



# HR Policy

Strategic Human Resources



## Maternity, Adoption, Paternity & Parental Leave Policy

This information can be made available in a range of formats and languages, including Braille and large print and further details can be found on the intranet/SLN.

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## **1. Scope of policy**

- 1.1 The purpose of this policy is to provide details about entitlements to leave and pay for the following circumstances: maternity leave, paternity leave, adoption, parental leave.
- 1.2 Any reference to 'the employer' refers to Staffordshire County Council. The 'appropriate level of authority' should be determined according to the employer's decision making structure. This policy applies to employees of the organisation, referred to in this policy as employees.
- 1.3 The policy and procedure applies to all employees, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time and in consultation with the recognised trade unions.

The procedure does not apply once you have left the employer.

- 1.4 The policy and procedure is commended for adoption by governing bodies for application to all employees employed in schools.

## **2. Policy Statement**

- 2.1 This policy will at all times be applied fairly and with due regard for any protected characteristics you may have.

You will not be treated less favourably because you are pregnant, absent on maternity, adoption, paternity, parental leave or for any other reason connected with pregnancy or maternity.

- 2.2 You will not be discriminated against on grounds of pregnancy or maternity in the areas of training, selection, promotion, job security or in any other terms and conditions of employment.

It is recognised that, from time to time, employees may have questions or concerns relating to their parental rights. It is our policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible.

You will not be discriminated against or victimised should you raise a question, concern or grievance relating to the application of this policy

- 2.3 You will not be excluded from communication and consultation because of absence due to pregnancy or childbirth.
- 2.4 You will not be dismissed for a reason connected with pregnancy, childbirth or related leave.
- 2.5 These provisions apply equally to full time and part time workers, regardless of hours worked or length of service.

### **3 MATERNITY LEAVE**

- 3.1 All pregnant employees are entitled to take up to 26 weeks Ordinary Maternity Leave and up to 26 weeks Additional Maternity Leave, making a total of 52 weeks continuous leave. This is regardless of the number of hours they work or their length of service. Additional Maternity Leave begins on the day after Ordinary Maternity Leave ends.
- 3.2 The scheme also provides for 39 weeks statutory maternity pay (SMP) for all women with at least 26 weeks continuous service at the 15<sup>th</sup> week before the expected week of Childbirth and who are in receipt of average earnings equal to the lower earnings limit for National Insurance. For the purpose of this policy 'Childbirth' means the birth of a living child or a stillborn child after 24 weeks of pregnancy.
- 3.3 Immediately after childbirth there is a minimum period of compulsory maternity leave that an employee must take and before which she may not return to work. The period of compulsory maternity leave lasts for two weeks from the date of childbirth. Ordinary Maternity Leave can start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier).

Maternity Leave will start on whichever date is the earlier of:

- the employee's chosen start date;
  - the day after the employee gives birth; or
  - the day after any day on which the employee is absent for a pregnancy-related reason after the beginning of the four weeks before the expected week of childbirth.
- 3.4 A woman's maternity leave can only be triggered by pregnancy-related reason from the beginning of the 4<sup>th</sup> week before the expected week of Childbirth. If a woman is absent with a pregnancy-related reason during this period her maternity leave will start on the day following the first day on which she was absent. Her SMP, if entitled, will also start on this day and run for 39 weeks.
- #### **4. Notifying Shared Service and Manager/ Headteacher that she is pregnant – all employees**
- 4.1 To be eligible for maternity leave an employee is legally required to formally notify her employer of certain information. Accordingly an employee on becoming pregnant should notify their Manager/ Head teacher in writing by the end of the 15<sup>th</sup> week before her EWC or as soon as is reasonably practicable of the following:
- that she is pregnant
  - of the expected week of childbirth (EWC)
  - of the date her maternity leave will begin. This cannot be earlier than the beginning of the 11<sup>th</sup> week before the expected week of childbirth.

4.2 The notification of the pregnancy must also be sent to the Shared Service Centre along with a MATB1 certificate as soon as provided by their Doctor or Midwife. If the employee qualifies for statutory maternity pay the MATB1 must be submitted before the birth or no more than 3 weeks after the birth.

4.3 Shared Service will confirm the receipt of the employee's notification within 28 calendar days. This will also detail her entitlements to maternity pay and maternity leave.

## **5. Employee's Notice Period for changing original commencement date of maternity leave**

5.1 It will be possible for an employee to change the date her leave commences provided she gives 28 days' notice before the original date or the new date she wishes her leave to commence, whichever is the earlier.

## **6. Pregnancy related illness**

6.1 The employee should notify her Manager / Head Teacher as soon as is practicably possible that she is absent with a pregnancy related illness. If the absence begins after the beginning of the fourth week before expected week of childbirth, maternity leave will automatically commence.

