

EAST HERTS COUNCIL

THE LOCAL JOINT PANEL – 25 SEPTEMBER 2006

REPORT BY THE LEADER OF THE COUNCIL

- 5(C) REVISED VERSIONS OF THE FOLLOWING HUMAN RESOURCE POLICIES AND PROCEDURES: (A) MATERNITY, PATERNITY AND ADOPTION LEAVE (INCLUDING THE RIGHT TO REQUEST FLEXIBLE WORKING AND INFORMATION ON MATERNITY PAY); (B) GENERAL LEAVE
- 

WARD(S) AFFECTED: NONE

RECOMMENDATION - that the policies and procedures be approved.

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1.0 Purpose/Summary of Report

- 1.1 To introduce revised policies that ensure the Council complies with its statutory duty on maternity, paternity and adoption rights and to update general leave provisions.

2.0 Contribution to the Council's Corporate Objectives

- 2.1 Improve the health and sustainability of the organisation.

3.0 Background

- 3.1 The current policy on Maternity Leave does not include adoption leave as set out in the Employment Act 2002. As part of the review general leave provisions were also included and have been updated to incorporate both accepted custom and practice and Best Practice outside the organisation.

4.0 Report

- 4.1 Because employers' obligations under recent employment legislation have been substantially increased, these drafts are the result of a review of the previous versions. Each policy sets out the rights and responsibilities of staff and managers across the broad range of leave situations.

- 4.2 The draft Maternity, Paternity and Adoption Policy & Procedure now includes all the family friendly legislation as at September 2006. It also contains information on maternity pay and on the statutory right of employees returning from maternity leave to request flexible working.
- 4.3 If further amendments are required in line with current Government proposals to extend rights on maternity and other linked situations, HR will bring the specific proposals to JLP next year.
- 4.4 The draft General Leave policy is broadly the same as the current version with small amendments to bring clarity for managers and staff. The key amendment is that the Career Break and Sabbatical leave section has been deleted and replaced with the wording from the draft Flexible Working Policy (which is still at draft stage). It was felt appropriate to do so to avoid conflicting advice and because the new wording reflects what good employers are now doing in this area to ensure equality across staff groups.

#### 5.0 Consultation

Both policies have been agreed by Corporate Management Team and through consultation with UNISON.

#### 6.0 Legal Implications

- 6.1 The policy complies with the Councils duty as an employer under current legislation.

#### 7.0 Financial Implications

- 7.1 None.

#### 8.0 Human Resource Implications

- 8.1 There are no implications. These policies now properly reflect current legislation.

#### 9.0 Risk Management Implications

- 9.1 Arguably more limited risk than for other draft policies brought to this forum. Nevertheless as a public body it is important that East Herts has complete and robust HR policies and procedures in place.

Papers attached

Maternity, Paternity and Adoption Leave Policy & Procedure  
General Leave Policy and Procedure

Contact Member: Councillor A P Jackson

Contact Officer: Rosemary Jones, H R Officer Ext 1630

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**EAST HERTS COUNCIL**

**MATERNITY, PATERNITY AND ADOPTION LEAVE**  
**(INCLUDING THE RIGHT TO REQUEST FLEXIBLE WORKING**  
**AND INFORMATION ON MATERNITY PAY)**  
**POLICY AND PROCEDURE**

**July 2006**

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## GLOSSARY

OMP	Occupational Maternity Pay
SMP	Statutory Maternity Pay
MA	Maternity Allowance
EWC	Expected Week of Childbirth – the week in which the baby is due – Sunday to Saturday
EDC	Expected Date of Childbirth
QW	Qualifying Week for the payment of SMP – 15 <sup>th</sup> week before the EWC
SSP	Statutory Sick Pay
DSS	Department of Social Security
NIC	National Insurance Contributions
MATB1	Maternity Certificate – issued by the doctor or midwife approximately 10 weeks before EWC
OML	Ordinary Maternity Leave – 26 weeks leave entitlement
AML	Additional Maternity Leave – up to 40 weeks leave entitlement for employees with more than one year's service
SPP	Statutory Paternity Pay
OAL	Ordinary Adoption Leave
AAL	Additional Adoption Leave



## **1 Introduction**

- 1.1 This guide has been revised to reflect the changes to the statutory provisions arising from the Employment Act 2002 and the NJC Green Book. It incorporates the new legislation from April 2003. Please note that it may be subject to change to reflect any changes to legislation which come into force in April 2007, details of which are currently in draft format.

## **2 Purpose and Scheme Coverage**

- 2.1 The purpose of this document is to provide staff and managers with information on maternity, parental and adoption leave entitlement.
- 2.2 This scheme is applicable to all staff employed by East Herts Council, including part-timers/job-sharers and casual workers.
- 2.3 The Council will endeavour to ensure that an employee does not suffer any detrimental treatment at work whilst exercising their rights to maternity, parental or adoption leave.
- 2.4 The Government website [www.tiger.direct.gov.uk](http://www.tiger.direct.gov.uk) has useful tools and information to help employees understand their personal situation in terms of entitlements and obligations.

## **3 Contractual Relationship During Absence**

- 3.1 Having granted a period of paid or unpaid leave, the contract of employment between both parties remains in existence and therefore a commitment to maintain confidence, trust and act in good faith during the period of leave.
- 3.2 Employees on periods of extended leave will be required to maintain regular contact with their Manager and, if appropriate, inform them of any changes in circumstance which may affect their intention to return to work.

- 3.3 Managers are also required to keep in touch with employees on maternity leave by sending information such as Team Update, Team Brief and details of any permanent or temporary vacancies **unless** the employee requests in writing not to be advised. If this is the case then the Manager should only contact the employee to advise of situations which may affect the contractual relationship such as a restructure. The Keeping in Touch Declaration is attached. **If this form is not completed then information will be sent out on a regular basis.**
- 3.4 Staff suspected of abusing the provisions of these procedures or fraudulently applying for leave will be subject to disciplinary investigation as detailed in the Disciplinary Procedure.

#### **4 Granting and Recording Leave**

It is the Line Manager's responsibility to consider applications for special leave and use the following information as guidelines.

