

Personnel Committee – 4th March 2015

Family Friendly Procedure

1. Summary of report

To provide for Personnel Committee consideration, a new procedure which captures the Council's approach to Maternity, Paternity, Shared Parental, and Adoption Leave.

2. Recommendations

Personnel Committee is recommended to:-

- agree that the three policies/procedures listed below be replaced with the revised Family Friendly Procedure with effect from 1st April 2015.

3. Background

On 1st April 2015, new legislation comes into place which provides a new right to Shared Parental Leave. This legislation provides the right for both parents to share the entitlement paid leave between them if they wish (subject to certain qualifying criteria) rather than the right to paid leave being only with the birth or adoptive mother as is currently the case.

The Council currently has a number of procedures which govern the operation, rights and responsibilities of the employer and employee during maternity, paternity and adoption leave. These currently are:-

- Maternity Policy
- Paternity Leave / Maternity Support Leave
- Adoption Leave

The new family friendly procedure (Appendix 1), whilst adopting the new right to shared parental leave, also brings together into one document all the information employees and managers need regarding their rights and entitlements in such areas as Maternity and Paternity Leave, Parental Leave, etc.

All the rights and entitlements in this document are either legislative, or derived from national terms and conditions of employment for staff.

4. Resource and Legal Consideration

There are no direct financial implications arising from changes to this procedure. Services will continue to manage such absences from within existing resources, including the need to cover by way of agency staff where appropriate.

The Family Friendly Procedure reflects the statutory introduction of the Shared Parental Leave Regulations 2014.

There are no legal implications arising out of this report.

5. Citizen Impact

Contained within the report.

6. Performance and Risk Management issues

No risk management implications arising out of this report.

7. Equality Implications

Contained within the report.

An Equality Impact Assessment (EqIA) has been completed and is attached as Appendix 2.

8. Consultation

The Family Friendly Procedure has been consulted upon widely across the Council with both managers and Trades Unions.



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Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Family Friendly Procedure		
Directorate	Resources		
Service	HR Strategy and Planning Team		
Responsible Officer	Lesley Shore		
EqIA Author	Lesley Shore		
Date proposal started	September 2014	Proposal commencement date (due or actual)	April 2015

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy	No	
	Procedure	Yes	Revision
	Internal service	Yes	N/A
	External service	No	N/A
	Other - give details	N/A	N/A

2	What are the intended outcomes, reasons for change, who will it affect? (The business case)
	<p>The Family Friendly Procedure sets out Council approach to the management of a number of internal procedures which are the interpretation of legislative requirements relating to maternity, paternity and shared parental leave.</p> <p>This policy is a key element of our employment practices and it is vital that it meets the needs of the employees and managers who use it. To provide a procedure which is free from any form of discrimination is a key aim of Human Resources (HR).</p> <p>This procedure is in part a revision of existing procedures, and includes the addition of new legislation relating to Shared Parental Leave. Previous procedures were contained in separate documents, and this procedure brings all of these documents together so that all of the options regarding the operation of leave around the birth or adoption of a child are in one procedure.</p>

3	Summarise your evidence, engagement and consultation.
	<p>The Family Friendly Procedure will be submitted to CMT on 18th December and will be an information item to personnel Committee in January 2015.</p> <p>As of 30 March 2014 the total number of Walsall Council employees was 8413, made up of 4052 (48.2%) from schools and 4459 from non-schools (53.0%).</p> <p>In total there were 266 (3.1%) employees who declared they had a disability, as defined by the Equality Act 2010. In schools there were only 37 (0.91%), whereas in non-schools there were 231 (5.2%). There were 33 disabled employees who declared on HR Direct they require reasonable adjustments for communication.</p>

4	How may the proposal affect each protected characteristic or group?	
	Characteristic	Affect
	Age	No impact foreseen.
	Disability	Potential impact on employees who require reasonable adjustments for communication and for those who do not understand the procedure e.g. employees with learning disabilities.
	Gender reassignment	No impact foreseen.
	Marriage and civil partnership	No impact foreseen. The procedure allows civil for partnerships and situations where no legal marriage has taken place
	Pregnancy and maternity	Potential impact for people who are on maternity or paternity leave and are not updated about the procedure.
	Race	Potential impact on those employees whose first language is not English as they may not understand the procedure
	Religion or belief	No impact foreseen.
	Sex	No impact foreseen. The Shared Parental Leave aspect of the procedure allow for more flexible taking of leave after the birth or adoption of a child for either the mother, father or partner of the mother
	Sexual orientation	No impact foreseen.
	Other (give detail)	N/A
	Further	N/A

information	
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5	Does your proposal link with other proposals to have a cumulative affect on particular equality groups? If yes, give details	(Delete one) No
	N/A	

6	Which justifiable action does the evidence, engagement and consultation suggest you take? (Bold which one applies)	
	A	No major change required
	B	Adjustments needed to remove barriers or to better promote equality
	C	Continue despite possible adverse impact
	D	Stop and rethink your proposal

Action and monitoring plan

Date	Responsibility	Action
Day of launch	Directorate Support Team	Alternative formats (audio and Easy Read) for disabled employees of the new policy will be made available on request.
Day of launch	Directorate Support Team	The policy will be made available in other languages on request for employees whose first language is not English.
12 months after launch date	Strategy and Planning Team	There is a statutory requirement to review and publish this policy annually.

