



# **EAST HERTS COUNCIL**

## Family Friendly Policy

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### **Policy Statement**

March 2024

**Policy owner: Human Resources**

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## **1.0 Introduction**

- 1.1 The Council is committed to treating you with compassion and inclusion. The Council seeks to be a great place to work by providing a work environment which accommodates family requirements where possible, thereby improving the quality of working life.
- 1.2 The purpose of this policy is to detail statutory and contractual obligations for Family Leave and pay including Maternity, Paternity, Adoption and Parental Leave and pay. This Policy also covers arrangements for employees undertaking IVF.

## **2.0 Who this policy applies to**

- 2.1 For Maternity/adoption leave and pay:
  - any employee of the Council who has become pregnant, who is fostering to adopt or who has been matched with a child for adoption.
  - Any employee of the Council that has recently given birth to a child.
- 2.2 For paternity leave and pay:
  - any employee of the Council, whose partner has become pregnant, is fostering to adopt or been matched with a child for adoption.
- 2.3 For Shared Parental leave:
  - employees who have elected to bring their maternity/adoption leave to an early end and opt-In to a period of shared parental leave and pay instead;
  - any employee whose partner has become pregnant or been matched with a child for adoption (subject to certain qualifying and earnings criteria);
- 2.4 For unpaid parental leave:
  - any employee with at least one years' service who has a child under 18 years old.

## **3.0 Responsibilities**

### **3.1 Employer Responsibilities**

- 3.1.1 The Council will take all reasonable steps to safeguard the health, safety and welfare of new, expectant or nursing mothers, and of their unborn children.

3.1.2 An assessment will be conducted on all risks to new or expectant mothers arising from their work activities and appropriate preventative or control measures will be implemented. This will be regularly reviewed to monitor the individual's ability to work safely and without risk. All problems identified will be addressed, so far as is reasonably practicable, and all risks will be adequately controlled and safe systems of work established. An assessment of the employees display screen equipment and workstation will be carried out and reviewed as required.

### **3.2 Manager Responsibility**

3.2.1 All managers will be responsible for familiarising themselves with the contents of this policy so that they can provide guidance and support to their staff on maternity, paternity, adoption and parental leave and pay as their initial and main point of contact.

3.2.2 All managers must view all applications with an open mind and follow a fair and justifiable decision-making process for all types of Family Leave including Maternity, Paternity, Adoption and Parental Leave without any undue delay.

3.2.3 All managers must consider what training or support the employee may require to integrate them back into the workplace after a period of leave.

### **3.3 Employee Responsibility**

3.3.1 Employees are responsible for co-operating in the Family, Maternity, Paternity, Adoption and Parental Leave procedures and must make every effort to attend meetings arranged by management

3.3.2 Employees are responsible for informing their manager soon as possible that they intend to take leave/pay in accordance with the requirements in the policy.

3.3.3 Employees will be asked to help with the relevant risk assessment(s); it is important that any advice an employee has received from their doctor or midwife which could impact on the assessment is passed on to the line manager or person carrying out the risk assessment(s)

## **4.0 Maternity**

### **4.1 Maternity Leave**

- 4.1.1 Employees are encouraged to tell their manager about their pregnancy as soon as they feel able to, especially if they are feeling unwell or work in an area that may put them at risk.
- 4.1.2 Employees need to notify HR of their pregnancy, the expected week of childbirth and the date they intend to start their maternity leave at least 28 days before their maternity leave begins, or as soon as reasonably practicable, by completing the maternity leave form (appendix 1). This should be signed by the employee, their manager and returned to Human Resources. Human Resources will reply within 28 days of notification stating the expected date of return from maternity leave.
- 4.1.3 The original MATB1 should also be forwarded to Human Resources. The MATB1 gives confirmation of the expected date of childbirth. This is usually available from the midwife from 21 weeks of pregnancy. The council are unable to process maternity pay without the MATB1 form.
- 4.1.4 An employee is automatically entitled to a period of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML), regardless of hours of work or length of service, where the appropriate notice has been given. This means an employee can remain on maternity leave for a total period of up to 52 weeks. Employees may receive Statutory Maternity Allowance, Statutory Maternity Pay and/or Occupational Maternity Pay during this period; depending on their eligibility. Women are required by law to take a minimum of two weeks leave after the birth of the child.

### **4.2 Condition applying to Maternity Leave**

- 4.2.1 Maternity leave may start on any day of the week and can commence no earlier than 11 weeks and any time up to the day before the expected date of childbirth (EDC). If the baby is born early (before the planned leave date) the maternity leave will begin from the day after the birth.
- 4.2.2 An employee who is absent from work due to a pregnancy related reason after the beginning of the fourth week before the expected week of childbirth (EWC) but before the date notified for maternity leave, the maternity leave begins automatically on the day after her first day of absence.