## **7. Time off for Ante Natal Care**

7.1 All pregnant employees are entitled to paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor. Antenatal care is not restricted to medical examinations, for example it could include relaxation classes and parent craft classes as long as these are advised by a registered medical practitioner, registered midwife or registered health visitor. Employees must also be prepared to show their Manager/ Headteacher that an appointment card or document showing the appointment has been made. Managers/ Headteachers should allow reasonable time off for this. Where the employee is able to arrange ante-natal appointments outside of working hours, they should try to do so.

## **Non – pay contractual entitlements during Additional Maternity Leave (AML)**

## **8. Maternity Pay**

8.1 To be eligible to receive Statutory Maternity Pay during Maternity Leave an employee must:

- be pregnant and have reached, or have given birth before reaching, the start of the 11<sup>th</sup> week before the expected week of childbirth
- have been continuously employed for at least 26 weeks by the end of the 15<sup>th</sup> week before the expected week of childbirth
- have average weekly earnings, for the 8 week period ending with the qualifying week, of not less than the Lower Earnings Limit.

- have stopped working for the employer
- have supplied her MATB1 before the birth of her child or no more than 3 weeks after
- give Shared Service 28 days notice of when she wishes her statutory maternity pay to start

8.2 Where the employee does not meet the criteria for SMP they may be entitled to a Maternity Allowance.

## **9. Employees other than Teachers**

### **9.1 Employees other than Teachers with less than one year's service**

9.1.1 If they have less than one year's continuous service at the 11<sup>th</sup> week before their expected week of childbirth, they will be entitled to:

- 9/10<sup>ths</sup> of a week's pay for the first six weeks absence (SMP) **plus**
- 33 weeks' SMP. (SMP is paid at a fixed, flat rate, which is reviewed annually or 90% of average weekly earnings whichever is the lesser). Once the above is exhausted any Additional Maternity Leave to which they may be entitled is unpaid.

### **9.2 Employees other than Teachers with at least one year's service**

10.2.1 If they have at least one year's continuous service in Local Government at the 11<sup>th</sup> week before their expected week of Childbirth they will be entitled to:

- 9/10 of a week's pay for the first six weeks' absence, plus **either:**
- 12 weeks' half pay plus SMP followed by 21 weeks SMP.
- or:**
- 33 weeks' SMP if they do not intend to return to work.

Once the above is exhausted any Additional Maternity Leave to which they may be entitled is unpaid.

## **10. Teaching Staff only**

### **10.1 Teaching Staff with less than one year's service**

10.1.1 If they have less than one year's continuous service as a teacher with one or more Local Authorities (LAs) at the 11<sup>th</sup> week before their expected week of Childbirth they will be entitled to:

- 9/10<sup>ths</sup> of a week's pay for the first six weeks absence (SMP) **plus**

- 33 weeks' SMP. (SMP is paid at a fixed, flat rate, which is reviewed annually or 90% of average weekly earnings whichever is the lesser). Once the above is exhausted any Additional Maternity Leave to which they may be entitled is unpaid.

## **10.2 Teaching Staff with at least one year's service**

10.2.1 If they have at least one year's continuous service as a teacher with one or more LEAs at the 11<sup>th</sup> week before their expected week of Childbirth they will be entitled to:

- Full pay for the first four weeks' absence (this will be offset against any entitlement to SMP during this period) **plus**
- 9/10 of a week's pay for the next two weeks' absence (this will be offset against any entitlement to SMP during this period) **plus**

**either:**

- 12 weeks' half pay plus SMP followed by 21 weeks SMP.

**or:**

- 33 weeks' SMP if they do not intend to return to work.

Once the above is exhausted, any additional Maternity Leave to which they may be entitled is unpaid.

## **11. All employees**

11.1 The 12 week's half pay plus SMP cannot exceed a normal week's pay and to be able to keep the Occupational Maternity Pay the employee must return to work for:

- three months after their maternity leave (for employees other than Teachers).
- 13 weeks after their maternity leave (for teaching staff). This may include periods of school closure.

11.2 If they don't, they must repay such proportion of the pay (but not the SMP) as determined by the Authority .i.e. 12 weeks half pay for all employees

11.3 If an employee starts working for another employer during the SMP period after the baby is born, she must inform the County Council within 7 days of this and she will lose her entitlement to SMP. The Council will continue to pay occupational maternity pay unless otherwise stated and agreed in the employee's statement of employment particulars or relevant policy.

## **12. Still Birth**

12.1 If the pregnancy results in a still birth or termination before 24 weeks of pregnancy, the employee is not entitled to receive SMP, however, she may be entitled to sick pay if she

satisfies the qualifying conditions. Please refer to the Managing Absence at Work Policy for further information on this.

- 12.2 If the pregnancy results in a still birth after 24 weeks the employee qualifies for full maternity benefits and leave.

