Maternity, Birth (including Paternity) and Adoption Leave

Guidance Document
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Part 1 - Maternity Leave

Guidance Document

This document is intended to provide a summary of employees’ entitlements to maternity leave. It is not a comprehensive summary of employees’ legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in local Leeds City Council Agreements will take precedence. Further information and advice on these is available from Local HR.

These notes are intended for general guidance only. Should you have any specific enquiries please ask your manager or Local HR.

As soon as reasonably practical, you should notify your manager that you are pregnant which will enable a risk assessment to be carried out. In the interests of Health and Safety it is very important to assess if any of the duties you are undertaking may put the baby’s or your health at risk. You will normally be allowed to continue in your existing job unless any risks are identified. If you have any concerns or worries yourself, it is important that you discuss these with your manager or Local HR.

1. Right to time off for Ante-Natal Care

Time off with pay will be given for ante-natal care. You are asked to inform your manager as far in advance as possible of the date and time of an appointment and the best estimate of the length of absence from work, including travelling time if significant. It would also be helpful in many cases if you could try to arrange appointments at the beginning or the end of the day, although the Council recognises this may not always be possible.

Ante-natal care may include:

- Appointments with your GP or Registered Midwife
- Hospital appointments for scans or tests
- Other appointments made on the recommendation of your GP or Registered Midwife
- Relaxation and Parent Craft classes

If you are not sure whether a particular appointment is included in one of the above categories you should contact Local HR.

Except in the case of the first appointment, you should produce for your manager:

i) An appointment card or some other document showing that the appointment has been made.
   or
ii) A certificate from a registered medical practitioner, registered midwife or registered nurse, stating that you are pregnant.

The time taken to attend such appointments within your working hours for that day will be paid at your usual rate, provided you have complied with the above requirements.

2. The Expected Date of the Birth

Your doctor or midwife will give you a certificate stating the expected week of birth – MAT B1. This can be issued to you up to 20 weeks before the expected week of birth. You will need this certificate to apply for maternity leave/pay and in order to receive Statutory Maternity Pay (SMP - if eligible). See the flowcharts at the back for further information.

As soon as the expected date of birth of your baby is confirmed to you on this MATB1 form then you will be able calculate the earliest date when you could commence your period of maternity leave. The earliest maternity leave can commence is the beginning of the 11th week before the expected week of childbirth (EWC). To calculate this date you should count back 11 weeks from
the Sunday before your date of expected birth. You may commence maternity leave any time between this date and your expected date of birth. However, your maternity leave will start automatically if you are absent from work with a pregnancy related illness during the 4 weeks before you baby is due.

3. Returning to Work

You will need to decide if you intend to return to work after your baby is born. You have three options:

a) to definitely return to work – you may decide that your previous working arrangements no longer suit your circumstances and you may wish to discuss other alternative forms of working with your line manager. These may include flexible working options such as reduced hours, job share or the option of taking some unpaid parental leave. Please refer to Leeds City Council’s guidelines on flexible working options.

To qualify for Occupational Maternity Benefits it must be your intention to return to work at the Council following maternity leave for a minimum period of 3 months. Flowchart 1 which follows, summarises your entitlements.

b) to defer your decision until after the birth - if you are unsure about whether or not to return to work Flowchart 2 summarises your entitlements. If you decide at a later date to return to work then any remaining entitlements will be paid to you following the completion of 3 months service.

c) to definitely leave work - i.e. resign, which should be confirmed in writing if this is your chosen option. If you are definitely not intending to return to work then Flowchart 3 summarises your entitlements.

Please inform your manager of your intentions as early as possible.

You may be considering the possibility of varying your working arrangements when you return from maternity leave. Whilst you do not need to do this until after the baby is born, it may be helpful for you to discuss the range of options that may be available with your Manager prior to going off on maternity leave. You can also contact Local HR for advice. However if you wish the Council to consider a request for varying your working arrangements you will need to formally put this in writing to your manager giving as long a period as possible.

At the same time you are under no obligation to request any change in working arrangements. Provided you have notified your manager of your intention to return to work you have the following legal rights:

- if returning during or at the end of the first 26 weeks (ordinary maternity leave) you are entitled to return to the same job on the same terms and conditions that you had before going on leave, unless this is not reasonably practicable by reason of redundancy.
- if you take more than 26 weeks (additional maternity leave) you are entitled to return to the same job on the same terms and conditions. If that is not practicable you are entitled to return to a job on terms and conditions no less favourable than your previous job.
4. Entitlement to Maternity Leave and Pay

If your Expected Week of Confinement (EWC) is on or after the 1st April 2007 and you have given the required period of notice of your pregnancy (no later than the 15th week before the expected week of confinement) you will be entitled to 52 weeks maternity leave. Employees with 26 weeks service with Leeds City Council at the 11th week before the EWC can take up to 63 weeks maternity leave (11 weeks before the birth and 52 weeks after).

Your entitlement to maternity pay and the amount you will receive will depend on:

a) your decision on whether you intend to return to work
b) your continuous length of service. National Conditions of Service give extra maternity leave benefits to those with 26 weeks Local Government continuous service. Slightly higher entitlements are given by the Council to those employees with 26 weeks continuous service working for Leeds City Council.
c) whether your earnings have been high enough to attract National Insurance contributions

The attached flowcharts will help you to determine your entitlements.

5. Claiming your Entitlement

To apply for maternity leave and to receive the pay provisions under both the Occupational Maternity Scheme and Statutory Maternity Pay (SMP), you must complete the relevant maternity documentation (please contact Business Support Centre if you do not have this.) After its completion it should be sent, together with your MAT B1 form which is provided by your medical practitioner, to the BSC no later than the end of the 15th week before the expected week of childbirth. The Council will reply within 28 days of receiving notification confirming the date you are due to return to work after your full entitlement to leave.