4.2.3 Employees have to be advised that if the baby dies or is stillborn 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.

### **4.3 Maternity Pay**

4.3.1 The council operates two maternity pay schemes:

Statutory Maternity Pay, which is a legal entitlement to a set weekly payment (providing employees meet the eligibility criteria set out below)

Occupational Maternity Pay, which is an enhanced payment made by the council in accordance with their terms and conditions (eligibility for this payment depends on the criteria set out below). Depending on the employee's length of service, they may have entitlement under one or both of these schemes.

#### **Statutory Maternity Pay (SMP)**

4.3.2 Statutory maternity pay is payable for up to 39 weeks during maternity leave. To qualify for SMP, employees must have been continuously employed in local government for at least 26 weeks, at the start of the 15<sup>th</sup> week before the EDC. This 15<sup>th</sup> week is known as the qualifying week (QW).

4.3.3 If an employee is not entitled to SMP, Payroll will issue them with a form SMP1, explaining why they are not entitled to SMP and how they can claim State Maternity Allowance (SMA). SMA is the same as lower rate SMP or 90% of average weekly earnings, whichever is less.

#### **Rates of SMP**

4.3.4 For the first six weeks, SMP is paid at the higher rate, which is equivalent to 90% of average weekly earnings calculated over the period of eight weeks up to and including the qualifying week.

4.3.5 The standard rate of SMP is paid for the remaining 33 weeks (or less if they return to work sooner). This is paid at the lower of either the standard rate set by the Government or 90% of average gross weekly earnings.

4.3.6 Payment of SMP cannot start prior to the 11<sup>th</sup> week before the EWC. SMP can start from any day of the week in accordance with the date the employee starts their maternity leave.

4.3.7 SMP is treated as earnings and is, therefore, subject to PAYE and national insurance deductions. SMP is payable whether or not the employee intends to return to work after maternity leave.

### **Occupational Maternity Pay (OMP)**

4.3.8 To qualify for OMP, employees must have completed at least one year's continuous local government service at the 11<sup>th</sup> week before the EWC. If an employee has less than one year's continuous local government service at the 15<sup>th</sup> week before the expected week of childbirth, they will not qualify for OMP, but will still get SMP or SMA as appropriate.

4.3.9 If an employee is eligible for OMP, they will receive 12 weeks half pay after the six weeks at 90%, on top of the standard rate SMP (unless half pay plus standard rate SMP exceeds normal pay) The 12 weeks half pay is calculated using the employee's pay at the point of going on maternity leave. OMP can be paid in two ways:

- Paid as it falls due (i.e. in their regular pay)
- As a lump sum on their return to work

4.3.10 The qualifying week for SMP is the 15<sup>th</sup> week before the week the baby is due but the qualifying week for OMP is the 11<sup>th</sup> week before the week the baby is due. If the baby is born early, before or during the qualifying week and the employee would have completed 26 weeks employment but for the early birth, the continuous service rule for OMP is satisfied.

4.3.11 If an employee does not return to work following their maternity leave or leaves within 13 weeks of returning to work, they will need to repay their OMP.

4.3.12 If half pay plus standard rate SMP would exceed normal pay, the 12 weeks of 50% enhanced pay will be spread over 20 weeks to ensure that the employee is not paid over and above their normal salary whilst on maternity leave. SMP will be paid as normal.

### **Casual workers**

#### **SMP**



4.3.13 Casual workers are eligible for SMP as long as they meet the continuous service and earnings conditions. Employees are considered to have continuous service as long as they work for at least one day in every week, a week beginning on a Sunday and ending on a Saturday.

4.3.14 If there are weeks where a casual worker did not work, this will not break their continuous service if the reason they did not work was one of the following:

- They were unavailable to work because they were off sick
- They were taking annual leave
- The council did not require them to work

4.3.15 If they did not work for the council in the 15th week before the week the baby is due for one of these reasons, they will still be able to claim SMP as long as they did further work for the council after that week.

4.3.16 Casual workers who are paid irregularly must find their last pay date before or in the 15th week before the week the baby is due, and count back eight weeks. This is their calculation period. If casual workers do not qualify for SMP, they may be able to claim SMA. Casual workers should seek advice from HR and Payroll if they think they are entitled to SMP.

4.3.17 Casual workers may also be eligible for OMP if they have at least one year's continuous local government service at the 11<sup>th</sup> week before the EWC.

4.3.18 If you carry out paid work for the Council or an alternative employer whilst in receipt of OMP or SMP you should discuss this with your line manager as this may affect your entitlement to maternity pay and may be considered as fraud.

#### **4.4 Risk Assessment**

4.4.1 Once you have made your manager aware that you are pregnant, your line manager will complete a risk assessment for new and expectant mothers to ensure your continue health and safety. This will help to identify whether any temporary adjustments to the working environment or role are required. Your line manager will regularly review the risk assessments throughout your pregnancy and upon your return to work as a new mother.