## **Maternity Leave, Pay and Conditions**

### **5 Notification to take Maternity Leave**

- 5.1 You need to notify Human Resources of your pregnancy, the expected week of childbirth and the date you intend to start your maternity leave at least 28 days before your maternity leave begins, or as soon as reasonably practicable. Human Resources will reply within 28 days of notification stating the expected date of return from maternity leave.
- 5.2 It is advisable for an employee to inform their manager as soon as she has discovered that she is pregnant to allow the manager to make cover arrangements and to do a risk assessment on their work station.
- 5.3 You must also give your employer 28 days notice of the date you wish to start claiming your Statutory Maternity Pay (SMP). Note: SMP can only start on a Sunday and will normally be the Sunday after you start your maternity leave. If you wish to change the date you want to start your maternity leave or you decide to return to work earlier, you must give Human Resources at least 28 days notice.
- 5.4 An employee may notify their manager by completing the Maternity Leave Form (attached). This should be signed by the employee and their manager and returned to Human Resources.
- 5.5 The original MATB1 should also be forwarded to Human Resources. The MATB1 gives confirmation of the expected date of childbirth. This is made available from the mid-wife approximately 10 weeks before the Expected Week of Childbirth (EWC). As an employer we cannot pay maternity leave without your MATB1 form.

### **6 Ante-Natal Care**

- 6.1 Any pregnant employee is entitled to take reasonable paid time off to attend antenatal care appointments. Antenatal appointments are those recommended by a registered

medical practitioner, midwife or health visitor. This includes Aqua-natal care (if recommended).

- 6.2 Employees must agree their time off arrangements with their manager in advance of the appointments and produce their appointment card where appropriate.
- 6.3 Staff on flexi-time should record time to attend appointments as described in the Flexi-Time Policy in the section relating to hospital appointments.

### **Maternity Leave Generally**

Depending on their Status, employees can take up to 52 weeks maternity leave, currently made up of paid and unpaid leave. This can be no more than 11 weeks before the EWC and the balance of their entitlement can be taken after the birth of the child. This entitlement is likely to change in April 2007.

#### **7.1 Ordinary Maternity Leave**

- 7.1.1 All pregnant women are entitled to 26 weeks Ordinary Maternity Leave (OML). This is regardless of how long you have worked for local government and how many hours you work.

#### **7.2 Additional Maternity Leave**

- 7.2.1 If you have worked for the local government (continuous service) for 26 weeks by the 15<sup>th</sup> week before EWC you can also take a further 26 weeks Additional Maternity Leave (AML). AML is unpaid leave and starts at the end of OML, giving women who qualify for it a maximum entitlement of 52 weeks.

#### **7.3 Compulsory Maternity Leave**

- 7.3.1 Women are required by law to take a minimum of two weeks leave after the birth of the child.

## **7.4 Conditions applying to Maternity Leave**

- 7.4.1 Maternity leave and pay will commence on a Sunday following the week in which an employee has stopped work due to maternity reasons.
- 7.4.2 Maternity Leave can commence no earlier than 11 weeks and any time up to the week before the EWC (except see 7.4.3 below). Or from the time of childbirth if that is earlier.
- 7.4.3 An employee who is absent from work due to a pregnancy related reason after the beginning of the fourth week before the EWC of childbirth but before the date she notified, her maternity leave begins automatically on the day after her first day of absence.
- 7.4.4 If, regrettably, the baby dies or is still-born after 24 weeks pregnancy, the maternity scheme applies. Where this occurs before 24 weeks (miscarriage) or there is a termination, the needs of the employee and medical opinion will be considered in deciding the appropriate leave (be it sick leave or bereavement leave), according to the circumstances.

## **7.5 Annual Leave**

- 7.5.1 The entitlement to annual leave continues to accrue whilst on maternity leave. Where maternity leave straddles 2 annual leave years, annual leave accrued during maternity leave up to the end of the first leave year should be taken before the commencement of the maternity leave in order that it is not lost.
- 7.5.2 An employee requesting to return to work on a part-time contract will normally take all annual leave accrued on the full-time contract before the new working arrangements commence.

## **7.6 Maternity Support Leave**

- 7.6.1 Employees are entitled to a weeks paid Maternity Support Leave if they are the father, partner or nominated carer of an expectant mother.

## **7.7 Paternity Leave**

7.7.1 The government has introduced two weeks paternity leave for every new father at the same rates as statutory maternity pay or 90% of average weekly earnings if this is less.

7.7.2 Paternity leave can be taken from the date of birth or up to eight weeks from the birth and may be taken as one week at a time or two weeks together but not in odd days.

7.7.3 To qualify for SPP, the father will need to have worked for the local government for 26 weeks by the 15<sup>th</sup> week before the EWC and earn more than the Lower Earnings Limit. You have to give Human Resources notice of the EDC by the 15<sup>th</sup> week before the baby is due.

For further information visit [tiger.direct.gov.uk/cgi-bin/paternity.cgi](http://tiger.direct.gov.uk/cgi-bin/paternity.cgi).

## **8 Maternity Pay**

### **8.1 Employees with less than 1 year's continuous local government service at the beginning of the 11<sup>th</sup> week before EWC**

8.1.1 SMP will be paid at 90% of your average earning for 6 weeks and £100 per week (or 90% of average weekly earnings if this is less) for 20 weeks.

### **8.2 Employees with at least 1 year's continuous local government service at the beginning of the 11<sup>th</sup> week before EWC**

8.2.1 SMP will be paid at 90% of your average earnings for the first 6 weeks.

Then 50% of your average earnings for 12 weeks plus SMP at £100 per week. Total will not exceed full pay. NB If you do not intend to return to work see 8.2.2. below.

Remaining 8 weeks at £100 per week (or 90% of average weekly earning if this is less).

8.2.2 An employee who does not return to work at all or who does not return for a period of three months after maternity leave will be required to repay the twelve weeks half pay.