### **13. If you are not eligible for Statutory Maternity Pay**

- 13.1 If an employee is not eligible for SMP but meets the eligibility requirements for Occupational Maternity Pay ie an employee has at least one year's service at the 11<sup>th</sup> week before your expected week of childbirth, she will receive the occupational maternity pay as follows:

#### **Employees other than Teachers:**

- 6 weeks at 9/10ths of full pay
- 12 weeks at half pay

#### **Teachers:**

- 4 weeks at full pay
- 2 weeks at 9/10ths of full pay
- 12 weeks at half pay

- 13.2 If an employee is not eligible for SMP she may be able to claim Maternity Allowance direct from the DWP/Jobcentre Plus. Shared Service will provide her with a form SMP1 along with their MATB1. This will be returned to her for this purpose. They should contact these organisations direct.
- 13.3 Should you be entitled to Occupational Maternity Pay, any maternity allowance you receive will be offset against the Statutory Maternity Pay rate. If you do not qualify for maternity allowance, or it is paid at a lesser rate than the Statutory Maternity Pay, the employee will need to forward a copy of their maternity allowance statement to the Department of Working Pensions (DWP) or Job Centre Plus.

### **13.4 Breast-feeding**

- 13.4.1 The promotion of breast-feeding is a priority in the UK. Exclusive breast-feeding for the first six months of life offers major health advantages to mothers and babies, so it is important that mothers are enabled to continue breast-feeding when they return to work.
- 13.4.2 Health and Safety legislation places a duty of care on employers to ensure that the breast-feeding child does not suffer any adverse effects as a result of their mother's work. Employees who wish to breast-feed upon returning to work need to notify their manager as soon as practicable and discuss their personal requirements prior to their return to work.
- 13.4.3 Where practicable, managers will offer the following support :
- conduct a risk assessment of work activities, make adjustments as necessary and keep the assessment under review.

- organise appropriate work patterns/hours or paid breaks to ensure the required time is allocated for breast-feeding or expressing breast milk.
- find a room where milk can be expressed which will be (please note that these arrangements may not be within the individuals own work location) :
  - warm, clean and private
  - suitable furniture
  - hand-washing facilities (could be near-by)
  - storage facilities
  - dedicated refrigerator (if possible)

Where it is not practicable to provide support at the workplace time off with pay will always be provided to enable any employee to access the support that is required.

## **14. ADOPTION**

- 14.1 The adoption leave provisions apply to all employees where an approved agency notifies them of a match with a child and provides a basic right to a minimum of 26 weeks Ordinary Adoption Leave irrespective of hours worked or length of service. Additional Adoption Leave (unpaid), amounting to a further 26 weeks is also available. The period of Ordinary Adoption Leave may additionally attract 39 weeks Statutory Adoption Pay for those with at least 26 weeks service at the relevant date. This policy also covers situations where a child is adopted from overseas.

## **15. Adoption Leave Eligibility**

- 15.1 Adoption leave and pay is available to individual employees who adopt a child. This paid leave will only be granted to one member of a couple where both are employed by Staffordshire County Council (the couple may choose which partner takes adoption leave).
- 15.2 The partner of an individual who adopts or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay

## **16. Ordinary Adoption Leave**

- 16.1 All employees are entitled to Ordinary Adoption Leave regardless of length of service or hours worked.

## **17. Additional Adoption Leave**

- 17.1 A employee must have worked continuously for Staffordshire County Council for at least 26 weeks leading into the week in which the employee is told they have been matched with a child for adoption. If the child is being adopted from overseas the employee must have worked for Staffordshire County Council for at least 26 weeks – either the 26 weeks ending with the week in which they receive their official notification (see below) or 26 weeks from the start of their employment. The reason for the slightly different rules for adopting from abroad



is that it can take up to 12 months from the date of receiving the official notification to the time that the child enters Great Britain. The 26 week qualifying period can be completed either before a employee receives their official notification or at a later date before the leave and pay is due to begin.

## **18. Statutory Adoption Pay**

18.1 To qualify for statutory adoption pay the employee must have average weekly earnings at or above the Lower Earnings Limit for National Insurance. (There is an amount of weekly pay below which employees do not pay National Insurance contributions – the Lower Earnings Limit. An employee must be earning above this limit to qualify for Statutory Adoption Pay.)

18.2 In either case the employee:

Must be newly matched with a child for adoption by a UK\* adoption agency. Adoption leave and pay will not apply in situations where the child is not newly matched for adoption (for example – where a stepparent adopts their partners child).

(\* If adopting from abroad the employee must have received an **official notification** from the overseas Authority confirming that the employee has been assessed and approved as being a suitable adoptive parent.)

## **19. Special Guardianship**

19.1 A Special Guardianship Order gives a special guardian, legal parental responsibility for a child normally until they are 18 years old. However the order does not remove parental responsibility from the child's birth parents. Employees granted this order have no entitlement to Adoption leave. They will be entitled to other benefits that those with parental responsibilities get such as parental leave, right to request flexible working and participation in the childcare voucher scheme.

