

Corporate Policy and Strategy Committee

10.00am, Tuesday, 24 February 2015

Parental Leave Policy on the Birth or Adoption of a Child

Item number	7.2
Report number	
Executive/routine	
Wards	

Executive summary

A new statutory right to Shared Parental Leave (SPL) becomes effective from 5 April 2015. This allows the mothers of children born, and the main adopters of children placed for adoption, on or after 5 April 2015 to end their maternity or adoption leave early and share the remainder of their maternity or adoption leave entitlement with their partners. The Council's provisions for leave relating to Maternity and Adoption have been reviewed and updated to include this new right. The Policy now sets out how the Council will manage SPL.

Links

Coalition pledges	P27
Council outcomes	CO27
Single Outcome Agreement	SO1

Parental Leave Policy on the Birth or Adoption of a Child

Recommendations

- 1.1 The Committee is asked to note the report.

Background

- 2.1 Shared Parental Leave is a new statutory right that comes into effect on 5 April 2015. This right affects parents of children born, or placed for adoption, on or after 5 April 2015 and allows the mother/main adopter to end their maternity/adoption leave early and share the remainder of their entitlement with their partners, if they wish.
- 2.2 Shared Parental leave is optional and eligible employees can still choose to take maternity or adoption leave. Maternity and Adoption Support Leave is also still available for eligible employees.
- 2.3 This new entitlement has been incorporated into a revised Parental Leave Policy on the Birth or Adoption of a Child. The opportunity has been taken to refresh the existing policy to ensure that the terms are up to date and that it embodies and promotes the Council's values.

Main report

- 3.1 The Parental Leave Policy on the Birth or Adoption of a Child covers the following types of leave:
 - (a) Maternity Leave;
 - (b) Adoption Leave;
 - (c) Maternity and Adoption Support Leave; and
 - (d) Shared Parental Leave (new).
- 3.2 Shared Parental Leave (d) is a new right and the Council is required to put in place a process to deal with requests for leave. These requests may be made from early February 2015 by parents of children due to be born on or after 5 April 2015, when the new right comes into effect.
- 3.3 The section on Shared Parental Leave sets out the eligibility criteria, the notice periods required and how the Council will manage the process from initial

discussions with their manager to the employee returning after their leave. Shared Parental Leave is also available to adoptive parents.

- 3.4 If parents decide to choose to go down the shared parental leave route, the mother must end her maternity/adoption leave early. The balance of maternity/adoption leave remaining may then be shared by both parents and is referred to as Shared Parental Leave. However, the mother must take the first two weeks after the birth of the child as compulsory maternity leave.
- 3.5 Employees who opt to share parental leave may also be entitled to Shared Parental Pay. This is a statutory payment which is set by the UK Government. It is the same as Statutory Maternity Pay and is currently £138.18 or 90% of the employee's average weekly earnings, whichever is lower. (It will increase to £139.56 per week from 5 April 2015).
- 3.6 The expectation is that managers will discuss SPL as part of their normal discussions about maternity or adoption leave when employees announce they are pregnant or about to have a child placed with them for adoption.
- 3.7 As this is a new right, there will be appropriate staff communications and supporting material for managers and staff.

Measures of Success

- 4.1 Improved recruitment and retention, as this policy adds to the overall recruitment package offered to employees.
- 4.2 Improved work/life balance for employees.
- 4.3 Greater productivity from more motivated employees.

Financial impact

- 5.1 Where employees take Shared Parental Leave, the costs and the period of absence from work will be no greater than under normal maternity leave arrangements. Any such absences will have to be covered in the same way as a normal maternity leave absence would be covered e.g. by reallocation of work or by recruiting on a temporary basis which may incur additional costs.

Risk, policy, compliance and governance impact

- 6.1 This policy covers the Council's obligation to offer staff the right to various types of statutory leave, as listed at 3.1 above.

Equalities impact

- 7.1 There are no adverse equality issues arising from this report which will impact on employee groups with protected characteristics as defined by the Equality Act 2010. The equality relevance assessment score is 0.

Sustainability impact

- 8.1 No impact.

Consultation and engagement

- 9.1 The Policy is a local collective agreement and discussions with the Trades Unions are ongoing at our regular engagement meetings. The policy and associated documents will be placed on the Orb.

Background reading/external references

None.

