



**GUIDANCE ON  
EMPLOYEE LEAVE  
SCHEMES AND FLEXIBLE  
WORKING**

July 2020

## Version History

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## **Links and Dependencies**

- Parental Leave (EU Directive) Regulations 2013
- Children and Families Act 2014
- Flexible Working Regulations 2014
- Report to Cabinet 23 December 2014
- Email to Employees and to Managers February 2015
- Shared Parental Leave Guidance and supporting documents April 2015
- Parental Bereavement (Leave and pay) Act 2018

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## 1. Introduction

The Council supports the promotion of work-life balance for employees. This document sets out the leave schemes and flexible working arrangements which will assist employees in achieving this balance, while maintaining a high standard of service.

The procedure applies to all employees of the Council except those in schools where the Governing Body performs the function of the employer.

All leave entitlements referred to within this document are pro rata for part time employees.

All applications for leave or time off should be discussed initially with your manager and your time recorded on Workplace or through other means as appropriate to your employment.

Sickness absence should be recorded by your manager.

If you do not have access to workplace please complete the appropriate request form to be authorised by your manager.

## 2. Adoption

### **Pre-Adoption Leave Entitlement**

Employees who have completed the initial enquiry stage of the adoption process and wish to proceed to Stage 1 are eligible to apply for up to 5 days paid leave and 5 days unpaid leave, in a rolling 12 month period, specifically for pre-adoption activities; for example, training, introductory meetings, assessments, adoption panel.

This is per adoption not per child.

The total hours recorded for the day whether all classed as 'pre-adoption leave' or a combination of 'pre-adoption leave' and working time, should not be for longer than the employee's planned working time. For flexitime workers this will be up to a maximum of 7.4 hours or less depending on their normal working pattern.

You continue to accrue annual leave and bank holidays whilst on adoption leave, and these may be taken before your adoption leave commences if you choose or carried over to the next leave year.

You should discuss with your manager when and how you will take your annual leave entitlement.

### **Adoption Leave Entitlement**

Eligible employees are entitled to 52 weeks adoption leave comprising:

- 26 weeks ordinary adoption leave;

- 26 weeks additional adoption leave.

There is no requirement for a period of qualifying service.

During adoption leave, all your terms and conditions (except normal pay) will continue.

Only one person in a couple can take adoption leave.

## **Eligibility**

In order to qualify for adoption leave you must:

- Be the only partner taking adoption leave;
- Be newly matched with a child for adoption and by an approved adoption agency;
- Commence your adoption leave on the date of the child's placement or from a pre-determined date which can be up to 14 days before the expected date of placement. In the case of a child adopted from overseas, you may commence your adoption leave on the date the child enters Great Britain or from a pre-determined date that is no later than 28 days after this.

You do not qualify for statutory adoption leave or pay if you:

- Arrange a private adoption;
- Adopt a family member or a step child.

## **Adoption Pay**

Is paid up to a maximum of 39 weeks, dependent upon eligibility for Statutory Adoption Pay (SAP) and Occupational Adoption Pay (OAP). This comprises:

- 6 weeks at 90% of earnings made up of both OAP and SAP;
- 12 weeks (weeks 7 to 18) at half pay OAP plus SAP (providing this does not exceed normal full pay)
- 21 weeks of SAP (weeks 19 to 39).

Your eligibility for 12 weeks OAP at half pay is dependent on being continuously employed in local government service for 52 weeks, when you commence adoption leave.

The 12 weeks half pay is paid if you are returning to work for at least 3 months and can be spread over a longer period if requested. If you are unsure whether you intend to return to work you can opt to have the half pay frozen and paid at a later date.

Your eligibility for SAP is dependent on being employed continuously in local government service for at least 26 weeks at the date of matching, and you must



earn, on average, at least equal to the lower earnings limit for National Insurance purposes.

You can check current statutory rates and check your eligibility on the government website, GOV.UK.

## **Applying For Adoption Leave**

You will need to:

- Inform your manager as soon as possible that you are adopting a child;
- Notify you manager in writing of:
  - The date your child will be placed;
  - The date your adoption leave will commence.
- Provide the matching certificate;
- Send the original documentation to HR Services
- Record your adoption leave on Workplace or through other means as appropriate to your employment.

Following the receipt of your notification letter:

- You will receive a written acknowledgment, within 28 days, from HR Services informing you when you are due back at work;
- You must return the slip from this letter to the HR Services, to confirm your adoption pay arrangements during your adoption leave.
- No notice period is required if you intend to return to work at the end of the full adoption leave period.

## **Keeping in Touch (KIT) Days**

Prior to commencing adoption leave you should discuss and agree with your manager the type and frequency of contact you prefer whilst you are away from work. Your manager may wish to contact you to inform you of any training opportunities, significant work developments, any relevant promotional opportunities or job vacancies that may occur during your absence.

You can work for up to 10 days during your adoption leave period, by mutual agreement, although there is no obligation for you to do so. These working days or hours are known as Keeping in Touch days (KIT).

Payment for the hours worked will not affect your Statutory Adoption Pay or leave entitlement, and you will remain on adoption leave throughout this period.

The additional hours worked can be claimed through Workplace, or your usual time recording process, and will be paid at your existing rate of pay. You will only be paid for the time worked, i.e. if you attend work for 1 hour this will count as 1 KIT day. You must not work in excess of your standard day.

## **Return to Work**

You will normally be able to return to your existing post after taking ordinary adoption leave.