## **20. Provisions**

### **20.1 Time off for Adoption Vetting Process**

20.1.1 This applies to all individuals seeking to adopt regardless of length of service.

20.1.2 Although a number of days is not stipulated in the legislation, an employee is entitled to a "reasonable" amount of paid time off for this purpose. In terms of this policy it has been agreed that a maximum of 5 days should be sufficient in most cases. This paid leave will only be granted to one member of a couple where both are employed by Staffordshire County Council.

## **21. Adoption Leave**

21.1 Employees can take up to 52 weeks adoption leave made up of 26 weeks' Ordinary Adoption Leave (OAL) and up to 26 weeks' Additional Adoption Leave (AAL).

## 21.2 Adoption leave can start:

- From the date of the child's placement (whether this is earlier or later than expected) or
- From a fixed date which can be up to 14 days before the expected week of placement.

21.3 In the case of an overseas adoption the leave can commence from the date the child enters Great Britain or from a date up to 28 days after the child enters Great Britain. If a child is being adopted from overseas the employee must have received a written notification from the overseas Authority confirming that they are eligible to adopt.

21.4 Leave can start on any day of the week. Only one period of leave is available irrespective of whether more than one child is placed.

21.5 If the child's placement ends during the adoption leave period the employee will be able to continue the adoption leave for up to 8 weeks after the end of the placement. If a further placement is later arranged the employee will need to apply for another period of adoption leave.

## 22. How To Apply

22.1 In order to qualify for **Adoption Leave** the employee must, within 7 days of being told they have been matched with a child (or as soon as is reasonably practicable), notify their line manager that they have been matched with a child for adoption, the date they intend to take adoption leave and the date the child is expected to be placed with them.

22.2 In the case of an adoption from overseas, the employee must, within 28 days of having received their official notification, inform their employer of the date on which they received official notification and the date the child is expected to enter Great Britain. In addition, within 28 days of the child entering Great Britain, employees must give further evidence of the date of entry (such as a plane ticket or entry clearance documents). The employee must give 28 days' notice of when they intend to take adoption leave.

22.3 The employee can amend the date that they want to start the adoption leave provided they give their employer 28 days notice (unless this is not reasonably practicable)

22.4 The employee should provide a copy of their 'Matching Certificate' or their 'official notification' (in relation to overseas adoptions) to their line manager as evidence of their entitlement to statutory adoption pay. The certificate should show the name and address of the adoption agency, the date that a child was matched with the employee for adoption and the date that the adoption is happening.

22.5 If a child is being adopted from overseas the must have received a written notification from the overseas Authority confirming that they are eligible to adopt.

22.6 Having received notification the Manager / Headteacher should arrange for a letter to the employee to confirm that the adoption leave will start as agreed and also confirming the date that the adoption leave will end.

22.7 In order to qualify for Adoption Pay the employee:

- must at least 28 days before the start of their adoption leave notify their employer that they want to receive Statutory Adoption Pay (SAP) If this timescale is not reasonably practicable notification must be made as soon as possible.
- must have agreed with an agency that a child will be placed with them and the date that the child will be placed.

22.8 In the case of an adoption from overseas the employee must, within 28 days of having received their official notification, inform their Manager/Headteacher of the date on which they received official notification and the date the child is expected to enter Great Britain.

22.9 In addition, within 28 days of the child entering Great Britain, employees must give further evidence of the date of entry (such as a plane ticket or entry clearance documents).

22.10 Adoption pay will start at the same time as the adoption leave and will be subject to the employee producing the 'Matching Certificate' or official notification as described earlier.

## **23. Adoption Pay**

23.1 Statutory Adoption Pay is payable for 39 weeks from the first day of employment. It is paid at a fixed, flat rate, which is reviewed annually or 90% of average weekly earnings whichever is lesser).

## **24. Employees other than Teachers**

### **24.1 Employees Other Than Teachers – less than one year's continuous service**

24.1.1 If an employee qualifies for Statutory Adoption Pay but has less than one year's continuous service by the date on which they are notified of being matched with the child they will be entitled to:

- 9/10<sup>ths</sup> (90%) of a week's pay for the first six weeks absence, plus
- 33 weeks' Statutory Adoption Pay. Statutory Adoption Pay is the same as Statutory Maternity Pay. It is paid at a fixed, flat rate, which is reviewed annually or 90% of average weekly earnings whichever is the lesser). Once the above payment has been exhausted, any Additional Adoption Leave to which they may be entitled is unpaid.