Alastair D Maclean

Director of Corporate Governance

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Links

Coalition pledges	P27: Seek to work in full partnership with Council staff and their representatives
Council outcomes	CO27: The Council supports, invests in and develops our people.
Single Outcome Agreement	SO1: Edinburgh's economy delivers increased investment, jobs and opportunities for all.
Appendices	Appendix 1 – Parental Leave Policy on the Birth or Adoption of a Child

Parental Leave Policy on the Birth or Adoption of a Child

Implementation date:

Control schedule

Approved by	
Approval date	
Senior Responsible Officer	Linda Holden
Author	Linda Holden
Scheduled for review	Annually

Version control

Version	Date	Author	Comment
0.1	3 February 2015	Linda Holden	Committee Version

Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
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Parental Leave Policy on the Birth or Adoption of a Child

Policy statement

- 1.1 This Policy takes account of individual statutory entitlements. Any employee who exercises their statutory right to take leave for maternity or adoption reasons will be protected against dismissal or detriment.
- 1.2 The Policy incorporates improvements to the statutory entitlements which have been agreed with Council trades unions and also reflects any terms contained in the various National Schemes of Pay and Conditions of Service which apply.
- 1.3 The Policy is effective from 5 April 2015 but may apply to early births or early adoption placements where the expected week of childbirth or adoption placement is on or after 5 April 2015.

Scope

- 2.1 The Parental Leave Policy on the Birth or Adoption of a Child applies to all Council employees.

Definitions

- 3.1 Definitions covering all policy provisions can be found at Appendix 1.

Application

- 4.1 The terms of the Policy will apply to employees on an individual basis unless otherwise stated. Part-time employees will have the leave entitlements applied pro-rata.
- 4.2 Entitlement to Statutory Maternity, Shared Parental, Adoption or Paternity payments will be dependent on an employee having average earnings above the Lower Earnings Limit for National Insurance Contributions.
- 4.3 It is an overriding principle that, in considering applications for leave under this Policy, the needs of the Council's services are properly considered. Employees should give as much notice of an application for leave as possible and be prepared to change appointment dates and times to help meet the needs of the service.

Policy content

MATERNITY LEAVE AND PAY

5.1 The provisions in this section apply to all employees, unless stated otherwise.

Antenatal Care

5.2 If you are pregnant, you have the right to reasonable, paid time off to attend ante-natal care. Your manager will ask you to produce evidence of appointments before they approve the time off.

Summary of Arrangements

5.3 The conditions relating to maternity leave and pay are set out in Appendix 2 (all staff except teaching staff) and Appendix 3 (teaching staff only).

5.4 If you have **less than 26 weeks' continuous service** at the beginning of the 15th week before the EWC, you have no entitlement to maternity pay. However, you might be entitled to Maternity Allowance through the Department of Work and Pensions.

5.5 Maternity pay is given on the understanding that you will return to work with the Council for a minimum of 3 months after your maternity leave has ended.

- (i) If you do not intend to return to work after maternity leave, your maternity pay will be restricted to 8 weeks normal pay plus any entitlement to SMP.
- (ii) If you are not sure if you are going to return to work, you can choose to receive 8 weeks normal pay and defer payment of any remaining entitlement until a later date.
- (iii) If you intend to return to work and then change your mind and do not return to work for at least the 3-month period, you will have to pay back the equivalent of 6 weeks' maternity pay, issued at normal pay less any SMP paid. Any period of sickness absence during this time does not count towards the three-month total.

5.6 Teaching staff are not required to pay back any element of maternity pay received, if they do not return to work after maternity leave.

Notification and Certification Requirements – All Staff

5.7 You should let your manager know as soon as possible of your EWC and your plans for taking time off.

5.8 To qualify for maternity leave and pay you must do the following **at least 15* weeks before the EWC** (or as soon as is reasonably practicable):

- (a) tell your line manager in writing that you are pregnant, noting:
 - (i) the EWC; and

- (ii) the date you want to start your maternity leave
- (b) produce a certificate from your doctor or midwife, stating EWC.

***Teachers:** you need to give this information to your line manager at least 21 days before your maternity leave starts.

- 5.9 Once you have given your line manager your notice, they will reply to you in writing within 28 days of receipt. Their letter will confirm the latest date that you must return to work by, if you take your full entitlement.
- 5.10 If you change your mind about the date you want to start your leave, you will need to give your line manager 28 days notice of your new start date, in writing, where this is reasonably practicable.

Start of Maternity Leave

- 5.11 Maternity leave can start on any day of the week but no earlier than 11 weeks before the EWC or from the date of childbirth.
- 5.12 If you are absent from work with a pregnancy-related illness during the 4 weeks before the EWC, your maternity leave will start automatically.

Compulsory Maternity Leave

- 5.13 You must take maternity leave for a minimum of two weeks, starting on the date your child is born.