If you wish to change the date you want to start maternity leave you must give the Council at least 28 days notice. The Council will then respond within 28 days confirming any new return to work date at the conclusion of the full entitlement to maternity leave.

6. Statutory Maternity Pay (SMP)

SMP is a weekly payment for which you may be eligible. The weekly rate is set by the Government and is taxable. National insurance may also be payable. If you are eligible it is payable for a maximum of 39 weeks from the start of your maternity leave. It cannot be paid before the 11th week before the expected week of birth (unless your baby is born early) and is paid as shown below:

- First 6 weeks  90% of your average weekly earnings with no upper limit
- Remaining 33 weeks  Standard rate or a rate equivalent to 90% of your average weekly earnings, whichever rate is the lower

To qualify for SMP you must have had 26 week’s continuous service by the 15th week before your expected week of childbirth, and your gross average earnings need to be above the lower earnings limit for the payment of National Insurance contributions.
If you are not eligible for SMP a Form SMP1 will be issued by your employer which will also 
explain the reasons why you do not qualify for this allowance. You may still be eligible to receive 
Maternity Allowance from the Department of Work for Pensions (DWP). Claim forms (MA1) are 
available from ante-natal clinics and the DWP.

Please note that if you have been on long-term sickness prior to your maternity leave it may 
under certain circumstances affect your entitlements. Please discuss this with the BSC.

7. Occupational Maternity Pay

If you have 26 weeks continuous service with Leeds City Council at the 11th week before the 
expected week of childbirth, you will be eligible to receive Occupational Maternity Pay as follows:

- 6 weeks at 9/10 pay (includes SMP where payable)
- 4 weeks at 9/10 pay (includes SMP where payable)
- 20 weeks 1/2 pay (plus SMP where payable)
- 9 weeks standard rate SMP or 9/10 pay whichever is lower.

8. Continuous Service

The amount of your continuous service will affect your entitlement to maternity pay. The critical 
continuous service periods that may then affect your entitlements are whether at the 11th week 
before the expected week of childbirth:

- You have one year’s continuous service in Local Government
- You have 26 weeks continuous service with Leeds City Council

The flowcharts that follow will help you assess your entitlement. When calculating length of 
continuous service in Local Government please note the following:

- Where an employee returns to local government service following a break for maternity 
  reasons, or reasons concerned with caring for children or other dependants, they will be 
  entitled to have their previous service taken into account provided the break does not exceed 
  8 years and no permanent paid full time employment has intervened.

- Previous continuous service with any public authority covered by the 1983 Redundancy 
  Payments Modification Order (Local Government) may be taken into account. Further advice 
  on this can be obtained from Local HR.

9. Sickness Absence

Sickness absence before the start of maternity leave, which is certified as being unrelated to 
pregnancy shall be treated as sick leave. If, however the cause of absence is wholly or partly 
related to your pregnancy and occurs during the four weeks before the expected week of childbirth 
(EWC) then maternity leave shall commence on the day after your first complete day of sickness.
10. **Contact During Maternity Leave**

It is good practice for you and your manager to maintain reasonable contact during your absence so that you remain informed of developments and changes within your Directorate and you can be helped in your return to work. The mechanisms by which you wish to do this and the extent to which you wish to be informed should be discussed with your line manager prior to you commencing maternity leave. Managers will remain in contact with you and inform you of any changes taking place, in the same way as other affected employees.

11. **Keeping - In - Touch Days**

Keeping-in-touch days can also enable you and your manager to keep in touch during your maternity leave to ease your return to work. Following agreement with your manager you can work for up to 10 days during your maternity leave period without bringing your maternity leave period to an end. For these purposes, ‘work’ may include training or any other activity undertaken to assist you keeping in touch with the workplace such as conferences, team meetings etc. The provisions apply to the entire period of your maternity leave, except during the first 2 weeks of childbirth which is a period of compulsory maternity leave.

Any work done during maternity leave must be by agreement and neither you nor your manager can insist on it. It is also important to note that even if you only agree to work for a few hours on each occasion it will still be counted as ‘days’ under the maternity scheme. A form to register any hours worked whilst keeping-in-touch will be available to your manager from the BSC. Once complete the form should be returned to the BSC to process.

You will be paid at your contractual rate of pay per hour (which will include SMP where payable) for any hours worked during keeping-in-touch days.

12. **Notice of Return to Work**

There is no legal obligation for you to notify the Council of the date you will be returning to work if you take your full maternity leave entitlement (see Section 3). Your latest return date will be fixed and should already be known by the Council. **However it would be helpful if you could confirm your return date with your manager and the BSC as soon as you are aware of this.** Remember that your manager has to cover your absence and if a temporary replacement is taken on then they need to know when you might be returning.

If you wish to return to work before you have taken your **full** maternity leave entitlement then you must give your manager in writing at least 8 weeks notice in writing of your proposed return to work date. It will however help the Council make arrangements if you are able to give a period longer than that required by law.

13. **Change in Circumstances**

It is your responsibility to notify your manager in writing if any of the following events occur as your entitlement to Statutory Maternity Pay (SMP) will be affected:

a) you start work for another employer during your maternity leave
b) you are taken into legal custody
14. Failure to Return to Work

If you do not return to work after maternity leave, having declared your intention to do so, and you have chosen to receive full maternity payments whilst absent, then the Council will reclaim from you the maternity pay you have received (except for any statutory payments to which you may be entitled and the first 6 weeks occupational maternity pay).

