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# Family Friendly Policy

SHARED SERVICES



Council of the  
ISLES OF SCILLY

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May 2015

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**REVISIONS TO SOURCE DOCUMENT**

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2013	1.0	HR+OD Manager	Current policy
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**Law relating to this document:**

- Maternity and Parental Leave etc Regulations 1999 (SI 1999/3312)
- Shared Parental Leave Regulations 2014 (SI 2014/3050)
- Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014 (SI 2014/3052)
- Paternity and Adoption Leave Regulations 2002 (SI 2002/2788)
- Statutory Maternity Pay and Statutory Adoption Pay (Curtailed) Regulations 2014 (SI 2014/3054)
- Employment Rights Act 1996
- Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002 (SI 2002/2822)
- Additional Paternity Leave Regulations 2010 (SI 2010/1055)
- Civil Partnership Act 2004
- Parental Leave (EU Directive) Regulations 2013 (SI 2013/283)

## INTRODUCTION

- 1.1 The Council of the Isles of Scilly recognises that, from time to time, employees may have questions or concerns relating to their family friendly rights. It is the Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible.
- 1.2 This policy sets out the intentions of the Council of the Isles of Scilly to support and provide for leave for a number of statutory rights that employees are entitled to, which are as follows:
  - Maternity
  - Maternity Support Leave (Paternity Leave)
  - Adoption Leave
  - Emergency Time Off for Dependents
  - Parental Leave
- 1.2 The policy for Shared Parental Leave is a separate document.

## MATERNITY

- 2.1 As the maternity provisions are complex, if an employee becomes pregnant she should clarify the relevant procedures with Human Resources to ensure that they are followed correctly.
- 2.2 The following definitions are used in this policy:

"Expected week of childbirth" means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

"Qualifying week" means the 15th week before the expected week of childbirth.
- 2.3 All pregnant employees (regardless of length of service) have the right in law to take up to 26 weeks' ordinary maternity leave (OML) and up to a further 26 weeks' additional maternity leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks' maternity leave. Additional maternity leave (AML) follows on immediately from the end of the period of ordinary maternity leave.
- 2.4 All employees who take maternity leave have the right to return to work at any time during either ordinary maternity leave or additional maternity leave (except during the first two weeks from the day of childbirth or four weeks in the case of factory workers), subject to their following the correct notification procedures as set out below.

## TIMING OF MATERNITY LEAVE

- 2.5 Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:
- the employee's chosen start date;
  - the day after the employee gives birth; or
  - the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.
- 2.6 If the employee gives birth before her maternity leave was due to start, she must notify the Council in writing of the date of the birth as soon as reasonably practicable.
- 2.7 The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child (four weeks in the case of factory workers).

## NOTIFICATION OF PREGNANCY

- 2.8 On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there are health and safety considerations for the Council.
- 2.9 By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform the Council in writing of:
- the fact that she is pregnant;
  - her expected week of childbirth; and
  - the date on which she intends to start her maternity leave.
- 2.10 The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it.
- 2.11 The employee is permitted to bring forward her maternity leave start date, provided that she advises Human Resources in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises Human Resources in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.
- 2.12 Human Resources will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

## TIME OFF FOR ANTENATAL CARE

- 2.13 Once an employee has advised the Council that she is pregnant, she will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.
- 2.14 In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment to the Authority. Staff should complete Medical Absence Notification forms for this purpose.
- 2.15 The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

## HEALTH AND SAFETY

- 2.16 The Council has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding where the work is of a kind that could involve a risk of harm or danger to her health and safety or the health and safety of her baby and the risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace. If applicable, the Council will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out her normal job duties, the Council will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.
- 2.17 If it is not possible for the Council to alter the employee's working conditions to remove the risks to her health and there is no suitable alternative work available to offer her on a temporary basis, the Council may suspend her from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

## ANNUAL LEAVE

- 2.18 Annual leave will accrue throughout the OML and AML. Public and extra statutory holidays will accrue during your OML. Annual leave should wherever possible be taken

during the annual leave year to which it applies (e.g. before maternity leave commences). In exceptional circumstances where this is not possible, please discuss further with your line manager. Carryover of leave in excess of 5 days must be approved by your Senior Manager.

