

**Revision of the Maternity, Adoption, Paternity and Parental Leave Policy.**

**SUMMARY**

- 1.1 From 5 April 2015 employees may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) under the Shared Parental Leave Regulations due to come into force from 1 December 2014. The regulations are being introduced as part of the Children and Families Act 2014.
- 1.2 The regulations are designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. On 5 November 2014, Chief Officer Group agreed the recommendation (Report attached as Appendix 3) that employees who took Shared Parental Leave should receive occupational pay in line with those taking maternity or adoption leave.
- 1.3 The Maternity, Adoption, Paternity and Parental Leave Policy has been revised and renamed as the Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy which incorporates all of the changes required by the new legislation. This includes the removal of additional paternity leave which has been replaced by shared parental leave. The main changes to the policy are contained in Appendix 2.

**RECOMMENDATION**

- 2.1 To agree the Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy.

**REASONS FOR RECOMMENDATION**

- 3.1 The new regulation for Shared Parental Leave come into being on 5 April 2015 by which time we will need to have a policy and procedure in place for dealing with Shared Parental Leave requests. The revised Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy meets this requirement.

## SUPPORTING INFORMATION

- 4.1 The report presented to Chief Officer Group on 14 November 2014 is attached as Appendix 3. This contains all the background information on Shared Parental Leave and Pay and the options for implementing the legislation
- 4.2 The new regulations for shared parental leave and pay come into force from 5 April 2015. However, parents may be informing us of their intention to take SPL by 9 February 2015. Women and their partners who receive their MATB1's in December are likely to be affected by the changes and may wish to take shared parental leave, they will want to know what options are available to them from a leave and pay point of view.
- 4.3 Parents will be able to share a pot of leave and pay; they can decide to be off work at the same time and/or taking it in turns to have periods of leave to look after the child. It is hoped that by sharing the parental leave and pay that more fathers/partners will be encouraged to participate in the early upbringing of their child.

## OTHER OPTIONS CONSIDERED

- 5.1 The other options for Shared Parental Leave and Pay were considered in a report to Chief Officer Group on 5 November 2014 and the recommendation was made for employees who take Shared Parental to be offered the same occupational enhancement as those on Maternity or Adoption Leave.

This report has been approved by the following officers:

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Tina Holmes, HR Advisor  Janie Berry Diane Sturdy, Strategic HR manager – OD & Pay and Reward Strategy
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Tina Holmes 01332 643894 tina.holmes@derby.gov.uk None Appendix 1 – Implications Appendix 2- Table of changes Appendix 3 – Report to Chief Officer Group 14 November 2014 Appendix 4 – Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 The financial implications remain as reported in 5 November Report to Chief Officer Group.

**Legal**

- 2.1 If we do not revise our Maternity, Adoption, Paternity and Parental Leave Policy to remove additional Paternity leave and replace it with Shared Parental Leave our policy will no longer be legally compliant.

**Personnel**

- 3.1 There is potential for parents and adopters to feel that they are not valued if we do not have a policy and procedure in place to allow them access to the new flexible options available to them under the new legislation.

**IT**

- 4.1 Protocols will be needed for the new HRIS system to administer payment of an occupational enhancement to employees taking Shared Parental Leave. However, new protocols will need to be written for the introduction of Shared Parental Leave anyway.

**Equalities Impact**

- 5.1 Working proactively to put the proper policies and procedures in place to facilitate Shared Parental Leave ensures we do not discriminate against the protected characteristic of 'Maternity'.

**Health and Safety**

- 6.1 None

**Environmental Sustainability**

- 7.1 None

**Property and Asset Management**

- 8.1 None

## **Risk Management**

- 9.1 Following the recommendation made by Chief Officer Group on 5 November 2015 lessens the risk of a discrimination claim.