15. Annual Leave

Annual leave and bank holidays will continue to accrue for the duration of your maternity leave.

Any time taken as maternity leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Maternity leave will also count towards length of continuous employment.

You should discuss your annual leave entitlement fully with your manager to ensure that you have the opportunity to take your annual leave either before commencing maternity leave or immediately prior to your return to work.

If you are not returning to work then you should plan to take any annual leave entitlement that you may be due before you commence your maternity leave.

16. Temporary Contracts

All female employees, regardless of their length of service or the number of hours they work, will qualify for some maternity leave, provided that they complete the relevant maternity documentation referred to in section 5 above.

If an employee is on a temporary contract that would cease before their maternity leave entitlement would end, then they should seek advice on this from Local HR.

Casual claimants should also seek advice from the BSC regarding their precise entitlements.

17. Frequently Asked Questions Relating to Pay and Conditions

- How is maternity pay paid?
  
  - Maternity pay will be paid in the same way as your current pay. This applies for occupational maternity pay, Statutory Maternity Pay (SMP), and keeping-in-touch days.
  
  - Payment will continue to be made on your normal payday and any payslips will be sent to your home address. However if you are not eligible for Statutory Maternity Pay but entitled to Maternity Allowance this would be paid directly from the Benefits Agency.

- How will I be paid for a keeping-in-touch day?

  You will be paid at your contractual rate of pay per hour (which will include SMP where payable) for any hours worked during keeping-in-touch days.

  If you decide to take advantage of a keeping-in-touch day whilst receiving Statutory Maternity Pay (SMP) the minimum you will receive is SMP and the normal offset rules will apply. For example, if whilst on maternity leave you earn £50 (this figure will be dependent on your rate of pay per hour
and the number of hours you work) for a keeping in touch day you will be able to retain your SMP. The £50 earned will be offset against your SMP meaning that you will receive £117 for the week (expected flat rate SMP from April 2008- March 2009). If for example you work for 3 keeping-in-touch days in the same week and earn £150 you will receive £150 as your SMP will be offset against your contractual pay paid for the same week. You are entitled to 10 keeping-in-touch days throughout your maternity leave period. If you exceed these 10 days even by only one day you will forfeit one full week's SMP where applicable.

If you decide to work a keeping-in-touch day during the unpaid part of your maternity leave you will be paid at your contractual rate of pay per hour.

- **What happens to additions/deletions to pay during maternity leave?**

  a) **National Insurance and Income Tax:**

     - National Insurance Contributions are deductible from the gross occupational maternity pay and gross Statutory Maternity Pay (SMP). They are not, however, deductible for the unpaid part of your maternity leave and therefore benefits may be lost.
     - You should contact your Department of Work and Pensions (DWP) office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits.
     - Pay during ordinary maternity leave and Statutory Maternity Pay (SMP) is subject to the provisions of income tax.
     - You may be entitled to a tax rebate if you are not returning to work. As soon as you have received any maternity pay you are entitled to, you should receive a P45 from the Council. You should send this to HM Revenue & Customs, along with written confirmation that you have finished work.

  b) **Pension Contributions:**

     Absence on paid or unpaid Maternity Leave is pensionable. You will continue to pay full pension contributions on maternity pay whether the pay element is a nine tenths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid maternity leave you will be given the option of repaying your pension contributions for that period. These deductions can be made from your pay on return to work by arrangement with yourself and the BSC.

  c) **Trade Union and other Deductions:**

     Trade Union deductions cease during the unpaid part of your maternity leave and are reinstated upon your return to paid employment unless otherwise agreed. It would be advisable for you to contact your trade union to arrange continuous benefits.

     Other deductions, such as Leeds Hospital Fund, Credit Union and Council Tax, will automatically cease during the unpaid part of any maternity absence and you will need to make alternative arrangements for these payments.
d) Increments:

Absence on Maternity Leave whether paid or unpaid shall count towards any normal annual increment and shall not defer the normal incremental date.

e) Retrospective Pay Awards:

In the event of a retrospective pay award being agreed after the commencement of your maternity leave, the Occupational Maternity Pay, Statutory Maternity Pay (SMP) and any payment for Keeping-in-Touch days will be re-calculated based on the new values. If you have left your employment with Leeds City Council, you need to write the BSC to request the payment of arrears.

f) Essential Car User Allowance – Lump Sum

Employees who are designated as having an essential car user allowance will continue to receive their essential car user allowance during the period of maternity leave.

g) Child Care Vouchers

Employees will continue to receive Child Care Vouchers during the period of maternity leave.

h) Bike to Work Scheme

The Council will continue to provide the bike to employees in the bike to work scheme during the period of maternity leave.

18. Frequently Asked Questions – General

• What if you wish to work up to the birth?

If you are fit and able you have the right to work up until the time your baby is due and your maternity leave will commence on the following day.

• What if the baby is born before the maternity leave is due to start?

If your baby is born before your maternity leave is due to start, the maternity pay period will start from the day following the date of birth (see flowchart for further details on the period of pay). You are required to write and inform the Council as soon as is reasonable that you have given birth and of the actual birth date of your baby.

• What if the baby is born late?

If your baby is late your entitlement is still up to 52 weeks leave from the actual date your baby is born.
• **What if it is a multiple birth?**

If you are expecting more than one baby your entitlement to maternity leave/pay is the same as if you were expecting only one baby.

• **What if the baby is still born?**

In the unhappy event of your baby not surviving from the start of the 25th week of pregnancy onwards, you will be entitled to maternity pay and leave entitlements as if the baby had lived. If you miscarry your baby during the first 24 weeks of pregnancy, you do not qualify for any maternity leave or maternity pay. Any absence from work will be treated as sick leave and you will be entitled to occupational sick pay in the usual manner. You will need to follow the sickness reporting procedure in these circumstances. These timescales may be subject to change in line with Government proposals, if you are in any doubt please contact the Local HR.

