

# Family Leave Policy

We recognise that becoming a parent is a very special period in your life. We believe that all parents should have the opportunity to spend time with their new child, regardless of whether they are the primary or secondary carer.

We believe that giving people choice and flexibility about how to do what is best for their families helps to remove unnecessary stress and provides some stability while adapting to having a new addition to the family. Therefore, we go beyond our minimum legal obligations in pursuit of a Family Leave policy that genuinely and thoughtfully supports colleagues during this very important time of their lives.

This policy is underpinned by Our Behaviours of Respect, Integrity, and Flexibility and both managers and colleagues are expected to demonstrate these in applying for and approving any requests for leave.

## Author

Employee Relations, Human Resources, Corporate Services Directorate.

## Scope

This policy applies to all Council employees.

## Purpose

The purpose of this policy is to set out the support we offer, noting what is statutory and what enhancements we offer on top of that. It also reflects any terms contained in the various National Schemes of Pay and Conditions of Service that apply. Naturally any employee who exercises their statutory right to take leave covered in this policy will be protected against dismissal or detriment.

## Review

The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of: changes to legislation or statute; agreement of new national terms and conditions of service or Government Policy; organisational change; or resulting from changes agreed through Trade Union Consultation.

## Local Agreement

This policy is a local collective agreement between the Council and our recognised Trade Unions. We will make every effort to ensure that it is maintained as a local collective agreement. Any changes will be made by agreement. If we cannot agree, either party can end the local collective agreement by giving four months' notice in writing, with the policy ceasing to apply to staff at the end of that period.

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## 1. Policy Aims

This policy sets out the Family Leave and Pay available to new parents at the Council, including those who adopt or have a child through a surrogacy arrangement.

This policy applies to all colleagues and their partners, regardless of sexual orientation or gender.

The policy demonstrates our commitment to being a family friendly employer by providing equal opportunities, flexibility and retaining our skilled workforce. By providing enhanced leave and pay provisions, we aim to support new parents in choosing the pattern of leave that best suits them and their individual circumstances.

Four accompanying User Guides supplement this policy:

Maternity Leave and Pay User Guide,

Partner Support Leave and Pay User Guide,

Adoption Leave and Pay User Guide, and

Shared Parental Leave and Pay User Guide.

Your line manager can explain the options available to you to help you choose the most suitable types of leave for your individual situation.

## 2. Maternity Leave and Pay

### Eligibility

If you're pregnant, you may be entitled to Maternity Leave and Pay. This also applies if you're pregnant through a surrogacy arrangement. Further information about eligibility, qualifying criteria and how much leave and pay you are entitled to is available in the accompanying Maternity Leave and Pay User Guide. Please note that arrangements may be different for Teaching staff covered by the SNCT.

## How much leave are you entitled to?

You're entitled to take up to 52 weeks' statutory maternity leave regardless of service, and some colleagues may be entitled to additional time, up to a total of 63 weeks, see accompanying user guide for more details.

You will be entitled to one period of leave irrespective of how many children you're carrying. It's compulsory that you take a minimum of 2 weeks' maternity leave, starting from the date you give birth.

The earliest you can take Maternity Leave is the beginning of the 11<sup>th</sup> week before your due date, but it will start automatically if:

- you're absent due to a pregnancy-related illness in the 4 weeks before your due date; or
- you have your baby before your Maternity Leave is due to begin.

## How much maternity pay are you entitled to?

Your entitlement to pay will depend on your length of service as well as your earnings across the 8 weeks before you give birth. You may be eligible to receive up to 14 weeks at full pay, followed by up to 26 weeks' statutory maternity pay.

Where you do not meet the qualifying criteria for pay, you might be entitled to Maternity Allowance, which you can apply for through Jobcentre Plus, or the Gov.uk website.

## Notification

When you find out the date your baby is due, you need to let your line manager know. You should also discuss your plans for maternity leave with them as soon as you're able to. Once you know what you intend to do you need to confirm these details in writing, a minimum of 15 weeks before your Expected Week of Childbirth (EWC).

You'll also need to give your manager the certificate you get from your doctor or midwife confirming your expected due date. This is called a Mat B1 form, you need to give this certificate to your manager as soon as you receive it but no less than 21 days before your maternity leave starts.

Further details are available in the accompanying Maternity Leave and Pay User Guide.