Transfer or Suspension on Health and Safety Grounds

- 5.14 If you are pregnant or have recently given birth, or are breastfeeding and you cannot carry out your normal duties because a health and safety risk has been identified, you must be offered suitable alternative work and transferred to that post, if it is suitable to do so. If no suitable alternative work is available, then you will not be required to work but will continue to be paid your normal pay i.e. you will be suspended on health and safety grounds. Your suspension will last until either alternative work is found or your maternity leave starts.

Return to Work at end of Maternity Leave

- 5.15 The provisions relating to returning from maternity and adoption leave and pay are set out in Appendix 4.
- 5.16 When you return to work, you have the right to return to the job you were doing before you went on maternity leave. This means on the same contract of employment and on terms that are no less favourable. "Job" also covers the nature of work you are employed to do and the capacity and place you are employed.

5.17 If you cannot return to your previous job because your post has been made redundant or because there has been an organisational review that has changed your original job, then you are entitled to be offered a suitable alternative post, where a vacancy exists.

Return to Work when Employee Left at Start of Maternity Leave

5.18 If you decided not to return to work after your maternity leave ended but your child dies, then you are entitled to return to work provided:

- (i) we have a suitable vacancy (not necessarily the same post at the same grade and salary);
- (ii) you provide a doctor's statement saying that you are medically fit to return to work (if we ask for one); and
- (iii) you give us notice as set out in Appendix 4.

5.19 In these circumstances, we would expect that you would return to work no later than the date on which your maternity leave entitlement would have ended had the baby lived.

Maintaining Contact During Maternity Leave

5.20 You and your line manager should maintain reasonable contact during your maternity leave. This gives the opportunity to discuss your return to work plans, any job vacancies, development opportunities or significant workplace developments and helps keep you updated during your absence.

5.21 You and your manager should discuss and agree mutually suitable contact arrangements before you start your maternity leave. This should cover the frequency of contact and how you will maintain contact with each other (e.g. office visits, home visits, by telephone, letter, e-mail etc.). You can amend these if your circumstances change.

5.22 This sort of contact during maternity leave is not considered to be work and does not count towards your 10 Keeping In Touch (KIT) Days.

Breastfeeding Mothers Returning to Work

5.23 If you are breastfeeding your child, you may want to continue to do so once you return to work. If you do, you are entitled to the following up to your child's first birthday:

- (a) paid time off and access to a private room or area (this cannot be a toilet) so that you can express breast milk;
- (b) a refrigerator to store your expressed milk; and/or

- (c) unpaid time off during normal working hours to breastfeed your baby, if it is being cared for somewhere within close proximity to your normal place of work.

5.24 A Maternity Information Pack is available online or from your line manager, who can download it for you if you do not have access to the Orb.

ADOPTION LEAVE AND PAY

5.25 If you adopt a child, you may be entitled to Adoption Leave. If you are part of a couple who are adopting a child together, one of you may be entitled to Adoption Leave and the other may be entitled to Adoption Support Leave. You will have to decide which of you takes which type of leave.

5.26 The selection process for becoming adoptive parents involves a number of assessment visits at home, which prospective parents must attend. We will grant reasonable paid leave to prospective adoptive parents to attend such meetings, provided you give us reasonable notice and are able to produce evidence that these meetings are taking place, such as appointment letters or letters from the adoption agency.

Summary of Arrangements

5.27 The conditions relating to adoption leave and pay are set out in Appendix 2 (all staff except teaching staff) and Appendix 3 (teaching staff only).

5.28 Adoption pay is made on the understanding that you will return to work for at least 3 months when your adoption leave ends. If you do not return to work for the 3-month period, you will have to pay back the equivalent of **6 weeks' adoption pay**, issued at normal pay less any Statutory Adoption Pay paid.

5.29 If you are adopting more than one child at the same time as part of the same adoption e.g. siblings, you will only get one period of adoption leave.

5.30 You will **not** get adoption leave if the child is already living with you, for instance, if you are adopting your partner's child or children.

5.31 If the child's placement ends for any reason while you are on adoption leave, then you can continue your adoption leave for up to 8 weeks after the placement ends.

Notification and Certification

5.32 To qualify for adoption leave and pay, you need to do the following within 7 days of being notified by the adoption agency that you are being matched with a child:

- (a) notify your line manager, in writing, of the date you expect the placement to begin and the date you intend to start your adoption leave;

- (b) give your manager the adoption certificate you get from your adoption agency – you may not get this immediately but you will need to provide it as soon as you get it.

