

This section covers:

- Statutory and occupational maternity pay and leave
- Notification requirements
- When leave will start and the rate of pay
- Appeals
- Maternity Allowance
- Sickness and complications / antenatal care
- Dismissal or resignation
- Keeping in touch & Returning to work

### *Key Terms*

EWC / QW - Expected Week of Childbirth, also referred to as the Qualifying Week

MA - Maternity Allowance

OML - Occupational Maternity Leave

OMP - Occupational Maternity Pay

SML - Statutory Maternity Leave

SMP - Statutory Maternity Pay

## 2.2 Risk Assessments

Once it is known that an employee is pregnant, then the manager should ensure that a [risk assessment](#) is carried out on their workplace and the duties of their role.

If an employee who is pregnant receives medical advice that recommends adaptations to their working environment, or has concerns relating to their work, then they should inform their manager immediately.

## 2.3 Maternity Leave

All pregnant employees, regardless of their length of service, qualify for the statutory entitlement of 52 weeks maternity leave. Statutory Maternity Leave is made up of 26 weeks Ordinary Maternity Leave, immediately followed by 26 weeks of Additional Maternity Leave.

The maximum entitlement of 52 weeks does not have to be taken, however a new mother must be absent from work on maternity leave for 2 weeks immediately following the birth of her baby. During this period she may not carry out any form of work, including working from home.

## 2.4 Maternity Pay

Maternity pay is dependant on the length of Local Government service and working hours. Employees may qualify for statutory or occupational pay, or a combination of both, as below:

Length of service by the 15th week before the baby is due	Entitlement
Less than 26 weeks with the Council.	Not entitled to Occupational or Statutory Maternity Pay. May be entitled to Statutory Maternity Allowance.
Between 26 weeks & 1 year with the Council.	Statutory Pay <ul style="list-style-type: none"> <li>● 6 weeks at 90% of a week's pay, followed by;</li> <li>● 33 weeks Statutory Maternity Pay or 90% of a week's pay, whichever is least.</li> </ul>
Between 1 & 2 years continuous local government service, but individual has worked for the Council for less than 26 weeks.	No entitlement to Statutory Pay, but Occupational Pay is as follows: <ul style="list-style-type: none"> <li>● 6 weeks at 90% of a week's pay, less any state maternity allowance receivable, followed by;</li> <li>● 12 weeks at 50% of a week's pay</li> </ul>
Between 1 & 2 years continuous local government service, & the individual has worked for the Council for at least 26 weeks.	Combination of Statutory & Occupational  Statutory: <ul style="list-style-type: none"> <li>● 6 weeks at 90% of a week's pay, followed by;</li> <li>● 33 weeks Statutory Maternity Pay or 90% of a week's pay, whichever is least.</li> </ul> Occupational <ul style="list-style-type: none"> <li>● 6 weeks at 90% of a week's pay, less any state maternity allowance receivable, followed by;</li> <li>● 12 weeks at 50% of a week's pay, without deduction of Statutory Maternity Pay or Maternity Allowance receivable except to the extent to which this exceeds full pay.</li> </ul>
2 years or more continuous local government service, but the individual has worked for the Council for less than 26 weeks.	Occupational Pay <ul style="list-style-type: none"> <li>● 11 weeks at 90% of a week's pay, less any state maternity allowance receivable, followed by;</li> <li>● 13 weeks at 50% of a week's pay, without deduction of Statutory Maternity Pay or Maternity Allowance receivable except to the extent to which this exceeds full pay.</li> </ul>

<p>Over 2 years continuous local government service, &amp; the individual has worked for the Council for at least 26 weeks.</p>	<p>Combination of Statutory &amp; Occupational</p> <p>Statutory:</p> <ul style="list-style-type: none"> <li>● 6 weeks at 90% of a week's pay, followed by;</li> <li>● 33 weeks Statutory Maternity Pay or 90% of a week's pay, whichever is least.</li> </ul> <p>Occupational:</p> <ul style="list-style-type: none"> <li>● 13 weeks at 50% of a week's pay, without deduction of Statutory Maternity Pay or Maternity Allowance receivable except to the extent to which this exceeds full pay.</li> </ul>
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## 2.5 Notification requirements

In order to qualify for maternity leave an employee must:

Notify her Line Manager once she is aware of her pregnancy, and has been given an Expected Week of Childbirth (EWC). The Line Manager and individual should:-

- Inform Employee Life Cycle of the pregnancy using the [online form](#).
- Provide evidence of eligibility. This will normally be the original Maternity Certificate (MATB1), which is available from either the GP or Midwife from the 21st week of pregnancy.