• **Does maternity leave affect continuity of service?**

No. Maternity leave does not count as a break in service.

• **What if an employment contract needs to be amended during maternity leave?**

If it is necessary to amend an employment contract during maternity leave, the amendment should be made following consultation with you and should place you on no less favourable terms than for existing employees.

• **What if you cannot return to work at the end of your maternity leave because of sickness?**

Where you submit a medical certificate from a registered medical practitioner, or a self-certificate, to cover absence from:

- the date you have notified the Council that you will return to work following child birth; or
- the date you and the Council have agreed that you will return, or
- where no date has been notified or agreed, the first day following the maximum period of maternity leave to which you are entitled

You will be entitled to sick leave in accordance with the Council's Managing Attendance Policy and Guidelines.

• **What if I want to adopt a child?**

Please refer to the Part 3 of this policy guidance document for further information on adoption leave.

• **What if I want to share my maternity Leave with my partner?**

Please refer to Part 4 of this policy guidance document for further information on Additional Paternity Leave.
Maternity Flowchart 1 - Intending To Return To Work (Option 1)

Are you intending to return to work for a minimum of 3 months?

Yes

No / Unsure

Please refer to flowcharts showing Options 2 & 3.
If you intend to return for less than 3 months please speak to the BSC.

Will you have at least 26 weeks continuous service with Leeds City Council at the 11th week before the expected week of childbirth? *(If uncertain contact BSC)*

Yes

No

Will you have more than 1 year continuous service (in local Government) at the 11th Week before the expected week of childbirth? *(If uncertain contact the BSC)*

Yes

Entitlement:

**Leave**
63 weeks maternity leave (up to 11 weeks before and 52 weeks after)
Period 1: 26 weeks Ordinary Maternity Leave
Period 2: 26 weeks Additional Maternity Leave

**Pay**
39 weeks paid at:
- 6 weeks at 9/10 pay offset by Statutory Maternity Pay (SMP) or MA
- 4 weeks at 9/10 pay offset by SMP or MA at a specified weekly amount
- 20 weeks at 1/2 pay plus SMP or MA (providing this does not exceed full pay) at a specified weekly amount
- 9 weeks at standard rate SMP or 9/10 of average pay whichever is lower, or MA where applicable

No

Entitlement:

**Leave**
Maximum 52 weeks maternity leave
Period 1: 26 weeks Ordinary Maternity Leave
Period 2: 26 weeks Additional Maternity Leave

**Pay**
18 weeks of this paid on the following basis:
- 6 weeks at 9/10 pay offset by MA where applicable
- 12 weeks at 1/2 pay plus MA (providing this does not exceed full pay)
- 21 weeks MA where applicable

No

Entitlement:

**Leave**
Maximum 52 weeks unpaid maternity leave.
Period 1: 26 weeks Ordinary Maternity Leave
Period 2: 26 weeks Additional Maternity Leave

**Pay**
May be eligible for Maternity Allowance.
Maternity Flowchart 2 – Unsure of Intention to Return to Work (Option 2)

Are you unsure whether you will return to work for a minimum of 3 months?

Yes

Will you have at least 26 weeks continuous service with Leeds City Council as at the 11th week before the expected week of childbirth? (If uncertain contact BSC)

Yes

Will you have more than 1 year continuous service (in local Government) at the 11th Week before the expected week of childbirth? (If uncertain contact BSC)

Yes

Initial Entitlement:
Leave
63 weeks maternity leave (up to 11 weeks before and 52 weeks after)
Period 1: 26 weeks Ordinary Maternity Leave
Period 2: 26 weeks Additional Maternity Leave

Pay
39 weeks paid at:
• 6 weeks at 9/10 pay offset by SMP or MA
• 33 weeks remaining at standard rate Statutory Maternity Pay (SMP) or 9/10 of average pay whichever is lower, or MA where applicable

No

Initial Entitlement:
Leave
Maximum 52 weeks maternity leave
Period 1: 26 weeks Ordinary Maternity Leave
Period 2: 26 weeks Additional Maternity Leave

Pay
• 6 weeks at 9/10 pay offset by MA where applicable
• 33 weeks MA where applicable

No

Entitlement:
Leave
Maximum 52 weeks maternity leave
Period 1: 26 weeks Ordinary Maternity Leave
Period 2: 26 weeks Additional Maternity Leave

Pay
• May be eligible for Maternity Allowance.

If you do return to work:
If you decide to return to work for a minimum of 3 months your Occupational Maternity Pay will be paid to you. This payment will be the difference between the Statutory Maternity Pay or Maternity Allowance you will already have received and your full entitlement to Occupational Maternity Pay. (See flowchart 1)
Maternity Flowchart 3 – Not intending to Return To Work (Option 3)

I am not intending to return to work

If you are unsure, please refer to option 2 or seek advice from the BSC.

Will you have at least 26 weeks continuous service with Leeds City Council at the 11th week before the expected week of childbirth? *(If uncertain contact BSC)*

Yes

No

Entitlement:
Leave
63 weeks maternity leave (up to 11 weeks before the date of birth and 52 weeks after)
Period 1: 26 weeks
Ordinary Maternity Leave
Period 2: 26 weeks
Additional Maternity Leave

Pay
39 weeks paid at:
- 6 weeks at 9/10 pay offset by SMP or MA
- 33 weeks remaining at standard rate
  Statutory Maternity Pay (SMP) or 9/10 average pay whichever is lower, or MA where applicable

No

Will you have more than 1 year continuous service (in local Government) at the 11th Week before the expected week of childbirth? *(If uncertain contact BSC)*

Yes

No

Entitlement:
Leave
Not applicable

Entitlement:
Leave
Not Applicable

Entitlement:
Leave

Pay
- 6 weeks at 9/10 pay offset by MA where applicable
- 33 weeks MA where applicable

Pay
- May be eligible for Maternity Allowance.