- 4.4.2 Where a risk is identified Occupational Health and/or the Health and Safety department will be contacted by the line manager. If the risk assessment identifies:
- An unavoidable risk to the health and safety of a pregnant employee, or
  - An adverse effect on the pregnancy of the employee, or
  - An adverse effect on breastfeeding
- 4.4.3 The Council will act to avoid harm to the employee and their child. For example, by considering altering the employee's working conditions and hours (where operationally possible), offering suitable alternative employment (on existing salary) or placing the employee on special leave with full pay.

#### **4.5 Sickness Absence**

- 4.5.1 During pregnancy you will be entitled to sick pay in accordance with your terms and conditions of employment and the Council's absence management policy.
- 4.5.2 Occasional days of pregnancy related illness during this period may be disregarded for this purpose if they wish to continue working until the maternity leave date previously notified to their Manager.
- 4.5.3 Sickness absence prior to the last 4 weeks before the expected week of childbirth, supported by a medical certificate of incapacity for work as pregnancy related shall be treated in accordance with the relevant section(s) of the Council's Absence Management Policy. Pregnancy related absences will not be considered or contribute towards any triggers. Line managers will ensure the absence is clearly recorded as pregnancy related on My View.
- 4.5.4 If you are unwell following your maternity leave, you will be entitled to sick pay in accordance with your terms and conditions of employment and the Council's Absence Management Policy.

#### **4.6 Keeping in Touch (KIT) days**

- 4.6.1 Keeping in Touch (KIT) Days, allow you the right to go into work, undertake training or other events and keep in touch with the Council, for up to a maximum of 10 days without losing the right to maternity pay.
- 4.6.2 To facilitate the process of keeping in touch days (KIT days), it is important that you and your manager have early discussion to plan and make arrangements for KIT days before your maternity leave takes place. Work on

KIT days can be consecutive or not. Any work must be by agreement and neither the Council nor the employee can insist upon it.

- 4.6.3 Your manager should notify Payroll of any KIT days taken. This should include the dates and times worked. The time will be paid at your usual salary. Any amount of work done on one day counts as one KIT day, regardless of the number of hours worked

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

- 4.7.1 If you intend to return at the end of your agreed period maternity leave, you will not be required to give any further notification to your Manager, although if you wish to return early you must give at least 8 weeks' notice. Pay during maternity leave (SMP and/or OMP) will cease immediately at the point that you return to work.
- 4.7.2 If at the end of maternity leave you wish to return to work on different hours your manager will consider this wherever possible. You should refer to the Council's Flexible Working Policy and follow the guidance on applying for flexible working arrangements. The request should be made at least 12 weeks before the anticipated return to work. If the request cannot be granted, your manager must provide written, objectively justifiable reasons for this and you should return to the same grade and work of a similar nature and status to that which you held prior to your maternity leave absence.
- 4.7.3 If it is agreed that you will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period this will not affect your right to return to your job under your original contract at the end of the agreed period.

## **4.8 Premature Birth**

- 4.8.1 Where your baby is born alive prematurely, you will be entitled to the same amount of maternity leave and pay as if your baby was born at full term.
- 4.8.2 Where your baby is born before the 11th week before the expected week of childbirth and you have worked during the actual week of childbirth, maternity leave will start on the first day of your absence.
- 4.8.3 Where your baby is born before the 11th week before the expected week of childbirth, and you have been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth.
- 4.8.4 Where your baby is born before the 11th week before the expected week of childbirth and the baby is in hospital you may split your maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after childbirth and the rest of your leave following your baby's discharge from hospital.

## **4.9 Stillbirth or Miscarriage**

- 4.9.1 Where a stillbirth occurs at or after the 24<sup>th</sup> week of pregnancy, you will be entitled to the same amount of maternity leave and pay as if the baby had been born alive.
- 4.9.2 Where you have a miscarriage before the 24<sup>th</sup> week of pregnancy normal sick leave and pay provisions will apply as necessary in accordance with the Council's Absence Management Policy. Any absences of this nature would be classed as pregnancy related and not contribute or be considered for indicators or any expectations set.
- 4.9.3 If you have had a miscarriage or stillbirth, you and perhaps your partner, may need time off in the future to attend appointments related to your loss. You will be entitled up to 5 days paid to attend these appointments will be granted.

## **4.10 Breast Feeding**

- 4.10.1 You should notify your manager that you wish to breastfeed or express in the workplace prior to your return to work. Your manager will then ensure that the new and expectant mother's risk assessment is reviewed.

4.10.2 Arrangements will be made to provide a private, healthy and secure environment for nursing mothers to express and store milk (a toilet would not be deemed appropriate). Along with easy access to hand washing facilities. You will also agree with your manager to take suitable breaks to enable milk to be expressed.