Employee Life Cycle must receive notification and evidence of eligibility no later than the 15th week before the EWC (or if this is not possible, as soon as is reasonably practicable thereafter).

The form requires that the employee specifies:

- The date she wishes to start maternity leave.
- Her intended return to work date (this is not binding, and can be changed at a later date as per para 2.22).

If she does not intend to return to work for at least three months after Maternity Leave, then she should be aware that the Council is entitled to reclaim occupational pay as per para 2.25.

## Statutory Maternity Leave and Pay

**2.6** Eligibility for SMP is assessed at the 15th week before the QW (qualifying week). The QW is sometimes also referred to as the EWC (expected week of childbirth).

SMP is payable for a period of 39 weeks. In order to receive SMP an employee must:

- a) have been continuously employed by the Council for at least 26 weeks leading into the QW;
- b) have average earnings in the eight weeks up to and including the QW (or the equivalent period if they are monthly paid) at least equal to the lower earnings limit for National Insurance contributions;
- c) still be pregnant at the 11th week before the EWC or have been confined by that time; and
- d) have commenced maternity leave.

## **2.7 Maternity Allowance**

If an employee is not entitled to SMP, she may be entitled to [Statutory Maternity Allowance](#). This is paid by Jobcentre Plus for up to 39 weeks. To qualify, they must have been employed or self-employed for 26 weeks out of the 66 weeks before the EWC, and earned at least £30 a week, on average, over any 13 of those 26 weeks.

Within 7 days of determining that she is not entitled to SMP, Shared Service Centre will provide the employee with an SMP1 form, explaining why SMP is not payable together with any maternity certificate she has provided. The employee should then contact her local JobCentrePlus.

## **2.8 Appeals**

If the employee disagrees with the decision not to pay SMP, then they can contact the HM Revenue & Customs Statutory Payments Dispute team as detailed on the SMP1 form.

## **2.9 Commencement of Statutory Maternity Leave**

The earliest date that SML can be taken is 11 weeks before the EWC. SML will begin on the date the employee has chosen when providing notification as per para 2.5. It will start early if:

- the baby is born before the intended start date of leave, or
- the employee is absent from work because of a pregnancy-related illness during the four weeks before the EWC.

If any of these apply then maternity leave will commence the following day.

## **2.10 Commencement of Statutory Maternity Pay**

Payment of SMP will commence on the first day of maternity leave. SMP will be paid, based on entitlement, on normal contractual pay days.

SMP is payable for up to 39 weeks even if the employee does not intend to return to work.

### **2.11 Rate of Statutory Maternity Pay**

The calculation and payment of SMP will be processed by the Shared Service Centre following appropriate notification as per para 2.5.

SMP is paid at the following rate:

- First 6 weeks @ 90% of average weekly earnings;
- Remaining weeks paid at standard rate of SMP or 90% of average weekly earnings (whichever is the lesser figure).

Average earnings are an average of the gross earnings in the eight weeks before the end of the QW and may not be the same as contractual pay.

Occupational Maternity Leave and Pay

### **2.12 Overview**

The City Council's Occupational Maternity Scheme applies to all pregnant employees with over one year of continuous local government service.

The Scheme provides for:-

- previous continuous service with other Local Authorities to count towards establishing entitlements;
- additional periods of earnings-related payments to employees with over 1 year's continuous local government service who intend to return to work at the end of their maternity leave; and
- employees intending to return to work at the end of their maternity leave, being able to spread the additional earnings-related payments over a mutually agreed period.

### **2.13 Payment of Occupational Maternity Pay**

- The calculation and payment of OMP will be processed by the Employee Lifecycle Team.
- OMP will be paid, based on entitlement, on normal contractual pay days. Generally the payment of OMP will equate to the pay period in which it is paid.
- OMP is based on basic pay, which includes recurring payments (such as flexibility allowance or market rate supplements) but not overtime.
- Employees unsure of returning to work for at least three months can opt in writing to have OMP payments, other than the first six weeks, deferred and paid only if they return to work.

### **2.14 Commencement of OMP and OML**

Under the Occupational Maternity Scheme an employee may start her maternity leave at the **14th week** before the EWC. She can also bring forward the commencement of her OMP to the 14th week before the EWC.

This means that the pay at 90% of contractual pay will be paid from the 14th week and not the 11th week. The periods of pay at 90% and 50% remain unchanged, as does the maximum total absence of 52 weeks i.e. the leave before confinement can be a maximum of 14 weeks, with 38 weeks following confinement.

The maternity pay period (i.e. the 39 week period in which SMP is payable) will not begin until the 11th week before the EWC. However, leaving before the 11th week will not prejudice the employee's rights under the Occupational Scheme, nor her entitlement to SMP payments.