## **Corporate objectives and priorities for change**

- 10.1 A skilled and motivated workforce

## Appendix 2

### Table of changes for Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy.

Old Policy	New Policy	Reason
Additional paternity leave included	Additional paternity leave removed	Children and Families Act 2014
	Shared Parental Leave and Pay included, see summary below	Children and Families Act 2014
	Enhanced occupational maternity and adoption pay matched for employees taking shared parental leave	Recommendation from Chief Officer Group 5 November 2015.
Parental leave available to a child's eighth birthday	Parental leave available till the child is eighteen	Children and Families Act 2014
<p>Summary of Shared Parental Leave and Pay</p> <ul style="list-style-type: none"> <li>• Employed mothers will continue to be entitled to 52 weeks of Maternity Leave and 39 weeks of statutory maternity pay or maternity allowance</li> <li>• If they choose to do so, an eligible mother can end her maternity leave early and, with her partner or the child's father, will be able to opt for Shared Parental Leave instead of Maternity Leave. If they both meet the qualifying requirements and both qualify, they will need to decide how they divide their total Shared Parental Leave and Pay entitlement between them</li> <li>• Paid Paternity Leave of two weeks will continue to be available to fathers and a mother's or adopter's partners</li> <li>• Adopters will have the same rights as other parents to Shared Parental leave and pay</li> <li>• Intended parents in surrogacy who meet certain criteria will be eligible for statutory adoption leave and pay and Shared Parental Leave and Pay</li> <li>• Fathers/partners will be eligible for unpaid time off for two ante-natal appointments (our current policy facilitates paid time off.)</li> </ul>		



Derby City Council

**CHIEF OFFICER GROUP**  
**Date 14 November 2014**

# ITEM XX

 Report of the Interim Strategic Director of  
 Resources

## Report on implementing new 'Shared Parental Leave' Policy.

### SUMMARY

- 1.1 From 5 April 2015 employees may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) under the Shared Parental Leave Regulations due to come into force from 1 December 2014. The regulations are being introduced as part of the Children and Families Act 2014. For the purpose of this report the word **Partner** refers to the child's biological father or the partner of the mother. This can be their marriage partner, civil partner, or a partner who is living in an enduring relationship with the mother and the child.
- 1.2 The regulations are designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a pot of leave and pay; they can decide to be off work at the same time and/or taking it in turns to have periods of leave to look after the child. It is hoped that by sharing the parental leave and pay that more fathers/partners will be encouraged to participate in the early upbringing of their child.
- 1.3 The regulations set out the eligibility requirements for leave and pay, but remain silent on the issue of occupational maternity and adoption pay schemes. Historically, offering enhanced maternity pay did not amount to unlawful discrimination because women were granted special protection in their biological position as a mother. There is the potential that the changes in parental leave and pay could result in discrimination claims from men, with regard to occupational maternity and adoption schemes. This is based on European Court case law.
- 1.4 The Council needs to update its Maternity, Adoption, Paternity and Parental leave Policy in line with the new legislation. It also needs to consider what position to take on occupational maternity and adoption pay. This report sets out the options available and recommends the option that reflects the ethos of the Council in terms of being a fair employer which supports parents/adopters in the early care of children.

### RECOMMENDATION

- 2.1 To endorse the recommendation for occupational maternity and adoption pay to be awarded to the parent/adopter/partner who takes maternity, adoption or shared parental leave in weeks 7 to 18 after the child's birth or adoption.

- 2.2 To authorise revision of the Maternity, Adoption, Paternity and Parental Leave Policy in line with the Children and Families Act 2014 and the recommendation at point 2.1.

## **REASONS FOR RECOMMENDATION**

- 3.1 The Maternity, Adoption, Paternity and Parental Leave Policy will require revision to meet the Children and Families Act 2014. The Council could adopt a wait and see approach to offering shared occupational maternity and adoption pay. However, taking a wait and see approach would not fit in with the Council's ethos of being a 'Fair Employer', or an Excellent in Equality organisation and Stonewall top 100 employer.
- 3.2 There will be some financial implications on implementing shared occupational maternity and adoption pay. However, given that the anticipated take-up for shared parental leave will only be between 2% and 8% (government figures) these are likely to be limited. Statistics show that generally men still earn more than women; this along with our workforce demographics is likely to be a limiting factor in how many partners take up shared parental leave, even where occupational maternity and adoption pay is available to all. Chief Officer Group needs to consider these against all the options in the current financial climate. There will be potential financial costs to implementing the SPL and SHPP regardless of what option the Council decides to implement.
- 3.3 The option recommended may limit the financial implications as the period when the SHPP can be claimed is time limited.

## **SUPPORTING INFORMATION**

- 4.1 The new regulations for shared parental leave and pay come into force from 5 April 2015. However, parents may be informing us of their intention to take SPL by 9 February 2015. Women and their partners who receive their MATB1's in December are likely to be affected by the changes and may wish to take shared parental leave, they will want to know what options are available to them from a leave and pay point of view.