4.10.3 Adjustments to work may be required, for example allowing where feasible some flexibility in working patterns such as start, and finish times. This could include allowing time to travel home to breast feed or express milk, or arrangements agreed where practicable to enable the new mother's baby to be brought to work by the baby's carer during working hours.

## **5 Paternity**

### **5.1 Paternity Leave**

5.1.1 Paternity leave is provided to enable employees to support a partner who has had a baby. This applies to the father of the child (including adoptive fathers), the mother's spouse or partner (whether opposite or same sex) or nominated carer. It also applies to employees who:

- Are the secondary carer for an adopted child, at the time of adoption
- Are fostering to adopt
- Are adopting from abroad

5.1.2 You may take a maximum of 2 weeks leave. To be eligible you must have continuous employment for 26 weeks ending with the 15th week prior to the EWC or the matching week (either the end of the week they are matched with the child for UK adoptions or the date the child enters the UK or when the employee wants their pay to start for overseas adoptions)

5.1.3 You may commence your Paternity leave:

- in a block of either one or two weeks
- within 52 weeks of the birth / adoption placement

### **Statutory Paternity Pay (SSP)**

5.1.4 To qualify for SPP you must:

- Have continuous employment for 26 weeks ending with the 15<sup>th</sup> week prior to the EWC
- Be employed by the Council up to the date of birth
- Have average weekly earnings above the lower earnings limit for the payment of National Insurance contributions.

## **Occupational Paternity Pay (OPP)**

- 5.1.5 To qualify for OPP you must have 12 months continuous service at the beginning of the EWC.
- 5.1.6 The amount of OPP paid is 2 weeks full pay. If you have been in receipt of OPP and do not return to work in the Council you will not be liable to repay the OPP you have received.

### **5.2 Calculation of and claiming Paternity Pay.**

- 5.2.1 Paternity pay is calculated by your average earnings. This is calculated from the last 2 monthly pay slips which precede the 15th week prior to the EWC. As with maternity pay, if you are a member of a salary sacrifice scheme, this may have an impact on your paternity pay.
- 5.2.2 To claim Paternity leave you must submit the submit a paternity leave/pay notification form. In cases of adoption, submit a Paternity leave/pay notification form no later than 7 days after the employee's co-adopter or partner is matched with a child.
- 5.2.3 To claim pay you must submit the Paternity leave/pay notification form at least 28 days before you want your pay to start. You must ask your line manager to complete their relevant section and then pass the form onto HR. At the point that you submit a completed maternity leave/pay notification, your line manager will arrange to meet with you to discuss:
- The date the leave will start and end;
  - Whether you intend to take Shared Parental Leave (SPL);
  - Arrangements for maintaining contact during leave;
  - Considerations to the Flexible Working Policy for when you return to work;
  - Arrangements for returning to work
- 5.2.4 When you return to work after new parent support leave you will return to the job to which you are employed on the same terms and conditions.

## **6 Adoption**

### **6.1 Adoption Leave**

- 6.1.1 This leave will be granted subject to you providing written confirmation that you have been newly matched with a child for adoption by an adoption agency as soon as this is given. This should be in the form of a letter or 'matching certificate' from a recognised adoption agency.
- 6.1.2 In circumstances where a colleague gains parental responsibility for a child as a result of a surrogacy agreement then adoption leave will be granted for one parent. If there are two adoptive parents, the other may be eligible for paternity leave and the couple must elect which of them will take adoption leave as the 'primary' adopter.
- 6.1.3 Eligible employees who are the 'primary' adopter may take a maximum of 52 weeks leave. There is no qualifying period of continuous employment to gain entitlement to adoption leave and it is considered a "day one" right.
- 6.1.4 It is considered best practice to let your line manager know within 7 days. However, if this is not practicable, then as soon as reasonably possible, so that they are made aware. You must give written notification to your line manager of being matched to include
- the expected date of adoption placement
  - the date on which the adoption leave is expected to commence.
  - a copy of the matching certificate
- 6.1.5 Requests for leave prior to adoption must be made in writing to the line manager. Requests at short notice will not be unreasonably refused.
- 6.1.6 Adoption leave can start:
- Up to 14 days before the date the child starts living with the employee (UK adoptions)
  - When the child arrives in the UK or within 28 days of this date (overseas adoptions)
  - The day the child is born or the day after (where a surrogate has been used to have a child)
- 6.1.7 In addition, applicants may apply for paid time off work to attend up to 5 adoption appointments after they have been matched with a child and prior to the adoption for the purpose of making necessary preliminary arrangements e.g. attending legal proceedings.