If you also take additional adoption leave you have the right to return to your original job unless this is not reasonably practicable. Then you will be offered suitable alternative employment on terms no less favourable than your original post.

You have the right to request flexible working. Please see the section entitled 'Flexible Working Arrangements'.

You can change your return to work date but must provide 8 weeks' notice.

On the following page is a model letter to advise HR Services that you are adopting a child. You should keep a copy of this letter, give one to your manager, and submit one to HR Services at [Pay@Derbyshire.gov.uk](mailto:Pay@Derbyshire.gov.uk).

## **Letter for Employee Taking Adoption Leave**

Dear < >

Name:

Employee Number:

Department / Division:

I wish to inform you that I have been matched with a child for the purpose of adoption and I enclose for your information the Matching Certificate issued by the adoption agency.

The date the child is due to be placed with me is < > and I therefore wish to take adoption leave with effect from < >

I intend to take < > weeks adoption leave, however, should I decide to return to work earlier I will write to you again giving you 8 weeks' notice of this and the date I wish to return.

Yours sincerely,

### **3. Annual Leave**

#### **Requests for Annual Leave**

All requests for leave must be approved in advance, giving as much notice as is reasonably possible.

There is no specific notice period required to book annual leave, but it should be mutually agreed between you and your manager.

You should request leave as far as possible in advance of the period of leave required.

When considering requests for leave, managers have to ensure that staffing levels are sufficient and that there is no adverse effect on service delivery.

#### **Leave Period / Carry Over**

The annual leave year runs from 1 April to 31 March. All annual leave must be taken within this period except where a carry-over is agreed.

You may carry over up to 5 days, pro rata, to the next leave year with the approval of your manager. In exceptional circumstances you may carry forward up to 10 days leave with the permission of your Strategic Director.

Requests to bring leave forward from the following leave year can only be approved by managers in exceptional circumstances.

You may take annual leave during suspension from work provided the leave is requested and authorised.

#### **Annual Leave / Sickness Absence**

If you are unable to take annual leave because of long term sickness absence, and remain absent at the end of the leave year, a carry-over of up to 10 days contractual leave or 20 days statutory leave may be possible. Further guidance on calculation of entitlement is available from HR Services.

When a phased return is recommended following a period of long-term absence, the days not worked will be continued sickness unless annual leave is specifically requested by the employee and this is not contrary to any medical documentation / advice provided.

Your manager should ensure that HR Services are aware of any leave taken whilst you are absent through sickness.

If you become sick whilst on annual leave, you may request your absence is treated as sickness absence but you must report it on the first day it occurs. If you fall sick before a period of annual leave the continuing sickness should be reported on the first day it coincides with the booked leave.

For further information, please see Attendance Management Procedures under Working for Us on our website.

### Annual Leave Entitlement

Employee Group	Annual Leave Entitlement	
	Basic	After 5 Years Local Government Service
Grades 1-9	25	30
Grades 10-13	27	32
Grades 14 and above	34	34

Details of organisations for which previous continuous service counts towards accrual of annual leave are detailed in the Redundancy Modification Order.

Annual leave for part-time staff will be calculated on a pro rata basis and expressed in hours.

The additional 5 days leave entitlement becomes effective at the start of the next leave year (1 April) following 5 year qualification.

### New Employees

There is no qualifying period for you to become entitled to annual leave.

Entitlement arises on the first day of your employment and annual leave is proportionate to completed service during the year as detailed below.

Number of Complete Calendar Months Worked	Leave Entitlement in Days				
	25	27	30	32	34
1	2.5	2.5	2.5	3	3
2	4.5	4.5	5	5.5	6
3	6.5	7	7.5	8	8.5
4	8.5	9	10	11	11.5
5	10.5	11.5	12.5	13.5	14.5
6	12.5	13.5	15	16	17
7	15	16	17.5	19	20
8	17	18	20	21.5	23
9	19	20.5	22.5	24	25.5
10	21	22.5	25	27	28.5
11	23	25	27.5	29.5	31.5

## **Leavers**

If you leave the Council you should ensure that you have taken any outstanding leave proportionate to the annual leave year as per the above table.

If you have taken annual leave in excess of your pro rata entitlement you will have the appropriate amount deducted from your final salary payment.

If you have been unable to take your annual leave before leaving, due to service requirements or any other exceptional reason, your manager will need to approve payment of any outstanding annual leave to you via HR Services.

## **Relief Workers**

Leave entitlement should be calculated on a 13 week averaging period for relief workers working on short-term assignments and working variable hours.

## **Payment during Annual Leave**

You will receive normal pay during periods of annual leave.

Normal pay includes all earnings that would be paid to you during a period of normal working.

If you are transferred to a lower grade and are on protection of earnings, your leave entitlement is not protected and will reduce if you move into a lower salary band as detailed in the chart above.

## **Additional Normal Holiday Pay**

The Council's 'Normal Holiday Pay Framework' provides an additional annual leave value that reflects all additional regular earnings over and above basic pay, including overtime and specified allowances.

Under this joint agreement the additional annual leave and bank holiday value of those elements of pay included, will be calculated for the current year on the basis of the actual earnings from the previous year.

If you have relevant earnings in the previous year, a schedule setting out the annual calculation will be sent to you before 25<sup>th</sup> June each year prior to commencement of the payments. Payments will be monthly except for the month of June when the payment will reflect three months payment.

You also have the right to opt out of the framework agreement and elect to have your payment based on the statutory 12-week formula contained within the Employment Rights Act 1996.

Further information can be found on the Council's website under Working here - What you need to know, and in the 'Working for Us' document.