## Health and safety

If you're pregnant (or have recently given birth, or are breastfeeding), a risk assessment may be carried out to make sure you're able to continue to do your normal job safely. If a significant risk is identified, all reasonable measures will be taken to avoid the risk. This might include making temporary adjustments to your role and/or finding you suitable alternative work. However, the safety of you and your child is paramount, so if neither is feasible, we'll put you on paid leave until a safe alternative is found.

Further details are available in the accompanying Maternity Leave and Pay User Guide.

## Premature birth and neonatal care

Parents of babies born who require neonatal care will be entitled to receive an extra week's leave for every full week their baby spends in hospital, up to 12 weeks. Maternity Leave begins as soon as your child is born, so Neonatal Care Leave should be taken once your Maternity Leave ends and before any annual leave you may choose to take. Further information on Neonatal Care Leave and Pay is available in the accompanying user guides.

We recognise that this is one of the most stressful experiences a new parent can face. We have developed supporting information for colleagues and managers in relation to preterm births or full-term births where the baby is sick and needing hospital care.

Further details are available in the accompanying Maternity Leave and Pay User Guide.

## Breastfeeding at work

If you're breastfeeding your child, you can continue to do so when you return to work. We can provide the following up to your child's first birthday:

- paid time off and access to a private room or area so that you can express breast milk – by private room we don't mean a toilet;
- a refrigerator to store your expressed milk; and/or
- unpaid time-off during your normal working hours to breastfeed your baby if your baby is being cared for somewhere close to your normal place of work.

Further details are available in the accompanying Maternity Leave and Pay User Guide.

## Pregnancy or baby loss

We appreciate that losing a baby is one of the most traumatic events you could go through, and we want to be able to support colleagues who experience this as best we can. It is our aim to be as inclusive as possible in our definition of pregnancy or baby loss. We use the term pregnancy or baby loss to refer to many different types of loss, including miscarriage (the loss of a baby during the first 24 weeks), stillbirth (the loss of a baby after 24 weeks), termination for any reason, ectopic pregnancy, molar pregnancy, chemical pregnancy, embryo transfer loss, and neonatal loss.

There is a huge amount of support that can be accessed through our Employee Assistance Programme. They can provide counselling and discuss other forms of help free of charge and are available 24 hours a day if you choose to use it.

We have developed a guide to support colleagues through pregnancy or baby loss and there are also a number of external support services for parents who experience pregnancy or baby loss. Further details are available in the accompanying user guides.

If a stillbirth occurs (after the 24<sup>th</sup> week of pregnancy) or you lose your baby after it is born, you can take the Maternity Leave and Pay you would have normally been entitled to. If a miscarriage occurs there is no entitlement to Maternity Leave or Pay. You may also be entitled to 2 weeks' Parental Bereavement Leave (see the Special Leave Policy for further details).

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# 3. Partner Support Leave and Pay

## Eligibility

You might be able to take Partner Support Leave and Pay if you take time off to look after a child and are:

- the biological father of a child due to be born;
- the husband or partner of a mother/primary carer of a child due to be born or placed for adoption.

You won't get Partner Support Leave or Pay if you're already getting adoption or shared parental leave and pay.

External websites and resources will not use the term Partner Support; it is called Paternity Leave and Pay.

Further information about eligibility, qualifying criteria and how much leave and pay you are entitled to is available in the accompanying Partner Support Leave and Pay User Guide

## How much leave are you entitled to?

Our entitlement to leave will depend upon your length of service. If eligible, you can take your leave as separate blocks during the first year after the birth or placement.

## How much pay are you entitled to?

Your entitlement to pay will depend on your length of service as well as your earnings across the 8 weeks before the child is born. You may be entitled to receive 1 week's full pay followed by 1 week of Statutory Paternity Pay.

## Notification

When you've decided that you want to take Partner Support Leave, you should speak to your manager as soon as possible so that you can discuss when you intend to take your leave.

Once you've decided the dates you intend to take, you need to confirm this in writing within 4 weeks of each block of leave you intend to take. The information you need to provide to your manager is detailed in the accompanying Partner Support Leave and Pay User Guide.

If you change your mind about the dates you want to take, you'll need to give your manager 28 days' notice, in writing, where this is reasonably practicable. You'll also need to confirm again whether you are taking 1 or 2 weeks.