#### SICKNESS ABSENCE

- 2.19 If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.
- 2.20 If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify the Council in writing of this as soon as reasonably practicable.

#### MATERNITY LEAVE

- 2.21 All pregnant employees are entitled to take up to 26 weeks' **ordinary maternity leave** and up to 26 weeks' **additional maternity leave**, making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional maternity leave begins on the day after ordinary maternity leave ends.
- 2.22 Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:
- the employee's chosen start date;
  - the day after the employee gives birth; or
  - the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.
- 2.23 If the employee gives birth before her maternity leave was due to start, she must notify the Council in writing of the date of the birth as soon as reasonably practicable.
- 2.24 The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child (Compulsory Maternity Leave).

#### ORDINARY MATERNITY LEAVE

- 2.25 During the period of ordinary maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. In particular, contractual annual leave entitlement will continue to accrue and pension contributions will continue to be made. Employee contributions will be based on

actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave.

2.26 Salary will be replaced by SMP if the employee is eligible to receive it.

#### ADDITIONAL MATERNITY LEAVE

2.27 During the period of additional maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Contractual annual leave entitlement will continue to accrue.

2.28 Salary will be replaced by statutory maternity pay (SMP) for the first 13 weeks of additional maternity leave if the employee is eligible to receive it. **The remaining 13 weeks of additional maternity leave are unpaid (weeks 40 – 52).**

2.29 Pension contributions will continue to be made during the period when the employee is receiving SMP but not during any period of unpaid additional maternity leave. Any such period will not count towards the employee's membership of the pension scheme. However, on return from leave, or if the employee resigns, they can elect to pay contributions for this period based on the amount of pay they received (including SMP) immediately before the unpaid period began. This period of their maternity leave will then count towards their pension scheme membership. If the employee decides to make these contributions they must contact HR within 30 days of their return or resignation.

#### STATUTORY MATERNITY PAY

2.30 Statutory maternity pay is payable for up to 39 weeks during maternity leave. An employee is entitled to SMP if:

- she has been continuously employed by the Council for at least 26 weeks at the end of the qualifying week and she is still employed during that week;
- her average weekly earnings in the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date are not less than the lower earnings limit for national insurance contributions;
- she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides a MAT B1 form stating her expected week of childbirth; and
- she gives the Council proper notification of her pregnancy in accordance with the rules set out above.

2.31 SMP is payable for 39 weeks at the following rates:

- for the first 6 weeks – 90% of the average weekly earnings
- for the next 33 weeks – 90% of the average earnings or a flat rate of £139.58 (2015/16 rate), whichever is lower.

- 2.32 If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether ordinary maternity leave or additional maternity leave), the higher or standard rate of SMP will be recalculated to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively, or that she may qualify for SMP if she did not previously. The employee will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise.
- 2.33 Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.
- 2.34 Payment of SMP cannot start prior to the 11th week before the employee's expected week of childbirth. Statutory maternity pay can start from any day of the week in accordance with the date the employee starts her maternity leave.
- 2.35 Statutory maternity pay is payable whether or not the employee intends to return to work after her maternity leave.

#### MATERNITY ALLOWANCE

- 2.36 Employees who are not entitled to SMP may be entitled to receive maternity allowance payable directly by the Government. If an employee is not entitled to SMP, the Council will provide the employee with an SMP1 form to allow her to pursue a claim for maternity allowance.