- 4.2 It is therefore important that we look at the options available. Shared Parental Leave and Pay are legislative requirements and we are obliged to implement the changes. However, we have the opportunity to look at how we implement our Occupational Maternity and Adoption Pay Schemes. These are:-
- Maintain the current situation with Occupational Maternity and Adoption pay only being available to the Mother or lead adopter. Wait and see if any discrimination cases occur
  - Revise our Occupational Maternity and Adoption schemes so that they can be accessed by either parent/adopter in weeks 7 to 18 during maternity, adoption or shared parental leave, as per the current scheme
  - Revise our Occupational Maternity and Adoption schemes so that they can be accessed by either parent/adopter at any point during maternity, adoption or shared parental leave. As shared parental leave can take place in discontinuous blocks neither parent/adopter might be on leave in weeks 7 to 18
- 4.3 Key points of the new regulations are as follows..
- Employed mothers will continue to be entitled to 52 weeks of Maternity Leave and 39 weeks of statutory maternity pay or maternity allowance
  - If they choose to do so, an eligible mother can end her maternity leave early and, with her partner or the child's father, will be able to opt for Shared Parental Leave instead of Maternity Leave. If they both meet the qualifying requirements and both qualify, they will need to decide how they divide their total Shared Parental Leave and Pay entitlement between them
  - Paid Paternity Leave of two weeks will continue to be available to fathers and a mother's or adopter's partners
  - Adopters will have the same rights as other parents to Shared Parental leave and pay
  - Intended parents in surrogacy who meet certain criteria will be eligible for statutory adoption leave and pay and Shared Parental Leave and Pay
  - Fathers/partners will be eligible for unpaid time off for two ante-natal appointments (our current policy facilitates paid time off.)
- 4.4 There is no clear guidance on what position Local Government or businesses should adopt for offering Occupation Maternity/Adoption pay to husbands/partners. The regulations are silent on the matter, while the Local Government Association has merely stated that Councils should make the decision locally. Nottingham City Council has indicated that they are likely to offer their Occupational scheme to husbands/partners and Sheffield is considering it. At this point no other Councils have responded to a query on this. The Civil Service has made the decision to offer Occupational Maternity/Adoption pay to husbands/partners.



- 4.5 A European Court case in 2010, *Roca Alvarez v Sesa Start Espana ETT SA*, set a precedent that special protection for mothers in relation to their biological position can be challenged. The court found that a Spanish law allowing mothers to take time off to feed an un-weaned child under the age of nine months was discriminatory to men. This was because feeding and devoting time to the child could be carried out just as well by the father as by the mother. The introduction of Shared Parental Leave and Shared Parental Leave Pay within 2 weeks of the child's birth indicates that child care at this point can be carried out by either parent. Previously the rules on Parental Leave did not allow the husband/partner to take leave until week 20.
- 4.6 There is also the potential in adoption cases of challenges around the legality of the main adopter being entitled to Statutory Adoption or Shared Parental Pay as well as Occupational Adoption pay, while the partner would only be entitled to Statutory Shared Parental Pay.
- 4.7 If any discrimination claims arise around occupational maternity pay, it is likely that a local government organisation or other 'emanation' of the state will be recipient as the case law supporting such a claim is from the European Court. However, the likelihood of Derby City Council being the first organisation to receive a discrimination claim around Occupational Maternity Pay is limited.
- 4.8 The introduction of Shared Parental Leave allows the sharing of leave and pay for those parents/adopters who qualify. This is to encourage more men to share in the early care of their children. The purpose of our Occupational Maternity and Adoption Pay Schemes are to support employees to enable them to spend time in the early weeks of a child's life. Clearly, there is a common theme around the 'child care provider' being supported financially and legally. It would be in keeping with the principles of our current Occupational Maternity and Adoption Pay Schemes that the Council should extend these schemes to be available for whoever takes on the caring responsibility.
- 4.9 Finally, there is a potential fairness issue for our employees if we do not extend the Occupational Maternity and Adoption Pay Schemes to those taking Shared Parental Leave. With the introduction of shared parental leave we could have a situation where the father/partner chooses to stay home and look after their child for whole of the Shared Parental Leave period. The father/partner would only receive the relevant statutory pay during the Shared Parental Leave period. However, if the mother chooses to look after their child they would receive the relevant statutory pay and occupational pay during weeks 7 to 18.
- 4.10 Extending the Occupational Maternity and Adoption Pay Schemes to those taking Shared Parental Leave does have financial implications. However these are likely to be limited by a number of factors:
- age and gender profile of the Council workforce
  - pay differentials between the genders

It is likely that the above factors have influenced the Government expectations of take up of Shared Parental Leave which is anticipated to be between 2% and 8%.

- 4.11 Currently approximately 79% of the Council Workforce is female. While not all the partners eligible for Shared Parental Leave will be male the majority are likely to be, meaning there is a limited pool of people who are likely to apply.
- 4.12 This pool is further limited by the age profile of the workforce according to research from the Chartered Institute of Personnel Development. A recent survey showed that there is a generation gap between those who think that care for children should be shared between partners.