### **24.2 Employees Other Than Teachers – at least one year's continuous service**

24.2.1 If an employee qualifies for Statutory Adoption Pay and **has at least one year's continuous service** with Staffordshire County Council by the date on which they are notified of being matched with the child they will be entitled to:

- 9/10 of a week's pay for the first six weeks' absence, plus

**either:**

- 12 weeks' half pay plus Statutory Adoption Pay followed by 21 weeks Statutory Adoption Pay

**or:**

- 33 weeks' Statutory Adoption Pay if they do not intend to return to work. Once the above payment has been exhausted any Additional Adoption Leave to which they may be entitled is unpaid.

## **25. Teaching Staff**

### **25.1 Teaching Staff - less than one year's continuous service**

25.1.1 If an employee qualifies for Statutory Adoption Pay but has less than one year's continuous service by the date on which they are notified of being matched with the child they will be entitled to:

- 9/10<sup>ths</sup> of a week's pay for the first six weeks absence, plus
- 33 weeks' Statutory Adoption Pay. (Statutory Adoption Pay is paid at a fixed, flat rate, which is reviewed annually or 90% of average weekly earnings whichever is the lesser). Once the above payment has been exhausted any Additional Adoption Leave to which they may be entitled is unpaid.

### **26.1 Teaching Staff - at least one year's continuous service**

26.1.1 If an employee qualifies for Statutory Adoption Pay but has **at least one year's continuous service** by the date on which they are notified of being matched with the child they will be entitled to:

- Full pay for the first four weeks' absence (this will be offset against any entitlement to Statutory adoption Pay during this period), plus:
  - 9/10 of a week's pay for the next two weeks' absence, plus

**either:**

- 12 weeks' half pay plus Statutory Adoption Pay followed by 21 weeks Statutory Adoption Pay.

**or:**

- 33 weeks' Statutory Adoption Pay if they do not intend to return to work. Once the above payment has been exhausted additional Adoption Leave to which they may be entitled is unpaid.

## **27. All employees**

27.1 The 12 weeks' half pay plus Statutory Adoption Pay cannot exceed a normal week's pay, and to be able to keep the 12 week's half pay, the employee must return to work for:

- three months after their adoption leave (for employees other than teachers);

**or:**

- 13 weeks after their Adoption Leave if they do not intend to return to work. This may include periods of school closure.

Any Additional Adoption Leave to which they may be entitled is unpaid.

## **28. If you are not eligible for Statutory Adoption Pay**

28.1 If an employee is not eligible for Statutory Adoption Pay but meets the eligibility requirements for Occupational Adoption Pay she will receive the Occupational Adoption Pay as follows:

### **Employees other than Teachers:**

- 6 weeks at 9/10ths of full pay
- 12 weeks at half pay

### **Teachers:**

- 4 weeks at full pay
- 2 weeks at 9/10ths of full pay
- 12 weeks at half pay

## **29. SHARED PARENTAL LEAVE**

### **29.1 What is Shared Parental Leave?**

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year after birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay.

### **29.2 Who is eligible for Shared Parental Leave?**

SPL can only be used by two people:

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

Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must still be working for the organisation at the start of each period of SPL;
- the employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- the employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks;
- the employee must correctly notify the organisation of their entitlement and provide evidence as required.

### **29.3 The Shared Parental Leave entitlement**

29.3.1 Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

29.3.2 A mother/adopter may curtail their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

29.3.3 SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or Shared Parental Pay - ShPP).

29.3.4 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

29.3.5 SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice. If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period.

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

### **30.1 Notifying the organisation of an entitlement to Shared Parental Leave**

30.1.1 An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL. This should be done by completing the appropriate form which can be obtained from shared service centre. The form should then be submitted to their line manager in line with the timescales outlined in this policy.

30.1.2 Part of the eligibility criteria requires the employee to provide the organisation with correct notification. Notification must be in writing and requires each of the following:

- the name of the employee;
- the name of the other parent;
- the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL the employee and their partner each intend to take
- a non-binding indication of when the employee expects to take the leave.

The employee must provide the organisation with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
- that should they cease to be eligible they will immediately inform the organisation.

The employee must provide the organisation with a signed declaration from their partner confirming:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;

- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the organisation processing the information contained in the declaration form; and
- (in the case whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

### **31.1 Requesting further evidence of eligibility**

31.1.1 The organisation may, within 14 days of the SPL entitlement notification being given, request:

- the name and business address of the partner's employer (where the employee's partner is no longer employed or is self employed their contact details must be given instead)
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth).
- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption

In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

### **31.2 Discussions regarding Shared Parental Leave**

31.2.1 An employee considering/taking SPL is encouraged to contact their manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the organisation to support the individual.

31.2.2 The manager may arrange an informal meeting with the employee to talk about their intentions and how they plan to use their SPL entitlement.

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

*\*\* The manager must ensure that where an employee is entitled to Occupational Maternity/Adoption pay, the employee understands that this entitlement ceases if they commence with the SPL option. \*\**

### **32.1 Booking Shared Parental Leave**

32.1.1 In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave by completing the form which can be obtained from Shared Service Centre.