N.B. Where an employee does not qualify for OMP (i.e employees with less than 1 year's continuous Local Government service at the 11th week before the EWC), provided she has at least 26 weeks' continuous service with the City Council at the 15th week before the EWC, then maternity leave will not begin before the 11th week before the EWC, when SMP becomes payable.

## **2.15 Pregnancy Related Illness**

If absent through illness which is unrelated to her pregnancy, an employee will normally be able to take sick leave until the date of birth or until the date she has notified as the date of commencement of maternity leave.

If illness is pregnancy-related, the maternity leave period starts automatically on the day after the first day of absence following the beginning of the fourth week before the EWC.

Discretion can be exercised to disregard odd days of pregnancy-related illness if the employee wishes to defer the start of her maternity leave period.

For more details on support available to employees, see para 2.23 below.

## **2.16 Sickness**

An employee who is entitled to SMP or MA is disqualified from receiving SSP throughout the 39 week period of entitlement to SMP. This applies even if the employee returns to work and falls ill before the end of the 39 week period. If this happens, the employee returns to receiving SMP, not SSP.

Where an employee is unable to attend work at the end of her ordinary or additional maternity leave due to sickness, the normal contractual arrangements for sickness absence will apply and she should notify her manager on the first day of her sickness absence.

## **2.17 Dismissal or Resignation**



If an employee who is entitled to SMP resigns or is dismissed after the start of the QW, payment of SMP (not OMP) will still have to be paid to her. Payment will begin in accordance with the date she has notified that she intends to commence maternity leave, or if employment ends before she has notified a date, from the later of:-

- the 11th week before the expected week of childbirth;
- the first complete week starting on a Sunday after the employment ends.

If an employee indicates that she does not wish to return to work following maternity leave, she must give formal notice of her resignation or written confirmation that her employment will terminate by mutual agreement on a specified date.

## **2.18 Multiple Employments**

An employee may work for the Council under two or more distinct contracts of employment at the same time. If the Council pays NI contributions separately for each contract, eligibility for, and payment of, SMP will be assessed separately.

If an employee also has a job with another employer (i.e. not the Council) she may be able to receive SMP from both the Council and the other Employer, and so she should also follow the notification requirements for the non-Council employer.

## **2.19 Premature Births**

If an employee gives birth prematurely to a living child before the 25th week of pregnancy onwards, even in cases where the baby later dies, she will be entitled to SML, SMP or MA in the usual way.

If the child is born before the due date, then the maternity leave period automatically starts on the day after birth. This applies even if the birth is earlier than 11 weeks before the expected week of childbirth, whether or not the employee has given notification of the expected week of childbirth.

The employee must provide the child's birth certificate or a document signed by a doctor or midwife that confirms the actual date of birth as soon as is reasonably possible.

## **2.20 Stillbirths or Miscarriages**

If a miscarriage occurs earlier than the 25th week of her pregnancy, an employee will not qualify for any SML, SMP or MA. If she takes a period of sickness absence from work, she will be paid sick pay in the usual way.

If an employee has a stillbirth from the 25th week of pregnancy onwards, she will be eligible for SML, SMP or MA in the usual way. Managers are expected to behave sympathetically, and reference [counselling provision](#) where appropriate.

## **2.21 Work During the Maternity Leave Period**

“Keeping in Touch Days” (KIT days)

Employees may, in agreement with their manager, do up to ten days of work during the maternity leave period for which they will be paid known as “Keeping in Touch Days” without affecting their maternity leave/pay.

Both the employer and employee must agree these days. An employer may not require an employee to work during her maternity leave if she does not wish to, nor does she have a right to if the employer does not agree.

If the employer offers the employee an opportunity to work a KIT day, the employee is entitled to refuse the opportunity without suffering a detriment.

Where an employee and their manager agree to KIT days, the manager will then inform Shared Service Centre. Work undertaken by the employee during a KIT day is work done under the employee’s employment contract, so the employee is entitled to be paid for that work. For example, If an employee works for 2 hours then they will receive payment for these 2 hours, but it will be counted as one full KIT day of the maximum of ten.

“Keeping in Touch Days” may be worked anytime during the maternity leave period except during the first two weeks after the baby is born during the Compulsory Maternity Leave period.

## **2.22 Return to Work**

### Notification

- a) It will be assumed that an employee will return to work on the date that was originally specified, unless she gives 28 days advance notice of an alternative return date.
- b) Employees who do not wish to return to work after ordinary or additional maternity leave must give the notice of termination required by her contract of employment.