Family Friendly Procedure

Document information

Document title	Family Friendly Procedure		
Owner	Human Resources		
Status	Draft	Version	1.10
Effective from	01.02.15	Approved on	TBC
Last updated	21.01.15	Last updated by	HR Strategy & Planning
Purpose	To detail all of the procedures relating to maternity, paternity and shared parental leave.		

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Walsall Council

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1 Introduction

This procedure details the processes in place for employees and managers with requests for taking leave and work arrangements around maternity, paternity and shared parental leave. The procedure outlines employee entitlement and the processes that should be used to help and support employees during the following set of circumstances;

Maternity Leave
 Paternity Leave
 Shared Parental Leave
 Adoption Leave (including surrogacy)
 Unpaid Parental Leave
 Foster Care Leave

2 Scope of procedure

This procedure applies to all Council employees with the exception of:

- school based staff, where the Governing Body has delegated authority
- agency workers, contractors or external consultants

for whom there are separate arrangements.

3 MATERNITY LEAVE

3.1 Announcing pregnancy

A pregnant employee must notify their manager in writing, by the end of the 15th week before the expected week of childbirth (EWC) of:

- the pregnancy;
- the expected week of childbirth, this must be confirmed by providing a medical certificate (MATB1);
- the date she plans to start her maternity leave via a Maternity Leave request form. This form is provided as part of the Maternity Pack (see start date section 3.3).

3.2 Manager's responsibilities following pregnancy announcement

Conduct a workplace risk assessment

Managers have an obligation to ensure the health, safety and welfare of pregnant employees as soon as they are aware that they are pregnant and until six months after childbirth, or until the employee stops breastfeeding, whichever is later.

Managers need to complete a workplace risk assessment (or review an existing risk assessment) and review as necessary throughout the pregnancy and post pregnancy (as



relevant). Managers should explore with employees any temporary measures required to support the employee, this may include; limiting external travel, reassessing work spaces to ensure equipment provides adequate support, utilising the Flexi-time Scheme to agree later start times etc. Guidance and the correct documentation can be found within the Safety Management Standards. [Safety management standards \(SMS\)](#)

Where an unacceptable risk is identified and cannot be avoided, managers may:

- Alter the employees working conditions or hours - or if this is not reasonable, offer suitable alternative employment.
- Offer suitable alternative employment (or failing that paid leave) if the employee works at night and they produce a medical certificate which states that their health and safety is at risk from this.
- Offer the opportunity to redeploy temporarily on existing pay and conditions if the employee is worried about working with VDUs.

Where there is a medical room available, this can be used by expectant mothers to rest and in the absence of a medical room alternative arrangements should be arranged in conjunction with the manager.

Support discussions

Employees and managers are encouraged to discuss the following in order for appropriate support to be provided:

- Provision of any emergency contact details.
- What sort of contact employees would like to have whilst on maternity leave and the best methods for this.
- Annual leave entitlement and how this might be taken.

3.3 Maternity leave

Duration

Pregnant employees can take up to 52 weeks maternity leave made up of 26 weeks of ordinary maternity leave (OML) followed by 26 weeks of additional maternity leave (AML), regardless of length of service. Employees are entitled to all contractual benefits, except pay, for the full 52 weeks of maternity leave.

New mothers must take a minimum of 2 weeks maternity leave (compulsory period) following the birth of the baby.

Mothers can choose to share their maternity leave (once they have taken the compulsory period) with their partner / co-parent by ending their period of maternity leave and instead



taking shared parental leave. Refer to Shared Parental Leave (SPL) section 5.1 for further guidance.

Start date

The earliest a woman can start her maternity leave is 11 weeks before the EWC. The latest a woman can start her maternity leave is her expected due date. Employees must give their manager at least 28 days notice in writing of the date they would like their maternity leave to commence. The employee may request to change this date after giving notice and they should give their manager as much notice as possible if they wish to do this.

If the baby is born earlier than the date which the employee had planned to commence maternity leave then the period of maternity leave will commence automatically. In this situation the employee should inform their manager of the baby's date of birth as soon as possible and the manager should notify HR Payroll Services.

If the employee is absent from work with a pregnancy-related illness, within 4 weeks of their due date, maternity leave will start automatically, even if they had intended to start their maternity leave later.