5.33 When you have let your manager know the date your adoption leave is likely to start, your line manager will write to you within 28 days of getting your notification. In their letter, they will confirm the latest date when you can return to work if you take your full entitlement to adoption leave.

5.34 If you need to change the date you want to start your adoption leave, you will need to give your line manager 28 days' notice in writing, where that is reasonably practicable.

Return to Work at End of Adoption Leave

5.35 The provisions relating to returning from adoption leave are set out in Appendix 4.

5.36 If you want to return to work before the end of your full entitlement, then you must let your line manager know when you want to return at least 28 days before the date you want to return. If you do not give the right amount of notice, then your line manager can postpone your return to work for up to 21 days, though no later than the end of your full adoption leave period.

Maintaining Contact During Adoption Leave

5.37 You and your manager should maintain reasonable contact during your adoption leave. This gives the opportunity to discuss your return to work plans, any job vacancies, development opportunities or significant workplace developments and helps keep you updated during your absence.

5.38 You and your manager should discuss and agree mutually suitable contact arrangements before you start your adoption leave. This should cover the frequency of contact, how you will contact each other (e.g. office visits, home visits, by telephone, letter, e-mail etc.). You can amend these if your circumstances change.

5.39 Reasonable contact during the Adoption Leave period does not constitute work and would not count towards the 10 Keeping In Touch Days (see below).

MATERNITY AND ADOPTION SUPPORT LEAVE AND PAY

5.40 This used to be called Paternity Leave and Pay. We have changed the name to reflect the fact that the definition of those eligible for this leave has widened. To summarise, you are eligible for this leave and pay if you are taking time off to look after a child and you are:

- the father of a child due to be born;
- the husband or partner of a child due to be born (or placed for adoption)

- the child's adoptor.

Before birth

5.41 If you are the child's father **or the partner** or nominated carer of the expectant mother (see Definitions – Appendix 1), you are entitled to paid time off to accompany the pregnant woman to up to three ante-natal appointments. Leave is subject to reasonable notice being given and the production of evidence that the appointments are taking place, as well as being subject to the needs of the service.

Before adoption

5.42 If you are adopting a child, you are entitled to a maximum of 3 working days' paid leave to allow you to attend the meetings required as part of the adoption process. Leave is subject to reasonable notice being given and the production of evidence of meetings that both prospective parents must attend, as well as being subject to the needs of the service.

Maternity and Adoption Support Leave Arrangements

5.43 Maternity and Adoption Support Leave is granted at the time of birth or adoption to an employee who meets the definitions at 5.25. It allows you to:

- (a) care for the child; and/or
- (b) support the mother or the adopter.

5.44 You can only get one period of leave, whether more than one child is placed for adoption at the same time or there is a multiple birth.

5.45 If you take Maternity and Adoption Support Leave, you must take either one whole week or a single two-week block. You cannot take two separate weeks. You have to take the leave within 56 days (8 weeks) of the baby's birth or placement. If the baby is born or placed early, you have to take the leave with 56 days of the start of the EWC.

5.46 The conditions relating to maternity and adoption leave and pay are set out in Appendix 2 (all staff except teaching staff) and Appendix 3 (teaching staff only). You will not get maternity/adoption support leave or pay if you are already getting maternity leave and pay or adoption leave and pay or shared parental leave and pay.

5.47 To qualify for the leave, you have to inform your line manager of the following, in writing, by the 15th week before the child is expected, or as soon as is reasonably practicable:

- (a) the week the child is expected to be born or placed;
- (b) whether you are going to take 1 week or 2 weeks' leave;

- (c) the date you are going to start your leave;
- (d) that you will be supporting the mother or adopter;
- (e) that the child is under 18, in the case of adoptions.

5.48 If you need to change the date that you had intended to start your leave, you will need to give your line manager 28 days notice, in writing, where this is reasonably practicable. You will also need to confirm whether you are taking one week or two weeks.

SHARED PARENTAL LEAVE

5.49 Shared Parental Leave (SPL) is available to all eligible parents of children due to be born or expected to be placed for adoption on or after 5 April 2015. If eligible, the mother would end her maternity leave (or the main adopter would end their adoption leave) early and opt instead to share parental leave with the child's father or with her partner. It is up to them how they want to divide their SPL and any entitlement to Shared Parental Pay (ShPP).

5.50 Shared Parental Leave is an option and is not compulsory. If you do not want to opt for SPL, you can still take your normal maternity and adoption leave entitlement.

5.51 You can take shared parental leave (SPL) if:

- (i) you are the mother or adopter of a child; or
- (ii) you are either:
 - the father of the child (in the case of birth); or
 - the spouse, civil partner or partner of the child's mother or the child's adopter.