### Entitlements on Return

- a) An employee who returns to work after ordinary maternity leave is entitled to return to the same job on the same terms and conditions as if she had not been absent.
- b) An employee who returns to work after additional maternity leave is also entitled to return to the same job on the same terms and conditions as if she had not been absent. If, however, there is some reason (other than redundancy) why it is not reasonably practicable for her employer to return to her original job (if her position is deleted, for example) then she is entitled to be offered suitable alternative work on terms and conditions no less favourable than if she had continued to be employed in her old job.
- c) Employees who wish to vary their working pattern on return from maternity leave have the right to request a [flexible working](#) pattern such as job sharing, part-time hours, or compressed hours.

## **2.23 Employee Support**

### *Antenatal Care*

All pregnant employees are entitled to reasonable time off with pay for antenatal care made on the advice of a registered medical practitioner. All time off for antenatal care will be paid at the employee's normal rate of pay regardless of the employee's length of service.

Antenatal care may include relaxation and parent craft classes, as well as medical examinations.

Except in the case of her first appointment, the employee must produce:

- a) a certificate from a registered medical practitioner, registered midwife or registered health visitor confirming that she is pregnant; and
- b) an appointment card or some other document showing that an appointment has been made.

### *Employee Assistance Programme (EAP)*

The Council recognises that in some cases women can suffer mental or physical trauma as a result of giving birth. The [EAP offers support](#) with immediate access to counselling and a free confidential phone service.

## **2.24 Terms and Conditions of Employment During Maternity Leave**

During maternity leave an employee has a statutory right to continue to benefit from the terms and conditions of employment which would have applied to her had she been at work instead of on maternity leave, apart from remuneration.

For example:-

- Annual leave will continue to accrue during maternity leave. Bank Holidays will also accrue as they fall, with a substitute day's leave being provided.
- Essential car user allowance will be paid throughout the maternity leave period.

## **2.25 Returning to work for at least three months**

If the employee does not remain at work for three months after the date of her return to work, the City Council can reclaim monies paid to her under the Occupational Maternity Scheme after the sixth week, but not any SMP payable.

## Adoption Leave

**3.1** Adoption leave and pay (this includes Statutory and Occupational Adoption Pay) will be granted and managed in accordance with the maternity leave and pay provisions as set out in Section X of this Policy.

**However, please note the following which is specific to adoption leave and pay:**

There is an entitlement to 52 weeks adoption leave for all employees wishing to adopt a child who is newly placed for adoption. It will be available to people adopting a child, who will have primary carer responsibilities for that child (the 'primary adopter').

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. For overseas adoptions, the adoption leave may start from the date the child arrives in the UK or within 28 days of this date. The law requires that a minimum of two weeks' leave must be taken immediately following the placement of the child.

This applies both to an employee who adopts on their own, and to one member of a couple where a couple jointly adopts (including same sex partners and civil partners).

A couple who jointly adopt must choose which partner will take adoption leave. The other partner may choose to take maternity support leave. If the adopter wants to share the equivalent of the adoption leave period, they can end the adoption leave and enter into shared parental leave arrangements.

### **3.2 Eligibility**

To qualify for adoption leave, you must:

- be newly matched with a child for adoption by an approved adoption agency recognised in the UK
- have notified the adoption agency that you agree the child will be placed with you and have an agreed date of placement
- given the correct notice to the Council (see Notification Requirements below)
- produce documentary evidence confirming the adoption is taking place – usually a 'matching certificate' from your adoption agency

Adopters will not qualify for adoption leave and statutory/occupational pay in the following circumstances:

- Private adoption
- Becoming a special guardian or kinship carer
- Adopting a stepchild
- Adopting a family member

### **3.3 Fostering for Adoption**

Parents who foster a child in the expectation that they will adopt that child are eligible for adoption leave once there is written notification of a fostering for adoption

placement. If an employee is eligible for adoption pay and leave, they will receive them from when the child comes to live with them.

If an adopter chooses not to take adoption leave at this point, they may take leave at the point when the child is matched with them for adoption (which may be some months later). Taking adoption leave at the later date (on matching) may affect statutory adoption pay. (This is based on the final 8 weeks' salary before taking leave, so a fostering for adoption carer who takes unpaid leave while fostering will be eligible for statutory adoption leave but not statutory adoption pay, for example).

### **3.4 Surrogate Parents**

Parents in a surrogacy arrangement who are entitled to and intend to apply for a Parental Order under section 54 of the Human Embryology and Fertilisation Act 2008 are able to take adoption leave and pay, if each parent meets the qualifying conditions. A parental order transfers the legal rights from the birth mother to the intended parents when a surrogate has been used to have a child.