If the baby is born before 30 weeks and survives, the Council will consider requests for extended leave on an individual basis. Provision can be made for maternity leave to be 'paused' until the baby leaves hospital or a time the employee requests. Maternity leave can also be extended beyond the normal leave periods in certain cases. This is an exceptional circumstance and the manager should contact the HR Operational Team in this situation.

Returning to work

Employees are under no obligation to tell their manager of their intentions to return to work before they commence their maternity leave. Any discussions at this point are not binding and employees are not required to finalise any arrangements at this time.

For statutory maternity pay (SMP) purposes, employees who are not returning after the birth should not resign from their post until the end of their maternity leave. They should just indicate that they do not wish for the occupational maternity payment to be made to them and resign in writing giving their contractual notice.

3.4 Maternity Pay

Types of maternity pay and qualifying criteria

1. Occupational maternity pay (OMP) – to qualify for OMP employees need to have completed a minimum of 1 year's continuous service by the 15th week before the EWC.



2. Statutory maternity pay (SMP) – to qualify for SMP employees need to have completed a minimum of 26 weeks continuous service by the 15th week before the EWC and their average weekly earnings must not be less than the lower earnings limit for National Insurance contributions, (this is available from [HM Revenue & Customs:Statutory Maternity Pay \(SMP\) - Glossary](#))
3. Maternity allowance – employees who are not eligible for SMP may instead be eligible for maternity allowance. Employees in this category should contact HR Payroll Services who will provide further advice regarding how maternity allowance should be claimed from the Department of Work and Pensions.

Maternity pay entitlement is calculated by Payroll on receipt of a completed Maternity Leave and Pay Provisions Application Form and the submission of a MATB1 form. The MATB1 is issued by a doctor or midwife at around week 20 – 24 of pregnancy. The original of the MATB1 is required in order to receive maternity pay. Additional copies of the MATB1 certificate should be made if required as it cannot normally be re-issued.

Once maternity pay entitlement has been calculated, HR Payroll Services will contact employees providing details of pay entitlement and significant dates. The statutory entitlement is based on the salary at the qualifying week (15th week before EWC) and OMP is based on salary at the commencement of maternity leave.

Employees who are not entitled to OMP, SMP or maternity allowance will still be entitled to 52 weeks unpaid maternity leave.

Maternity pay entitlement

Maternity leave period	Statutory Maternity Pay (SMP)	Occupational Maternity Pay (OMP)
Weeks 1 - 6	90% of employees average weekly earnings	n/a
Weeks 7 - 18	SMP standard rate Where employees normal earnings are lower than SMP, they will receive 90% of normal earnings instead of SMP rate	Half normal weekly pay This will be in addition to SMP standard rate (providing the total does not exceed normal pay)
Weeks 19 – 39	SMP standard rate Where employees normal earnings are lower than SMP, they will receive 90% of normal earnings instead of SMP rate	n/a
Weeks 40 - 52	n/a	n/a

A week's normal pay is the amount paid to the employee under the current contract of employment for working normal hours in a week.

Payments are based on an employee's current salary and will be adjusted to reflect any pay increases during the maternity leave period.



Employees are required to return to work for a minimum of 12 weeks at the end of their maternity leave period to qualify for half pay OMP. If employees do not return for the required time then any half pay OMP paid to them will be claimed back. If employees are unsure of their intentions to return, they can elect to have their half pay OMP deferred and paid usually in a lump sum at a later date.

If an employee has more than one contract of employment with the Council and only returns to one of these contracts, they will not be required to pay back any half pay OMP, provided they complete 3 months service in at least one of their contracts.

Employees are not required to pay back any SMP received, even if they do not return to work.



3.5 Contractual status whilst on Maternity Leave

On maternity leave employees are still employed by Walsall Council and should not enter into any other form of contractual employment (paid or otherwise) during this time. They may however, undertake training courses. Employees may move to another employer during maternity leave but leave is not transferable from the Council. If an employee commences work with a non local government / modification order employer (having followed procedure for resigning from their post), maternity leave will cease and any outstanding SMP / half pay OMP will not be paid. As per section 3.16 any half pay OMP paid before this time would be reclaimed. If however an employee takes up employment with another recognized body (such as a local authority) their service will be considered continuous and SMP / half pay OMP will not be reclaimed under these circumstances.

If the employee has completed 26 weeks of continuous employment with Walsall Council by the 15th week before the expected week of childbirth and earns enough to qualify for SMP, the employee will still be entitled to statutory maternity pay if they voluntarily leave employment, as long as it is on or after the 15th week before the expected week of childbirth.