## **9 Notification to Return to Work**

### **9.1 Employees with less than 26 weeks service by the 15<sup>th</sup> week before EWC**

9.1.2 The Council will assume that the employee will be returning at the end of the 26 weeks. No written confirmation is required to return to work on that day.

9.1.3 An employee wishing to return to work earlier than this date should give 7 days notice in writing. Where less than 7 days notice is given, the manager may postpone the return to ensure 7 days notice, but not beyond the maternity leave period.

9.1.4 An employee not intending to return to work is required to give 28 days notice in writing before the end of the Ordinary Maternity Leave (OML) period. The contract of employment will terminate at the end of the 26 weeks.

### **9.2 Employees with more than 26 weeks service by the 15<sup>th</sup> week before EWC**

9.2.1 An employee wishing to return to work earlier than the end of the 26<sup>th</sup> week should give 7 days notice in writing. Where less than 7 days notice is given, the manager may postpone the return to ensure 7 days notice.

9.2.2 Employees who are entitled to AML should notify their manager in writing at least 21 days before the day on which she proposes to return, if this is before the end of the AML period. Where less than 21 days notice is given the manager may postpone the return to ensure 21 days notice, but not beyond the maternity leave period.

9.2.3 An employee not intending to return to work is required to give 28 days notice in writing before the end of the OML period. The contract of employment will terminate at the end of the 26 weeks.



- 9.2.4 An employee who does not return to work at all or who does not return for a period of three months after maternity leave will be required to repay the twelve week's half pay. National Insurance Contributions will not be refundable.
- 9.2.5 Where an employee is unable to return to work on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.
- 9.2.6 For an employee where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect her to return on the due date, she may instead return when work resumes or as soon as reasonably practicable.

## **10 Return to Work**

- 10.1 An employee has the right to return to the job in which they were employed under her original contract of employment and terms and conditions not less favourable than those, which would have been applicable to her if she had not been absent. Where this is not practicable by reason of redundancy, an employee will be entitled to be offered suitable alternative employment where one exists.
- 10.2 Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (e.g. a general re-organisation), which would have occurred if the employee were not absent.
- 10.3 The work to be done should be suitable to the employee and appropriate to the circumstances. The capacity and place in which the employee is to be employed and the terms and conditions of employment should not be less favourable to the employee if the employee had been able to return to the job in which they were originally employed.

## **11 Right to Request Flexible Working**

- 11.1 An employee who has parental responsibility for a child under the age of six or a disabled child under the age of 18 has the right to request flexible working. This includes biological parents, legal guardians, adoptive and foster

parents and spouses of these, including same sex partners as long as they have parental responsibility for the child.

## **11.2 Employee Request to Work Flexibly**

11.2.1 The request should be made in writing setting out that the request is being made under the statutory right to apply for flexible working and should confirm that employee's relationship with the child. This right can only be exercised if a previous application has not been made in the previous 12 months.

11.2.2 Employees returning from maternity leave should make their request to work flexibly in sufficient time to enable arrangements to be put in place to cover the work, if the request is to be granted. Therefore the request should be made at least 12 weeks before the anticipated return to work.

11.2.3 The request should set out what effect they think this will have on the service and any proposals they may have to deal with the change.

11.2.4 Under the terms of this right any contractual change will be permanent and there will be no automatic right to return to the previous pattern of work unless their manager agrees a temporary variation for a specific time. If both manager and employee agree, a trial period can be set up.

## **11.3 Manager's Response to a Request for Flexible Working**

11.3.1 Where managers agree such a request, they should seek advice from Human Resources on how to respond.

11.3.2 If the manager agrees to the proposal he/she should write back to the employee confirming the arrangement within 28 days of receipt of the application.

11.3.3 If the request is not workable, the manager should arrange a meeting within 28 days of receiving the application. The employee may bring a union representative or work colleague and the manager may be supported by a representative from Human Resources.

11.3.4 The outcome of the meeting will be confirmed by the manager within 14 days of the date of the meeting.

#### **11.4 Right of Appeal**

11.4.1 If the request is rejected the reason will be given and the employee notified of the right of appeal.

11.4.2 If the employee exercises his/her right to appeal, this should be made within 7 working days of the date of the letter from management advising of the decision.

11.4.3 The appeal hearing will take place within 14 days of the notification to appeal and will be heard by a more senior manager, who may be supported by HR. The employee will have the right to be accompanied.

11.4.4 The decision of the appeal hearing will be communicated within 14 days of the hearing.

#### **11.5 Other Considerations**

11.5.1 An employee reducing their hours of work will normally be required to take all annual leave accrued from their original working arrangements before their return.

11.5.2 Employees entitled to lease car contributions who return on a part-time basis will have the level of contribution made by the council reduced on a pro rata basis. The employee should contact the Head of Payroll for further details.

## **12. Impact on Conditions of Service**

### **12.1 Generally**

An employee returning to local government following a break for maternity reasons will be entitled to have previous service recognised for the purpose of calculating:

- Annual Leave
- Periods of Notice
- Sickness Payments
- Redundancy Payments
- Maternity Leave

Maternity Leave may have implications on other conditions of service. These have been detailed below.

### **12.2 Pension**

12.2.1 An employee who is a member of the Local Government Pension Scheme (LGPS) will continue to pay contributions, however this will be based on 6% of the employee's actual earnings during maternity leave.

12.2.2 An employee wishing to maintain their contributions or make contributions during the unpaid period of Maternity Leave must contact the Head of Payroll before Maternity Leave commences.

12.2.3 For further guidance contact the Head of Payroll or ITnet. An employee with a private pension should contact their pension provider for guidance.

### **12.3 Car Contributions**

12.3.1 Payments towards a car loan and lease car contributions will continue to be deducted from an employee's salary. An employee taking unpaid AML must make arrangements with the Head of Payroll to continue to make payments during that period.

12.3.2 Employees in receipt of an essential user allowance will continue to receive this payment during maternity leave at a rate of three months at full and three months at half, after which payments will cease until the employee returns to work.

12.3.3 An employee in possession of a council vehicle must ensure that it is left with East Herts before they take maternity leave. The vehicle will be returned to the employee on their return to work. Payment for the maintenance of the vehicle will cease during this period.