#### OCCUPATIONAL MATERNITY PAY (OMP)

- 2.37 Employees with one year's continuous local government service at the 11th week before the EWC will be eligible for occupational maternity pay.
- 2.38 This will be as follows:
- for the first 6 weeks you will receive 90% of a week's pay offset against SMP/Maternity Allowance payments.
  - if you intend to return to work, then for the next 12 weeks, payment will be half a week's pay without deduction except to the extent to which half pay plus SMP/Maternity Allowance and dependants' allowance exceeds full pay. Alternatively the equivalent amount (i.e. 12 weeks' pay) may be paid on any other mutually agreed distribution, e.g. over 33 weeks.
- 2.39 The half pay is payable on condition that you return to work at the end of additional maternity leave. We therefore ask you to notify us in writing that you intend to return to work, **21 days before you intend to start your maternity leave**. Please note we only ask you to notify us of your intentions at this stage for the purpose of determining your eligibility for the half pay. If you say you do not intend to return you can change your mind. We will write to you again three weeks before the end of your ordinary maternity

leave period (see below) and it is only at this point that we will ask for your resignation if you say you do not intend to return.

- 2.40 The Contractual half pay will be repayable if you do not return to local authority employment for a minimum of three months. SMP is not refundable.
- 2.41 If you do not intend to return to work then payments during the subsequent 33 weeks shall be the employee's entitlement to SMP only.
- 2.42 If you are unsure whether you will be returning to work after your maternity leave, you may wish to suspend the 12 weeks' half pay under the Occupational Maternity Pay scheme. By selecting the option to suspend payment, you will have the opportunity at a later date to resign from the post and, as you have not received the suspended element of OMP, you will not have the obligation of its repayment as in 2.40 above. If you suspend your occupational maternity pay while you are absent on maternity and decide to return to work after your maternity leave, you will receive your 12 weeks' at half pay in your first month's salary upon your return. In order for you to retain this payment, you will be required to return to work for a minimum of 3 months (see 'Rights on or after returning to work' below).

#### CONTACT DURING MATERNITY LEAVE

- 2.43 Shortly before an employee's maternity leave starts, the Council will discuss the arrangements for her to keep in touch during her leave, should she wish to do so. The Council reserves the right in any event to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply to update her on developments at work during her absence.

#### KEEPING-IN-TOUCH DAYS

- 2.44 Except during the first two weeks after childbirth, an employee can agree to work for the Council (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes. The days can be worked consecutively or on a more ad hoc basis, provided that the overall limit of 10 is not exceeded.
- 2.45 The Council has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between the line manager and the employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for the Council. It may also bring maternity leave to an end.

- 2.46 Although there is no legal requirement to pay you for working KIT days, the Council has elected to do so in line with your salary.
- 2.47 You will receive payment for your KIT day attendance inclusive of the daily rates of SMP and OMP you are due to receive, on the proviso that you do not earn in that week more than you would have done had you not been on maternity leave.

#### RETURNING TO WORK

- 2.48 There is no need for the employee to notify their line manager of the date of return to work if they plan to take their full OML and AML entitlement (52 weeks). However, if they want to return earlier than the date on which the AML period ends, 28 days notice in writing must be provided. Otherwise, the employee will be expected to return to work on the next working day following the end of their AML period.
- 2.49 If she is unable to attend work at the end of her maternity leave due to sickness or injury, the Council's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 2.50 While the employee is under no obligation to do so, it would assist the Council if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.
- 2.51 If the employee wishes to return to work earlier than the expected return date, she must give the Council at least 28 days notice of her date of early return, preferably in writing. If she fails to do so, the Council may postpone her return to such a date as will give the Council 28 days notice, provided that this is not later than the expected return date.
- 2.52 If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the Council may require the employee to return to work for the remainder of the notice period.

#### SHARED PARENTAL LEAVE

- 2.53 Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date.
- 2.54 Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Council is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs the Council's agreement).