3.6 Minimum contact

Whilst on maternity leave employees should expect to receive a level of contact with their manager to keep them informed of any changes or information, including :

- Payslips
- Current vacancies specifically relating to the immediate department
- Details of any 'Team Days' or training courses
- Details of any restructures / organisational changes that affect the employee
- Any other documentation relating to a consultation process

The manager may make reasonable contact with the employee to discuss plans to return to work, or any other changes that the employee may wish to make, such as working hours or pattern. This should be at a time that is mutually convenient to both parties.

3.7 Keeping in touch days

Keeping in Touch (KIT) days allow an employee to do some very limited work under the terms of her contract without losing her SMP for the week in which the work is done. This is limited to a maximum of 10 days (with the legal exception of 2 weeks after the birth) and must be agreed between the employee and her manager. Neither side is able to insist that KIT days are worked. Any days or sessions worked do not extend maternity leave – it remains at 52 weeks.

Examples of this include attendance at team 'away days' / training sessions or time with the team prior to returning from maternity leave. Specific project work may also be considered



suitable for KIT days. The 10 days do not have to be taken as a whole day and can be worked on an hourly basis – working for any part of a day will count as a full day for KIT purposes.

Payment for these days is at an employees normal contractual pay rate and any SMP due is offset against this payment. Where the period of time worked generates a payment less than the SMP rate, no payment will be made. Where the payment for work undertaken is above the SMP rate for the day, employees are paid via an overtime claim form (available on the intranet) and it is normally paid in the next pay cycle – subject to payroll requirements. Alternatively an employee can opt to have a KIT day credited to her TOIL entitlement which can be taken at any time.

Employees working KIT days should claim for this via an overtime form within 28 days.

Health and Safety implications must be considered if undertaking any KIT days and a risk assessment should be completed prior to these days commencing.

Outside of KIT days employees are welcome to visit the team whilst on maternity leave though they should check with the manager that the visit is at a convenient time – especially if the employee is bringing her baby in to work.

3.8 Annual leave and bank holidays

Employees accrue annual leave throughout normal and additional maternity leave. If an employee returns to work on a part-time basis, leave will be accrued pro rata from the date the contract is changed. The contract should not change until the employee returns to work.

It is normally advised that individuals take their annual leave entitlement for the year before maternity leave starts, but this should be agreed with the manager. As far as possible, leave should be taken in the current leave year. However, where this isn't possible, outstanding leave can be carried over.

Any outstanding annual leave can be paid to an employee during her maternity leave period – whilst in a period of nil pay (after week 39 of AML). This payment should be requested direct from the manager by the employee in writing during maternity leave.

Subject to approval with the manager annual leave can sometimes be taken in the first weeks back at work, effectively extending the maternity leave period. However, any such period of annual leave will be subject to operational requirements.

Bank Holidays and other statutory days are accrued whilst the employee is on maternity leave on a TOIL basis, this leave can be taken at any time and is not subject to any carry over restrictions.

3.9 Pension

If the employee is a member of the local government pension scheme, pension contributions will be deducted from the maternity and contractual pay entitlement whilst on maternity leave, unless indicated otherwise by the employee. This period will count as service for pension purposes in the normal way. When maternity pay runs out and the employee goes into nil pay, the employee can choose whether to make contributions.

The employee will be offered the opportunity to pay for the missing service at the end of their maternity break, and information on how to do this is provided as part of the Maternity Pack.

If the employee does not pay any contributions during this time, the period will not count as service for pension purposes.

3.10 Redundancy

Maternity leave counts as continuous service for redundancy purposes and does not affect the right to a redundancy payment.

3.11 Car user allowance (essential users only)

This will continue to be paid through the Ordinary and Additional maternity leave periods.

3.12 Car parking permits

Whilst on maternity leave, the employees car parking permit should be surrendered back to the car parks office. If it is not returned, payments will continue to be taken for the maternity leave period.

3.13 Strike action

Calculation of maternity pay entitlement is unaffected by Industrial Action. Pregnant employees and those on maternity leave are normally requested to be exempt from strike action. There are also rules regarding lone working for pregnant employees during a period of industrial action.

3.14 Returning to work

Employees may take as much of their 52 week entitlement as they wish. To simplify notice procedures, it is now assumed that all employees will take their 52 week entitlement.

If an employee wishes to return early, at any point before the end of the 52 week period, they should give the manager at least 28 days notice in writing of their intention to return. If an employee is intending to make any changes to their working pattern, this should have



been raised with the manager before this time. The manager must contact the employee to confirm this date and to make arrangements for the employees return.

If correct notice is not given, the manager can delay the employees return but not beyond the end of the 52 weeks.

If an employee wishes to return at the end of the 52 week period, then no notice is required and they should simply return at the start of the following week, this date is confirmed to the employee at the time of going on maternity leave.

A return to work form (Appendix 5) should be completed and returned to payroll, to put the returning employee back onto payroll on return from maternity leave if there are any changes or this is before the 52nd week. If no form is received the employee will be re-instated on the same terms at the end of the 52 weeks maternity leave.