## **12.4 Council Property**

12.4.1 An employee will be required to return Council property, for example, a council mobile phone.

12.4.2 An employee will not be required to return items such as, for example, their security cards or uniforms.

12.4.3 An employee not returning to the Council's employ must ensure that all Council property is returned with their notice of resignation.

## **13 Parental Leave**

13.1 There is a right for both parents to take up to 13 weeks unpaid parental leave per parent per child, up until your child's 5<sup>th</sup> Birthday. You must have more than one year's continuous service in local government. This leave is also available to parents who adopt a baby.

13.2 You can take Parental leave at the end of Maternity Leave providing you give 21 days notice.

13.3 Parents of a child entitled to a disability living allowance are entitled to 18 weeks parental leave.

13.4 The regulations have been extended to parents of a child born or placed for adoption between 15 December 1994 and 15 December 1999. Those parents have up to the child's 18<sup>th</sup> Birthday if the child is entitled to a disability living allowance.

13.5 To apply for parental leave you need to write to your Head of Service who will forward your request to Human Resources and take advice.

## **14 Adoption Leave**

### **14.1 Entitlement to Adoption Leave**

14.1.2 Employees can apply to take Adoption Leave if they have 26 weeks continuous service with East Herts by the end of the notification week and have notified the adoption agency that he/she agrees that the child should be placed with him/her and on the date of placement.

14.1.3 Adoption leave mirrors maternity leave and managers should seek advice on applying the rules when individuals exercise their right to this leave. Therefore, qualifying service for both leave and pay would apply in the same way. Those employees who have had an adoption match should complete the Adoption Match form and pass it to HR in order to secure their statutory entitlement.

### **14.2 Ordinary Adoption Leave**

14.2.1 As with maternity leave, ordinary adoption leave is 26 weeks. It starts on the date the employee has specified or on the expected date of placement.

### **14.3 Additional Adoption Leave**

14.3.1 An employee who takes ordinary adoption leave is also entitled to additional adoption leave unless the ordinary adoption leave has ended prematurely. Additional Adoption Leave is a further period of 26 weeks, giving one year's leave in total.

#### **14.4 Placement Disrupted**

- 14.4.1 Where after starting the leave, an employee is notified that the child will not be placed, or after the child is placed, the child dies or is returned to the adoption agency, the employee will not be entitled to the full adoption leave period. In this situation the adoption leave will end 8 weeks after the end of the week in which the disruption occurred.

#### **14.5 Notification of Adoption Leave**

- 14.5.1 Applications for leave should be made to the Line Manager within at least 28 days of the expected date of placement or if the employee wants the leave to start on a predetermined date, notice must be provided at least 28 days before that date.

#### **14.6 Returning to Work after a period of Adoption Leave**

- 14.6.1 Employees who wish to return to work before the end of the AAL period must give 28 days notice of his/her return. If the employee fails to provide sufficient notice the employer may postpone the return so 28 days notice is given, but may not postpone beyond this.
- 14.6.2 If disruption on the placement occurs during AAL, the employee should still provide 28 days notice.
- 14.6.3 Employees who fail to return to work after a period of adoption leave or resign before completing three months service on return from adoption leave will be required to repay all monies received during the period of leave.

#### **14.7 Parental Leave for Adoptive Parents**

- 14.7.1 Parents/guardians of adoptive children may also be entitled to Parental Leave and should complete an SC4 form available on the intranet in order to obtain any statutory pay entitlement.

**EAST HERTS DISTRICT COUNCIL  
MATERNITY LEAVE CHECKLIST**

**Employee Details**

First Name \_\_\_\_\_ Surname \_\_\_\_\_

Payroll No. \_\_\_\_\_ Post No. \_\_\_\_\_

**Maternity Leave Details**

Details sent: \_\_\_\_\_ Arrange to see re: policy by: \_\_\_\_\_

Notice received: \_\_\_\_\_ MATB 1/matl 1 received: \_\_\_\_\_

Leave date: \_\_\_\_\_ EDC: \_\_\_\_\_

Confirmation letter sent: \_\_\_\_\_ Entitlement: OMP/SMP/MA\* (delete as approp)

**Changes Input**

Input to Establishment: \_\_\_\_\_ Input to Delphi: \_\_\_\_\_

Copied & sent to Payroll: \_\_\_\_\_ Copied to Mgr: \_\_\_\_\_

**Return Details** (start date: \_\_\_\_\_ ) Child born: \_\_\_\_\_

18 wk: \_\_\_\_\_ 40 wk: \_\_\_\_\_ Ent: SML/OL



Let re: notice to return to be sent by: \_\_\_\_\_ (send during 14<sup>th</sup> week)

Letter @ 18 wk if appl required by: \_\_\_\_\_ Letter received: \_\_\_\_\_

Letter @ 40 wk if appl required by: \_\_\_\_\_ Letter received: \_\_\_\_\_

Expected Return date: \_\_\_\_\_ Actual Date returned: \_\_\_\_\_

Input on Delphi: \_\_\_\_\_ Input on Establishment: \_\_\_\_\_



## MATERNITY LEAVE KEEPING IN TOUCH FORM

I confirm that I do not wish to be advised of any news at East Herts Council during my maternity leave. I understand that it will be my responsibility to keep myself informed of any secondment and job vacancies or other information which may be of interest.

I further understand that my Manager is obliged to advise me of any situations that may impact on the contractual relationship between myself and East Herts, such as restructures.

Name: .....

Job Title: .....

Date: .....

## Maternity Timetable

These tables illustrate timescales required for advising HR and accessing statutory and additional maternity benefits.

### Ordinary Maternity Leave

**15 weeks before to 26 weeks after Child Birth**

#### Before the birth

14 <sup>th</sup> week	Latest date to advise HR of expected week of childbirth
11 <sup>th</sup> week	Earliest Ordinary Maternity Leave can begin
10 <sup>th</sup> week	Approx date MATB1 form will be available from mid-wife
4 <sup>th</sup> week	Maternity leave will be automatically be triggered is the employee is absent from work wholly or partly because of pregnancy. Otherwise the employee has the right to choose when to start her maternity leave.
	<b>NB</b> where the baby is born before maternity leave commences, the date of childbirth will be regarded as the first day of maternity leave.