## **4. Bank Holidays**

You are entitled to 8 bank holidays per year which are:

- New Year's Day
- Good Friday
- Easter Monday
- May Day
- Spring Bank Holiday Monday
- Late Summer Bank Holiday Monday
- Christmas Day
- Boxing Day

Part-time workers are entitled to a pro rata bank holiday entitlement. Most bank holidays are on a Monday meaning that those employees who do not work on a Monday will accrue bank holiday entitlement to be taken at a later date.

Conversely, those employees who always work Mondays are likely to build up negative bank holiday entitlement balance and may have to work additional hours in recompense.

Guidance on calculation of bank holiday entitlement and how you should record your time / absence, if you work part-time is available from HR Services and on the Website under Working here - What you need to know.

## **5. Compensatory Rest**

Compensatory rest resulting from additional hours being worked as a consequence of being on standby, sleep in, or recall to work duty will be paid at the appropriate rate for the day / time of day of all contract hours not worked. Compensatory rest should be claimed in accordance with rules and criteria applicable to your service.

There is further guidance on the working time directive and appropriate rest breaks available from the ACAS website under 'Working Hours'

## **6. Disability Leave**

If you are covered by the Equality Act 2010, you can take disability leave if it is specifically for appointments for assessment, treatment, rehabilitation or training for a condition covered by the Act.

## **7. Flexi-Leave**

Employees who participate in the Council's 'Flexible Working Scheme' may take, subject to approval, service needs and sufficient carry forward of hours, up to two

days, or four half days flexi leave in the next settlement period. This is pro rata for part time employees.

Please see the Councils website, under 'Working here - What you need to know' for full details of the flexitime scheme guidelines.

## **8. Foster Carers**

If you are registered with Derbyshire County Council as a foster carer you may apply for a maximum of 5 days paid leave and 5 days unpaid leave in any rolling 12month period.

This leave is for activities essential to foster caring e.g. training, introductory meetings and promotional events. The leave allocation is in total and not per child.

The total hours recorded for the day whether classed as 'foster care leave' or a combination of 'foster care leave' and working time should not be for longer than the time the employee is planning to work or for flexitime workers up to a maximum of 7.4 hours or less depending on their normal working pattern.

This quota is pro rata for part time employees.

## **9. Interview Leave**

You are entitled to time off with pay for attending interviews **within** the Council.

For all other interview appointments, you will be required to take annual leave or leave without pay, unless you are under notice of redundancy or 'at risk'.

## **10. Jury Service**

You are allowed unpaid time off for jury service. When called for jury service, you will receive details from the Court of how to claim for loss of earnings for pay deducted by the Council. For more information, check the Government Website GOV.UK.

## **11. Maternity Leave**

With regard to pregnancy and maternity leave, the following definitions are used:

- 'Expected week of childbirth' (EWC) means the week, starting on a Sunday, during which you are expected to give birth;
- 'Qualifying Week' (QW) means the 15<sup>th</sup> week before the expected week of childbirth.

## Ante-natal Care

Once you have advised your manager that you are pregnant, you are eligible to paid time off to attend antenatal appointments, as advised by your doctor, registered midwife or health visitor. Your manager can request to see your appointment card after the first visit.

You continue to accrue annual leave and bank holidays whilst on maternity leave, and these may be taken before your maternity leave commences if you choose, or carried over to the next leave year.

Term time only workers also continue to accrue annual leave and bank holidays whilst on maternity leave, and HR Services will calculate and advise you of your entitlement at the end of your maternity leave.

You should discuss with your manager when and how you will take your annual leave entitlement.

During maternity leave, all your terms and conditions (except normal pay will continue.

## Maternity Leave Entitlement

Pregnant employees are entitled to 52 weeks maternity leave comprising:

- 26 weeks ordinary maternity leave; followed by
- 26 weeks additional maternity leave.

There is no requirement for a period of qualifying service.

The earliest you can commence maternity leave is the beginning of the 11<sup>th</sup> week before your baby is due.

Maternity leave will commence automatically 4 weeks before your baby is due if you are off work due to a pregnancy related illness.

If your baby is born earlier than expected, your maternity leave will commence automatically on the day following the birth.

You do not have to take the whole 52 weeks, but you **must** take 2 weeks leave immediately after your baby is born.

## Eligibility

To be eligible for maternity leave, you must provide notice by the qualifying week:

- That you are pregnant;
- Of the expected week of childbirth; and
- The date you intend to commence your maternity leave.

Ideally, you should inform your manager as soon as possible that you are pregnant to enable them to carry out a risk assessment for you. He/she may request help to do this from either Occupational Health, or Departmental Health and Safety.



The pregnant worker risk assessment for is available on Our Derbyshire.

Your manager will also notify HR Services of your intention once you provide your maternity leave notice in writing. You will need to provide HR Services with the original MATB1 form once this is issued to you, which will be approximately 20 weeks before your EWC.

Once HR Services have been notified of your intention to take maternity leave, they will respond within 28 days, confirming the date on which you are due to return if you take your full 52-week entitlement to maternity leave.

You can change your return to work date but must provide 8 weeks' notice.

### **Sickness and maternity leave**

In the unfortunate event of a still birth, you are entitled to the full provisions of the maternity leave scheme if this occurs after 24 weeks of pregnancy. If earlier than this, then Strategic Directors may grant time off under the provision of the Council's Special Leave Scheme.