In order to qualify for adoption leave and/or pay, the conditions are that:

- the intended parent gains a parental order in respect of the child;
- or;
- they intend to apply for such an order within 6 months of the child's birth and they expect the order will be made.

The employee will need to give written notice of their entitlement to adoption leave before the 15th week before the baby is due.

Where parents in a surrogacy arrangement are adopting a child through a registered adoption agency, they will be entitled to take adoption leave and pay, providing each parent meets the normal qualifying conditions set out above.

### **3.5 Notification Requirements**

Employees should always aim to have early conversations with their managers about their proposed adoption plans, so that forward planning can take place. Formal notice to take adoption leave must be given by the employee within 7 days of being informed that they have been matched for adoption by the adoption agency (unless there is a reason that makes this impossible). Where an adopter doesn't give reasonable notice, managers do have the discretion to delay the start date of the adoption leave and pay, but not after the start of the placement date.

To make a formal notice, the employee must complete the [online form](#), detailing:

- The employee's name and address
- The name and address of the adoption agency
- The date on which the employee was informed that the child would be placed for adoption with them
- The date the child will be placed with the family (e.g. the employee could provide a letter from the adoption agency)
- The date they would like the adoption leave to start.

They must also:

- Provide a declaration that they have chosen to receive statutory adoption pay and not statutory paternity pay,
- and;
- Provide evidence from the Adoption Agency which shows basic information on matching and the expected placement dates.

After the notification is provided to the Council, a letter will be sent to the employee within 28 days which will set out the latest date on which the employee must return to work after the adoption leave.

Surrogate Parents will also need to confirm in writing the expected week of child's birth, and will also need to confirm the date the child was born (after the child's birth). This should be given as soon as reasonably practicable.

Employees may bring forward or postpone the adoption leave start date, by providing written notification at least 28 days before the new start date.

### **3.6 Pre-Adoption Leave**

Employees intending to adopt a child have the right to attend appointments for any purpose connected with the adoption. There is no qualifying period of service, meaning the right is exercisable from the first day of employment.

Employees wishing to make a request for time off for pre-adoption leave should put their request in writing to their manager.

The Council is supportive of employees who adopt, and paid special leave may be authorised to support employees who are attending appointments for reasons connected to their adoption. The expectation is that this would normally amount to no more than 5 appointments, which is the statutory allowance, however any reasonable request should be given due consideration.

Only those officially adopting the child are entitled to time off to attend adoption appointments, but any reasonable request should be considered in line with the Council's commitment to flexible working.

Intended parents of a child in a surrogacy arrangement will also be eligible for unpaid time off to accompany a pregnant woman with whom they are having a child at up to two antenatal appointments (of up to 6 and a half hours for each appointment).

## Maternity Support Leave

**4.1** The Council's Maternity Support Leave (MSL) scheme is the Council's occupational form of [Statutory Paternity Pay and Leave](#). It allows qualifying employees to take up to 10 days leave in support of the birth or adoption of a child. MSL is available to both men and women.

In order to meet the qualifying criteria for MSL, an employee must be either:

1. The child's father; or
2. The partner or nominated carer of an expectant mother at or around the time of birth; or
3. One half of an adopting couple. A couple who jointly adopt must choose which partner will take Adoption Leave. The other partner may choose to take MSL.

A nominated carer is the person chosen by the mother as the primary provider of support at or around the time of birth.

**4.2** Length of service determines whether employees are entitled to MSL as paid leave, or a combination of paid and unpaid leave, as follows:

- Employees with up to 26 weeks of continuous local government service at the beginning of the eleventh week before the expected week of the child's birth are entitled to 5 days paid leave and 5 days' unpaid leave.
- Employees with 26 or more week's continuous local government service at the beginning of the eleventh week before the expected week of the child's birth are entitled to 10 days paid leave.

For employees who are adopting, the 'matching week' will be used in place of the expected week of the child's birth.

**4.3** MSL can be taken up to 11 weeks before and three months after the expected week of the child's birth. Leave can be taken flexibly and split into separate blocks within this period if the employee wishes.

### **4.4 Conditions of Entitlement**

- To receive MSL employees must produce a medical certificate showing the name and address of the mother and the expected date of childbirth (Mat B1).
- In addition, employees must provide a letter from the mother confirming that they, the father / partner / nominated carer, is requesting MSL on the basis of being the primary provider of care and support.
- MSL is only available to one employee per pregnancy.
- Only one period of MSL will be granted to an employee within any period of twelve months.
- Where the mother and father / partner / nominated carer are both employees of the Council, both maternity leave and MSL will be granted.
- Employees will need to give, where possible, at least 28 days' advance notification of when they propose to commence MSL, and also if they intend to change the start date.