<b>Age Group</b>	<b>Shared Caring</b>
18 to 25	44%
26 to 35	26%
over 36	13%

- The current workforce is made up of 7% of people under 25 and 18% from 25 to 34.
- 4.13 While the Council is committed to equal pay there is clear evidence of a continuing pay gap between the genders. It is therefore likely that male partners wishing to take advantage of Shared Parental Leave and Pay will be earning more than their partner. The Occupational Maternity and Adoption Pay Schemes only provide for half pay on top of Statutory Maternity and Adoption pay. This would potentially have an expedient affect on the couples finance compared to losing half of a lower wage. This may be a limiting factor on the number of couples choosing to take Shared Parental Leave. Particularly as Paternity Leave will still be available, this entitles the partner to full pay for two weeks.
- 4.14 The following calculations are all based on actual figures for Occupational Maternity and Adoption Pay Schemes for the last three years, using the mean figure to arrive at an average for a year. Base figures attached at Appendix Two. These figures have then been used to work out the potential increase in cost should we offer Occupational Maternity and Adoption Pay to either partner.

A 2% increase through Shared Parental Leave equates to £8,157 per year

A 8% increase through Shared Parental Leave equates to £27,190 per year

Given the information detailed previously it is likely that any uptake of Shared Parental Leave in the Council will be at the lower end of the Governments figures. It should also be remembered that there may be a similar decrease in claims for Occupational Maternity or Adoption Pay.

## **OTHER OPTIONS CONSIDERED**

- 5.1 To not offer the Occupational Maternity and Adoption Pay Scheme to husbands or partners. This potentially leaves the Council open to discrimination claims and does not reflect the intent of the original Occupational Maternity and Adoption Pay Schemes; to financially support those caring for children in the early weeks following birth or adoption. It also moves away from the ethos of fair employment, currently an important issue for Members.

- 5.2 To offer Occupational Maternity and Adoption Pay Scheme to husbands or partners at any point in time during the Shared Parental Leave period. This would not encourage **early** sharing of care for the child. The logistics of implementing Shared Parental Leave are already complex given the ability for three different blocks of leave to be taken, or leave taken at the same time. Opening up the Occupational Maternity and Adoption Pay Schemes to allow them to be paid at any point in Shared Parental Leave would add to the complexity, making the administration more burdensome than it will already be.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Tina Holmes, HR Advisor  Janie Berry Diane Sturdy, Strategic HR Manager – OD & Pay and Reward Strategy
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Tina Holmes 01332 643894 tina.holmes@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Table of Occupational Maternity and Adoption Pay

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 As detailed in the report there is the possibility of an increased cost in extending eligibility for the Occupational Maternity and Adoption Pay Schemes of between £8157 and £27,190 depending on take up of Shared Parental Leave. However, this may be offset by a similar reduction in the cost of Occupational Maternity and Adoption Pay.
- 1.2 While an early discrimination claim against the Council is unlikely, it is possible that there would be copy cat claims if one were successful at another authority. This would result in Employment Tribunal legal costs as well as the financial settlement from the claim.

**Legal**

- 2.1 There is potential for discrimination claims from the partners of Mothers or Lead Adopters if we do not extend our Occupational Maternity and Adoption Pay Schemes.

**Personnel**

- 3.1 There is potential for partners to feel that their role as a carer is less valued if we do not extend our Occupational Maternity and Adoption schemes. This does not reflect our ethos of 'fair employment'.
- 3.2 Adopting the proposals will entail an increase in administrative resources to deal with the arrangements.

**IT**

- 4.1 Protocols will be needed for the new HRIS system to administer the system. However, new protocols will need to be written for the introduction of Shared Parental Leave anyway.

**Equalities Impact**

- 5.1 By only offering Occupational Maternity and Adoption Pay to the Mother or Lead Adopter there is potential for discrimination claims. There may also be negative implications in terms of an EIA around the following groups..
  - women and men (gender)
  - lesbian, gay or bisexual people

**Health and Safety**

- 6.1 None

## **Environmental Sustainability**

7.1 None

## **Property and Asset Management**

8.1 None

## **Risk Management**

9.1 There is a risk of a discrimination claim if we do not offer our Occupational Maternity and Adoption Pay Schemes to partners or Mothers or Adopters.