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

32.1.3 SPL can only be taken in complete weeks but may begin on any day of the week. The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

#### 32.1.4 **Continuous leave notifications**

A notification can be for a period of continuous leave, which means a notification of a number of weeks taken in a single unbroken period of leave.

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

#### 33.1 **Discontinuous leave notifications**

A single notification may also contain a request for two or more periods of discontinuous leave, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work.

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

The manager will consider a discontinuous leave notification but has the right to refuse if there are valid business or operational reasons. In the event of a refusal the manager will explain the reason and the evidential basis for refusing and will write to the employee to confirm the reason and the basis for refusing. If the employee is unhappy as to reason for the refusal they may raise this as an issue through the grievance procedure. If the leave pattern is refused, the employee can choose to take the leave in a single continuous block.

#### 34.1 **Responding to a Shared Parental Leave notification**

34.1.1 Once the manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14<sup>th</sup> calendar day after the leave request was made and will be confirmed in writing. Template letters for managers have been provided on the intranet/SLN to use when responding to such notifications.

34.1.2 All requests for discontinuous leave will be carefully considered on a case by case basis and will take into account the potential benefits to the employee. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of

SPL. Equally the principles of acting in a fair, consistent and non-discriminatory way in responding to requests will be applied.

- 34.1.3 The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the organisation may propose a modified version of the request.
- 34.1.4 If a discontinuous leave pattern is refused the employee may withdraw the request, without detriment, on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

### **35.1 Variations to arranged Shared Parental Leave**

- 35.1.1 The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the organisation in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.
- 35.1.2 Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the organisation requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the organisation.

### **36.1 Statutory Shared Parental Pay (ShPP)**

- 36.1.1 Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adoption reduces their maternity/adoption pay period or maternity allowance period. ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- 36.1.2 In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
- the mother/adoption must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have curtailed their maternity/adoption pay period or maternity allowance period;
  - the employee must intend to care for the child during the week in which ShPP is payable;

- the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification as per the policy.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the organisation should they cease to be eligible.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the organisation to process any ShPP payments to the employee;
- (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
- (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

36.1.3 Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

### **37.1 Shared Parental Leave "in Touch" days**

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

37.1.2 The organisation has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the organisation and the employee. An employee taking

a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

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

## **Standard Provisions relating to Maternity, Adoption and Shared Parental Leave**

### **38. Holiday Entitlement**

- 38.1 Employees are entitled to accrue contractual leave during maternity / adoption / SPL leave. Depending on the timing in relation to the annual leave year, they may take annual leave before the leave commences or alternatively bring maternity / adoption / SPL leave forward so that annual leave can fit into the annual leave year. If an employee is unable to take annual leave before the start of their maternity / adoption / SPL leave due to an earlier date/ birth, or where maternity / adoption leave overlaps with annual leave, an exception may be given to carry over the allowance that they would otherwise lose in the next year under the terms of the annual leave policy.

### **38.2 Holiday Entitlement– Term Time Only Employees and Teachers**

For details of entitlement please refer to the intranet, SLN or contact the shared service centre.

### **38.3 Essential & Lease Car User Entitlement during Maternity / Adoption / Shared Parental Leave**

- 38.3.1 Employees will be entitled to receive essential car user allowance at full rate during all of their Maternity/Adoption / Shared Parental Leave.
- 38.3.2 Employees who are lease car users should speak to the Car Leasing Manager (Fleet Management) to understand what impact it will have. Advice should be sought from Car Leasing regarding any arrangements needed regarding the provision of Indemnity Insurance.

### **39. Childcare Voucher Scheme**

- 39.1 Employees may purchase Childcare vouchers as part of a salary sacrifice scheme. Where an employee has agreed to reduce their salary entitlement and receive childcare vouchers instead. This will not be classed as wages or salary and should therefore be provided on top of any statutory maternity / adoption pay or occupational maternity / adoption pay payable or Shared Parental leave pay.

39.2 Neither statutory maternity/adoption /shared parental leave pay nor occupational pay should be reduced to take account of the fact that childcare vouchers are also being provided. It should be remembered that in the case of salary sacrifice arrangements the employee's Statutory maternity / Adoption / shared parental leave pay and Occupational Pay will already be based on the reduced pay.

39.3 Childcare vouchers must continue to be paid in any period during which the employee is in receipt of adoption pay. This cost will be met by the employer.

#### **40. Pension Scheme during Maternity / Adoption / Shared Parental Leave**

40.1 Employees should be encouraged to seek advice on how maternity / adoption / shared parental leave is likely to affect their pension rights in the long term or how to buy back service. Advice can be sought from:

- The Pensions Section for employees in the Local Government Pension Scheme; or
- The Teacher Pensions or relevant professional associations for employees in the Teachers Pension Scheme.