If due to exceptional circumstances you do return to work:
If you return to work for a minimum of 3 months, your Occupational Maternity Pay will be paid to you. This payment will be the difference between the Statutory Maternity Pay or Maternity Allowance you will already have received and your full entitlement to Occupational Maternity Pay. *(see flowchart 1)*
Part 2 – Birth Leave (including rights to Paternity Leave)

Guidance Document

This document is intended to provide a summary of employees’ entitlements to birth leave. It is not a comprehensive summary of employees’ legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in local Leeds City Council Agreements will take precedence. Further information and advice on these is available from Local HR.

These notes are intended for general guidance only. Should you have any specific enquiries please ask your manager or Local HR.

Birth/Paternity leave is seen as leave which enables the father (or person of mother’s choice) to give much needed practical and emotional support at or around the time of the birth.

Since April 2003 there has been a legal right to paternity leave and, where employees qualify, for pay during this leave. The Council’s Birth Leave Provisions exceed these statutory provisions insofar as they do not require an employee to have 26 weeks continuous service to qualify for payments to be made during approved absence.

1. Qualifying for Birth / Paternity Leave

Are you the biological father, spouse or partner?

In order to claim your entitlement to paternity leave you will need to request an SC3 form from HM Revenue and Customs. These forms are available from the website address [www.hmrc.gov.uk/forms/sc3.pdf](http://www.hmrc.gov.uk/forms/sc3.pdf). You must complete this form and submit it to your manager along with a copy of the MATB1 or birth certificate and Special Leave request form.

Are you the nominated person of the mother’s choice?

In order to apply for birth leave you will need to provide a copy of the MAT B1 or birth certificate along with a letter from the mother confirming you are the nominated person.

2. Attending Ante-Natal and Child Care Clinics

Up to 5 absences can be requested to attend ante-natal and/or child care clinics. For each absence a period of up to ½ day can be paid.

3. Attending the Birth

One day’s absence can be requested to attend the child’s birth if this falls on a working day. Any requirements beyond this (e.g. arising from complications during birth) would have to be considered under special leave provisions.

4. Birth/Paternity Leave

An employee is entitled to a maximum of two calendar weeks Birth or Paternity Leave. This can be taken at any time between 11 weeks prior to, and 8 weeks after the birth. The leave has to be taken in whole weeks (either two separate weeks or two weeks)

5. Notice of Absences

The Council appreciates that employees cannot always determine in advance the precise time the absence will occur. At the same time employees need to recognise that managers need to make cover arrangements and they should endeavour wherever possible to keep their manager or supervisor up-to-date on developments and potential requirements for absence.
6. Sharing Maternity Leave

Please refer to Part 4 of this policy guidance document for further information on Additional Paternity Leave.
Part 3 – Adoption Leave

This policy applies only to employees who expect to have a child placed for adoption on or after 5th October 2008 (regardless of the when the child is actually placed).

Guidance Document

This document is intended to provide a summary of employees’ entitlements to adoption leave. It is not a comprehensive summary of employees’ legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in local Leeds City Council Agreements will take precedence. Further information and advice on these is available from Local HR.
Employee Guide to Adoption Leave Provisions

These notes are intended for general guidance only. Should you have any specific enquiries please ask your manager or contact your Local HR.

Since April 2003 there has been a legal right to adoption leave and, where employees qualify, for pay during this leave. The Council’s Adoption Leave Scheme goes beyond the statutory minimum.

1. Qualifying for Adoption Leave

All employees newly matched with a child by an approved adoption agency will have some entitlements. Those with 26 weeks continuous service with Leeds City Council by the week in which you are notified that you have been matched with a child, have additional entitlements.

2. Attending Application-Vetting Interviews

Up to 17 hours reasonable time off will be given related to the application for adoption. This may include pre-adoption interviews, adoption training, visits or court appearances.

3. Attending Ante-Natal and Child Care Clinics

All employees can request up to 5 absences to attend ante-natal and child care clinics. For each absence a period of up to ½ day can be paid.

4. Returning to Work

You may be considering the possibility of varying your working arrangements when you return from adoption leave. Whilst you do not need to do this until after the child is placed, it may be helpful for you to discuss the range of options that may be available with your Manager prior to going off on adoption leave. You can also contact Local HR. However if you wish the Council to consider a request for varying your working arrangements you will need to formally put this in writing to your manager giving as long a period as possible.

At the same time you are under no obligation to request any change in working arrangements. Provided you have notified your manager of your intention to return to work you have the following legal rights:

- If returning during or at the end of the first 26 weeks (ordinary adoption leave) you are entitled to return to the same job on the same terms and conditions that you had before going on leave, unless this is not reasonably practicable by reason of redundancy.
- If you take more than 26 weeks (additional adoption leave) you are entitled to return to the same job on the same terms and conditions. If that is not practicable you are entitled to return to a job on terms and conditions no less favourable than your previous job.