Note: Shared Parental Leave should not be confused with Parental Leave, which is still available to eligible employees and is unpaid. It should also be noted that Paternity Leave (which we call Maternity and Adoption Support Leave) is still also available to eligible employees.

Eligibility

5.52 To be eligible for SPL **both** parents must meet the following criteria:

- They must both have been continuously employed for at least 26 weeks by the end of the 15th week before the EWC;
- They must still be employed until the week before any period of SPL starts;
- They will have the main responsibility for caring for the child;
- The mother is entitled to statutory maternity leave;
- The mother has stopped her entitlement to maternity leave or has returned to work;
- They have provided their employers with notice of entitlement and intention to take SPL;

- They have provided evidence of the birth or adoption within 14 days of being asked;
- They have given the Council the correct period of leave notice.

5.53 If you are considering taking SPL, you should speak to your line manager as soon as you can to talk about your plans for leave, in case there are any difficulties in trying to accommodate them.

5.54 When you give your line manager notification of your entitlement to take SPL, they will arrange an informal discussion with you at that point, to talk about your intentions, especially if you have not talked to them about your plans before.

5.55 Even though any such meeting is informal and there is no statutory right to be accompanied you may be accompanied by a workplace colleague or trade union representative if you choose,

Note: This right is applicable where one or both partners sharing the leave are employed by the Council. This means that partners of women who are not Council employees may make a request for SPL. See sections 5.65 to 5.70 for further information.

5.56 SPL will also be available to fathers if the mother works but does not qualify for statutory maternity leave. This may be the case if she is self-employed.

Shared Parental Leave Arrangements

5.57 The conditions relating to Shared Parental Leave (SPL) and Pay are set out in Appendix 5 (all staff).

5.58 The mother must take the first two weeks after a birth as compulsory maternity leave. Periods of SPL can overlap so parents can take SPL at the same time or separately and the father can take SPL at any time, including during the first two weeks after the child's birth.

Shared Parental Pay (ShPP)

5.59 The number of weeks that you can receive ShPP will depend on how many weeks the mother takes as maternity leave. It can be paid for a maximum of 37 weeks if:

- you have an average weekly wage for the eight weeks up to and including the 15th week before the EWC/matching date that is not less than the lower earnings limit for national insurance contributions;
- you must continue to be employed by us until at least the first week of ShPP;
- you need to give proper notice in line with this policy.

Continuous SPL

- 5.60 Continuous SPL is where you plan to take only one period of SPL. We cannot refuse a request for continuous SPL, provided you meet the eligibility criteria stated above.
- 5.61 The total number of weeks you can take as continuous SPL is the total number of weeks still available, once the mother has returned to work or has confirmed the date on which she will return to work. The total will be noted in your notice of entitlement.

Discontinuous SPL

- 5.62 Discontinuous SPL is where you take up to three separate periods of SPL but return to work for a short time after each period of leave. There is no statutory obligation to agree requests for discontinuous SPL and agreement is at your manager's discretion.
- 5.63 Where you submit notice for discontinuous SPL leave, your manager will do one of the following within two weeks of getting your notice:
- agree your request and confirm that in writing to you; or
 - meet with you to propose alternative dates; or
 - refuse the leave without proposing alternative dates.
- 5.64 If you meet and cannot agree on alternative dates then you can either withdraw the request for SPL entirely **or** take the total amount of leave requested as one continuous period of leave. If you choose the latter, your SPL will start on the date you asked the discontinuous leave to start, provided you have given at least eight weeks' notice to your line manager.

Requesting SPL and Notice Periods

- 5.65 If you want to take SPL, three things need to happen:
- (i) the mother needs to bring her maternity or adoption leave to an end;
 - (ii) you need to let your line manager know that you are entitled to SPL, confirming your entitlement and how much you intend to take;
 - (iii) you and your line manager need to agree your SPL dates.
- 5.66 To do these three things, you need to complete an SPL form, which is available online or from your manager. In it, you will:
- (i) give notice that you have ended or will end your maternity or adoption leave (or that the mother has done so or will do so);
 - (ii) tell us what your entitlement is;
 - (iii) tell us the dates that you would like to take SPL.