#### Following the Birth

Employee must take 2 weeks compulsory maternity leave following birth of child
Request for flexible working should be made 12 weeks before return to work
28 days notice required if employee does not intend to return to work after OML
28 days notice required by employee if they want to return before end of 26 weeks OML.

# Matching Certificate:

## Statutory Adoption Leave and Pay

This certificate when completed by the appropriate adoption agency, may be used as evidence for the purposes of Statutory Adoption Leave and Pay. It confirms that the named person(s) has been matched with a child for adoption.

**A.** Name and address of adoptive parent(s):


I confirm that the person(s) named above has been matched by this agency with a child for adoption and,

they were notified of this on:

--

It is expected that the child will be placed with them on:

--

The child has already been placed with them, this occurred on:

--

**B.** Agency name and address:


Agency stamp

This is an adoption agency within the meaning of the Adoption Act 1976 or the Adoption (Scotland) Act 1978.

Name		Title	
Signature		Date	



**Notes for adoptive parents: Statutory Adoption Leave and Pay**

**This certificate can be used as evidence for the purposes of Statutory Adoption Leave and Pay. It confirms that you**

*have been matched with a child for adoption by an adoption agency.*

**Statutory Adoption Leave and Pay**

If you are matched with a child (whether from the UK or overseas) by an adoption agency, you may be entitled to:

- Statutory Adoption Pay (SAP) – at least part of your wages will be paid for 26 weeks. You will get £100 a week or 90% of your average weekly earnings if this is less than £100.
- Adoption Leave – time off work of up to 52 weeks (26 weeks ordinary adoption leave plus 26 weeks additional adoption leave).
- If you are adopting the child jointly with your partner, you must have chosen to take adoption leave and pay. Your partner, or the partner of an individual adopting, may be eligible for Statutory Paternity Leave and Pay.

Depending on your circumstances, you may not qualify for adoption leave and pay. Your employer will let you know. If this is the case, you will get more advice and information at the time.

You can find more information on Statutory Adoption and Paternity Leave and Pay from:

- The DTI booklet, *Adoptive Parents – rights to leave and pay – a guide for employers and employees*, available from DTI publications orderline on 0870 1502 500.
- [www.tiger.gov.uk](http://www.tiger.gov.uk)
- [www.inlandrevenue.gov.uk/employer](http://www.inlandrevenue.gov.uk/employer)

**Other help**

Booklet BC1, *Babies and Children*, is a basic guide to benefits and tax credits for anyone expecting a baby or caring for children and is available from your local jobcentre plus or social security office.

**Terms and conditions**

In these notes, we haven't covered all of the law that relates to Statutory Adoption Leave and Pay. If you are in any doubt about your entitlement, in the first instance talk to your employer.

You must:

- Be matched with a child for the purposes of adoption by an adoption agency.
- Have worked continuously for your employer for 26 weeks, up to and including the week the adoption agency told you that you were matched with the child.

You must give your employer:

- 28 days notice of when you expect your SAP to start, or if that is not reasonably practicable, as soon as is reasonably practicable.

- Notice for adoption leave within 7 days of the adoption agency telling you that you have been matched with your child, saying when you expect your leave to start.

If this is not possible, please discuss the situation with your employer.

**Disagreements**

If you are unable to resolve any disagreement or you need further advice about:

- SAP – contact your Inland Revenue office, you will find the number in the Phone Book.
- Adoption Leave – contact ACAS, you will find the number in the Phone Book.



**EAST HERTS COUNCIL**  
**LEAVE POLICY AND PROCEDURE**

**JULY 2006**

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## **1 Introduction**

- 1.1 This guide has been revised to reflect the changes to the statutory provisions arising from the Employment Act 2002 and the NJC Green Book. It incorporates the new legislation from April 2003.

## **2 Purpose and Scheme Coverage**

- 2.1 The purpose of this document is to provide staff and managers with information on the various types of leave entitlement.
- 2.2 This information is applicable to all staff employed by East Herts Council.

## **3 Contractual Relationship During Absence**

- 3.1 Having granted a period of paid or unpaid leave, the contract of employment between both parties remains in existence (except in the case of Sabbatical Leave) and therefore a commitment to maintain confidence, trust and act in good faith during the period of leave.
- 3.2 Employees on periods of extended leave will be required to maintain regular contact with their Manager and, if appropriate, inform them of any changes in circumstance which may affect their intention to return to work.
- 3.3 Staff suspected of abusing the provisions of these procedures or fraudulently applying for leave will be subject to disciplinary investigation as detailed in the Disciplinary Procedure.

## **4 Granting and Recording Leave**

- 4.1 It is the Line Manager's responsibility to consider applications for special leave and use the following information as guidelines.

## **5. Holiday Leave**

### **5.1 Public Holidays**

Employees shall, irrespective of length of service, be entitled to a holiday with a normal day's pay for each of the statutory, general and public holidays as they occur. For part workers this is based on reducing the part timer's hours by 1/5<sup>th</sup> for a bank holiday week. Therefore someone

working 20 hours per week would be entitled to receive 4 hours for each bank holiday.

## **5.2 Annual Leave**

### **5.2.1 Leave Year**

The Council operates an anniversary leave period commencing on the date an employee commenced working for the Council. Those employees starting or leaving employment during the year are entitled to leave proportionate to the number of completed months of service during the year

### **5.2.2 Part Time Staff**

Leave entitlement will be applied pro-rata for part time staff. For calculation perhaps one working day equates to 444 minutes (or 7 hours and 24 minutes). Therefore someone working 20 hours per week with 22 days holiday per year, would be entitled to 5280 minutes which is 88 hours or 12 days holiday per year.

### **5.2.3 Approval for Taking Leave/Carrying Forward Leave**

All leave is taken at the discretion of your Line Manager and requests will need to be looked at in the context of what cover is available within the team during that period to ensure that the service provided is not disrupted.