#### **41. Returning to Work**

41.1 If an employee is returning to work at the end of their full maternity / adoption / shared parental leave entitlement they will not have to give any further notification to their Manager / Headteacher.

41.2 It will be assumed that the employee is returning to work at the end of their maternity/adoption / shared parental leave on the date previously notified. If the employee intends to return early they must provide 8 weeks notice, otherwise they simply return at the end of the period.

41.3 The employee returning from Ordinary Maternity / Adoption / shared parental Leave is entitled to return to the job in which they were employed. The employee returning from Additional Maternity / Adoption / shared parental Leave is entitled to return to the job in which they were employed unless that is not practicable, in which case they have the right to return to a job that is both suitable and appropriate.

The manager will discuss what can reasonably be done to accommodate any request to provide breastfeeding facilities. This may be a sensitive issue and it is agreed an employee can request that any such discussion is conducted by a female manager.

41.4 If the employee no longer wishes to return to work they will be effectively resigning and will need to give the employer written notice of termination in accordance with their contract. The manager/head teacher should ensure that the employee provides written confirmation that this is their intention.

## **42. Keeping in Touch days**

- 42.1 Keeping in touch (KIT) days are intended to facilitate a smooth return to work for employees returning from maternity/adoption / leave. An employee can agree to work or attend training for up to 10 days during their period of maternity / adoption / shared parental leave without loss of benefits or bringing their maternity / adoption / shared parental leave to an end.
- 42.2 During the maternity / adoption leave period the County Council has no right to expect the employee to undertake work (without prior mutual agreement), and similarly the employee has no right to demand this. Part of any day worked will count as one KIT day. Employees will be paid their full contractual hourly pay for any KIT day worked and this must not exceed a standard working day.
- 42.3 Employees will receive their Statutory Maternity / Pay for the week but any Statutory Maternity / Adoption / shared Parental Pay paid will be offset against any payments made for the KIT day. The leave period will not be extended by the number of keeping in touch days worked. After 10 KIT days have been worked the current rules will continue and the employee will lose a week's Statutory Maternity / Adoption leave Pay for any week in which they work. Payments made for KIT days will be paid at the end of the maternity / adoption leave period.

## **43. PATERNITY LEAVE**

- 43.1 Paternity leave is available to employees on the birth of their child but is also available for adopters where a child has been placed for adoption after that date.
- 43.2 Maternity support leave will be granted to an employee who is the child's father, or partner/nominated carer of an expectant mother at or around the time of the birth. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother.

## **44. Eligibility (All employees)**

- 44.1 To be eligible for paternity leave you must:
- have or expect to have responsibility for the child's upbringing
  - be the biological father of the child or the mother's husband/partner or civil/same sex partner or in the case of adoption, the adopter's spouse/partner or civil partner.
  - have worked continuously for Staffordshire County Council for 26 weeks ending with the 15th week before the baby is due or in the case of adoption, for 26 weeks ending with the week in which you have been notified that you have been matched with a child.
- 44.2 Eligible employees will be entitled to take either one or two complete consecutive weeks' paternity leave (not to be taken as odd days).
- 44.3 You can choose to start your leave:

- In the case of birth of a child: from the date of the child's birth (whether this is earlier or later than expected), or from another date as long as it is after the birth.
- In the case of adoption of a child, from the date the child is placed with you or from another date as long as it is after the child has been placed with you

Your leave can start on any day of the week on or following the child's birth or being placed with you for adoption but must:

It must be completed

- within 56 days of the actual birth or the placement of the child; or
- if the child is born early, within the period from the actual birth up to 56 days after the expected week of childbirth.

44.5 Only one period of leave is available irrespective of whether more than one child is born.

#### **45. Paid Paternity Leave (all employees)**

45.1 To qualify for **paid** paternity leave:

(a) You must be able to declare that:

- You are the baby's biological/adoptive parent, or
- Married to or in a civil partnership with the mother or child's primary adopter in the case of adoption, or
- Living with the mother in an enduring family relationship, but are not an immediate relative, **and**
- You will be responsible for the child's upbringing, **and**
- You will take time off work to support the mother/child's primary adopter or care for the child.

#### **You must also**

(b) Have worked continuously for the County Council for at least 26 weeks leading into the 15<sup>th</sup> week before the baby is due or in the case of adoption at least 26 weeks by the week in which the adopter is notified that the child has been placed for adoption,

**and**

(c) Earn at least the lower earnings limit (LEL) for National Insurance Contributions for the 8 week period ending with the qualifying week

You will be asked to confirm in writing that you meet these conditions.

- 45.2 If you do not qualify or are not eligible for Statutory Paternity Pay (SPP), you may be able to receive an income support allowance direct from the Department of Working Pensions (DWP) or Jobcentre Plus.

Shared Service will provide you with an SPP1 form which you will need to complete and send directly to these organisations.