## **6.2 Statutory Adoption Pay (SAP)**

6.2.1 To qualify for SAP you must:

Have worked for the Council continuously for at least 26 weeks up to the week you were matched with the child;

- Give written notification to your line manager 28 days before you intend to stop work and take adoption pay;
- Produce proof of adoption, which must show:
  - Your name and address and that of the agency;
  - the match date - e.g. the matching certificate;
  - the date of placement - e.g. a letter from the agency;
  - the relevant UK authority's 'official notification' confirming the employee is allowed to adopt (overseas adoptions only);
  - The date the child arrived in the UK - e.g. plane ticket (overseas adoptions only).

There is no requirement to intend on returning to work.

6.2.2 You do not qualify for SAP if you:

- Arrange a private adoption
- Become a special guardian or kinship carer
- Adopt a step-child
- Adopt a family member or step-child
- Are taken into custody

6.2.3 You will be paid SAP for up to 39 weeks. This will be:

90% of your average weekly earnings for the first 6 weeks

Flat rate SAP (Flat rate SAP varies each year. Please visit <https://www.gov.uk/adoption-pay-leave> to find out the current rate of SMP) or 90% of your weekly earnings (whichever is lower) for the next 33 weeks.

## **6.3 Occupational Adoption Pay (OAP)**

6.3.1 Adoption pay mirrors maternity pay, please see section 4.3 for more details.

## **6.4 Claiming Adoption Pay and Leave**

6.4.1 To claim adoption, pay and leave you must inform your line manager using the adoption leave/pay notification form. It is considered best practice to let your line manager know within 7 days of being matched with a child.

However, if this is not practicable then as soon as reasonably possible, so that they are made aware.

- how much leave they intend to take



- the start date of their leave
- the date the child is placed with them (date of placement)
- for an overseas adoption:
- the date of your 'official notification' (permission from a UK authority that you can adopt from abroad)
- the estimated date the child arrives in the UK – within 28 days of getting the notification
- the actual date the child arrives in the UK – within 28 days of this date
- how much leave you want and the start date – giving 28 days' notice

6.4.2 You must submit an adoption leave/pay notification form at least 28 days before you want your adoption pay to start with proof of the adoption as set out above.

6.4.3 The line manager will then meet with you to discuss your adoption leave as set out within Claiming Maternity Pay & leave section.

## **6.5 Placement Disrupted**

6.5.1 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 eight weeks after the end of the week in which the disruption occurred. Additional discretionary or unpaid leave may also be granted in such instances, managers should contact HR for advice.

## **6.6 Returning to work after adoption leave**

6.6.1 The Council will assume that the employee will return to work on the date specified on their adoption leave form. No written confirmation is required to return to work on that day, although they will receive a letter from Human Resources to remind them of their return to work date.

6.6.2 If the employee wants to return to work from adoption leave earlier than previously planned or later than the previously agreed date they must give eight weeks' notice. If the employee fails to provide sufficient notice the employer may postpone the return so eight weeks' notice is given, but may not postpone beyond.

6.6.3 If disruption on the placement occurs during AAL, the employee should give eight weeks' notice, as soon as the disruption occurs. 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 their Occupational Adoption Pay (OAP).

## **6.7 Multiple Adoptions**

6.7.1 You will not be entitled to extra adoption leave or pay if adopting more than one child at the same time.

6.7.2 If two or more siblings are adopted from the same family within 39 weeks of entitlement to SAP for the first child, this will be considered as a separate arrangement if a separate matching certificate is issued. Entitlement of up to 39 weeks of SAP will commence from the date the second child is placed with the adopter.

## **6.8 Surrogacy**

6.8.1 Surrogacy is when someone else carries and gives birth to a baby for the intended parents. If you use a surrogate, the surrogate will be the child's legal parent at birth. You must apply to become the legal parent within 6 months of the child's birth to get surrogacy rights, leave and pay. You must apply for:

- a parental order – if one intended parent is genetically related to the child
- an adoption order – if the intended parents are not genetically related to the child

6.8.2 In circumstances where you and another parent gain parental responsibility for a child as a result of a surrogacy agreement then adoption leave will be granted for one parent. If there are two adoptive parents, the other may be eligible for new parent support (paternity leave) and you must decide which of you will take adoption leave. Documentation to support such an arrangement should be provided as soon as it is available e.g., written surrogacy agreement or solicitors correspondence.

6.8.3 If you become pregnant as part of a surrogacy agreement you may be entitled to maternity leave and pay dependent on meeting the qualifying factors set out within the Maternity section. What you, as a surrogate, do after the child is born does not affect your right to maternity leave.

## **6.9 Fostering to Adopt**

6.9.1 Is where a child in care is placed with registered foster carers who have also been approved as adopters. The foster carers care for the child, whilst the

child's social worker works with and assesses their birth family and makes a recommendation to the Court about the child's future care.