### **Maternity Pay**

Is paid up to a maximum of 39 weeks, dependent upon eligibility for Statutory Maternity Pay (SMP and Occupational Maternity Pay (OMP. This comprises:

- 6 weeks at 90% of earnings made up of both OMP and SMP;
- 12 weeks at half pay OMP plus SMP (provided this does not exceed normal full pay;
- 21 weeks of SMP.

Your eligibility for 12 weeks OMP at half pay is dependent on being employed in local government service for 52 weeks by the 11<sup>th</sup> week before the expected week of childbirth (i.e. at week 29 of your pregnancy you have been employed for 1 year or more.

The 12 weeks half pay OMP is paid if you are returning to work for at least 3 months and can be spread over a longer period if requested. If you are unsure whether you intend to return to work you can opt to have the half pay frozen and paid to you at a later date.

Your eligibility for SMP is dependent upon being employed continuously for at least 26 weeks by the 15<sup>th</sup> week before the expected week of childbirth (week 25 and you must earn, on average at least equal to the lower earnings limit for National Insurance purposes 8 weeks prior to this date (between weeks 17 to 25.

You can check your eligibility and find our current statutory rates on the government website GOV.UK.

## **Non-Qualification for SMP**

If you do not qualify for SMP you may be eligible to claim a maternity allowance through Jobcentre Plus for 39 weeks. An SMP1 form will be sent to you confirming the reason why SMP is not payable. The 12 weeks half pay OMP (weeks 7 to 18 will be paid in addition to any maternity allowance paid provided it does not exceed full pay. OMP will be reduced by the maternity allowance for the first 6 weeks.

## **Childcare Vouchers**

Your maternity pay will be reduced if you use childcare vouchers during this period. Details relating to childcare vouchers are available through HR Services. Childcare vouchers offer national insurance and tax deductions from your childcare costs.

From April 2018, new entrants to the childcare voucher scheme are not permitted. Parents already in the scheme will however, be able to remain in the scheme for as long as they require.

You may be eligible to participate in the government's tax-free childcare scheme instead.

For more information check the government website GOV.UK.

## **Applying for Maternity Leave**

Following receipt of our notification letter, you will receive a written acknowledgement from HR Services within 28 weeks, informing you when you are due back at work. You must return the slip from this letter to HR Services to confirm maternity pay arrangements during your maternity leave.

## **Contact during maternity leave / Keeping in Touch days (KIT Days)**

By mutual agreement you can work up to 10 days during your maternity leave although you are not obliged to do so.

You will receive payment for the number of hours worked without it affecting your SMP or maternity leave entitlement.

You will remain on maternity leave during this period.

The additional hours worked can be claimed through Workplace, or your usual time recording process, and will be paid at your existing rate of pay. You will only be paid for the time worked i.e. if you attend work for 1 hour this will count as 1 KIT day. You must not work in excess of your standard day.

## **Returning to work after maternity leave**

You can return to work at any time during your maternity leave, provided you give the appropriate notification, which is 8 weeks' notice of the date you intend to return. Alternatively, you can take the full period of maternity leave entitlement and return to work at the end of this period.

You have the right to return to your existing post after taking ordinary maternity leave (up to 26 weeks).

If you also take additional maternity leave you have the right to return to your original job unless this is not reasonably practicable. In that case, you will be offered suitable alternative employment on terms no less favourable than your original post.

You have the right to request flexible working. Please see the section on 'Flexible Working Arrangements'.

If you are still breastfeeding when you return to work you will need to notify your manager who will carry out a risk assessment and discuss appropriate arrangements with you.

If you decide during your maternity leave that you do not want to return to work, you should provide written notice of resignation as soon as possible, and in accordance with the terms of your contract of employment.

### **Letter for Employee taking Maternity Leave**

You may use this as a letter to advise HR Services that you are pregnant. Notification must be at least 15 weeks before your expected week of childbirth (week 25). You should keep a copy of this letter and give one to your manager.

Dear < >

Name:

Employee Number:

Department / Division:

I am writing to tell you that I am expecting a baby, and the baby is due on < >.

At present I intend to take maternity leave from < > and I expect/do not expect\* to return to work after the baby is born. Please send me all relevant information.

If my circumstances change, I will let you know.

Yours sincerely,

\*delete as appropriate

Send completed letter to HR Services at [Pay@Derbyshire.gov.uk](mailto:Pay@Derbyshire.gov.uk)

## 12. Medical Appointments

Paid time off will be granted to attend:

- Hospital appointments which cannot be arranged in the employee's own time (this includes appointments in relation to gender reassignment),
- Appointments for health screening\*, immunisation\* and donor activities up to a maximum of 5 days in any 12 month period,
- Occupational health appointments;
- Ante-natal appointments;
- Assessment, treatment, rehabilitation or training for disabled employees covered by the Equality Act 2010 for the condition covered by the Act;

There are separate time recording options for hospital appointments, disability leave and other medical appointments.

Medical appointments are defined as those which do not cause you to feel ill or debilitated. Where a medical procedure has caused you to feel ill, e.g. chemotherapy, time off would be classed as sick leave.

Other medical appointments, for example with a G.P, dentist etc., will continue to be taken in your own time.

If you work fixed hours you will need to agree in advance with your manager how you will 'pay back' this time through using other leave quotas, or by working additional unpaid hours.

The total hours for the day, whether all classed as 'Hospital Appointment' 'Medical Appointment' or a combination of this absence and working time, should not be for longer than the time the employee is planned to work or for flexitime workers, up to a maximum of 7.4 hours or less depending on their normal working pattern.