You should send this form to your line manager as soon as possible and **at least 8 weeks before the date you want to start SPL.**

5.67 The form asks you for the following information:

- the names and national insurance numbers of both parents;
- the start and end dates of the mother's statutory maternity leave and pay (either contractual, SMP or MA);
- how much SMP or MA the mother will have received before SPL starts (if she's entitled to any);
- the EWC or the child's date of birth, if you are giving notice after the birth;
- the total amount of SPL and ShPP available;
- confirmation that the leave is being shared with someone who has joint childcare responsibilities with the person applying;
- confirmation that, if they are not the mother/adopter, they're either the father of the child or the spouse, civil partner or partner of the mother/adopter,
- an indication of how much SPL and ShPP each partner intends to take with the proposed start and end dates;
- confirmation that:
 - both parents satisfy the eligibility criteria;
 - that the information given is accurate;
 - that you will notify your manager if either you or your partner stops meeting the eligibility criteria for SPL and ShPP.

5.68 If you give notice before the birth, you can change that any time **before the end of the sixth week after the date of birth**. This allows you to change your plans if there are any complications or changes in your circumstances after the birth of the child. If you are giving notice before your child is born or placed, then you can ask for a start date any number of days after the child is born.

5.69 You can vary or cancel an agreed and booked period of SPL, provided you give your line manager at least eight weeks notice before you want the change to start. **Up to 8 weeks or more before the date you intend to start SPL** there is no limit on the number of times you can vary your SPL arrangements. However, once you are **within 8 weeks of starting SPL, you can only request a maximum of three variations** and these must be given at least 8 weeks before start date of the requested change.

5.70 A variation will not count towards the total of three if:

- (i) the child is born early; or
- (ii) the Council asks you to change your dates and you agree.

If your variations are agreed, your line manager will confirm that to you in writing within 14 days of receipt.

Contact during SPL

5.71 Your line manager will discuss arrangements for keeping in touch with you before you start your SPL. The Council reserves the right in any event to maintain reasonable contact with all employees from time to time SPL. This may be to discuss plans to return to work, to ensure employees are aware of any possible

promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

Return to Work Arrangements

- 5.72 The conditions relating to returning from Shared Parental Leave are set out in Appendix 6.
- 5.73 You will be expected to return to work on the next working day after the end date you agreed with your line manager, unless you notify us otherwise. If you are sick on that day, you must report this in line with the Council's sickness absence reporting procedure. If you do not return on the agreed date without prior authorisation, your absence will be treated as unauthorised absence.
- 5.74 If you want to return to work earlier than agreed, you will need to give us at least eight weeks' notice of your proposed return date. This will count as one of your three notifications. If you have already used your three notifications to book or vary leave, then we do not have to accept your notice to return early. However, if your line manager feels that it is reasonably practicable to do so, they can agree.

KEEPING IN TOUCH (KIT) & SHARED PARENTAL LEAVE IN TOUCH (SPLIT) DAYS

- 5.75 You can work up to 10 KIT days if you decide to take maternity or adoption leave.
- 5.76 If you opt to take Shared Parental Leave (SPL), you are entitled to take up to 20 SPLIT days during your period of SPL. This means that if you are the mother of the child, or the main adopter, and you take shared parental leave, you are entitled to up to 10 KIT days plus 20 SPLIT days. Note that you have to take any KIT days during your period of maternity leave i.e. before you take any SPL.
- 5.77 Taking KIT or SPLIT days does not bring maternity, adoption or shared parental leave to an end and nor does it extend it. You can use the days in a single block of 10 days (or 20 for SPL) or use them separately for any work-related activity that helps keep you informed and involved with the workplace. This could be coming in to do your normal job, working on a project, shadowing a colleague, attending team meetings or taking parting training or development.
- 5.78 You do not have to take any KIT or SPLIT days. Your line manager cannot insist you do any work during maternity, adoption or shared parental leave and you cannot insist on being given work to do. You and your line manager should discuss and agree whether you are going to take any KIT or SPLIT days, what you will do on those days and agree the dates before you start your maternity, adoption or shared parental leave.

- 5.79 You will be paid at your normal rate for any KIT or SPLIT days you work, pro-rata for any part days worked. Pay for KIT and SPLIT days is inclusive of any Statutory Maternity Pay or Statutory Adoption Pay.
- 5.80 If your manager agrees, you can use SPLIT days to work part of a week during SPL. You can also use SPLIT days as a phased return to work towards the end of a period of SPL or to trial a possible flexible working pattern.

CONTRACTUAL ISSUES

Maternity Leave - Employees other than Teaching staff

- 5.81 Maternity Leave is not treated as sick leave and will not be counted towards sickness absence.
- 5.82 Your time on maternity leave counts towards continuous service with the Council.
- 5.83 Your contractual terms and conditions of service are preserved, with the exception of pay i.e. you are paid whatever you are entitled to under the Council's Maternity Pay scheme rather than your normal salary.
- 5.84 You will continue to accrue contractual annual leave and public holidays during your maternity leave. You must agree with your manager how you want to use the leave you have accrued. If you are going on an employment break after your maternity leave, you will have to use all your accrued leave before you start your employment break.