#### **46. Amount of Paternity Pay Due - (different conditions apply)**

- 46.1 Subject to meeting the eligibility requirements as above, the employee's payment is based on their terms and conditions of employment:

- 46.2 For Employees on NJC (Green book) terms and conditions

- During **week 1** you will be entitled to full pay (offset against any entitlement to SPP during this period).
- During **week 2** you will be entitled to statutory paternity pay paid at a fixed flat rate (or 90% of your average weekly earnings whichever is the lesser).

- 46.3 For Teachers only

You will be entitled to statutory paternity pay paid at a fixed flat rate per week (or 90% of your average weekly earnings whichever is the lesser) for one or two weeks.

#### **47. Notice of your Intention to take Paternity Leave (all employees)**

- 47.1 Before the 15<sup>th</sup> week before the baby is expected or in the case of adoption within 7 days of being notified that a child has been matched, unless it is not reasonably practicable, you must inform your manager in writing of the following:

- That you intend to take paternity leave the week the baby is due/or in the case of adoption the week the child is expected to be placed for adoption and the date when you were notified that you were matched with a child for adoption;
- whether you wish to take one or two weeks leave; and
- when you want the leave to start.

You will also need to produce a copy of the mother's MATB1 (Maternity certificate).

- 47.2 You can change your mind about the start date of leave provided you give your manager at least 28 days notice, unless this is not reasonably practicable.

- 47.3 **Note:** Similar provisions apply in the case of adoption – simply substitute 'placed' for 'childbirth'. To qualify you must confirm in writing that:

- the purpose of the leave is to care for the child or to support the child's adopter;



- that you are married to the adopter or the partner of the child's adopter; and;
- that you expect to have responsibility for the upbringing of the child.

#### 47.4 Stillbirth

- If the pregnancy results in a still birth after 24 weeks you qualify for full paternity benefits and leave.
- If the baby is born alive at any point in the pregnancy but later dies, you qualify for full paternity benefits and leave.

### 48. PARENTAL LEAVE

48.1 This entitlement allows parents to take unpaid time off work, which is planned in advance, to look after or make arrangements for the child's welfare.

### 49. Eligibility

49.1 Parental leave is available to all parents who have a minimum of one year's continuous service.

### 50. Provisions

50.1 The following outlines the details of the scheme:

Both mothers and fathers can take parental leave. You do not have to be living with the child to qualify for parental leave.

You are entitled to a total of 18 weeks for each child (in the case of multiple births, the entitlement is 13 weeks per child) and 18 weeks for parents of disabled children. A week's parental leave is equal to the length of time that you normally are required to work in a week. If your working week varies, the time off is based on an average working week. You must take the time in blocks of one week or more up to the maximum of 13 weeks or 18 weeks if eligible.

You can choose to take parental leave any time up until the child's 18<sup>th</sup> birthday.

You cannot normally take more than 4 weeks in any year. An exception to this can apply however if added to maternity leave or with the special approval of your manager.

Employees should be encouraged to seek advice on how Parental leave is likely to affect their pension rights in the long term or how to buy back service.

50.2 Requests for parental leave will be granted subject to the following circumstances:

your leave will not unduly disrupt the business of your section/unit and in all cases where the Manager believes there is a problem in granting the request, no decision will be taken until

the circumstances have been discussed with you in a meeting, privately, in advance. Where a request for parental leave is not granted, you may be able to raise this as an issue through the grievance procedure.

- Your manager can, after consultation with the departmental personnel unit, postpone your leave entitlement for a period no longer than 6 months after the beginning of the period that you originally wanted to start your parental leave. They will discuss the issue with you and will ensure you receive confirmation of the postponement arrangements in writing no later than 7 days after your notice to take leave, stating the reason for the postponement and giving you new dates of parental leave. The length of leave will be equivalent to your original request.
- Work is at a seasonal peak and your absence would have an unfair impact on employees' workloads.
- A significant number of staff from the section/unit are absent from work already.
- Your absence would unduly harm the business of the unit.

50.3 Except that parental leave will not be postponed where the employee wishes to take this immediately on the birth of their child or their child being placed with them for adoption.

## **51. How to Apply**

51.1 Application for Parental leave must be made to your manager. The following minimum notice should be given:

1 or 2 days leave:	1 weeks notice
2 days plus leave:	3 weeks notice
Longer periods:	no less than the period of parental leave requested

51.2 Notice can be waived with the agreement of your manager.

51.3 Records of all parental leave granted will be maintained throughout your employment with the County Council. You can request details of your parental leave records at any time from your manager or the shared service centre.

## **Document and Version Control**

Version	Author	Implementation Date	Revision Detail
1.0	Vicky Blainey, Strategic HR	May 2015	Policy revised to reflect a legislative changes
2.0	Tracey Beardmore, Strategic HR	August 2016	Policy revised to include provision on stillbirth relating to paternity leave