\*Health screening: cervical screening, breast screening, well man/woman screening

\*Immunisations: work-related hepatitis B and influenza

Please refer to Managers' Guidance on Time Off for Medical Appointments on the Council website under Working for Us

## 13. Open University

You are entitled to up to 5 days with pay for attending an approved Open University Summer School course. Approval is based on attendance at an approved training course in accordance with the Council's qualification training guidelines.

## 14. Parental Leave

Eligible employees can take **unpaid** parental leave to look after their child's welfare. To qualify you must:

- Have one year's continuous service **and**
- Be a named parent on the child's birth certificate or adoption certificate or expect to have parental responsibility for a child under 18 years old **and**
- The purpose of requesting the leave is to care for a child.

### Parental Leave Entitlement

Is 18 weeks unpaid leave (pro rata if part time), to be taken before child's 18<sup>th</sup> birthday. This also applies to adopted children. The maximum leave you can take

in one year is four weeks, although a longer period may be agreed in exceptional circumstances. The leave does not have to be taken in one period.

Parental leave should be taken in blocks of a week or multiples of a week. It can only be taken in single days if you have specific approval from your manager or if your child is disabled. Time taken as parental leave will be treated as continuous service and annual leave and all other contractual terms and benefits will accrue during this period.

The Council may postpone parental leave for up to 3 months for operational purposes and will provide the reasons for the postponement in writing together with the agreed revised commencement and end dates. It cannot be postponed if it immediately follows the birth or adoption or if postponement means the employee would no longer qualify for the leave.

You have the right to return to your existing post.

If you fall ill during a period of parental leave and you give the Council relevant notification and documentation you will be entitled to pay under the sickness scheme (where applicable) and this period will not count towards your parental leave entitlement.

### Applying For Parental Leave

Requests should be discussed with your line manager providing at least 21 days' notice of any proposed days of absence, with a copy of the relevant documentation (either the birth certificate or adoption certificate). You will need to request your time off through Workplace as appropriate. If you do not have access to Workplace please complete the Parental Leave Application Form (on page insert page) submitting the completed form and relevant documentation to HR Services. You will need to record your time off as appropriate to your working arrangements.

See the government website GOV.UK for more detail and to check your eligibility for Parental Leave.

## 15. Parental Bereavement Leave & Pay

The Parental Bereavement (Leave and Pay) Act 2018, provides an entitlement for bereaved parents of a child to be absent from work for up to two weeks.

### Entitlement to Parental Bereavement Leave

Employees who are primary carers for a deceased child under the age of 18 are entitled to parental bereavement leave. This is a day one right i.e. there is no service requirement for parental bereavement leave.

This entitlement is available to any employee with parental responsibility for the child, for example:

- A child's legal parents so both natural and adoptive parents;
- A parents partner;
- Others with a caring relationship to the child\*

\*This is defined as a person who has lived with the child for at least four weeks continuously and had day to day responsibility for their care, including foster cares. This entitlement also applies to those parents who suffer a still birth 24 weeks or more into pregnancy, although it does not affect a woman's maternity leave entitlement which would be taken prior to any parental bereavement leave.

Bereaved parents will be able to take the leave as one block of two weeks or two blocks of one week. The leave may be taken up to 56 weeks following the death of the child.

This entitlement does not affect other family leave entitlements as it is an additional entitlement.

### Notice period

There is no notice period required for leave taken immediately following the bereavement and no requirement to provide evidence as informal notification will suffice. At some point employees will be required to provide a written declaration that they are entitled to parental bereavement leave / pay by completing the Declaration of Entitlement to Parental Bereavement Leave & Pay proforma. Please refer to Advice and Support Team prior to contacting the employee.

Specifically, employees are **not** required to provide either a copy of the death certificate or medical evidence.

For leave taken after the initial bereavement, (56 days), one weeks' notice will be required. Requests should be made through completion of the Declaration of Entitlement to Parental Bereavement Leave & Pay pro-forma.

## Parental Bereavement Pay

Parental Bereavement Pay is payable for a maximum of two weeks, at full basic pay, regardless of service and earnings.

## 16. Paternity Leave

Paternity leave and pay is available for employees whose partner is having a baby, adopting a child, or having a child through a surrogacy arrangement.

### Eligibility for Ordinary Paternity Leave (OPL)

To qualify for paternity leave:

- Have or expect to have responsibility for the child's upbringing; **and**
- Be the biological father of the child OR the mother's husband / partner
- Have worked for us continuously for 26 weeks ending with the 15<sup>th</sup> week before the baby is due, or the end of the week in which the child's adopted is notified of being matched with a child, or the date the child enters Great Britain (overseas adoptions).

### Ordinary Paternity Leave

You are entitled to:

5 half days with pay to accompany your partner to antenatal appointments (e.g. Relaxation classes, exercise and parent craft classes, medical appointments). These examples are not exhaustive.

10 days leave with contractual pay (pro rata for part time employees). This is regardless of the number of children born as the result of the same pregnancy.

All days must be taken within 8 weeks of the date of birth (or if the baby is born early within the period from the actual date of birth up to 8 weeks after the first day of the expected week of birth) or within the placement date for adoptive parents.

You do not have to give a precise date when you want to take leave. Instead you can give the general time (e.g. from the day after the birth or from one week after the birth).

You have the right to return to your existing post.

You can take your paternity leave in blocks of one week or as individual days spread throughout the 8 week period. Taking your leave in blocks of one week enables the Council to reclaim some of the costs. If you take your leave in this way you should therefore record it as 'Paternity Leave – Full Week'.