Notification should be given using the [online form](#).

If an employee leaves the Council before completing 3 months' service after the last date on which leave is taken, they will need to reimburse the City Council for the MSL taken.

If an employee is found to be fraudulently claiming entitlement to MSL, this will be deemed to constitute gross misconduct and could lead to dismissal.

#### **4.5 Special Guardians**

Employees who can evidence that they have become a special guardian under a Special Guardianship Order are entitled to MSL.

The period during which MSL can be taken will be based around the week of placement.

If a couple jointly become special guardians and both work for the Council, then they must choose which partner will take MSL.



## Shared Parental Leave

### 5.1 Overview

This section covers:

- Shared Parental Leave and Statutory Shared Parental Pay
- Eligibility
- Notice requirements
- Options for how and when to take shared leave
- Keeping in touch & Returning to work

#### *Key Terms*

SPL - Shared Parental Leave

ShPP - Shared Parental Pay

Continuous Leave - one block of SPL

Discontinuous Leave - SPL taken in up to 3 separate blocks of at least one week at a time.

SPLIT days - 20 days that an employee can work during SPL

Shared Parental Leave should not be confused with [unpaid parental leave](#), which is unaffected by shared parental leave. Unpaid parental leave is the entitlement to up to 18 weeks' unpaid leave for parents who have responsibility for a child aged up to 18. This is also known as ordinary parental leave.

SPL enables eligible mothers, fathers, partners and adopters to share time off work after their child is born or placed for adoption.

Employees can start SPL after the third week if they are eligible, and they or their partner end maternity/adoption leave or pay early and opt in to SPL. The remaining leave will be available as SPL, and the remaining pay may be available as ShPP. It is possible to share up to 50 weeks of leave, and up to 37 weeks of pay.

An employee taking Shared Parental Leave can split their leave into up to 3 separate blocks instead of taking it all in one go, even if they are not sharing the leave with their partner.

If both parents are taking SPL then they can be off work together for up to 6 months, or alternatively stagger their leave and pay so that one of them is always at home with their baby in the first year.

Parents can choose to opt in to shared parental leave at any time so long as there is some untaken maternity/adoption leave to share.

## 5.2 Eligibility for SPL and ShPP

To be eligible for SPL and ShPP:

- both parents must share responsibility for the child at birth
- adoptive parents must share responsibility for the child at the time of placement for adoption
- both parents must meet the qualifying criteria as below

SPL and ShPP is available to parents regardless of gender or marital/civil partnership status.

## 5.3 Qualifying Criteria – Shared Parental Leave

Parents wishing to enter into SPL must satisfy the following conditions to qualify for eligibility and entitlement:

### a) Continuity of employment test

- The employee must have 26 weeks' continuous service by the end of the 15th week before the expected week of childbirth (EWC) or at the week in which the main adopter was notified of being matched with the child (relevant week), and should still be employed until the week before any period of shared parental leave is to be taken.

### b) Employment and earnings test

- The other parent must have worked (in an employed or self-employed capacity) for at least 26 of the 66 weeks' immediately before the baby's expected due date/matching date earning an average of at least £30 per week in any 13 of the 66 weeks in question.

Where eligibility criteria has been met by both parents, they will both be entitled to SPL with the ability to convert a period of maternity/adoption leave into SPL. Parents must decide how this leave will be taken with the option to either alternate the leave or be at home together.

The total amount of SPL available is 52 weeks less the weeks spent by the child's mother on maternity leave or less the weeks of adoption leave taken by either the employee or the partner (or the weeks in which the mother has been in receipt of Statutory Maternity Pay or Maternity Allowance if she is not entitled to maternity leave and in respect of adoption, the weeks in which the partner has been in receipt of Statutory Adoption Pay if they were not entitled to adoption leave).

The mother/main adopter cannot start SPL until after the compulsory maternity/adoption leave period, which lasts until two weeks after birth has been taken.

The father/partner, if eligible, must take statutory paternity leave and pay which is in addition to SPL before any period of shared parental leave can be entered into.

## 5.4 Qualifying Criteria – Shared Parental Pay

ShPP is available up to a maximum of 39 weeks less any weeks of statutory maternity pay, maternity allowance or statutory adoption pay already taken by the employee or their partner.

ShPP is paid in line with statutory maternity pay as follows:

- the first 6 weeks of the 39 week period available is paid at 90% of average earnings
- followed by 33 weeks paid at the current lower statutory maternity pay rate of set by the government each year, or 90% of average weekly earnings if this is less.