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# 4. Adoption Leave and Pay

## Eligibility

If you adopt a child, you may be entitled to Adoption Leave and Pay. If you're part of a couple adopting a child together, one of you will be entitled to Adoption Leave and the other may be entitled to Partner Support Leave. This includes surrogacy. You'll need to decide which of you takes which type of leave. Further information about eligibility, qualifying criteria and how much leave and pay you are entitled to is available in the accompanying Adoption Leave and Pay User Guide. Please note that arrangements may be different for Teaching staff covered by the SNCT.

## How much leave are you entitled to?

If you're the primary adopter, you're entitled to take up to 52 weeks' statutory adoption leave, regardless of service. You'll be entitled to one period of leave per matching process, regardless of how many children you're adopting.

For UK adoptions, Adoption Leave can begin up to 14 days before the child starts living with you. If the child's placement ends for any reason while you're on adoption leave, you can continue your leave for up to 8 weeks after the placement ends.

For overseas adoptions, Adoption Leave can begin when the child arrives in the UK or within 28 days of this date.

For surrogacy arrangements, Adoption leave can start the day the child is born or the day after.

You won't get adoption leave if the child is already living with you. For instance, if you're adopting your partner's child or children.

## How much adoption pay are you entitled to?

Your entitlement to pay will depend on your length of service, as well as your earnings across the 8 weeks before the Adoption Leave begins. You may be entitled to receive up to 14 weeks at full pay followed by up to 26 weeks' statutory adoption pay.

If you have less than 26 weeks' continuous service by the week you're matched with the child, you will have no entitlement to statutory adoption pay.

We've set out the amount of leave and pay you might be entitled to in full in the accompanying Adoption Leave and Pay User Guide.

## Notification

When you find out that you've been matched with a child, you should let your manager know as soon as possible. Once you've spoken to your manager, we'll need you to confirm in writing that you've been matched with a child. This should be within 7 days of being told by the adoption agency. The information you need to provide to your manager is detailed in the accompanying in Adoption Leave & Pay User Guide.

You'll also need to give your manager the adoption certificate that the adoption agency gives you. We realise that this may not happen immediately but please provide it as soon as you get it.

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# 5. Shared Parental Leave and Pay

## Eligibility

**Shared Parental Leave (SPL)** is an option that provides you and the other parent with flexibility in the way you choose to share caring responsibility for your new child. After the first two weeks of Maternity and Adoption Leave have been taken (which are compulsory), mothers, primary adopters or birth parents may be able to convert up to 50 weeks of their Maternity or Adoption Leave entitlement to SPL and share this with the other parent.

You might be able to take SPL if:

- you are the birth parents (where they share the main responsibility for the care of the child);
- you are the mother's partner (where they share the main responsibility for the care of the child with the mother and where the child's father does not share the main responsibility with the mother);
- you have adopted a child (including those fostering to adopt); and
- you are the intended parents in surrogacy arrangements.

There are additional criteria that must be met by both parents in order to be eligible for Shared Parental Leave and Pay. This is set out in full in the accompanying Shared Parental Leave and Pay User Guide. Please note that arrangements may be different for Teaching staff covered by the SNCT.

## How much leave are you entitled to?

Although the mother/primary adopter/birth parent has to take the first 2 weeks of the 52 weeks of available Maternity/Adoption Leave, parents can opt into SPL at any stage thereafter, so the amount of leave available will depend on when the Maternity/Adoption leave ends.

Both parents can take SPL at the same time or the leave can be taken in separate blocks. The minimum period of leave that can be taken is one week, and it must be taken in *complete* weeks. Leave must also be taken within 52 weeks of the child's birth or placement.

The father or partner of the mother/primary adopter can still take up to 2 weeks' Partner Support Leave (this is additional to any SPL entitlement you may have), but this has to be taken before any SPL begins.

You can submit up to a maximum of 3 notifications to book (or vary) SPL (known as Period of Leave Notices). This could be any combination of continuous and discontinuous leave requests.

### **Continuous Leave**

Continuous leave is where you plan to take a single continuous block of SPL (e.g., 3 months all at once).

You're entitled take up to three separate blocks of continuous leave. We can't refuse this leave, provided you're eligible and give at least 8 weeks' notice each time.

### **Discontinuous Leave**

You can also make a single application for a pattern of leave that has breaks built in (e.g., taking leave for one month returning to work for two weeks, then taking another month off). This is called discontinuous leave.