Managers should try and plan staffing arrangements well in advance so that peak holiday periods are adequately covered so that holiday requests can be treated equitably.

Where a late request is received, the employee should not expect or assume that it will be granted and managers should treat such requests, due to unexpected events, sympathetically. As a general rule, however, employees should give at least twice the amount of notice that they wish to take as leave. Therefore if 5 days holiday is being requested, at least 10 working days notice is required.

Up to five days annual leave may be carried forward into the next leave year with the prior written consent of your line manager.

### **5.2.4 Continuous Service**

Staff who have 5 years local authority service with East Herts or another local authority are entitled to an extra 5 days

### 5.2.5 Statutory Days

Local authority employees are entitled to 2 extra days of which are statutory. These are taken as part of normal annual leave and are included in the table below.

### 5.2.6 Basic Leave Entitlement

The basic leave entitlement is dependent upon what scale point an individual has reached. It is banded as follows:-

SCP 6 - 21	22 days
SCP 22 - 28	24 days
SCP 29 - 31	26 days
SCP 32 - 34	27 days
SCP 35 and above	28 days

## **BEREAVEMENT**

### **6. Bereavement of Immediate Family Members**

- 6.1 When an Employee suffers the loss of an immediate family member, for example partner, parent or sibling, the employee will be entitled to 5 paid days leave. Leave may be taken at/or around the time of bereavement at the employees request.
- 6.2 If the employee has the same relationship with the deceased as described above, for example having been brought up by the person, then the same provision of leave will apply.
- 6.3 Managers should endeavour to facilitate any requests for leave in these circumstances. However if the Manager has any query regarding leave arrangements these should be discussed with the appropriate Director and Human Resources before any action is taken.
- 6.4 There may be circumstances where an employee requires more than the 5 days leave when an immediate family member has died. In this event the employee should make his/her Line Manager aware of the situation in order that he/she may seek further guidance from the Director.
- 6.5 Directors are asked to consult with Human Resources in these circumstances in order to ensure leave requests are dealt with sensitively and consistently.

## **7. Bereavement of Relatives / Friends**

- 7.1 When an employee suffers the loss of a relative or friend, for example grandparent, aunt/uncle or neighbour, the employee will be entitled to 1 days paid leave to attend the funeral.
- 7.2 Managers should endeavour to facilitate any requests for leave in these circumstances. However if the Manager has any query regarding leave arrangements these should be discussed with the appropriate Director and Human Resources before any action is taken.
- 7.3 There may be circumstances where an employee requires more than 1 days leave when a relative or friend has died. In this event the employee should make his/her Line Manager aware of the situation in order that he/she may seek further guidance from the Director.
- 7.4 Directors are asked to consult with Human Resources in these circumstances in order to ensure leave requests are dealt with sensitively and consistently.

## **CAREER BREAKS**

### **8 What is a Career Break?**

- 8.1 A career break enables an employee to take an unpaid break from work for personal reasons and maintain continuity of service with the Council. The employee is required to give a minimum of 3 months notice to commence a career break. With the exception of continuity of service all other terms of the employment contract with the Council will be suspended. On return, at an agreed date following the career break, the employee will be able to return to the same or similar post within the Council without competitive selection.

It is recognised that during an employee's working life there will be times when personal commitments may take priority over work e.g. bringing up children, longer term care for sick or elderly relatives, or pursuing a course of further education. The Council can accommodate such personal commitments, where operationally practicable, through career breaks.

### **9 What is the purpose of a career break?**

- 9.1 The purpose of a career break could be:

- To extend the maternity leave period
- To extend a period of adoption leave
- To care for dependent relatives
- To enter full time education
- Extended foreign travel
- To convalesce after a period of illness or major life crisis such as bereavement or divorce

These reasons are not all inclusive and others may be considered, with the major exception of taking up other paid employment.

### **10 How long is a career break?**

- 10.1 The minimum break is 3 months and the maximum break is 1 year.
- 10.2 There is no limit to the number of career breaks an employee can take providing that they return to work for the Council for a minimum of 2 years between each career break.

## **11 Who can apply for a career break?**

- 11.1 All permanent employees with at least two years continuous East Herts service regardless of the number of hours worked at eligible to apply for a career break.

## **12 What happens to the employee's job?**

- 12.1 After a career break the employee will have the right to return to an equivalent position (in terms of service area and pay) where this is available. However, where this is not available the Council will offer an alternative which can include work elsewhere in the Council at a different level and pay. The new job would need to be a suitable alternative, within the definition used when employees are facing redundancy. (see redundancy policy for more details)

## **13 Extending or cutting short the career break**

- 13.1 If the employee wishes to extend the career break, they must do so in writing giving a minimum of three months notice. The Line Manager will give consideration to the extension along the same lines as the original request and may grant up to one year in total.
- 13.2 There will be no automatic right to cut short a career break but managers will consider such requests from an employee as they can accommodate, without impacting on service level.

## **CONTRACTUAL ISSUES AND OTHER PRACTICAL ARRANGEMENTS**

### **14 Contract of employment**

- 14.1 The employee will be required to sign an agreement suspending all terms of their contract of employment, with the exception of continuity of service with the Council. The contract of employment will remain suspended for the duration of the career break. The employee will return to the same or similar post subject to any structural changes following any organisational reviews. This will not constitute a break in service and general conditions of service will apply as at the start of the career break when the employee returns to work.

### **15 Rate of Pay/Pension**

15.1 At the end of the career break the employee will return to the same incremental point they were on at the start of the career break which may result in salary protection if the post has been downgraded in a restructure.

15.2 Employees considering career breaks should contact Serco pensions for more information.

## **16. Disciplinary warnings**

16.1 Any live disciplinary warnings will be suspended for the duration of the career break and will be carried forward upon the employee's return to work.

## **CITIZENSHIP DUTIES**

### **17. Elected Members of other Council Authorities**

17.1 Staff who undertake duties as an Elected Member in another authority will be allowed to take up to a maximum of 10 days paid leave per annum. Leave must be used to attend official functions or meetings. Requests for leave must be accompanied by proof that attendance is required.