- 2.55 To be able to take shared parental leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the mother curtailing her maternity leave.
- 2.56 Employees can refer to the Council's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the mother's maternity leave can be curtailed. The Council's policy on shared parental leave sets out the notice periods with which employees must comply and what evidence they must provide to the Council. The policy also contains more details on employees' entitlement to statutory shared parental pay/the Council's shared parental pay scheme.
- 2.57 The mother and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

#### RIGHTS ON AND AFTER RETURN TO WORK

- 2.58 On resuming work after ordinary maternity leave, the employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent.
- 2.59 On resuming work after additional maternity leave, again she is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable for the Council to allow the employee to return to the same job, the Council may offer the employee suitable alternative work, on terms and conditions that are no less favourable than would have applied if she had not been absent.
- 2.60 An employee who worked full-time prior to her maternity leave has no automatic right to return to work on a part-time basis or to make other changes to her working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of the Council's business. If an employee would like this option to be considered, she should write to her line manager setting out her proposals as soon as possible in advance of her return date, so that there is adequate time for full consideration of the request.

#### PREMATURE BIRTH

- 2.61 Where a baby is born prematurely, the Authority will consider each case on its own merits and the action required. For example an extension of the maternity leave period might be appropriate.

#### DEATH OF A BABY AND STILL-BIRTH

- 2.62 If the baby dies or is still-born after 24 weeks' pregnancy, the scheme applies. Where this occurs before 24 weeks (miscarriage) the Authority will give sympathetic consideration to the circumstances and where necessary grant special leave or sick leave, as appropriate on the basis of the individual circumstances. The decision will be advised by the needs of the employee and medical opinion.

## MATERNITY SUPPORT LEAVE (PATERNITY LEAVE)

- 3.1 This policy sets out the statutory rights and responsibilities of employees who wish to take paternity leave. This also covers the entitlement of employees who wish to take paternity leave in an adoption situation.

### ORDINARY PATERNITY LEAVE

- 3.2 An employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child, is entitled to two weeks' ordinary paternity leave provided that they have 26 weeks' continuous service by the end of the 15th week before the week in which the child is expected.
- 3.3 Ordinary paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave. A separate policy is available in respect of adoption leave. To be eligible for ordinary paternity leave, the employee must have 26 weeks' continuous service ending with the week in which the child's adopter is notified of having been matched with the child for adoption.
- 3.4 To qualify for ordinary paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother.
- 3.5 Ordinary paternity leave is granted in addition to an employee's normal annual holiday entitlement. Ordinary paternity leave must be taken in a single block of one or two weeks within eight weeks of the birth or adoption of the child. If the child is born early, it must be taken from the time of the birth but within eight weeks of the expected date of childbirth. Ordinary paternity leave can start either from the date the child is born or placed for adoption or from a chosen number of days or weeks after that date.
- 3.6 Employees who wish to take both ordinary paternity leave and shared parental leave (see below) must take their period of ordinary paternity leave first. An employee cannot take ordinary paternity leave if they have already taken a period of shared parental leave in relation to the same child.

### NOTIFICATION OF ORDINARY PATERNITY LEAVE

- 3.7 Where an employee wishes to request ordinary paternity leave in respect of a birth child, they must give their line manager 15 weeks' written notice of the date on which their partner's baby is due, the length of ordinary paternity leave they wish to take and the date on which they wish the leave to commence.
- 3.8 In the case of an adopted child, the employee must give written notice of their intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start

ordinary paternity leave, the length of the intended ordinary paternity leave period and the date on which the adopter was notified of having been matched with the child.

- 3.9 If an employee subsequently wishes to change the timing of the ordinary paternity leave, they must give 28 days' written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that they are entitled to ordinary paternity leave and ordinary statutory paternity pay.

#### ORDINARY STATUTORY PATERNITY PAY

- 3.10 The first week of Paternity leave will be paid at full pay and the second week will be paid at the ordinary statutory paternity pay rate. Pay during ordinary paternity leave will be at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. However, employees whose average weekly earnings are below the lower earnings limit for national insurance contributions will not be eligible for ordinary statutory paternity pay.
- 3.11 Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.
- 3.12 Statutory paternity pay can start from any day of the week in accordance with the date the employee starts their paternity leave.