Although we try to accommodate requests for discontinuous SPL, we may need to decline a request if there's a genuine organisational reason. If this is the case, your line manager may ask to meet with you to discuss your request and explore the possibility of alternative dates. In any case, you'll receive a written response to your request within 14 days.

If a discontinuous pattern of leave can't be agreed, you can either take the total amount of leave you asked for in a single block instead (starting on the date you asked your discontinuous leave to begin) or withdraw your request. If you withdraw your request, it won't count as having used one of your 3 Period of Leave Notices.

## **How much pay are you entitled to?**

You may be entitled to up to 39 weeks (37 weeks after pay for compulsory maternity or adoption leave has been deducted) statutory shared parental pay and the amount of pay available will depend on when the maternity/adoption leave ends.

## **Notification**

Shared Parental Leave can provide both parents with a number of options when considering their plans for leave, but it can seem complex at first. It's recommended that you have an early and informal discussion with your line manager to discuss your plans. This can be helpful to clarify the options available and enables all parties to plan ahead effectively.

If you want to take SPL, three things need to happen:

- the mother/primary adopter needs to bring their maternity or adoption leave to an end, or give notice that they intend to bring it to an end;
- you need to let your line manager know that you are entitled to SPL, how much you are entitled to and how much you intend to take; and
- you and your line manager need to agree your SPL dates.

There are further details on how to apply for SPL in the accompanying Shared Parental Leave and Pay User Guide.

If you're giving notice before your child is born or placed, you can ask for a start date any number of days after the child is born.

There are further details on how to apply for SPL in the accompanying Shared Parental Leave and Pay User Guide.

## Changing or cancelling SPL

You can change the dates or cancel a period of SPL by notifying your line manager at least 8 weeks before you want the change/cancellation to take effect.

If you give notice before the birth, you can change that any time up to 6 weeks after the child is born or placed. This allows you to change your plans if there are any complications or changes in your circumstances.

If your child is born or placed earlier or later than expected, and you had indicated that you wished to start SPL a certain length of time after the birth/adoption, you should simply notify your line manager in writing of the change at the earliest opportunity.

Any variation you make will usually count as having used one of your three opportunities to book/vary leave, unless the change is a result of the child being born early, or you have agreed to change a period of at the Council's request.

Further details are available in the accompanying Shared Parental Leave and Pay User Guide.

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## 6. Neonatal Care Leave and Pay

We know that being a parent of a baby who requires Neonatal Care can be an incredibly worrying time and may result in a significant proportion of your time off with your baby spent in hospital rather than being at home.

### Eligibility

If your baby requires care in a neonatal unit for more than 7 days within 28 days of birth, then you'll be entitled to Neonatal Care Leave and Pay in addition to existing parental leave entitlements.

Further information about eligibility is available in the accompanying Maternity, Partner Support, Adoption or Shared Parental Leave and Pay User Guides, whichever is relevant to you.

### How much leave are you entitled to?

You'll be entitled to up to 12 weeks of leave. The length of the leave will depend on how long your baby is in Neonatal Care. Neonatal Care Leave will always be taken at the end of your other parental leave entitlements e.g., Maternity, Adoption, Partner Support or Shared Parental Leave.

### How much pay are you entitled to?

Your entitlement to pay will depend on your length of service. You may be entitled to receive up to 12 weeks at full pay.

We've set out the amount of pay you might be entitled to in full in the accompanying User Guides.



## Notification

We appreciate that it will often be difficult to give much notice but please let your line manager know as soon as you can if you intend to take Neonatal Care Leave by providing the dates of care to ensure that the leave can be recorded accurately.

Further details are available in the accompanying Maternity, Adoption, Partner Support or Shared Parental Leave and Pay User Guides, whichever is relevant to you.

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# 7. Time off for appointments

## Pregnant colleagues

During your pregnancy, you're entitled to reasonable paid time off to attend antenatal care appointments made on the advice of a registered medical practitioner, midwife or health visitor.

## Primary adopters

We appreciate that the selection process for becoming adoptive parents involves a number of assessment visits at home and appointments that you'll need to attend. If you are the primary adopter, we'll give you reasonable paid leave to attend these meetings.

## Fertility Treatment

Requests for time off for fertility treatment, or for any other form of treatment for or investigation into infertility, are covered by our Special Leave Policy.