3.15 Working arrangements

As part of a planned return to work, the employee should meet with the manager to discuss their return, prior to the minimum notice periods required. This can be classed as a KIT day if there is still an outstanding allowance of KIT days. This discussion should cover any flexible working requests, using annual leave on return to work or other arrangements which can be put in place to support the employee returning.

Should the employee be unable to return to work at the end of the period of maternity leave due to sickness then this absence should be reported as per the normal sickness reporting process. This only applies after the agreed return to work date.

3.16 Not returning from maternity leave

This constitutes a resignation so there will be no statutory right to return to work if the employee changes their mind. Employees are encouraged to think carefully about this decision and discuss all the options with the manager.

If employees have received Occupational Maternity Pay they will need to repay the 12 weeks at half pay.

Employees will then receive a final payment which will also take into account any outstanding annual leave, flexi or TOIL. This will be treated as a normal leaver from the Council and arrangements will be made for the collection of any personal possessions and the return of any ID, car park pass or any other council property.

3.17 Flexible working

Once the employee has given notice of her intention to return to work, there are a number of things to consider.

In the normal course of employment, she has a right to return to the job in which she was employed under the original contract of employment. If changes have taken place the employee is entitled to be offered suitable alternative employment. Specific circumstances (e.g. redundancies) could, of course, affect this.

The employee will also have a statutory right to request flexible working such as changing/reducing contractual hours which the Council will consider. The employee does not have an absolute right to return to work on different terms, as the right to return after maternity leave relates to the position held before the leave began. However, if an employee thinks they may like to change their hours (or other conditions), they should discuss the matter with their manager as soon as possible before the date of return.

Returning part time does not affect an employees entitlement to retain 12 weeks OMP, providing the employee returns to work for the minimum period of 3 months.

3.18 Breastfeeding

Should an employee wish to continue with breastfeeding and need to feed or express breast milk once they have returned to work, they will be supported with time away from work and a facility for this. Managers should discuss this with the HR Team in the first instance as the facilities available will depend upon work location.

Any required nursing breaks are paid at full pay and managers should be advised of times in advance, where possible.

3.19 Following a return to work

Once the employee has returned to work, the manager should complete another risk assessment as a returning mother. This will take into consideration any adaptations that now have to be made. This normally happens at the return to work meeting on the employees first day back. Other sections of this procedure may also become relevant such as unpaid parental leave.

3.20 Childcare tax savings

The childcare voucher scheme allows parents to have the cash value of vouchers deducted from their salary before tax and National Insurance contributions are deducted. Both parents can apply for these savings and they are now offered widely by many employers as a benefit.

There is a maximum amount an employee can buy individually and they can be used to pay for most forms of childcare including, day nurseries, child minders, 'wrap around' school provision and holiday clubs.

Visit the HMRC website for further up to date information at <http://www.hmrc.gov.uk/childcare>

3.21 Maternity rights

Unfair treatment and dismissal

During pregnancy, during maternity leave and on return from maternity leave, employees have a right to be protected from unfair treatment or dismissal which is connected to pregnancy. During maternity leave, employees must be consulted with over any restructures or redundancies.

Returning from maternity leave

Employees returning from maternity leave, have a right to return to work on terms and conditions no less favourable than those which would have applied, had the employee not been absent.

If a post is made redundant, or there are other exceptional circumstances, for example a reorganization/ restructure during maternity leave, employees are entitled to be offered a suitable alternative vacancy.

3.22 What if something goes wrong?

Whilst it is hoped that a pregnancy goes according to plan, the Council will support employees as much as possible if anything goes wrong. The Employee Assistance Programme may be able to help with any concerns, though any non work related issues should be raised with the GP/Midwife. Counselling support is available, for employees and their family, 24/7 on 0800 282 193.

If an employee suffers a miscarriage or the baby dies before 24 weeks of pregnancy the employee will be eligible for sick pay and/or possibly special leave according to the circumstances.

If the baby is stillborn or dies after 24 weeks of pregnancy an employee will still be entitled to maternity pay / leave as set out in section 3.4.



4 ANTENATAL PROVISION

Mothers

Pregnant employees have a right to paid time off for antenatal care appointments. These appointments should be made where ever possible at either the start or end of the working day or when less distribution is caused to the service. Paid time off for parent classes or similar is only granted when these courses are prescribed by a medical practitioner.

Employees using the Flexi-time Scheme, whose appointments are scheduled during normal working hours, are entitled to a credit up to the normal daily working hours (7 hours and 24 minutes).

Apart from the first appointment employees may be asked to produce evidence of the appointments and a copy of the last page of the pregnancy notes will usually suffice. Employees should however try and give their manager as much notice as possible of these appointments.