#### TIME OFF FOR ANTENATAL CARE

- 3.13 Employees have the right to take time off to accompany a pregnant woman with whom they are having a child at up to two antenatal appointments. This time off will be unpaid.
- 3.14 To be eligible to take this form of time off, the employee could be the husband or civil partner of the pregnant woman, or could be living with the pregnant woman in an enduring family relationship. In addition, the employee will be eligible for the time off if he is the biological father of the expected child. The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse. The Council expects that normally no more than a day is needed for an antenatal appointment.
- 3.15 Employees who would like to make a request for time off to accompany someone at an antenatal appointment should in the first instance inform their line manager.
- 3.16 The employee will be asked to fill in a form, which is available Human Resources, to declare that they are eligible for this form of time off work.
- 3.17 The employee should endeavour to give their line manager as much notice as possible of when they need the time off for the antenatal appointment and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

#### ADOPTION LEAVE POLICY

- 4.1 An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks' adoption leave from day one of their employment.
- 4.2 The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave. The employee's maximum entitlement is therefore to take up to 52 weeks' adoption leave.
- 4.3 All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures as set out below.

#### WHO QUALIFIES FOR STATUTORY ADOPTION PAY AND HOW MUCH WILL THE EMPLOYEE RECEIVE?

- 4.4 Employees who take adoption leave will also qualify for statutory adoption pay, provided that they have 26 weeks' service calculated as at the week in which notification of matching was given by the adoption agency and have average weekly earnings not less than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks. In relation to adoption pay periods beginning on or after 5 April 2015, statutory adoption pay is payable at 90% of normal earnings for the first six weeks, following which it is payable at the rate set by the Government for the relevant tax year (or 90% of normal earnings, if that is lower than the Government's rate).
- 4.5 Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take statutory adoption leave. Local authority foster parents who are also prospective adopters ("foster to adopt") are entitled to take ordinary adoption leave.
- 4.6 Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national Insurance deductions.

#### TIMING OF ADOPTION LEAVE

- 4.7 Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier.
- 4.8 To make administration as easy as possible, the employee should discuss the timing of their adoption leave with their immediate manager as early as possible.

#### NOTICE REQUIREMENTS

- 4.9 To be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the Council written notification of their intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing if the Council requests it, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends their adoption leave to start.
- 4.10 The employee is permitted to bring forward their adoption leave start date, provided that they advise the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their adoption leave start date, provided that they advise the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The

employee must also, if the Council requests it, provide evidence of entitlement to adoption leave and pay by producing a "matching certificate" from the adoption agency.

- 4.11 Within 28 days of receiving the employee's notice of intention to take adoption leave, the Council will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

#### TIME OFF TO ATTEND ADOPTION APPOINTMENTS

- 4.12 Employees who are adopting a child are entitled to take time off to attend adoption appointments.
- 4.13 An employee adopting a child alone is entitled to take paid time off to attend up to five adoption appointments (under s.57ZJ of the Employment Rights Act 1996). Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments (under s.57ZJ of the Employment Rights Act 1996). The other can elect to take unpaid time off to attend up to two adoption appointments (under s.57ZL of the Employment Rights Act 1996).
- 4.14 The purpose of the appointment is to enable the employee to have contact with the child (for example, to bond with him/her before the placement) or for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).
- 4.15 The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.
- 4.16 The Council will ask the individual for proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

#### ADOPTIONS FROM OVERSEAS

- 4.17 If an employee has adopted a child from overseas, they may still be entitled to ordinary paternity leave and shared parental leave. Special rules apply in these circumstances. For further information, please contact Human Resources.

#### RIGHTS DURING ADOPTION LEAVE

- 4.18 During ordinary adoption leave and additional adoption leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory adoption pay if the employee is eligible for it.
- 4.19 This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid.

- 4.20 Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

#### CONTACT DURING ADOPTION LEAVE

- 4.21 The Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

#### KEEPING-IN-TOUCH DAYS

- 4.22 Employees can agree to work for the Council (or to attend training) for up to 10 days during their adoption leave without that work bringing their adoption leave to an end and without loss of a week's statutory adoption pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.
- 4.23 The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the Council.