Maternity Leave - Teaching Staff

- 5.85 If you are off sick before you start your maternity leave, your absence will be treated as sick leave unless:
- (i) the reason for absence is pregnancy related illness; **and**
 - (ii) there are fewer than 4 weeks before your EWC.

If you meet these criteria, then you will be deemed to have started your maternity leave on the date that you went off sick.

- 5.86 Maternity Leave is not treated as sick leave when calculating your sick leave entitlement except in the case of miscarriage (i.e. prior to the 24th week of pregnancy).
- 5.87 If you are entitled to Ordinary Maternity Leave with pay, you will also be entitled to receive payment in lieu of accrued leave while you are on maternity leave. This will be calculated in accordance with the provisions of Teachers' Scheme of Conditions of Service. It covers the period up to the day before you start Ordinary Maternity Leave, less the number of days leave and public holidays you have already received.

5.88 Your contractual terms and conditions of service continue while you are on maternity leave, with the exception of pay. If you give notice that you are not going to return to work after your maternity leave, we will make you a payment in lieu of the annual leave you accrued during the first 26 weeks of your maternity leave.

5.89 If you tell us that you are not going to come back to work after your maternity leave, you will be paid in lieu for the annual leave you accrued during your maternity leave.

Note: If you are a temporary teacher and claim your salary on a monthly basis, paragraphs 5.87 to 5.89 do not apply because holiday pay is included in the pay you get for each working day.

5.90 Your maternity leave counts as credited service in the determination of your scale placing in accordance with the salary placement regulations. If you return to work under the provisions of the Teachers' Scheme of Conditions of Service, the period from the end of paid maternity leave to the date of return to work will also be credited in full.

Adoption Leave

5.91 The above advice will similarly apply to employees who take adoption leave.

Shared Parental Leave

5.92 The above advice also applies to employees who take sharing parental leave.

PENSIONS ISSUES

Employees other than teaching staff

5.93 If you are a member of the Local Government Pension Scheme (the Council's scheme is Lothian Pension Fund) and you qualify for occupational maternity/adoption pay or Statutory Maternity Pay, you will continue making pension contributions from whatever pay you get. If you then go to a period of unpaid the maternity/adoption/shared parental leave, then you will have 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 pay the extra contributions.

5.94 If you tell us that you are not returning to work, you also have 30 days from the date that you let us know to decide if you want to make the extra payments.

5.95 If you do not pay pension contributions for the unpaid period of your maternity leave, then that period will not count as membership of the Local Government Pension Scheme.

5.96 If your 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.

Teaching staff

5.97 If you are 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.

LOCAL AGREEMENT

5.98 This document is a local collective agreement between the Council and the recognised Trade Unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement and adjusted by agreement to meet changing future needs. In the event of failure to reach agreement, both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances, the terms of the local agreement will cease to apply to existing and future employees.

Implementation

6.1 For details of the completed [Implementation and Monitoring form](#), contact the named author of the policy.

Roles and responsibilities

7.1 The roles and responsibilities for employees and managers are set out in the appendices to this document, which set out the various types of leave, how the employee accesses that leave and how that leave is approved.

Related documents

8.1 See attached appendices.

- Appendix 1 – Definitions
- Appendix 2 - Maternity and Adoption Benefits, All Staff Except Teaching staff
- Appendix 3 – Maternity and Adoption Benefits, Teaching Staff only
- Appendix 4 – Returning From Maternity and Adoption Leave, All Staff
- Appendix 5 – Shared Parental Leave and Pay Benefits, All staff
- Appendix 6 – Returning from Shared Parental Leave

Equalities and impact assessment

9.1 For details of the completed [*Record of Equality and Rights Impact Assessment \(ERIA\)*](#) form, contact the named author of the policy.

Strategic environmental assessment

10.1 It has been assessed that this policy will have no environmental impact.

Risk assessment

11.1 This policy sets out the Council's response to various statutory requirements to offer parental leave on the birth or adoption of a child. The Council either offers the statutory minimum or enhancing them on the base of agreed contractual entitlement/local agreement. As we are meeting our statutory requirements and, in the most part, exceeding them, it is felt that there is no risk involved with this policy.