## **Corporate objectives and priorities for change**

10.1 A skilled and motivated workforce

## Appendix Two

Occupation Pay Scheme Table

Type of Occupation Pay	Number of employees over three years	Amount of Occupational Pay	Average
<b>Maternity</b>	320	£848,878	£2,653
<b>Adoption</b>	8	£ 42,947	£5,368
<b>Combined</b>	328	£891,825	£2,719

Average number of people taking Maternity/Adoption leave in a year  
126

2% increase = 3 employees

8% increase = 10 employees

# Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy

## Policy Purpose

The Maternity, Adoption, Paternity and Parental and Shared Parental Leave Policy brings together information on the various entitlements available to expectant mothers, parents, adopters and those who support them. These entitlements, with the introduction of Shared Parental Leave provide an opportunity for parents/adopters to be flexible in the way they choose to care for a new arrival to the family.

Parents/adopters can look at all of the entitlements available to them and decide which works for them. This policy and the guidance available on iDerby is written to help them decide whether the benefits of Shared Parental Leave will work for them and how it could be used alongside, or instead of, traditional Maternity or Adoption Leave.

## Document Control

Implementation date	2015
Author	Tina Holmes
Equality impact assessment date	September 2013
Revised/updated	October 2014 in line with the Children and Families Act 2014
Version Control	2.0
Review required	3 years or in response to legislative changes

## Policy application

- 1.1 This policy applies to all Council employees.
- 1.2 This policy does not apply to Teachers. Governing Bodies of Community, Voluntary Controlled and Trust Schools are strongly urged to adopt this policy for non-teaching staff within their delegated powers.
- 1.3 The following terms are used throughout the Policy

**Mother:** the woman who gives birth to a child **or** the adopter (the person, male or female, who is eligible for adoption leave and/or pay). For example, read mother/adopter in place of mother.

**Partner:** the child's biological father or the partner of the mother. This can be their marriage partner, civil partner, or a partner who is living in an enduring relationship with the mother and the child.

**Parents:** this refers to the birth mother, child's biological father, or partner as outlined above. It also refers to the lead adopter, co-adopter or adopter's partner as outlined above. For example, read parents/adopters/partners in place of parents.

**Curtail:** where an eligible mother brings their maternity/adoption leave and, if appropriate, pay or allowance entitlement to an end early.

## 2 Principles

- 2.1 The different kinds of leave and pay available are as follows:-

**Maternity leave and pay** applies to pregnant employees and those who have just given birth.

**Adoption leave and pay** applies to the child's adopter, if a couple are adopting jointly, only one of them is entitled to adoption leave. This also applies to employees who are adopting and the intended parents in a surrogacy arrangement where they are applying for a parental order.

**Paternity leave and pay** applies to fathers (biological or adopted) or partners, including civil partners.

**Parental leave** applies to parents, adopters, partners, including civil partners or those with parental responsibilities.

**Shared Parental Leave** applies to parents, adopters, partners, including civil partners or those with main caring responsibilities, where the mother has curtailed (ended) their maternity or adoption leave early. Agency workers who are entitled to statutory maternity pay or statutory paternity pay are not eligible for shared parental leave but their employed partner may be. Agency workers and or/their partners may be entitled to statutory shared parental pay.



- 2.2 There is only one period of leave and pay for each instance of pregnancy or adoption regardless of the number of children born or placed for adoption.
- 2.3 Throughout the leave period an employee's terms and conditions are protected. Employees are entitled to any pay rises and improvements in terms and conditions given during their leave.
- 2.4 All periods of leave are counted as continuous service for the purposes of the sickness scheme and annual leave entitlement. Throughout the leave period employees continue to build up holiday entitlement.
- 2.5 **Ordinary maternity leave and statutory maternity pay (SMP), ordinary adoption leave and statutory adoption pay (SAP), paternity leave and pay.** All pregnant employees, adopters and partners are entitled to the statutory levels of leave and pay as set by employment law. Please refer to [www.gov.uk](http://www.gov.uk) for details of the current levels and eligibility criteria for each type of leave and pay.
- 2.6 Employees who are entitled ordinary maternity/adoption leave are also entitled to take a further 26 weeks **additional maternity/adoption leave**. This must immediately follow the 26 weeks ordinary leave, with no break between the two.
- 2.7 All periods of leave and pay are proportional for part-time employees.

### **3 Ante-natal care and adoption support**

- 3.1 Employees are entitled to time off, with pay, to attend ante-natal or other medical appointments in connection with their pregnancy.
- 3.2 Employees who have been matched for adoption are entitled to a maximum of 20 hours time off with pay to attend adoption appointment. For example, using this time to attend meetings with social workers.
- 3.3 Partners of those eligible for maternity or adoption leave are entitled to a maximum of 20 hours time off with pay to attend ante-natal or adoption appointments. For example, using this time to accompany their partner to appointments such as ante-natal care, or adoption meetings with social workers following approval and before placement.