## **7.0 Shared Parental Leave & Pay**

### **7.1 Shared Parental Leave Eligibility**

7.1.1 Shared Parental Leave (SPL) enables eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could involve returning to work for part of the time and then resuming leave at a later date. Shared parental leave is designed to give parents / adopters more flexibility in how to share the care of their child in the first year following birth or adoption. An eligible employee can share up to 50 weeks leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

7.1.2 If you are eligible for statutory maternity leave and pay you may choose to switch part of your entitlement into shared parental leave (SPL) and pay (ShPP). The following section sets out the requirements for eligibility of both of the parents. This applies where both or only one parent is an employee of the Council.

7.1.3 If you have given birth, you are required to take two-weeks compulsory maternity leave following the birth of your child regardless of if you would like to use Shared parental leave. If you are eligible, you can share the remaining leave and pay. The two-week period of new parent support leave will continue to be available to partners.

7.1.4 You can choose to opt into shared parental leave at any time so long as there is some untaken maternity leave to share. Both SPL and shared parental pay must be taken before the child's first birthday or within a year of adoption.

7.1.5 To be eligible for SPL as the mother you must:

- Be entitled to:
  - Statutory Maternity leave or pay;
  - Statutory adoption leave or pay; or
  - Maternity allowance.
- Have, or expect to have the main responsibility for the care of the child;
- Curtail or give notice to reduce your maternity / adoption leave or pay / allowance (complete a curtailment of maternity/adoption leave notification form);
- Notify the Council (or your employer) of your intention to take shared parental leave giving at least 8 weeks' notice of each block;

- 7.1.6 Additionally, if you are seeking to take SPL you must satisfy each of the following criteria:
- You must still be working for the organisation at the start of each period of SPL.
  - You must have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
  - You must have a partner who meets the 'employment and earnings test' – they have worked for the Council (or their respective employer) for at least 26 weeks during the 66 weeks before the baby is due/matching date. This does not need to be for a continuous period and may include agency or self-employed work. They must also have earned at least £30 a week on average in any 13 of the 66 weeks.
  - To check eligibility, you can use the online calculator at [www.gov.uk/pay-leave-for-parents](http://www.gov.uk/pay-leave-for-parents) .
  - The Council's application forms for SPL are available in the appendix.
- 7.1.7 If you are eligible, you may be entitled to take up to 50 weeks (52 weeks total minus 2 weeks compulsory leave for the mother) SPL during the child's first year in your 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. You may choose how you want to take the leave. This could be taking it in turns or taking time off together, however you must not take more than 50 weeks in total.
- 7.1.8 Shared parental leave only becomes available once the mother has given notice to end her entitlement to maternity /adoption leave. Once a mother has ended her right to maternity leave she cannot reinstate that right and will be bound by the decision to take shared parental leave.
- 7.1.9 The leave can be taken separately or at the same time, subject to the following requirements:
- The minimum period of leave must be one week
  - The leave must be taken in multiples of complete weeks, and the leave may be taken as one continuous period or can be broken down into a maximum of three separate periods per parent (
  - Only three periods of leave notices in total can be given by each parent
- 7.1.10 This means that the mother can return to work after maternity leave and take shared parental leave at a later date or dates (subject to the notice periods). Similarly, the father/partner can take shared parental leave at any time; it does not need to start as soon as the mother has given notice to curtail her entitlement to maternity leave or after she has returned to work.
- 7.1.11 Shared parental leave can also be taken when the other partner is on another type of leave, such as new parent support or unpaid parental leave. A father/partner could start a period of shared parental leave while the mother

is still on maternity leave provided she has given a binding notice to end her entitlement to maternity leave.

## **7.2 Notification and requests for shared parental leave**

7.2.1 The process starts with the mother giving notice to end her maternity leave early. The parent or parents wishing to take shared parental leave must then give notice of this intention to their employer. Separately, they must also give notice of the period of leave requested.

7.2.2 If you or your partner wish to take shared parental leave you must submit a written "notice of entitlement" to your own employer at least eight weeks (please note that this is best practice and there may be exceptional circumstances where this is not possible. In these situations, a reasonable discussion can take place with your line manager) before the start of the first period of shared parental leave. The notice should include certain information including:

- Both parents' names and National Insurance numbers
- The start and end date of any period of statutory maternity leave taken/to be taken by the mother
- The start and end date of any statutory maternity pay or maternity allowance received or to be received by the mother
- The expected week of childbirth and/or actual date of birth of the child or the date of matching for adoption or adoption following fostering to adopt.
- The total amount of shared parental leave available
- Confirmation that the mother/father/partner is sharing child care responsibilities with their partner
- A non-binding indication of how much shared parental leave both parties are entitled to take, how much you both intend to take and the proposed start and end dates of such leave
- A declaration from you and your partner to confirm that:
  - The mother satisfies the eligibility criteria
  - The father/partner satisfies the eligibility criteria
  - That the information given is accurate
  - That if either parent ceases to meet the conditions of entitlement to shared parental leave then they will immediately notify the employer

7.2.3 The parents may vary the amount of shared parental leave they intend to take by giving written notice to their employers. There is no limit on the number of times the parents may make a variation to a notice of entitlement to shared parental leave, so long as this is done before the 8 weeks notice has been given. If you request one period of continuous shared parental leave, you are entitled to take that period of leave. If you are considering taking your shared parental leave in multiple blocks, a conversation needs to take place with your line manager to agree how this will work.