17.2 All staff paid on or above SCP 44 are Politically Restricted and therefore unable to undertake these duties. There are also staff who because of their role will be restricted. In both circumstances the restriction will be detailed in the employee's contract.

17.3 It is the Line Manager's responsibility to approve and monitor requests for time off to undertake Civic Duties, however if the Manager has any query regarding leave arrangements these should be discussed with the appropriate Director and Human Resources before any action is taken.

### **18. Magistrates**

18.1 Staff who are Magistrates will be allowed to take up to a maximum of 10 days paid leave per annum. Leave must be used to attend court sessions. Requests for leave must be accompanied by proof that attendance is required.

18.2 It is the Line Manager's responsibility to approve and monitor requests for time off to undertake Civic Duties, however if the Manager has any query regarding leave arrangements these should be discussed with the appropriate Director and Human Resources before any action is taken.

## **19. Court Attendance as a Witness/Jury Member**

19.1 Staff summoned as a witness or jury member will be allowed the necessary time off to attend court. The employee should inform their Line Manager at the earliest convenience and pass on the summons document to the Head of Payroll and Cashiers for completion.

19.2 Any monies received by an employee to compensate for loss of pay must be declared to the Head of Payroll and Cashiers.

## **20. Active Citizen Duties**

20.1 Staff who volunteer their expertise for public service may take up to 3 days paid leave per annum to attend formal meetings or functions.

20.2 Applications for leave must be accompanied by proof that attendance is required. Leave will be granted at the discretion of the Line Manager.

20.3 The definition of active citizenship duties would include School Governors, Trustees of Charitable Trusts, Management Committee members of charitable trusts, members of publicly constituted watchdog organizations. NB This list is not exhaustive and other bodies may fall into this category.

## **21. Service in Non-Regular Forces**

21.1 Employees who are members of Non-Regular Forces may be required to attend summer camp on an annual basis. Two weeks paid leave will be allowed in these circumstances.



## **WORK RELATED DUTIES**

### **22. Time off to Undertake Trade Union Duties**

22.1 Unison Stewards and officers are entitled to reasonable time off for unison activities giving their line manager as much notice as possible.

22.2 When management requests Unison to attend meetings the employees concerned will be allowed paid time off from their normal duties to attend. Any additional expenses incurred by attendance will be reimbursed under the normal Council guidelines.

### **23. Unison Annual General Meeting**

23.1 Unison will consult the Chief Executive on the arrangements for the Annual General Meeting in advance of it taking place.

23.2 The meeting will generally be held at lunchtime and UNISON staff attending may credit flexi time up to the end of the meeting.

### **24. Executive and Safety Committee Meetings**

24.1 Unison will hold monthly executive meetings alternating between Hertford and Bishop's Stortford.

24.2 The meeting may commence any time after 16.00 hours and staff attending may credit the flexi system until the end of their attendance or until 17.30 hours which ever is first.

### **25. Other Trade Union Activities**

25.1 Managers may allow reasonable time off for Unison Officers to attend training courses, regional meetings and the annual conference at the exigencies of the service.

## **26. Training Courses and Day Release**

- 26.1 Employees who are required by the Council to participate in training events and/or day release courses will be allowed paid time off.
- 26.2 Staff will not be required to work extra hours to compensate for time off to attend Council run training events or courses.

## **27. Examination & Study Leave**

- 27.1 Employees who are required by the Council to undertake training course examinations will be allowed paid time off to do so.
- 27.2 Employees may apply to take one day's study leave per exam at the discretion of their Line Manager. Time off to resit exams will normally be taken as annual or flexi leave.
- 27.3 Employees should inform their Line Manager of dates and times of examinations in order that cover arrangements can be made.

## **28. Interviews in other Local Authorities**

- 28.1 Staff will be able to take up to 5 days paid leave per annum in order to attend interviews at other Local Authorities.
- 28.2 It is the Line Manager's responsibility to approve and monitor requests for time off to attend Local Authority Interviews, however if the Manager has any query regarding leave arrangements these should be discussed with the appropriate Director and Human Resources before any action is taken.
- 28.3 Any monies received by an employee attending summer camp as pay must be declared to the Head of Payroll and Cashiers. Employees will not receive pay from both parties and therefore a claw-back may be made on money received from East Herts.

## **LEAVE FOR MEDICAL REASONS**

### **29. Medical Screening**

- 28.1 Staff will be entitled to paid time off for the purpose of medical screening as deemed necessary by their GP.
- 28.2 Employees should inform their Line Manager of date and times of the appointment and provide details of appointments as soon as practicable in order that cover arrangements can be made.

### **30. Hospital Appointments**

- 30.1 Staff are entitled to paid time off to attend hospital appointments following referral by their GP.
- 30.1 Staff should follow instructions on advising their managers etc as set out in 28.1.2 above.

### **31. Fertility Treatment**

- 31.1 An employee will be given reasonable time off to undertake fertility treatment.
- 31.2 Employees must agree their time off arrangements with their manager in advance of the appointments and produce their appointment card where appropriate.
- 31.3 Staff on flexi-time should record time to attend appointments as described in the Flexi-Time Policy in the section relating to hospital appointments.

### **32 GP and Dental Appointments**

- 32.1 Normally employees should use flexi time to visit their GP or arrangement appointments outside work time.

### **33. DISCRETIONARY LEAVE**

33.1 Directors have discretion to grant to staff up to 5 days paid leave per annum. Discretionary leave will normally be used by staff who need to be with a seriously sick dependant or relative, however the circumstances of each application will be considered thoroughly.

### **34. TIME OFF FOR RELIGIOUS OBSERVANCE**

34.1 Many religions or beliefs have special festival or spiritual observance days. Employees may request holiday in order to celebrate festivals or attend ceremonies. Managers should sympathetically consider such requests and grant leave out of holiday entitlement.

## **UNPAID LEAVE**

### **35. Time off for Dependants**

35.1 Staff will be allowed reasonable unpaid time off to take the appropriate action necessary to resolve or deal with an issue which has arisen because of a dependant. The need to take time off will have arisen without notice and cannot be resolved without the employee's assistance. This provision is from Parental Leave (see section 12) which is planned in advance.