After successful implantation of a fertilised embryo, we'll assume that you're pregnant unless it's determined otherwise, and so you would at that stage have the same entitlement to time off for antenatal care as any expectant colleague.

## Partners

If you're the father/partner or the secondary adopter, you're entitled to paid time off to attend up to 3 antenatal appointments or to attend up to 3 appointments that are part of an adoption process.

## Fostering and Kinship Carers

You're entitled to time off to cover preparation and assessments. Please see the Special Leave Policy for more details.

## Notification

When you ask for any time off for appointments, you should give your line manager as much notice as possible and provide your appointment card/letter. Your line manager will also have to consider the needs of the service, so you should be prepared to be as flexible as you can around dates and times.

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## 8. Keeping in touch days

If you're taking either Maternity, Adoption Leave or Shared Parental Leave, you can request Keeping in Touch days. Maternity and Adoption Keeping in Touch days are known as KIT days and Shared Parental Leave Keeping in Touch days are known as SPLIT days.

Keeping in Touch days can be used to do your normal job, work on a project, shadow a colleague, attend team meetings, or taking part in training or development.

You do not have to take any Keeping in Touch days. Your line manager cannot insist you do any work during your family leave, and you cannot insist on being given work to do.

Taking KIT or SPLIT days does not bring your leave to an end and it doesn't extend it. They're intended to help keep you informed and involved with the workplace.

Any KIT or SPLIT days should be mutually agreed with your line manager. You are under no obligation to do any work during your family leave, and you can't insist on being provided with KIT or SPLIT days.

Further information on KIT and SPLIT days is available in the accompanying Maternity, Adoption or Shared Parental Leave and Pay User Guides, whichever is relevant to you.

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## 9. Contractual matters

Your contractual terms and conditions of service are preserved during any period of family leave outlined in this policy, with the exception of pay (i.e., you'll be paid whatever you're entitled to under the relevant family leave scheme rather than your normal salary). Your time on leave counts towards continuous service with the Council.

Pregnancy related illness is not counted towards Sickness Absence thresholds. Please refer to the Sickness Absence Policy for further information.

Your maternity/adoption leave counts as continuous service.

### **Accrued Leave**

You'll continue to accrue annual leave during your leave, including public holidays. You must agree with your manager how you want to use the leave you've accrued. If you're intending to take an employment break after your leave, you will need to use all of your accrued leave before you start the employment break.

If you are a temporary teacher and claim your salary on a monthly basis, the terms above do not apply because holiday pay is included in the pay you get for each working day.

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## 10. Pension

If you're a member of the Local Government Pension Scheme (the Council's scheme is Lothian Pension Fund) and you qualify for occupational or statutory maternity/adoption pay, you will continue making pension contributions from whatever pay you get. If you then go to a period of unpaid family leave, you'll need to decide if you want to continue to pay pension contributions. When you return to work, you have 30 days from the date of your return to decide if you want to pay the extra contributions.

If you tell us that you're not returning to work at the end of your leave, you also have 30 days from the date you let us know to decide whether you want to make the extra payments.

If you don't pay pension contributions for any unpaid period of family leave, then that period won't count as membership of the Local Government Pension Scheme.

If any unpaid period of leave is for 30 days or less, both you and the Council have to pay the normal pension contributions due. This happens automatically, and it means that a period of leave of that length will count as a period of Pension Scheme membership.

### Teachers

If you're a member of the Teachers Superannuation Scheme, you should contact Scottish Public Pension Agency to find out how periods of unpaid leave will affect your pension.

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## 11. Returning to work

In most cases you have the right to return to the same job you were doing before you went on Maternity/Adoption/Shared Parental Leave. If, for any reason, your job has changed or doesn't exist when you return, you're entitled to return to a suitable alternative post.

If you intend to take your full entitlement to family leave (e.g., 52 weeks) you don't need to give your line manager notice of your return. If you intend to come back sooner, the notice you need to give is set out in the accompanying user guides.

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## 12. Paying back occupational pay

We offer enhanced pay for Family Leave because we want to support you through the early stages of parenthood, and we want you to return to work when your leave ends.

If you don't return for a minimum of 3 months after the end of your leave, we'll ask you pay back the equivalent of 6 weeks of your occupational pay (less any statutory pay entitlement). Please note that arrangements may be different for Teaching staff covered by the SNCT.

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