If you prefer to take your paternity leave as individual days, you should record it as 'Paternity Leave – In Days'.

## **Applying For Paternity Leave**

You should notify your manager of the proposed dates of absence in writing prior to the 15<sup>th</sup> week (week 25) before the expected week of childbirth or as soon as is reasonably practicable and complete your time recording on Workplace as appropriate. If you do not have access to Workplace please complete the Paternity Leave Application Form (on page 27) and submit the completed form to HR Services.

You do not have to provide evidence of pregnancy or birth but must provide notice in writing. You can use form SC3 on the gov.uk website, and forward it to HR Services to help you with this.

In the case of adoptive parents, a copy of the matching certificate should be provided in order to qualify for paternity pay. You must also provide notice in writing and you can use form SC4 or SC5 on the gov.uk website, and forward it to HR Services to help you with this.

If you change your mind about the date on which you want your leave to start you should inform your manager at least 6 weeks in advance (unless it is not reasonably practicable to do so).

## **Statutory Paternity Pay**

To qualify for Statutory Paternity Pay you must meet the eligibility conditions for OPL as stated above. In addition you must have average weekly earnings of at least the lower earnings limit for NI purposes over the 8 week period ending with the 15<sup>th</sup> week before the EWC (or matching date in the case of adoption).

See the government website GOV.UK for more details on paternity leave and pay.

## **17. Service in Non-Regular Forces (Reservists)**

You are entitled to up to 2 weeks to attend summer camp as a volunteer member of the non-regular forces.

Any request for additional time off to undertake specific non-regular forces training that cannot be undertaken in non-working time will be considered by the Strategic Director, taking into account service requirements.

If you are mobilised into full time service, this will be unpaid.

## **18. Shared Parental Leave**

### **Overview**

An entitlement to Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) is available and replaces Additional Paternity Leave and Pay which was previously available to fathers.



SPL enables mothers to end their maternity leave and pay early and to share the untaken balance of leave and pay as SPL with their partner. SPL is designed to allow couples greater freedom to decide how to take their leave and is also available to adoptive parents. Your partner does not have to be employed by the Council to partake in this scheme.

SPL must be taken in blocks of at least one week. Individuals can request to take SPL in one continuous block (in which case an employer is required to accept your request provided that you meet the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case you will need your employers agreement). Each parent can make up to three separate requests.

You can choose how much SPL each of you will take, and you can take it at the same time or separately.

Shared Parental Leave and Statutory Shared Parental Pay must be taken between the baby's birth and first birthday (or within 1 year of adoption).

### **Eligibility and Entitlement**

To be able to take SPL, both you and your partner must have at least 26 weeks' continuous employment with your employer by the 15<sup>th</sup> week before the expected week of childbirth and remain in employment with that employer until the week before any period of shared parental leave you are planning.

You must supply notices to the Council and your partner must supply notices to their employer. These are made up of three elements:

- A 'leave curtailment notice' from the mother setting out when she proposes to end her maternity leave;
- A 'notice of entitlement and intention' from the mother or partner giving an initial (non-binding) indication of each period of SPL that he/she is requesting;
- A 'period of leave notice' setting out the start and end dates of each period of SPL being requested.

### **Statutory Shared Parental Pay**

You can get ShPP if one of the following applies:

- You qualify for Statutory Maternity Pay or Statutory Adoption Pay
- You qualify for Statutory Paternity Pay and have a partner who qualifies for Statutory Maternity Pay or Maternity Allowance or Statutory Adoption Pay

If you think you may be interested in Shared Parental Leave, you should discuss this in the first instance with your manager.

For more details about SPL and ShPP please see the guidance on the government website GOV.UK. This provides details of the notices you are required to provide as well as templates of letters you can use to apply.

You can check whether you and your partner are eligible for SPL and ShPP.

Alternatively, you can contact HR Services, adjustments team who will be able to provide further advice.

## 19. Special Leave

You may apply for a maximum of 5 days paid leave and 5 days unpaid leave (pro rata for part time employees) in any 12 month period as special leave, for example:

- bereavement;
- urgent domestic such as fire, flood or burglary\*
- dependent leave to care for a dependent where no other immediate care is available\*
- Graduation ceremony following a Council sponsored degree;
- Sporting / cultural events, for example national representation;
- House moves (**only** as part of a relocation package)

In exceptional circumstances additional unpaid leave can be granted for personal emergencies.

The above examples are not exhaustive.

\*Only the first day's absence will be granted for any urgent domestic and dependent leave and any additional time should be covered by other leave (annual, flexi, TOIL or unpaid leave).

The total hours recorded for the day, whether all classed as 'Special Leave' or a combination of 'Special Leave' and working time, should not be for longer than the time the employee is planned to work or for flexitime workers, up to a maximum of 7.4 hours or less depending on their normal working pattern.

If you wish to apply for special leave please discuss your request with your manager and complete your time recording on Workplace as appropriate. If you do not have access to Workplace please complete the Special Leave Application Form and send the completed form to HR Services.

## 20. Standby and Annual Leave

It is possible and permissible to be on annual leave and on standby at the same time, provided you are available to carry out the standby duty.

However, the Working Time Directive allows for a statutory minimum of 20 days annual leave when you must be on annual leave and cannot carry out any work or standby duty.

## 21. Study Leave

For approved courses of study, in accordance with the Council's qualification training guidelines, you are entitled to the following (up to a maximum of 3 days):

- If you are not on day release you will receive 1 days paid leave for final
- revision for each ½ day of examination.
- If you are on day release you will receive ½ day paid leave for each ½ day of examination.