35.2 Those classed as 'dependant' will normally be a child, partner or someone who reasonably relies on the employee for care and assistance.

35.3 Employees will be expected to contact their Line Manager as soon as practicable and advise them on the length and reason for their absence.

35.4 Examples of when Time off for Dependants Leave would be appropriate are as follows:-

- To assist when a dependant falls ill, is injured or assaulted,
- To make arrangements for the provision of care for a dependant who is ill or injured,
- Because of an unexpected disruption of care arrangements,
- To be with a dependant when she gives birth,
- In consequence of a dependants death.

35.5 These examples are not exhaustive and Managers receiving requests for other than those situations detailed above should consult with their Director and Human Resources before granting leave.

### **36. Court Attendance to Pursue a Personal Claim**

36.1 Staff members who are attending court as the accused or to pursue a personal claim will be required to take annual or flexi leave.

36.2 If the employee has no leave available the Director may consider unpaid leave at the exigencies of the service.



## Becoming an adoptive parent

If you want to take time off work to support your partner who is adopting a child you may be entitled to

- Statutory Paternity Pay (SPP) - at least part of your wages will be paid for two weeks. You will get the weekly rate of SPP current at the time of your paternity leave, or 90% of your average weekly earnings, whichever is less.
- Paternity leave - up to two weeks time off.

Depending on your circumstances you may not qualify for SPP and/or paternity leave. Your employer will let you know. If this is the case you will get more advice and information at the time.

If you need help with this form please contact any HM Revenue & Customs office. Look up 'Inland Revenue' or 'HM Revenue & Customs' in your local phone book.

Please read through the terms and conditions on page 2 and if you think you might qualify, then

- fill in page 3, and
- give the completed page to your employer.

### Other help

The Department of Trade and Industry (DTI) publication *Adoptive Parents - rights to leave and pay - a guide for employers and employees* gives information on these rights. For details of other booklets covering employment protection and related equal opportunities legislation, see [www.dti.gov.uk/workingparents](http://www.dti.gov.uk/workingparents)

Go to [www.dwp.gov.uk](http://www.dwp.gov.uk) for details of social security benefits.

You can also contact

- any HM Revenue & Customs office
- any Advisory Conciliation and Arbitration Service (ACAS) office (see [www.acas.org.uk](http://www.acas.org.uk) for details)
- [www.tiger.gov.uk](http://www.tiger.gov.uk) (Tailored Interactive Guidance on Employment Rights).

Information on all aspects of employment legislation is also usually available from any Citizens Advice Bureau, low pay units and Trade Unions.

If you are not entitled to SPP you should contact your adoption agency to find out if you can get any other help.



## Terms and conditions

On this form we have not covered all of the law that relates to Statutory Paternity Pay (SPP) and leave. So if you are in any doubt about your entitlement talk to your employer or contact any HM Revenue & Customs office.

SPP and paternity leave are available to any employee (male or female) who is

- the partner of someone adopting a child on their own, **or**
- the partner of the adopter (adopting a child with their partner).

It is not normally available to foster parents or step-parents or their partners who go on to adopt a child.

You must be able to declare that

- you are
  - married to or in a civil partnership with the person adopting the child, **or**
  - living with the person adopting the child 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 person adopting the child or to care for the child.

If you and your partner are adopting a child together you must also declare that you have chosen not to receive Statutory Adoption Pay.

You must be continuously employed

- for 26 weeks up to and including the week the person adopting the child is told by the adoption agency that they have been matched with the child, **and**
- from the week the person adopting the child is told by the adoption agency that they have been matched with the child until the child is placed with them.

To get SPP you must also have average earnings over a set period above a set amount - your employer will work this out for you.

You cannot start your paternity leave before the date you are placed with a child. You can choose to take one or two whole weeks leave which must end by the 56th day after the date the child is placed with the person adopting them. You cannot take odd days off work, but the weeks can start on any day, for example from Tuesday to Monday.

You must discuss your leave plans with your employer and tell them what time off you want within seven days of the date the adoption agency told the person adopting the child that they have been matched with the child. You can change your mind, but you must give your employer 28 days notice of the new date. You and your employer may find it helpful if you fill in a new version of this form.

If you cannot tell your employer what time off you want in time, please discuss the situation with your employer. For example, sometimes a child is matched and placed very quickly. If you are unable to resolve any disagreement contact any HM Revenue & Customs office for advice.

## Disagreements

If your employer tells you that you are not entitled to SPP and/or paternity leave you can challenge that decision. If you need help with this, for

- SPP - contact your HM Revenue & Customs office
- Paternity leave - contact Advisory Conciliation and Arbitration Service (ACAS), on helpline number **08457 47 47 47**. In Northern Ireland, contact the Labour Relations Agency on **028 9032 1442**.

## Penalties

Penalties may be charged where a person, either fraudulently or negligently, gives incorrect information or makes a false statement or declaration for the purpose of claiming entitlement to Statutory Adoption, Paternity, Maternity or Sick Pay.

## Your dates for pay and leave

The adoption agency told the person adopting the child that they had been matched with the child on

The child is expected to be placed on

And, if the child has been placed, please enter the date they were placed

I would like my SPP and/or paternity leave to start on

I want to be away from work for one/two\* weeks *(\*delete as appropriate)*

## Your declaration

Surname

First name(s)

National Insurance number

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**You must tick this box if you are adopting a child with your partner.**

I declare that I am adopting the child with my partner and I want to receive Statutory Paternity Pay and paternity leave not Statutory Adoption Pay and adoption leave.

**You must be able to tick all three boxes below to get Statutory Paternity Pay and paternity leave.**

**I declare that**

- I am
  - married to or in a civil partnership with the person adopting the child, or
  - living with the person adopting the child in an enduring family relationship, but am not an immediate relative, and
- I will have responsibility for the child's upbringing
- I will take time off work to support the person adopting the child or to care for the child.

Signature

Date

**Give this page to your employer, but keep the terms and conditions for your records.**