To be eligible for ShPP the gross average earnings of both the mother or the person with whom the child is, or is expected to be placed and their partner should be assessed and must be equal to or above the [lower earnings limit threshold](#) in the 8 weeks leading up to the qualifying week (i.e. the 15th week before the week in which the baby is due to be born, or the week that the adopter is notified of being matched with the child.)

## PROCEDURE

### 5.5 Notification Requirements

Employees must confirm their request in writing at least 8 weeks before the start date of the first period of SPL providing the necessary information and a [signed declaration](#).

### 5.6 Notice to cut short of statutory maternity/adoption leave and pay

If the parents meet the qualifying requirements and wish to take SPL or ShPP, the mother or main adopter must cut short (or curtail) their maternity or adoption leave and pay.

Written notice to curtail maternity/adoption leave and pay must be submitted at the same time as the notice of entitlement and intention to take shared parental leave, giving at least 8 weeks' prior notice of the date on which maternity/adoption leave and pay is to end. The remaining maternity/adoption leave and pay available will then be converted into shared parental leave.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

- If it becomes apparent that neither parent is entitled to SPL or ShPP;
- If the curtailment notice was given before the birth and is revoked within six weeks of the birth (in this case another curtailment notice can be submitted); or
- If the other parent dies.

## **5.7 Evidence Requirements**

The following evidence of entitlement is required:

- a) a copy of the child's birth certificate or if one has not been obtained a signed declaration of the child's date and place of birth; or
- b) one or more documents from the adoption agency showing the agency's name and address and the expected placement date
- c) the name and address of the partner's employer (or a declaration that they have no employer and meet the eligibility criteria)

Any such request will be made by the Council within 14 days of receiving the employee's notice of entitlement and intention to take SPL and ShPP. The employee should supply this information either with the evidence of entitlement or intention to take shared parental leave form or within 14 days of submitting the form (or within 14 days of the birth of the child if the Council's request was made before the child was born).

## **5.8 Multiple Contracts of Employment**

An employee with more than one job is entitled to take Shared Parental Leave if they are entitled to maternity leave under each contact of employment held.

Shared parental leave and/or pay can only be created if the mother curtails maternity leave and/or pay under each contract of employment held.

Shared Parental Leave and Pay will still equate in total to 52 weeks leave and 39 weeks pay less the amount of maternity leave and pay taken by the mother.

## **5.9 Formal Notice - Requesting, Varying or Cancelling a Period of Leave**

Before a period of leave can be taken, employees will need to submit a formal notice to take a Period of Leave.

## **5.10 Requests to take Continuous Leave**

If the Period of Leave notice is for a single continuous block of shared parental leave the employee will be entitled to take the leave as set out in the notice.

If the Period of Leave notice includes more than 1 period of leave (discontinuous), the manager will seek to accommodate the request where possible. This is not an automatic right, however, and the requirements of service delivery must also be taken into account.

The manager has 14 days to consider the request and may:

- consent to the discontinuous leave period; or
- propose an alternative pattern or dates for the periods of leave; or
- refuse the discontinuous leave request.

If no agreement is reached within 14 calendar days of the notice requesting the 'Period of Leave' being submitted the employee can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date; or
- take the continuous block starting on a new date, as long as the new date is later than the original start date, and the Council is notified of the new date within 19 calendar days. If the employee does not choose a start date the leave must start on the start date of the first period of leave requested in the period of leave notice; or
- withdraw the request within 15 calendar days of the request being submitted. If the request is withdrawn in these circumstances it will not count as one of the three formal requests.

### **5.11 Varying SPL and ShPP**

Employees are entitled to submit a maximum of three combined formal notices to take, vary or cancel a 'Period of Leave' by completing the corresponding formal notice requests at appendix 3 and 4 respectively.

The minimum block of time for any 'Period of Leave' is one week with the maximum not exceeding the combined leave available. (i.e. 52 weeks)

Each notice requesting a 'Period of Leave' to 'Vary a Period of Leave' or to 'Cancel a Period of Leave' must be given at least eight weeks before the start date of the period.

Any changes in start and end dates of Leave or Variances must be stated together with the dates on which ShPP will be claimed, if applicable.

When Varying a Period of Leave employees are entitled to:

- change the start date for a period of leave, or the length of the leave, by notifying their manager in writing at least eight weeks before the original start date and the new start date.
- change the end date for a period of leave by notifying their manager in writing at least eight weeks before the original end date and the new end date.
- combine split periods of leave into a single continuous period of leave by notifying their manager in writing at least eight weeks before the start date of the first period.
- request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between.