Fathers to be and partners

Fathers to be and partners (including same sex partners) of pregnant women are entitled to paid time off to attend up to two antenatal care appointments (not exceeding 6.5 hours each) that have been made on the advice of a medical practitioner. This excludes parental classes or similar that have not been prescribed by a medical practitioner.

Intended parents in a surrogacy case who meet certain criteria set out under the Human Embryology and fertilization Act 2000 will also have the right to unpaid leave to attend up to two antenatal appointments that have been made on the advice of a medical practitioner.

4.1 Time off for IVF treatment

Consideration for requests for time off for IVF treatment will be treated as time allowed for a medical condition and subject to the normal Attendance Procedure guidelines on time for medical appointments etc. As with other medical appointments, documentation showing the date / time of the appointment should be submitted at the time the request is made.

This applies to both male and female employees.

5 PATERNITY LEAVE

Fathers of expectant mothers and fathers of adopted children are entitled to Paternity Leave.

5.1 Entitlement

Fathers– to- be / adoptive fathers are entitled to one week full pay and one week at Statutory Paternity Pay as leave at or around the time of the birth or placement for adoption. Whilst this will normally apply to fathers, same sex partners may be entitled providing they meet the eligibility criteria.

To be eligible for Paternity Leave, employees must be:

- Expected to have responsibility for bringing up their child
- Are the biological father, or are married to the mother or are a partner of the mother of the child and
- Will be taking leave to care for the child and / or support the mother and
- Have 26 weeks continuous service by the 15th week before the baby is due and
- Have been employed continuously from the 15th week before the baby is due until the actual date of birth (qualifying week)

5.2 Eligibility for Statutory Paternity Pay

Employees who qualify for Statutory Paternity Leave will also qualify for Statutory Paternity Pay provided they are earning at least the Lower Earnings Limit for National Insurance at the end of the Qualifying Week.

The rate of Statutory Paternity Pay will be the same as the standard rate of Statutory Maternity Pay.

6 OTHER LEAVE CONNECTED TO THE BIRTH / ADOPTION OF A CHILD

6.1 SHARED PARENTAL LEAVE (SPL)

Shared Parental Leave (SPL) is designed to give parents more choice and flexibility in how they share the care of their child in the first year following birth or adoption. SPL applies to babies who are due to be born on or after the 5 April 2015, or for children who are matched / placed for adoption on or after 5 April 2015.

SPL allows mothers, fathers, partners and adopters to choose how to share a period of leave between them after their child is born or matched / placed for adoption. This could include both parents being off work at the same time and/or taking it in turns to have periods of leave to look after the child.



6.2 Maternity leave

Mothers will continue to be entitled to 52 weeks maternity leave, however SPL allows them flexibility as to whether to take all 52 weeks as maternity leave or share some of their maternity leave with their partner.

Mothers must take two weeks compulsory maternity leave then following this the remaining leave can be taken either as maternity leave or as SPL, provided the mother (or main adopter) has opted out of her maternity leave and both parents meet the required eligibility criteria for SPL.

Fathers / partners will continue to be entitled to two weeks paternity leave immediately after a child's birth, following which they will be able to apply for SPL, provided the mother (or main adopter) has opted out of her maternity leave and both parents meet the required eligibility criteria for SPL.

Parents can choose to opt into SPL at any point providing that there is some untaken maternity leave left to share.

The combined leave taken by both parents in total must not exceed 52 weeks (including any maternity leave taken by the mother).

6.3 Eligibility for shared parental leave (SPL)

To qualify for SPL;

- the mother must have ended her period of maternity leave or returned to work;
- and both parents (birth / adoptive parents) must be working and individually meet the following criteria:
 - both parents must have / expect to have main caring responsibilities for the child
 - 26 weeks continuous service by the end of the 15th week before the expected week of childbirth (EWC) or the notified week of adoption;
 - still be employed in the week before SPL is due to start;
 - have given the required notice (see notice requirements - SPL section 5.6);
 - have provided any evidence requested;
 - the employee's partner must also satisfy the economic activity test (which at the time of writing) requires the partner to:
 - have worked for any 26 weeks out of the 66 weeks before the EWC, and;
 - earned at least £30 gross salary per week for any 13 of those weeks

Each parent must qualify for SPL in their own right.



For the mother to qualify for SPL she must be entitled to statutory maternity leave (SML) and have curtailed that leave.

For the father/partner to qualify for SPL, the mother must be entitled to SMP/maternity allowance/ SML, and have curtailed that pay/allowance/leave.

6.4 Eligibility for Statutory Shared Parental Pay (SSPP)

To qualify for SSPP;

- the employees' average salary for 8 weeks before the 15th week before the EWC must be at least the lower earnings limit (available from [\[HM Revenue & Customs:Statutory Maternity Pay \(SMP\) - Glossary](#)
- The employee must have 26 weeks continuous service by the end of the 15th week before the EWC.
- Have given the required notice (see notice requirements - SSPP section 5.6).