### **4 Maternity support leave**

- 4.1 Maternity support leave is for the partner or nominated carer around the time of birth or adoption. There is no qualifying service requirement for maternity support leave.
- 4.2 Maternity support leave is one complete week, with a proportional amount for part time employees.

- 4.3 Where employees are eligible for maternity support leave and paternity leave, maternity support leave pay will be incorporated as the first week of paternity pay.

## **5 Paternity leave and Paternity Pay**

- 5.1 Paternity leave and paternity pay is for the partner following the birth/adoption of a child. Employees must have 26 weeks continuous service by the end of the 15<sup>th</sup> week of childbirth or of being matched with a child.
- 5.2 Paternity leave is for one or two weeks with full pay to be taken after the child's birth/adoption but it must end within 56 days of the birth/adoption.
- 5.3 Once a partner takes any Shared Paternity Leave or Statutory Shared Parental Pay they will not be able to take any paternity leave or pay

## **6 Occupational maternity pay, OMP**

- 6.1 Employees must have one year's continuous service at the beginning of the 11<sup>th</sup> week before the baby is due; and intend to return to work for three months, straight after maternity leave or shared parental leave. In the case of shared parental leave this is the three months after the last period of shared parental leave.
- 6.2 Employees will receive half pay, in addition to statutory maternity pay (SMP) or maternity allowance (MA), for 12 weeks during weeks 7 – 18 of maternity leave. Total payments will not exceed the employee's normal pay.
- 6.3 Where a partner takes shared parental leave during weeks 7 – 18 following the start of maternity leave, if they are eligible they will be paid OMP as though they were the mother. If the mother is also taking shared parental leave, or maternity leave, the partner will not receive OMP. Total payments will not exceed the employee's normal pay.

## **7 Occupational adoption pay (OAP)**

- 7.1 Employees must have one year's continuous service and intend to return to work for three months, straight after adoption leave or shared parental leave. In the case of shared parental leave this is the three months after the last period of shared parental leave.
- 7.2 Employees will receive half pay, in addition to statutory adoption pay (SAP), for 12 weeks during weeks 7 – 18 of adoption leave. Total payments will not exceed the employee's normal pay.
- 7.3 Where a partner takes shared parental leave during weeks 7 – 18 following the start of adoption leave, if they are eligible they will be paid OAP as though they were the mother. If the mother is also taking shared parental, or adoption leave, the partner will not receive OAP. Total payments will not exceed the employee's normal pay.

## **8 Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP)**

- 8.1 Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption. Up to 50 weeks' leave and 37 weeks' pay can be shared between the two parents if the mother brings their maternity/adoption leave and pay to an early end. SPL must end no later than one year after the birth/placement of the child.
- 8.2 The available shared parental leave is calculated by deducting from 50 the number of weeks of SMP, SAP or MA taken by the mother. The two weeks leave the mother must take are not included in this calculation.
- 8.3 The available Statutory Shared Parental Pay is calculated by deducting the number of weeks' statutory maternity/adoption pay the mother has received on their return to work or the leave curtailment date from 37 weeks. The two weeks leave/pay the mother must take are not included in this calculation.
- 8.4 To qualify for SPL a mother must:
- be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or to maternity allowance
  - have curtailed or given notice to reduce, their maternity/adoption leave, or their pay/allowance.
- 8.5 A parent intending to take SPL must:
- be an employee
  - share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption
  - have properly notified their employer of their entitlement and have provided the necessary declarations and evidence.
- 8.6 In addition a parent wanting to take SPL is required to satisfy the continuity of employment test' and their partner must meet the 'employment and earnings test'.

<b>Continuity of employment test</b>	<b>Employment and earnings test</b>
The individual has worked for the same employer for at least 26 weeks at the end of the 15 <sup>th</sup> week before the child's expected due date/matching date and is still working for the employer at the start of each leave period.	In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 (as of 2015, see <a href="http://www.gov.uk">www.gov.uk</a> for the latest figures) a week in any 13 weeks

- 8.7 A mother may reduce their entitlement to maternity/adoption leave by giving notice to curtail their leave at a date at least eight weeks in the future and at least two weeks after the birth/placement. Forms are available from your

manager or iDerby. The notice must be given at least nine weeks before the 52 weeks of maternity/adoption leave is due to end.