5. Adoption Leave & Pay

All employees with 26 weeks continuous service with Leeds City Council are entitled to 52 weeks adoption leave. (Up to a maximum of 54 weeks if you opt to take 2 additional weeks off before the actual date of the child’s placement.) Employees with 26 weeks continuous service with Leeds
City Council, who intend **returning to work** after adoption, will be entitled to 39 weeks paid leave at the rates outlined below:

- 6 weeks at 9/10 pay offset by Statutory Adoption Pay (SAP)
- 20 weeks at half pay plus SAP (standard rate)
- 13 weeks SAP (standard rate)

If you have 26 weeks continuous Leeds City Council service (by the week in which you are notified that you have been matched with a child) and you are **not intending to return to work** you will be entitled to 6 weeks at 9/10 pay followed by Statutory Adoption Pay where appropriate.

Where two employees of the Council are adopting together only one adopter may take paid adoption leave. The employee not taking this may be eligible to two weeks Paternity Leave – please refer to Part 2 of this document for further information.

**6. Claiming your entitlement**

Adopters should notify BSC of their intention to take adoption leave within 7 days of being notified of a match by their adoption agency. This must be evidenced by production of a matching certificate within at least 28 days of the date they expect Statutory Adoption payments to commence.

**7. Sharing Adoption Leave**

Please refer to Part 4 of this policy guidance document for further information on Additional Paternity Leave.

**8. Contact During Adoption Leave**

It is good practice for you and your manager to maintain reasonable contact during your absence so that you remain informed of developments and changes within your Directorate and you can be helped in your return to work. The mechanisms by which you wish to do this and the extent to which you wish to be informed should be discussed with your line manager prior to you commencing adoption leave. Managers will remain in contact with you and inform you of any changes taking place, in the same way as other affected employees.

**9. Keeping-in-Touch Days**

Keeping-in-touch days can also enable you and your manager to keep in touch during your adoption leave to ease your return to work. Following agreement with your manager you can work for up to 10 days during your adoption leave period without bringing your adoption leave period to an end. For these purposes, ‘work’ may include training or any other activity undertaken to assist you keeping in touch with the workplace, such as conferences, team meetings etc. The provisions apply to the entire period of your adoption leave.

Any work done during adoption leave must be by agreement and neither you nor your manager can insist on it. It is also important to note that even if you only agree to work for a few hours on each occasion it will still be counted as ‘days’ under the adoption scheme. A form to register any hours worked whilst keeping-in-touch will be available to your manager from the BSC. Once complete the form should be returned to the BSC to process.

You will be paid at your contractual rate of pay per hour (which will include SAP where payable) for any hours worked during keeping-in-touch days.
10. Notice of Return to Work

There is no legal obligation for you to notify the Council of the date you will be returning to work if you take your full adoption leave entitlement. Your latest return date will be fixed and will already be known by the Council. **However it would be helpful if you could confirm your return date with the BSC as soon as you are aware of this.** Remember that your manager has to cover your absence and if a temporary replacement is taken on then they need to know when you might be returning.

If you wish to return to work before you have taken your **full** adoption leave entitlement then you must give your manager in writing **at least 8 weeks notice in writing of your proposed return to work date.** It will however help the Council make arrangements if you are able to give a period longer than that required by law.

11. Change in Circumstances

It is your responsibility to notify your manager in writing if any of the following events occur as your entitlement to Statutory Adoption Pay (SAP) will be affected:

   a) you start work for another employer during your adoption leave
   b) you are taken into legal custody

12. Failure to Return to Work

If you do not return to work after adoption leave, having declared your intention to do so, and you have chosen to receive full adoption payments whilst absent, then the Council will reclaim from you the adoption pay you have received (except for any statutory payments to which you may be entitled and the first 6 weeks occupational adoption pay).

13. Annual Leave

Annual leave and Bank Holidays will continue to accrue during the whole of your adoption leave.

Any time taken as adoption leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Adoption leave will also count towards length of continuous employment.

You should discuss your annual leave entitlement fully with your manager to ensure that you have the opportunity to take your annual leave either before commencing adoption leave or immediately prior to your return to work.

If you are not returning to work then you should plan to take any annual leave entitlement that you may be due before you commence your adoption leave.

14. Temporary Contracts

All employees, provided they meet the service requirements will qualify for 52 weeks adoption leave, provided that they complete the relevant adoption documentation referred to in section 5 above.
If an employee is on a temporary contract that would cease before their adoption leave entitlement would end, then they should seek advice on this from Local HR.

Casual claimants should also seek advice from the BSC regarding any entitlements.

15. Frequently Asked Questions Relating to Pay and Conditions

- How is adoption pay paid?
  - Adoption pay will be paid in the same way as your current pay. This applies for both occupational adoption pay, Statutory Adoption Pay (SAP) and keeping-in-touch days.
  - Payment will continue to be made on your normal payday and any payslips will be sent to your home address.

- How will I be paid for a keeping-in-touch day?

  You will be paid at your contractual rate of pay per hour (which will include SAP where payable) for any hours worked during keeping-in-touch days.

  If you decide to take advantage of a keeping-in-touch day whilst receiving Statutory Adoption Pay (SAP) the minimum you will receive is SAP and the normal offset rules will apply. For example, if whilst on adoption leave you earn £50 (this figure will be dependent on your rate of pay per hour and the number of hours you work) for a keeping in touch day you will be able to retain your SAP. The £50 earned will be offset against your SAP meaning that you will receive £117 for the week (expected flat rate SAP from April 2008 - March 2009). If for example you work for 3 keeping-in-touch days in the same week and earn £150 you will receive £150 as your SAP will be offset against your contractual pay paid for the same week. You are entitled to 10 keeping-in-touch days throughout your adoption leave period. If you exceed these 10 days even by only one day you will forfeit one full weeks SAP where applicable.

  If you decide to work a keeping-in-touch day during the unpaid part of your adoption leave you will be paid at your contractual rate of pay per hour.