7.2.4 Once the period of leave has been agreed, written notice must be provided if you would like to vary the leave. This may vary the start and end dates, vary the amount of leave or change if the leave is discontinuous or not. This notice must be given at least 8 weeks before the variation date.

### 7.3 **Change in circumstances**

7.3.1 The Council recognises that your circumstances may change after periods of shared parental leave have been arranged. In these exceptional circumstances a discussion with your line manager is encouraged at least eight weeks' notice of a change in your planned arrangements. If this is not practicable, then best practice is to let your manager know as soon as reasonably possible.

7.3.2 If less than eight weeks before either parent is due to take a period of shared parental leave, you inform your manager that you no longer meet the conditions of entitlement, and due to any difficulties the Council may face at that time, it may not be possible to accommodate this change in circumstances. The Council may still require that parent to take the period of leave.

7.3.3 The leave must be treated as shared parental leave and will start on the same date that the next period of shared parental leave was due to start. It will either end on the same end date, or eight weeks from the date the Council is informed of the change in circumstances, whichever is earlier.

### 7.4 **Statutory Shared Parental Pay**

7.4.1 You may be entitled to statutory maternity pay/adoption pay/maternity allowance for up to 39 weeks subject to the criteria set out within the maternity section. If you give notice to reduce your entitlement before you will have received it for 39 weeks then any remaining weeks could become

available as shared parental pay.

7.4.2 Up to 37 weeks of shared parental pay will be available to be shared between the parents as the mother must take her two compulsory weeks of maternity/adoption leave.

7.4.3 To qualify for shared parental pay you must meet the 'continuity of employment test' and your partner must meet the 'employment and earnings test' as set out above. In addition, you must also have earned above the 'Lower Earnings Limit' in the eight weeks leading up to and including the 15th week before the child's due date/matching date and still be employed with the same employer at the start of the first period of shared parental pay.

7.4.4 If your employment comes to an end while you are still entitled to some shared parental pay then any remaining weeks will usually remain payable unless you start working for someone else.

7.4.5 Statutory shared parental pay is for up to 37 weeks at the lower of the statutory prescribed rate of maternity/paternity pay or 90% of the relevant parent's normal weekly earnings (subject to the lower earnings limit). The remaining 13 weeks of shared parental leave are unpaid.

## 7.5 **Occupational Shared Parental Pay**

7.5.1 Where you intend to return to work after a period of shared parental leave, the maximum joint entitlement of an eligible couple to occupational shared parental pay will be as set out below.

7.5.2 The maximum entitlement will only apply where either parent has not already received statutory or occupational maternity pay, maternity allowance or statutory or occupational adoption pay in respect of the child.

- Where such pay (excluding pay during the compulsory two-week maternity/adoption leave period) has been received by either parent, the maximum joint entitlement set out below will reduce proportionate to the amount of maternity or adoption pay which has either been taken and paid to either parent, or notified as intending to be taken by either parent for the first six weeks you will receive full pay. Full pay is inclusive of any statutory shared parental leave (ShPP). The total amount you receive cannot exceed full pay;

- for the next 18 weeks you will receive half of full pay plus any ShPP. The total receivable cannot exceed full pay;
- for the next 13 weeks, you will receive any ShPP that you are entitled to under the statutory scheme.
- for the final 13 weeks, you will receive no pay.

## 7.6 Shared Parental Leave in Touch (SPLIT) Days

7.6.1 You and your partner can each work up to 20 days while you're taking SPL. These are called 'Shared Parental Leave in touch' (or SPLIT) days.

7.6.2 These days are in addition to the 10 'keeping in touch' (or KIT) days available to those on maternity or adoption leave.

## 7.7 Returning to work

7.7.1 You have the right to return to the same job if you have taken up to 26 weeks leave (when all periods of leave, maternity/new parent leave/adoption and SPL, are added together).

7.7.2 If you use additional maternity leave, you will normally still have the right to return to your job on the same terms as before you commenced maternity leave. If it is not possible for you to return to the same job because there have been significant changes to the organisation, you could be offered a similar job on the same terms as the role held prior to commencing maternity leave.

## 8.0 Fertility Treatment

8.1 Provision for time off during IVF treatment will be in accordance with the General Leave Policy.

8.2 If you are sick due to undergoing IVF or fertility treatment you will be supported in accordance with the Absence Management Policy in line with the additional provisions provided to those who are pregnant.