#### RETURNING TO WORK AFTER ADOPTION LEAVE

- 4.24 The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give the appropriate notification. Alternatively, the employee may take their full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, they must give at least eight weeks' notice in writing to the Council of the date on which they intend to return.
- 4.25 The employee has the right to resume working in the same job if returning to work from ordinary adoption leave. If the employee returns to work after a period of additional adoption leave, they are entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.
- 4.26 Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.
- 4.27 If the employee decides during adoption leave that they do not wish to return to work, they should give written notice of resignation to the Council as soon as possible and in accordance with the terms of their contract of employment.

#### TRANSFER OF ADOPTION LEAVE

- 4.28 Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave

and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

- 4.29 Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Council is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs the Council's agreement).
- 4.30 To be able to take shared parental leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the adopter curtailing his or her adoption leave.
- 4.31 Employees can refer to the Council's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the adopter's adoption leave can be curtailed. The Council's policy on shared parental leave sets out the notice periods with which employees must comply and what evidence they must provide to the Council. The policy also contains more details on employees' entitlement to statutory shared parental pay/the Council's shared parental pay scheme.
- 4.32 The adopter and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

## EMERGENCY TIME OFF FOR DEPENDANTS

- 5.1 The Council operates the following policy in relation to emergency situations involving dependants. It explains the right to take time off to manage unexpected or sudden problems relating to a dependant and make any necessary longer-term arrangements.

## CIRCUMSTANCES IN WHICH RIGHT TO TIME OFF FOR DEPENDANTS APPLIES

- 5.2 All employees (irrespective of length of service, and whether they are part time or full time) are entitled to take a reasonable amount of time off during working hours to take necessary action:
- to provide assistance when a dependant falls ill, gives birth or is injured.
  - to make arrangements for the provision of care for an ill or injured dependant;
  - in consequence of the death of a dependant;
  - because of the unexpected disruption or termination of arrangements for the care of a dependant;
  - to deal with an incident that involves their child and occurs unexpectedly.
- 5.3 A dependant is:

- a spouse;
- a civil partner;
- a child;
- a parent;
- a person who lives with the employee other than as their employee, tenant, lodger or boarder;
- any other person who would reasonably rely on the employee for assistance if they fell ill or was injured or assaulted, or who would rely on the employee to make arrangements for the provision of care in the event of illness or injury; or
- in relation to the disruption or termination of care for a dependant, any other person who reasonably relies on the employee to make arrangements for the provision of care.

#### PROCEDURE

- 5.4 An employee who needs to take time off for dependants should contact their line manager at the earliest opportunity. If the employee becomes aware of an emergency situation while at work, they should immediately speak to their line manager about leaving work early. The employee should explain:
- the reason for the absence; and
  - how long they expect to be absent from work.
- 5.5 If the employee's line manager is unavailable, they must make a colleague aware before leaving.
- 5.6 If the employee is unable to contact the manager before taking time off for dependants, they should contact the manager as soon as possible.
- 5.7 The employee must inform the line manager as soon as possible of any change in the anticipated date of their return to work.

#### PAY

- 5.8 There is no statutory entitlement to receive pay while taking time off for dependants. Therefore, the Council does not pay employees for any time off for dependants. However, the Council may consider requests for time off under the compassionate leave policy.

#### HOW MUCH TIME OFF CAN BE TAKEN?

- 5.9 The right to time off for dependants will, in most cases, be one or two days. The employee must actively seek alternative longer-term arrangements for the care of a dependant as soon as possible after the emergency occurs.
- 5.10 If the employee is unable to make alternative arrangements, they must contact the line manager and explain why further absence is required. If further time off no longer qualifies as time off for dependants, it is at the absolute discretion of the Council whether or not to

grant annual leave / discretionary unpaid leave / compassionate leave / special leave at short notice.

- 5.11 Failure to return from a period of time off for dependants may be treated as a disciplinary matter. Employees who need to care for a dependant in circumstances falling outside the right to take time off for dependants should refer to the Council's policy on flexible working.