- What happens to additions/deletions to pay during adoption leave?

  a) National Insurance and Income Tax:

     - National Insurance Contributions are deductible from the gross occupational adoption pay and gross Statutory Adoption Pay (SAP). They are not, however, deductible for the unpaid part of your adoption leave and therefore benefits may be lost.
     - You should contact your Department of Work and Pensions (DWP) office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits.
     - Pay during ordinary adoption leave and Statutory Adoption Pay (SAP) is subject to the provisions of income tax.
     - You may be entitled to a tax rebate if you are not returning to work. As soon as you have received any adoption pay you are entitled to you should receive a P45 from the Council. You should send this to HM Revenue & Customs, along with written confirmation that you have finished work.
b) **Pension Contributions:**

Absence on paid or unpaid adoption leave is pensionable. You will continue to pay full pension contributions on adoption pay whether the pay element is a nine tenths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid adoption leave you will be given the option of repaying your pension contributions for that period. These deductions can be made from your pay on return to work by arrangement with yourself and BSC.

c) **Trade Union and other Deductions:**

Such deductions cease during the unpaid part of your adoption leave and are reinstated upon your return to paid employment unless otherwise agreed.

Regarding any trade union deductions, it would be advisable for you to contact your trade union to arrange continuous benefits.

Other deductions, such as Leeds Hospital Fund, Credit Union and Council Tax, will automatically cease during the unpaid part of any adoption absence and you will need to make alternative arrangements for these payments.

d) **Increments:**

Absence on adoption leave whether paid or unpaid shall count towards any normal annual increment and shall not defer the normal incremental date.

e) **Retrospective Pay Awards:**

In the event of a retrospective pay award being agreed after the commencement of your adoption leave, the occupational adoption pay, Statutory Adoption Pay (SAP) and any payment for keeping-in-touch days will be re-calculated based on the new values. If you have left your employment with Leeds City Council, you need to write into the Employee Administration Service to request the payment of arrears.

f) **Essential Car User Allowance – Lump Sum**

Employees who are designated as having an essential car user allowance will continue to receive their essential car user allowance during the period of adoption leave.

g) **Child Care Vouchers**

Employees will continue to receive Child Care Vouchers during the period of adoption leave.

h) **Bike to Work Scheme**

The Council will continue to provide the bike to employees in the bike to work scheme during the period of adoption leave.
16. Frequently Asked Questions – General

- **What if the adoption is delayed or disrupted?**

You must be sure that the placement is actually going ahead if you are starting adoption leave before the actual date of placement, as you cannot stop the leave and start again if there are any delays.

There is an eight week period allowing adoptive parents to come to terms with the ending of a placement. This applies in 3 sets of circumstances:

- If you have started adoption leave before the placement and the adoption agency notify you that the child will not be placed with you, the adoption leave will end eight weeks after the end of the week that you are notified the placement will not take place.
- If the child dies during the adoption leave, the leave will end eight weeks after the end of the week in which the child dies.
- If the child is returned to the adoption agency, the leave will end eight weeks after the end of the week in which the placement ends.

- **Does adoption leave affect continuity of service?**

No. Adoption leave does not count as a break in service.

- **What if an employment contract needs to be amended during adoption leave?**

If it is necessary to amend an employment contract during adoption leave, the amendment should be made following consultation with you and should place you on no less favourable terms than for existing employees.
Part 4 – Additional Paternity Leave (APL)

APL applies to employees whose child/children are due on or after the 3\textsuperscript{rd} April 2011 and parents notified of a match for adoption on or after 3\textsuperscript{rd} April 2011

Guidance Document

This document is intended to provide a summary of employees’ entitlements to APL. It is not a comprehensive summary of employees’ legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in local Leeds City Council Agreements will take precedence. Further information and advice on these is available from Local HR.

introduced 25\textsuperscript{th} August 2010
Employee Guide to Additional Paternity Leave

1. Additional Paternity Leave (APL)

APL applies to expectant employee’s whose child’s expected week of birth begins on or after the 3rd April 2011. It also applies to employees who are notified of a match for adoption on or after 3rd April 2011.

Although reference is made to ‘child’ throughout this guidance, entitlement to APL is not affected by the birth, or expected birth, of more than one child as a result of the same pregnancy.

It is governed by the Additional Paternity Leave Regulations 2010 (the Regulations). The Regulations introduce a new entitlement for employees who are fathers or partners of mothers or adopters to take APL in the first year of their child’s life or the first year after the child’s placement for adoption.

It is in addition to the current entitlement of two weeks statutory ordinary paternity leave and other paternity provisions.

For an employee to take APL the mother must have returned to work and forfeited a portion of her maternity leave. Under the Regulations the mother and her partner can now choose to share leave to take care of their child. If the mother chooses to return to work during her 39 weeks (Statutory Maternity Pay period) and the father takes APL, he will be paid for this period. Any leave he takes outside of the 39 weeks will be unpaid.

APL can be taken for a maximum of 26 weeks and a minimum of 2 weeks, and can only start at least 20 weeks after the birth or placement for adoption. The APL period must end no later than 12 months after the birth of the child or notification of a match for adoption, and may only be taken in multiples of complete weeks.

2. Criteria

Employees who want to take APL must meet the following criteria:

- the employee must be the child’s father or be married to, or the civil partner or partner of the mother, and
- has (or expects to have) the main responsibility, apart from the mother, for the upbringing of the child, and
- has been in employment with the Council for a continuous period of at least 26 weeks ending with the 15th week before the child’s expected week of birth, and
- remains in employment with the Council until the week before APL starts, and
- intends to care for the child during the APL period, and
- the mother must sign a declaration form (details in paragraph 4 below) and
- the mother must have at least two unexpired weeks of the maternity allowance or Statutory Maternity Pay period left.
3. Pay during Additional Paternity Leave

An employee who meets the qualifying criteria and notice requirements is entitled up to a maximum of 19 weeks Additional Statutory Paternity Pay. This is paid at the same flat rate as Statutory Maternity Pay. The key points to note concerning Additional Statutory Paternity Pay are:

- It applies to employees whose child is due (or who are notified of a match for adoption) on or after the 3rd April 2011.