- 8.8 The curtailment notice must be accompanied by a notice of entitlement and intention to take Shared Parental Leave, OR a declaration that the partner has given a notice of entitlement and intention to take Shared Parental Leave to their employer. Forms are available from your manager or iDerby.
- 8.9 We may ask for further evidence of eligibility. This will be done within 14 days of receiving the Shared Parental Leave notification. Employees must provide the addition information within 14 days of our request.
- 8.10 Maternity/adoption leave will come to an end on the date set out in the curtailment notice. A mother may only withdraw their curtailment notice if they have not returned to work, the curtailment date has not passed and one of the following applies:
- where it is discovered in the eight weeks following the notice that neither the mother nor their partner has any entitlement to Shared Parental Leave or Pay
  - in the event of the death of the partner
  - the mother gave curtailment notice before the birth and it is within six weeks of the birth.
- 8.11 Once a mother gives notice to curtail their maternity/adoption entitlement then the partner can take leave while the mother is still using their maternity/adoption entitlements.
- 8.12 If an employee wishes to opt into taking Shared Parental Leave they must give at least eight weeks notice of entitlement. All the requested information must be completed on the form. The notice must be accompanied by written declarations from both parents/partners. Forms are available from your manager or iDerby.
- 8.13 Employees must also give eight weeks notice to take leave. Leave can be booked at the same time as you give notice of entitlement or it can be booked later, depending on when the leave is required. It must end no later than one year after the birth/placement of the child.
- 8.14 Where an employee wants to request more than one period of leave in a single notice the notice must be given at least eight weeks before the first period of leave starts.
- 8.15 An employee can make up to three notification requests for leave but each notification must be made at least eight weeks before the start of the leave period. The requests may be for a) continuous leave - a single period of leave; or b) discontinuous leave - any weeks of leave, where the employee intends to return to work between periods of leave.

- 8.16 Shared Parental Leave must be taken in blocks of at least a week but may begin on any day of the week. Parents can elect to be on leave at the same time or at different times. The leave can be taken in continuous or discontinuous blocks.
- 8.17 If a single period of leave is requested the employee is entitled to take the leave as requested. It cannot however, exceed the total number of weeks of Shared Parental Leave available to them.
- 8.18 If more than one period of leave is requested in the same notice, managers have 14 days in which to discuss and agree the pattern of leave requested. This response can be agreement, suggesting alternative dates or refusal.
- 8.19 If alternative dates cannot be agreed, or the request is refused, the employee can take all the leave requested as a single period. This can either start on the first period of leave originally requested or on another date that the employee chooses, provided that there is eight weeks notice of the new start date.
- 8.20 The employee has five days from the end of the 14 day discussion period to notify the manager of the new start date. Or, they can withdraw the notice to take leave within 15 days of the date the notice was originally given. In these circumstances where the original request was refused it will not count as one of the three requests that can be made.
- 8.21 Employees can cancel or give a variation notice that they wish to change their leave. Forms are available from your manager or are on iDerby. This must be sent with signed declarations from both partners that they consent to the change. Eight weeks notice must be given. Managers should follow the steps as laid out at 8.16 to 8.19 to respond to the variation or cancellation.
- 8.21 If the employee gives less than eight weeks notice of a change, the manager may require them to take some or all of the leave originally requested. This should only happen in exceptional circumstances.
- 8.22 Requests for cancellation or variation will count as one of the three leave requests allowed.
- 8.23 Fraudulent information or claims will be dealt with using the disciplinary process.

## **9 Parental Leave**

- 9.1 Parental leave is a right to take unpaid time off work to look after the welfare of a child's for whom the employee has parental responsibility.
- 9.2 Parental leave applies up to the child's 18<sup>th</sup> birthday.
- 9.3 Eligible full time employees have an entitlement of 18 weeks, or 666 hours. The entitlement for part-time employees is proportionate.

9.4 Five working days notice is required for parental leave. Leave can taken:

- as a single block of up to 18 weeks
- as a number of shorter periods, minimum of three hours
- in patterns which provide part-time or reduced hours working. Total hours used must not exceed 666.

9.5 Parental leave requests cannot be postponed where the leave is immediately following maternity or adoption leave. Managers should not postpone a request for parental leave unless there is a significant reason.

## **10 Working during maternity, adoption or shared parental leave**

10.1 An employee on Maternity or Adoption Leave may work up to 10 'keeping in touch' days' without the period of leave coming to an end. Employees are not obliged to work keeping in touch days, nor are the Council obliged to offer them. Employees will be paid contractual pay for the hours they work.

10.2 An employee on Shared Parental Leave may work up to 20 shared parental in touch days. This is in addition to maternity/adoption keeping in touch days. Employees are not obliged to work shared parental in touch days, nor are the Council obliged to offer them. Employees will be paid contractual pay for the hours they work.