Each parent must qualify for SSPP in their own right.

6.5 SSPP entitlement

SSPP entitlement is equivalent to SMP entitlement and is paid at the same rate.

Shared Parental Leave period	Statutory Shared Parental Pay (SSPP)
Weeks 3 - 6	90% of employees average weekly earnings This will be the average weekly earnings of the employee who on leave during that particular week
Weeks 7 - 39	SMP standard rate Where employees normal earnings are lower than SMP, they will receive 90% of normal earnings instead of SMP rate

Weeks 1-2 will be compulsory maternity leave for which the mother will receive SMP. Total statutory pay will not exceed 39 weeks combined.

6.6 Notice requirements – SPL and SSPP

Mothers are required to provide written notice in order to end their maternity leave before being eligible for SPL.

Employees are required to provide at least 8 weeks written notice of their intention to take SPL prior to SPL commencing (unless the child is born early and this has not been possible). This first notification should include an indication of the expected pattern of leave they will be taking; however the pattern of leave is not binding at this stage. Form SPL 1 [link to form](#) details the information which must be provided when informing the Council of the intention to take SPL.



Both parents have to notify their employers.

Employees are required to provide at least 8 weeks written notice of each period of shared parental leave they will be taking. Any notice given to take SPL is binding once submitted, unless notice was given before the birth, in which case employees can change their mind up to 6 weeks after the birth. If a mother revokes her notice following the birth she will be able to opt into SPL at a later date.

Employees are able to notify the Council up to a maximum of three times to request periods of leave and/or any changes to the leave periods they have requested (the original notification and up to two further notifications or changes). Any change requests to previously notified arrangements which are mutually agreed as changes between the Council and the employee can be made as long as both parties agree and these will not count towards the maximum of three notifications allowed.

6.7 Requesting SPL – the process

Once employees have provided written notice of their entitlement and intention to take SPL, they must book each period of leave, providing at least 8 weeks written notice before the start of each period of leave using Form SPL 2 [link to form](#) Employees can submit up to three separate notices (including any change requests for previously booked periods of leave – where change requests are mutually agreeable they do not count towards the maximum of 3 requests that can be submitted.)

Each notice can be for a block of continuous leave, or the notice may request a pattern of discontinuous leave involving different periods of leave.

Requests for a continuous block of leave will be granted. The Council may attempt to discuss and seek agreement to modify a continuous leave requests, however employees are under no obligation to accept any modifications to a continuous leave request.

Requests for a discontinuous block of leave will be considered in line with the needs of the service. The outcome which, will be provided within 14 calendar days of the request being received, may be anyone of the following;

1. That the request for a discontinuous block of leave is granted
2. That an alternative pattern of either discontinuous or continuous leave (as appropriate to the service) is proposed by the Council and agreement sought with the employee
3. That the discontinuous leave request be refused

Where the outcome is either option 2 or 3 the employee can withdraw their request on or before the 15th day after the request was originally made and it will not count as one of their three requests. If the employee does not withdraw their request, they must take the total amount of leave they had requested in one continuous block. The employee can choose



when this leave period will begin within 19 days (i.e. 5 days after the 14th day) of the date the request was given to the employer but it cannot start sooner than the initially requested start date. If the employee does not request an alternative start date within the 19 day period, the leave will begin on the starting date stated in the original request.

6.8 Right to retain a job

If the period of leave does not exceed 26 weeks, the employee has the right to return to the same job. This will apply whether or not the leave is taken continuously. If the period of leave exceeds 26 weeks, the employee has a right to return to the same job or, if not reasonably practicable, a similar job.

6.9 Shared Parental Leave in-touch days

Each employee may take up to 20 in Touch (SPLIT) days during a period of shared parental leave. These 20 days are in addition to the 10 KIT days that can be taken by the mother during maternity leave.

6.10 Shared parental leave in adoption and surrogacy

Shared parental leave will also be available to adoptive parents and intended parents through surrogacy. The following points apply:

- Adopters will have the same rights as other parents to maternity leave and pay and if eligible, will be entitled to share parental leave.
- Surrogate parents who meet the criteria to apply for a Parental Order will be eligible for statutory adoption leave and pay and shared parental leave and pay again if they meet the qualifying criteria.

7 UNPAID PARENTAL LEAVE

Unpaid parental leave is separate to shared parental leave (SPL) and entitles eligible employees the right to take 18 weeks unpaid time off work to look after a child or make arrangements for the welfare of a child.

Unpaid parental leave is available to both male and female employees, irrespective of any current working arrangements or previous applications. Parental leave is granted per child born or adopted and not per employee., so in the case of twins or multiple adoptions (i.e. twins or siblings adopted at the same time) parents entitlement is per child.