The following situations do not count as a Variation of Leave Notice:

- if a notice is withdrawn within 15 days of providing it;
- if dates are changed due to the child being born earlier or later than the EWC or the child being placed earlier or later than the expected placement date
- if the variation in dates is at the request of the Council/manager.

## **5.12 Shared Parental Leave In Touch Days (SPLIT Days)**

Each parent is entitled to up to 20 'shared parental leave in touch' (SPLIT) days during shared parental leave where employees may, in agreement with their employer, ask or be asked to work (including attending training) for up to 20 days during the shared parental leave period (this is additional to the 10 KIT days allowed during maternity and adoption leave).

SPLIT days, as with KIT days may be worked at any time during the shared parental leave period by both parents, except during the first two weeks after a baby is born the mother must remain on compulsory maternity leave as per para X.

Both the employer and employee must agree these days and the type of work to be undertaken in advance. These days are not compulsory and the employee is entitled to refuse the opportunity without suffering any detriment.

Managers may make reasonable contact with the employee during a period of Shared Parental Leave although this should be kept to a minimum and may include making contact to discuss arrangements for the employees return to work.

Employees will be paid at their normal basic rate of pay for time spent working on SPLIT days and work undertaken during SPL will not have the effect of extending the employee's shared parental leave. Pension contributions will be payable for SPLIT days.

## **5.13 Returning to Work after Shared Parental Leave**

An employee is entitled to return to the same job on the same terms and conditions as if they had not been absent, where their total statutory leave taken in relation to that child is 26 weeks or less in aggregate, even if the leave is taken in discontinuous blocks. However if a position is disestablished during the leave period the employee will be entitled to be offered suitable alternative work on terms and conditions no less favourable than if they continued to be employed in their old job.

If an employee has taken any combination of statutory leave, any additional maternity/adoption leave or ordinary parental leave which totals more than 26 weeks', they are entitled to return to the same job. If, however, there is some reason (other than redundancy) why it is not reasonably practicable for an employee to return to their original job they will be entitled to be offered suitable alternative work on terms and conditions no less favourable than if they continued to be employed in their old job.

## **5.14 Extending SPL**

Employees who wish to extend their shared parental leave are entitled to do so as long as there remains unused SPL entitlement. A written Period of Leave notice must be given 8 weeks in advance of the return date.

Employees who have already given the maximum of 3 Period of Leave notices will not be able to extend their SPL without agreement.

### **5.15 Change in Employee's Circumstances**

It is possible that a parent's circumstances may change after periods of SPL have been agreed. This could prove difficult for the Council if the change is advised at short notice and arrangements to cover the post are already in place. In such circumstances, the Council may decide to hold the employee to the agreed arrangements.

## Providing False Information

- 6.1** It is the employee's responsibility to ensure that any information provided in relation to family friendly leave is accurate.
- 6.2** If the Council suspects that fraudulent information has been provided, or if the Council has been informed by HMRC that a fraudulent claim has been made, the Council may investigate with reference to the Code of Conduct in line with Disciplinary Policy and Procedure. This could result in sanctions up to and including summary dismissal.



## Implications for Pension Scheme Members

- 7.1** Members entitled to occupational or statutory maternity/adoption/shared parental pay will pay contributions based on actual payments made.
- 7.2** The employer's contributions are based on the normal pay the employee would have received but for being on maternity/adoption/shared parental leave.
- 7.3** The employee will accrue full pensionable service during a period of paid family friendly leave even though they will have paid contributions on less than their normal pay.
- 7.4** For members who are not due any occupational or statutory pay due to short length of service, all family friendly leave is unpaid.
- 7.5** For periods of unpaid family friendly leave, this is not counted for pension purposes unless they opt in writing:-
- within 30 days of returning to work, or
  - within 30 days of leaving if she does not return to work, or
  - such longer period as their employing authority may allow to make contributions for any period of unpaid leave at the rate paid on the last day of paid leave. In such a case the employer must pay contributions based on the normal full pay the employee would have received but for being on unpaid leave.
- 7.6** During the ordinary maternity/adoption leave the employer pays contributions on the employee's normal pay however the employee pays nothing and the period counts for pension purposes.
- 7.7** During the period of additional maternity/adoption leave any period of unpaid leave is not counted for pension purposes unless the employee opts in writing :-
- within 30 days of returning to work, or
  - within 30 days of leaving if she does not return to work, or
  - such longer period as their employing authority may allow to make contributions for any period of unpaid maternity/adoption leave at the rate paid on the last day prior to maternity/adoption leave. In such a case the employer must pay contributions based on the normal full pay the employee would have received but for being on unpaid leave.