## **11 Returning to work following maternity, adoption, paternity, parental or shared parental leave.**

11.1 Parental leave of up to 18 weeks can be taken immediately following maternity, adoption, paternity or shared parental leave. Where the employees then returns to local government employment, for a period of at least three months, they will not be required to refund money from any occupational maternity, adoption or shared parental paid leave.

11.2 Where an employee has received occupational pay for maternity, adoption, paternity or shared parental leave and does not return to local government employment, the Council will recover in full the additional half pay the employee received.

11.3 Where employees return to work but leave the Council's employment within three months, the Council will recover the additional half pay proportionally.

11.4 Employees have the right to return to their job if they take:

- Ordinary maternity or ordinary adoption leave
- Ordinary paternity leave
- Shared Parental Leave
- Parental leave of four weeks or less

11.5 Employees who take additional maternity, adoption leave, shared parental leave or more than four weeks of parental leave have the right to return same

job or a similar job, if it's not possible for them to return to their job due to restructure proposals.

- 11.6 If a redundancy situation arises while an employee is on maternity, adoption, paternity, parental or shared parental leave they have the same rights to consultation as their colleagues. They also have the right to be offered any suitable alternative job if they're selected for redundancy - even if other colleagues are more suitable for the role.

## **12 Support and guidance**

- 12.1 Employees should read this policy in conjunction with the guidance on iDerby. A full description of the various entitlements can be found at the links below:

[Maternity](#)

[Adoption](#)

[Paternity](#)

[Parental](#)

[Shared Parental Leave](#)

## **12 Roles and responsibilities**

- 12.1 The roles and responsibilities of key stakeholders are summarised in Appendix One.

## POLICY ROLES AND RESPONSIBILITIES OF KEY STAKEHOLDERS

Chief Executive and Chief Officers Tiers 1 and 2	Head of Service Tier 3	Managers	Employees	Human Resources
<b>Every employee must use the procedure and guidance on iDerby</b>				
<b>Fairness and equality</b>				
To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To provide reasonable adjustments as required.	To notify managers of reasonable adjustments required.	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.
<b>General Operation of the Scheme</b>				
Ensure managers carry out their responsibilities	Ensure managers carry out their responsibilities	Ensure employees are aware of where to access information on maternity, adoption, paternity and parental leave	Comply with statutory requirements for notification of leave requests	Provide advice and guidance to managers and employees
<b>Maternity, Adoption and Paternity Leave</b>				
	<p>Approve requests for time off taking into account the needs of the service</p> <p>Agree arrangements for a reasonable level of contact</p> <p>Discuss viability of keeping-in touch days with employee</p>	<p>Approve requests for time off taking into account the needs of the service</p> <p>Agree arrangements for a reasonable level of contact</p> <p>Discuss viability of keeping-in touch days with employee</p> <p>Discuss annual leave entitlement and options for taking it</p>	<p>Discuss arrangements for leave with line manager</p> <p>Agree arrangements for a reasonable level of contact with line manager</p> <p>Discuss potential for keeping-in-touch days with line manager</p> <p>Discuss annual leave options and options for taking it</p>	<p>Confirm in writing arrangements for leave and pay within 28 days of receiving applications for leave</p> <p>Process applications and payments</p> <p>Provide information on annual leave entitlement</p>



Chief Executive and Chief Officers Tiers 1 and 2	Head of Service Tier 3	Managers	Employees	Human Resources
<b>Parental Leave</b>				
<p>Approve requests for time off taking into account the needs of the service</p> <p>If postponing leave, write within five working days explaining the reasons for postponement. Suggest an alternative within six months of the requested start date</p>	<p>Approve requests for time off taking into account the needs of the service</p> <p>If postponing leave, write within five working days explaining the reasons for postponement. Suggest an alternative within six months of the requested start date</p>	<p>Discuss arrangements for leave with line manager</p>	<p>Process applications</p>	
<b>Shared Parental Leave</b>				
<p>Approve requests for time off taking into account the needs of the service.</p> <p>Where discontinuous periods of leave are requested discuss alternative arrangements if necessary.</p>	<p>Approve requests for time off taking into account the needs of the service</p> <p>Where discontinuous periods of leave are requested discuss alternative arrangements if necessary.</p>	<p>Approve requests for time off taking into account the needs of the service</p> <p>Where discontinuous periods of leave are requested discuss alternative arrangements if necessary.</p>	<p>Discuss arrangement for leave with line manager.</p> <p>Discuss any SPLIT days.</p> <p>Discuss annual leave arrangements</p>	<p>Process applications</p>