- The mother and the employee will therefore between them be entitled to Statutory Maternity Pay and Additional Statutory Paternity Pay for a combined total of 39 weeks.

- Additional Statutory Paternity Pay is likely to cover part of the APL. The APL will only be paid if taken during the mother’s maternity pay period (39 weeks from expected date of childbirth). Leave taken after this will be unpaid.

- The employee will only qualify for Additional Statutory Paternity Pay if the mother returns to work before her Statutory Maternity Pay period expires.

- The mother and employee can elect to share who should stay at home with the child for the later part of the first year.

- The start date of the mother’s Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay must be provided to the employee’s employer so that the period in which they can claim Additional Statutory Paternity Pay can be calculated.

- In addition the employee will have to notify the employer of the dates that the Additional Statutory Paternity Pay is expected to start and finish. A form for this can be obtained from the BSC or on their intranet site.

For example the mother takes 26 weeks ordinary maternity leave and then forfeits her right to any further maternity leave by returning to work. The couple agree that the father (or partner of the mother) will take their full 26 weeks APL entitlement. They would receive Statutory Paternity Pay for the first 13 weeks of the APL but would continue with their remaining 13 weeks APL on an unpaid basis. So APL is only paid to the extent that it is taken during the mother’s 39 week maternity period, it is paid at the same rate and in the same way as Statutory Maternity Pay.

4. Notice Requirements

If you want to take a period of APL certain notice requirements apply. At least eight weeks before you wish to take APL you must give your manager;

1. A Leave Notice
2. An Employee Declaration; and
3. A Mother Declaration

A Leave Notice means written notification of the child’s expected week of childbirth, the child’s date of birth and the dates you have chosen to begin and end your period of APL.
An **Employee Declaration** is written confirmation, signed by you, that the purpose of the leave will be to care for the child, and that you satisfy the criteria set out in Regulation 4(2)(c) and (d) which are:

- the employee must be the child’s father or be married to, or the civil partner or partner of the mother, and
- has (or expects to have) the main responsibility, apart from the mother, for the upbringing of the child, and
- has been in employment with the Council for a continuous period of at least 26 weeks ending with the 15th week before the child’s expected week of birth, and
- remains in employment with the Council until the week before APL starts

A **Mother’s Notice** is written confirmation from the child’s mother stating;

- the mother’s name and address;
- the date the mother intends to return to work;
- the mother’s national insurance number;
- that you satisfy the conditions set out in Regulations 4(2)(c) and (d) (as above);
- that you are to the mother’s knowledge the only person exercising the entitlement to APL in respect of the child; and
- that the mother consents to the Council processing the information contained in her declaration.

An application form and further guidance on this can be obtained from the BSC and from their intranet site.

The Council can make a request, within 28 days of it receiving your leave notice, for you to provide a copy of the child’s birth certificate and/or the name and address of the mother’s employer (or business address if she is self employed). You have an obligation under the Regulations to provide this information.

The notice requirement to give the employer when returning to work following a period of APL is 6 weeks.

5. **Frequently Asked Questions – General**

- If I have been granted APL can I decide to come back earlier than the date I had given?

If you have started the APL and you wish to return to work before the end of it you must give the employer six weeks notice of the earlier return date. If you attempt to return to work earlier than the end of the APL and this notice has not been given, the employer may postpone the leave to such a date which does give six weeks notice provided that is not later than the end of the APL period. You may also cancel your leave notice or vary it before the leave period has begun, provided that you give written notice either six weeks before the cancelled start date or six weeks before the new date, whichever is the earliest.

If it is not practicable to give this 6 weeks notice then the employer will try and accommodate the changes to your arrangements, but if they can’t they can make you take a period of APL (usually no more than 6 weeks) before returning to work.
Once I have applied for APL and given my notice what would happen if I split from my partner so no longer needed to take it?

Once you have given the APL notice, you must give the employer a written withdrawal notice as soon as reasonably practicable. If an employer receives a withdrawal notice and it is not reasonable or practicable to accommodate the changes, the employer may require you to take a period of APL (usually no more than 6 weeks as above).

Does APL affect continuity of Service?

No. APL does not count as a break in service.

If I have a period of unpaid Additional Paternity Pay what happens to my Pension Contributions?

On returning to work following a period of unpaid paternity leave you will be given the option of repaying your pension contributions for that period. These deductions can be made from your pay on your return to work by contacting your Payroll team.

If I am on APL will I have Keeping In Touch Days?

Yes. However, due to the length of your absence you will not be entitled to 10 days, this will be pro rated to the number of days you are on APL. (for further information on Keeping In touch Days please Part 1 of this policy guidance document)

Am I entitled to paid paternity leave, APL and unpaid paternal leave?

Yes. The right to be paid paternity leave is in addition to any paternal leave rights. This means that providing you qualify for the different types of leave, in the first year of the child’s life you could have a total of 32 weeks absence from work, two weeks paternity leave paid at the statutory rate, 26 weeks APL, part of which may be paid and four weeks unpaid paternal leave.

What happens to additions/deletions to pay during APL

If you are taking a proportion of the mother’s maternity leave then the same rules apply as maternity leave. (please see Part 1 - Maternity Leave pages 10 to 11).