## 22. Time Off for Public Duties

### Elected Members

If you are an Elected Member of another local authority you are allowed a maximum of 208 hours per year to carry out your public duties.

### Other Public Duties

You may apply for paid leave up to 18 days/36 half days per year if you are undertaking public duties for the following:

- Magistrates/Justices of the Peace
- Education body – Chair of school / college governors
- Statutory tribunal
- Education body – Chair of school/college governors (other governors see below)
- Statutory Tribunal Police Authority
- Service Authority for National Criminal Intelligence Service or National Crime Squad
- Board of Prison Visitors or prison visiting committee
- Probation Boards
- Member of Court Boards
- Health Authority
- Environment Agency
- Youth Offending Panels
- Members of a panel of lay observers appointed under section 81 of the Criminal Justice Act 1991
- Members of Visiting Committees appointed to monitor the immigration estate
- Members of Visiting Committees appointed to monitor short term immigration holding facilities
- Independent prison monitors in Scotland

### Education Body / School / College Governors

You may apply for a maximum of 7 days paid leave and 7 days unpaid leave in a leave year to undertake school / college governor duties. This forms part of the 18 days referred to above if you have more than one role attracting time off for public duties.

The total hours recorded for the day whether classed as 'leave for school governors' or a combination of 'leave for school governors' and working time should not be for longer than the time the employee is planning to work or for flexitime workers up to a maximum of 7.4 hours or less depending on their normal working pattern.

Before committing to public duties, you must seek the approval of your manager. When doing so you should give a clear indication of what level of commitment is likely to be required.

Further reasonable unpaid time off for public duties may be granted at the discretion of your manager.

All time off for public duties is pro rata for part time employees.

### **TOIL (Time Off in Lieu)**

If you work additional hours or overtime, and prefer to take time off rather than be paid, you will accrue time off in lieu on an hour for hour basis, i.e. there is no enhancement.

With your manager's prior approval this can be taken off on an hour for hour basis. A specific policy relating to the accrual of TOIL is in development and this guidance will be updated when this is available.

### **Unpaid Leave**

The Unpaid Leave Scheme provides an opportunity for you to have an extended period away from work. In exceptional circumstances you can apply for unpaid leave for additional time off when annual leave has been exhausted.

If you wish to apply for unpaid leave please discuss your request with your manager and complete your time recording on Workplace as appropriate. If you do not have access to Workplace please complete the Unpaid Leave Application Form and send to HR Services. Applications for unpaid leave should be made at least 3 months before the proposed start date.

Strategic Directors retain discretion over the granting of unpaid leave, however, it will normally be taken for such activities as:

- Caring responsibilities;
- Extended foreign travel;
- Personal development – education or training;
- Voluntary / community work.

Unpaid leave will NOT be granted for you:

- To take up other paid employment;
- Where a temporary or permanent reduction in contractual hours would be more appropriate;
- Where other time off provisions apply e.g. time off to undertake public duties;

Managers should consider before granting unpaid leave:

- The possible effects on service delivery and team workloads;
- Any anticipated difficulties in the cost effective temporary replacement for the period of unpaid leave.

### **During Period of Unpaid Leave**

The maximum duration of unpaid leave will be 12 months.

Depending on individual circumstances, you will be invited to attend regular 'keeping in touch' meetings and should plan regular contact with your manager.

### **Following Period of Unpaid leave**

When you return to work your manager will ensure you are suitably inducted back into the workplace and developments and changes that have occurred during the period of absence will be discussed with you.

## **Considerations**

### **Continuity of Local Government Service**

Periods of agreed unpaid time off will be counted as continuous service with the Council.

### **Statutory Sick Pay**

Your entitlement to statutory sick pay is dependent on the following:

You must have received average weekly earnings above the current National Insurance lower earnings limit for the 8 weeks immediately before taking a period of sick leave.

The National Insurance minimum earnings limit is revised in April each year. Current rates are available from HR Services.

In view of this, if you are in receipt of a low salary, care should be taken when considering a period of unpaid leave as your average pay would be reduced and may result in you not being entitled to statutory sick pay. Occupational sick pay is not payable in a period of unpaid leave.

### **Statutory Maternity Pay / Statutory Shared Parental Pay**

For the same reason given for statutory sick pay above, your entitlement to the receipt of Statutory Maternity Pay or Statutory Shared Parental Pay could be affected if a period of unpaid leave is taken in the 8 weeks immediately before the qualifying week. (The qualifying week is the 15th week before the expected date of childbirth).

**National Insurance Related Benefits**

A period of unpaid leave could lead to a loss of benefits. You are advised to contact your local benefits office for further advice, prior to making a request for unpaid time off.

**Annual Leave Entitlement**

For periods of unpaid time-off of less than one month in total, your annual leave entitlement will not be affected.

Where unpaid time-off extends beyond one month in total, your annual entitlement will be proportionately reduced i.e. for each complete month taken, your leave will be reduced by one twelfth.

**Calculation of Deductions**

The basis for calculating deductions is hours lost per week/month x hourly rate.

**Entitlement to Statutory Holidays**

Where periods of your unpaid leave exceed one month, there will be no entitlement to statutory holidays should they occur during a period of unpaid time off.

**Holiday Pay**

If you are on unpaid leave for more than 3 months then your holiday pay will be reduced accordingly.

**Qualification Training**

Where you have been supported by the Council to undertake post entry training a requirement exists to remain with the Council for a period of 2 years, or in some circumstances 3 years, following qualification.