## **9.0 Antenatal and Postnatal Care**

### **9.1 Antenatal Care**

- 9.1.1 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. These can include relaxation or parent craft classes as well as medical examinations, if recommended by a medical professional.
- 9.1.2 Employees must agree their time off arrangements with their manager in advance of the appointments and produce their appointment card where appropriate.
- 9.1.3 Employees on flexi-time should record time to attend appointments as described in the Flexi-Time Guidance in the section relating to hospital appointments.
- 9.1.4 Fathers/partners have a legal right to unpaid time off to attend up to two antenatal appointments. This also applies to agency workers after twelve (12) weeks on the same assignment. The council encourages managers to allow employees to take time off to attend antenatal appointments with their partners by taking flexi or annual leave. All requests are subject to line manager approval and will need to be considered in the context of cover available within the team during that period to ensure that the service provided is not disrupted.

### **9.2 Postnatal Care**

- 9.2.1 Following your period of maternity leave if further postnatal care appointments are required, paid time off may be given for attendance.

## 9.3 Parental Leave

- 9.3.1 There is a right for both parents to take up to 18 weeks **unpaid** parental leave per parent per child, up until your child's 18<sup>th</sup> birthday. This leave is also available to parents who adopt a baby/child.
- 9.3.2 Employees must have more than one year's continuous service in local government and must either be the parent of the child, named on the child's birth/adoption certificate or have legal parental responsibility for the child.
- 9.3.3 The council will endeavour to make parental leave available to those with parental responsibilities but who do not fall under the legal definition. This might include foster parents, adoptive parents prior to placement, grandparents with a significant parenting role and stepparents. Cases will be considered on an individual basis, employees should contact HR for more information.
- 9.3.4 Employees can take parental leave at the end of maternity/adoption/shared parental leave providing they give 21 days' notice.
- 9.3.5 To apply for parental leave employees should write to their Head of Service who will forward the request to Human Resources and take advice. Employees must give 21 days' notice before their intended start date.
- 9.3.6 The limit on how much parental leave can be taken a year is 4 weeks. Unless the child is disabled, leave should be taken in blocks of one week. A 'week' equals the length of time an employee normally works in a week.
- 9.3.7 Managers cannot turn down a request for parental leave, but can ask employees to postpone it if it would cause significant disruption to the business, e.g. if leave was requested:
- over a peak period of work
  - at the same time as other employees have requested leave
  - when the employee's absence would unduly harm the business
- 9.3.8 If a manager needs to postpone a request for parental leave, they must consult with the employee about a new date and must write to the employee within seven days of receiving the employee's notification explaining why the leave needs to be postponed and confirming the new start and end date. Managers must allow the employee to take the same amount of parental leave as they originally applied for. If the postponement goes past the end of the entitlement period (e.g. after the child's eighteenth birthday), they must still be allowed to take the leave.

9.3.9 Any parental leave taken in previous employment is deducted from an employee's parental leave entitlement.

## **10.0 General**

### **10.1 Entitlements**

10.1.1 An employee returning to local government following a break for maternity, paternity or adoption 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

There may be implications on other conditions of service. These have been detailed below.

### **10.2 Annual leave**

10.2.1 The entitlement to annual leave continues to accrue whilst on maternity /adoption / paternity leave. Where the leave period straddles two annual leave years, annual leave accrued up to the end of the first leave year should be taken before the commencement of the leave period in order that it is not lost.

10.2.2 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.

10.2.3 Employees are entitled to paid leave for each of the bank holidays that fall during their maternity / adoption leave and these should be taken upon their return to work.

### 10.3 **Pension**

10.3.1 An employee who is a member of the Local Government Pension Scheme (LGPS) will continue to pay contributions; however, this will be based on the employee's individual contribution rate of their actual earnings during maternity / adoption leave.

10.3.2 An employee wishing to maintain their contributions or make contribution during the unpaid period of maternity / adoption leave must contact Payroll before their leave commences.

10.3.3 For further guidance contact Payroll or the London Pensions Fund Authority (LPFA). An employee with a private pension should contact their pension provider for guidance.

### 10.4 **Council Vehicles**

10.4.1 An employee in possession of a council vehicle must ensure that it is left with the council before they take maternity / adoption leave. The vehicle will be returned to the employee on their return to work.

### 10.5 **Student Loans**

10.5.1 Student loan repayments will continue throughout paid maternity /adoption leave until such point that monthly salary does not meet the income threshold set by the Student Loans Company. At this point, repayments will stop until the employee is earning above the income threshold. Employees should contact the Student Loans Company for more information.

### 10.6 **Council Property**

10.6.1 An employee will not be required to return items such as a mobile phone, laptop, security cards or uniforms throughout maternity /adoption/ parental leave.

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

## **11.0 Rights upon return to work**

- 11.1 An employee has the right to return to the job in which they were employed under their original contract of employment and terms and conditions not less favourable than those, which would have been applicable to them if they 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.
- 11.2 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.
- 11.3 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.