Employees remain employed during any period of unpaid parental leave and are not permitted to use their parental leave to take up any other employment.

7.1 What is unpaid parental leave for?

Employees can use their parental leave for a variety of reasons, such as;



- To spend more time with a child
- To support a child whilst in hospital
- To investigate nurseries or schools or to make other caring arrangements

7.2 Eligibility for unpaid parental leave

To qualify for unpaid parental leave the employee:

- Must have at least 1 year's continuous service;
- Must have, or expect to have parental responsibility for a child, and;
- Meets one of the following criteria:
- The child is under 18 years of age
- Has adopted a child under the age of 18 (unpaid parental leave can be claimed for a period of 5 years from the date of adoption or until the child 18th birthday, whichever is sooner);
- Has acquired formal parental responsibility for a child who is under 18 years of age (or awaiting such a decision);

7.3 Unpaid parental leave entitlement

Eligible employees are entitled to take up to 18 weeks unpaid parental leave and this can start at any point once the child is born or matched / placed for adoption.

Parental leave may be taken as:

- A single block of up to 4 weeks in any one year.
- A number of shorter blocks of leave that must be taken in multiples of a week, unless the child is disabled, in which case the leave can be taken in individual days.

Employees who work part time will have their unpaid parental leave allowance on a pro-rata basis. Therefore a week's leave will be equal to the length of time that employee normally works during a week, i.e. 5 days for an employee who works Monday through to Friday or 2 days for an employee who works Tuesday and Wednesday only.

7.4 Applying for a period of unpaid parental leave – the process

Form UPL1 [link to form](#) is required to be submitted giving a minimum of 21 days notice of a request to take unpaid Parental Leave.

The provisions in place in respect of fathers who wish to take a period of parental leave beginning when their child is born are slightly different. In this case, the notice must be given at least 21 days before the expected week of childbirth, and must specify the expected week of childbirth and the duration of the period of parental leave requested.

Similarly, where parental leave is requested to begin on an adopted child's placement, the employee's notice must be given at least 21 days before the beginning of the week in which



the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. The notice must specify the week in which the adoption placement is expected to occur and the duration of the period of parental leave requested.

7.5 Postponement of parental leave

In most cases, a period of parental leave requested by an employee may be postponed if the employee's absence at the time requested would cause undue disruption to the business. If this is the case, the line manager must:

- give the employee written notice of the postponement;
- state the reason why the postponement is necessary; and
- suggest alternative dates for the employee to take an equivalent period of parental leave within the next six months.

The notice of postponement must be given to the employee no more than seven days after receipt of the employee's notice requesting parental leave.

The manager may not, however, postpone parental leave where the period of leave has been requested to coincide with the birth of the child or the child's adoptive placement. This is the case irrespective of whether the dates requested are likely to cause inconvenience or disruption to the business.

7.6 Rights on return to work after parental leave

Employees are not required to give any specific notice of their return from parental leave, as the return date will have been agreed at the outset. The employee should simply turn up for work in the usual way on the appropriate date.

7.7 Pay and benefits

Terms and Conditions remain the same for employees on unpaid parental leave except the period of leave is unpaid. Time taken is treated as continuous service and employees continue to accrue annual leave and other holiday entitlements regardless of how the leave is taken.

Employees who are sick during unpaid parental leave are entitled to sick pay (on provision of GP fit note) and they will be entitled to claim back the unpaid parental leave entitlement

7.8 Pension



If the employee is member of the local government pension scheme, the employee will be offered the opportunity to pay for the missing service at the end of their break, and should discuss how to do this with Payroll Services.

If the employee does not pay any contributions during this time, the period will not count as service for pension purposes.



Appendix 1

Key stages/responsibilities

Significant Event Timeline requirements	Manager's Responsibilities	Employee's Responsibilities
Notification of pregnancy: As soon as applicable BUT prior to week 25 of pregnancy	Complete a Risk Assessment once informed of the employees pregnancy and review regularly.	Notify your manager of your pregnancy and contact HR for a 'maternity pack'.
Submission of MATB1 As soon as supplied by Midwife / GP / Hospital	Send the MATB1 and application form to HR Payroll Services	Provide MATB1 form to manager with a completed Maternity Leave and Pay Provisions Application Form.
11 weeks before Expected week of confinement		This is the EARLIEST you can start your maternity leave
Period of sickness within 4 weeks of EWC	If an employee reports in sick during this time with a pregnancy related absence, HR Payroll Services should be instructed to commence an employee's maternity leave. The employee should be notified that this is the case.	
Week 39 of pregnancy or before (as appropriate)	Discuss the handover of any work. Consider the most appropriate way to deal with any outstanding annual leave.	
Week 40 of pregnancy	Confirm the start of the Maternity Leave.	Return your car parking pass to the car parks office