#### PROVIDING FALSE INFORMATION

- 5.12 If an employee knowingly provides false information in relation to taking time off for dependants, this may be treated as a disciplinary matter, which could potentially amount to gross misconduct, rendering the employee liable to summary dismissal.

#### PARENTAL LEAVE

- 6.1 An employee is entitled to up to 18 weeks' unpaid parental leave per child if they are the birth or adoptive parent of a child who is under 18 years of age. To qualify for ordinary parental leave, employees must have completed at least one year's continuous service with the Council.
- 6.2 "Ordinary parental leave" should not be confused with shared parental leave. Shared parental leave enables mothers to commit to ending their maternity or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. The Council provides a separate policy on shared parental leave.

#### RIGHTS DURING "ORDINARY" PARENTAL LEAVE

- 6.3 Qualifying employees will be entitled to a maximum of 18 weeks' ordinary parental leave to be taken up until the child's 18th birthday. During ordinary parental leave, the employee will remain employed, although pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will, however, remain in place. Certain other terms of employment will remain in force. During parental leave employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:
- notice of termination;
  - redundancy compensation; and
  - disciplinary or grievance procedures.
- 6.4 Employees taking ordinary parental leave will be bound by the implied obligation of good faith, and any terms and conditions of employment relating to:
- notice of termination;
  - disclosure of confidential information;

- the acceptance of gifts or other benefits; and
- participation in any other business.

#### CONDITIONS OF "ORDINARY" PARENTAL LEAVE

- 6.5 The Council has adopted the default scheme for the taking of ordinary parental leave and the following conditions apply.
- 6.6 An employee may not exercise any entitlement to ordinary parental leave unless they have complied with any request made by the Council to produce evidence of parenthood or parental responsibility. This could be in the form of a birth certificate or adoption papers.
- 6.7 The employee must give proper notice of the period of leave that they propose to take. This notice must be given to the Council at least 21 days before the date on which leave is to start and must specify the dates on which the period of leave is to begin and end.
- 6.8 Where the employee is the father of the child in respect of whom the leave is to be taken and he requests ordinary parental leave to begin when his child is born, his notice must specify the expected week of childbirth and the duration of the period of leave. The employee must give this notice at least 21 days before the expected week of childbirth.
- 6.9 Where the ordinary parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to the Council at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of ordinary parental leave requested.
- 6.10 The Council may postpone a period of ordinary parental leave (other than where parental leave has been requested immediately after childbirth or immediately after placement for adoption) where the Council considers that its business would be unduly disrupted if the employee were to take leave during the period requested. In such a case, the Council will allow the employee to take an equivalent period of ordinary parental leave beginning no later than six months after the commencement of the period originally requested. The Council will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice was given to the Council.
- 6.11 Employees may not take ordinary parental leave in blocks of less than one week (except in relation to a child who is disabled).
- 6.12 Employees may not take more than four weeks' leave in respect of any individual child in any year. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to ordinary parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

#### RETURN FROM "ORDINARY" PARENTAL LEAVE

- 6.13 An employee who returns to work after a period of ordinary parental leave is entitled to return to the job in which they were employed prior to the absence if it was an isolated period

of leave lasting four weeks or less. If the period of parental leave followed on immediately from another period of statutory leave, the employee's right to return depends on the length of leave taken.

6.14 The employee has the right to return to the same job if the ordinary parental leave was the last of two or more consecutive periods of leave that did not include:

- a period of ordinary parental leave lasting more than four weeks; or
- any period of statutory leave that, when added to any other period of statutory leave (excluding ordinary parental leave) taken in relation to the same child, means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks.

6.15 An employee who returns to work after a period of ordinary parental leave that does not fall into the above description, for example because it follows ordinary and additional maternity leave lasting more than 26 weeks, is entitled to return to the job in which they were employed prior to the absence, or, if that is not reasonably practicable, to another job that is both suitable and appropriate in the circumstances.