If you take an extensive period of unpaid leave, the 2 or 3 year period will be proportionately extended to take this into account.

## 23. Pension Contributions during Leave

### Local Government Pension Scheme

If you are:

1. Moving to reduced contractual pay or nil pay as a result of sickness / injury absence or
2. Moving to reduced contractual pay as a result of
  - ordinary maternity or adoption leave
  - paid additional maternity, adoption or shared parental leave

You will only pay pension contributions on any pensionable pay received in the period of absence, however, the amount of pension you build up is worked out using an average of your usual pensionable pay before the reduction took place. This means that when the pay you receive is less than your normal pay, the pension you build up won't be affected.

3. Moving to a period of nil pay as a result of;
  - unpaid additional maternity, adoption (usually weeks 39 to 52) or shared parental leave
  - unpaid parental leave
  - authorised unpaid leave

You will not automatically build up pension benefits. However, you can choose to cover the period of "lost" pension by taking out a Shared Cost Additional Pension Contribution (SCAPC) contract. If you choose to buy the "lost" pension within 30 days of returning to work the costs are shared between you and the Council with you paying  $\frac{1}{3}$  and the Council paying  $\frac{2}{3}$  of the costs. If you choose to buy the "lost" pension **after** 30 days you can still buy back the amount of lost pension but it will be at whole cost to you, unless the Council determines that exceptional circumstances apply.

Further details, including links to an online calculator and application form are available on the Council's website. See *"Increasing benefits (APCs and AVCs)"*

### Other Pension Schemes

If you contribute to the NHS Pension Scheme or Teachers' Pension Scheme you should contact HR Services for information on the specific rules and options for the relevant scheme.

## 24. Flexible Working Arrangements

The Council seeks to support any employee who wishes to work flexibly but this has to be balanced against the needs of the service. If you wish to work flexibly you should initially discuss your request with your manager.

Every employee has a statutory right to ask to work flexibly after 26 weeks continuous service. If you are making your request in relation to a reasonable adjustment under the Equality Act 2010, due to one or more protected characteristics you should state this on the form.

Each request will be considered on an individual basis. In considering your request your manager will need to weigh up the benefits to you and the Council against any adverse business impact of implementing the proposed changes.

The consideration process should be completed within 3 months of receipt of the application but this time limit can be extended if the employee agrees.

### How Do I Apply To Work Flexibly?

After initially discussing your request with your manager you will need to formally submit this in writing to your manager.

All applications for flexible working will be dealt with as follows:

- Your manager will arrange to discuss your application with you as soon as is reasonably practicable. If a meeting is required this will take place within 28 days of receipt of your written request and you have the right to be accompanied by a work colleague or trade union representative. If you fail to attend the meeting or a rearranged meeting, your manager can consider your request as being withdrawn.
- Your manager will inform you in writing regarding the decision reached within 7 days of the discussion/meeting. If your request is accepted, or accepted with modifications, your manager will discuss with you any required modifications and how and when the changes might best be implemented.
- If your application is refused, the reasons for the decision will be given to you in writing and you have the right of appeal.
- If your application to work flexibly is turned down it could be due to one or more of the following reasons:
  - Additional costs to the Council;
  - Detrimental effect to service delivery including quality of performance;
  - Inability to re-organise work amongst existing employees;
  - Inability to recruit additional employees;
  - Detrimental effect on quality;
  - Detrimental effect on performance;
  - Insufficiency of work during the periods the employees proposes to work;
  - Planned structural changes.



- If you wish to appeal against the decision you should write to the next level of management within 7 days of receiving the notification that the application has been refused. You will receive a reply within 7 days, acknowledging the registering of your appeal which will take place as soon as practicable. There will be a minimum of 7 days' notice of the appeal date.
- A departmental appeal hearing will be held and the appeal decision will be provided to you in writing confirming the reasons for the decision within 7 days of the hearing. You have the right to be accompanied at the appeal hearing. If you fail to attend the appeal hearing or rearranged appeal, your request will be considered withdrawn.

## **25. Flexible Working Options**

### **Part Time Working**

Your hours of work are less than full time (37 hours).

### **Annualised Hours**

The number of full time hours in a year is 1924 hours (37 hours per week x 52 weeks per year) which includes your entitlement to annual leave and the statutory bank holidays.

Changing to this method of working still requires you to work the hours stated in the contract, but these do not have to be worked in standard 37 hour week blocks, providing the number of contracted hours is not exceeded or under worked over the 12 month period.

This method of working could be suitable for you and the service if seasonal variations have an impact on your workload.

### **Compressed Working Weeks/Fortnights**

This form of flexible working follows similar principles to annualised hours, in that your contracted hours still have to be worked, but they are worked over a shorter time period e.g. 4 days per week or 9 days per fortnight. The remaining day would therefore be a non-working day.

### **Term Time Only**

You work school term times only. This requires that your contract of employment will be varied from a 52 week contract to a 38 week contract, with your salary and annual leave entitlement being reduced accordingly. Your salary continues to be paid in 12 equal payments.

### **Flexible Working by Location**

Opportunities to work flexibly by location may be available depending on your worker profile.

Worker profiles are: fixed office worker, flexible worker, mobile worker, field worker or fixed home worker.

If you are a flexible worker or mobile worker you may be able to work from alternative locations, e.g. touchdown centres and home.

Please note, if working from home, employees are not expected to be also undertaking caring responsibilities for young children or others or undertaking other domestic responsibilities.

Please refer to the 'Flexible Working by Location' document on the Council's website for more information.