Review

12.1 This policy will be reviewed annually.

Definitions

TERM	MEANING
Adoption	Formal adoption of a child newly matched for adoption by an employee who is named on the approved adoption agency's matching certificate.
Childbirth	Means the birth of a living child or, after 24 weeks of pregnancy, the birth of a child whether living or dead.
Continuous Service	Means continuous service with the City of Edinburgh Council (or its predecessors) or any local authority or employer to which the <i>Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 (as amended)</i> applies. Note: Certain exceptions apply for "Red Book" employees returning to local government service following a break for maternity reasons provided the break does not exceed 8 years and that no paid employment has intervened.
Expected week of childbirth (EWC)	"Week" in this context means the period of 7 days, beginning at 0000 hours on Sunday, in which the birth is expected to take place.
Maternity Allowance (MA)	A benefit paid to pregnant women who usually work but do not qualify for SMP.
Nominated Carer	A person nominated by the mother or adopter to assist in the care of the child and to provide support to the mother or adopter at or around the time of the birth or adoption placement.
Parent	Is a child's mother, father, guardian, foster carer or some other person with parental responsibility.
Qualifying week	The 15 th week before the week in which the maternity certificate indicates that the baby is due.
Shared Parental Leave	Leave which entitles eligible mothers, fathers, partners and

TERM	MEANING
(SPL)	adopters to choose how to share time off work after their child is born or placed for adoption. It can be taken once the mother or main adopter has given notice that they are bringing their maternity or adoption leave to and end.
Shared Parental Pay (ShPP)	A legal entitlement to an amount of pay set annually by the Government that is made to parents who take shared parental leave. It is available for a maximum of 39 weeks, offset against the number of weeks of maternity or adoption leave taken.
Statutory Adoption Pay (SAP)	A legal entitlement to an amount of pay set annually by the Government that is made to employees or former employees who adopt a child.
Statutory Maternity Pay (SMP)	A legal entitlement to an amount of pay set annually by the Government that is made to female employees or former employees who have had or are about to have a baby.
Statutory Paternity Pay (SPP)	A legal entitlement to an amount of pay set annually by the Government that is made to male employees or former employees who are absent on paternity leave.
Week's pay	<p>If your pay does not change with the amount of work done over the period, a week's pay is the amount the Council pays the employee under their contract of employment for working their normal hours in a week.</p> <p>Where there are no normal working hours, a week's pay is the average pay over the 12 weeks before the date on which the last complete week ended, excluding any week where the employee did not get any pay.</p>

Maternity and Adoption Benefits All Staff Except Teaching staff

	Statutory Entitlement	Eligibility Requirement	CEC Enhancement	Eligibility Requirement
Maternity Leave	Up to 52 weeks – can start 11 weeks before EWC	No minimum service but must be in employment	Up to 63 weeks – can start 11 weeks before EWC	Employed for 26 weeks continuously up to 15 weeks before EWC
Maternity Pay	6 weeks @ 90% of normal pay plus up to 33 weeks pay at SMP rate or 90% of normal salary whichever is lowest Total 39 weeks pay	Employed for 26 weeks continuously up to 15 weeks before EWC	14 weeks* @ normal pay plus up to 25 weeks @ SMP rate or 90% of normal salary whichever is lowest Total 39 weeks pay *reduced to 8 weeks if you do not return to work for at least 3 months after end of maternity leave period	Employed for 26 weeks continuously up to 15 weeks before EWC
Adoption Leave	Up to 52 weeks – can start 11 weeks before EWC	No minimum but must be in employment	No enhancement to statutory entitlement	N/A

	Statutory Entitlement	Eligibility Requirement	CEC Enhancement	Eligibility Requirement
Adoption Pay	39 weeks pay at SMP rate or 90% of normal salary whichever is lowest	Employed for 26 weeks continuously up to date notified of match	<p>14 weeks* @ normal pay plus</p> <p>up to 25 weeks @ SMP rate or 90% of normal salary whichever is lowest</p> <p>Total 39 weeks pay</p> <p>*reduced to 8 weeks if you do not return to work for at least 3 months after end of maternity leave period</p>	Employed for 26 weeks continuously up to 15 weeks before EWC
Maternity/Adoption Support Leave and Pay	1 or 2 weeks @ SMP rate or 90% of normal salary whichever is lowest	<ol style="list-style-type: none"> Employed for 26 weeks continuously up to 15 weeks before EWC; or date notified of match. You must be the father, the husband or partner of the mother or adopter or the child's adopter. 	1 week @ normal pay plus 1 week @ SMP rate	<ol style="list-style-type: none"> Employed for 26 weeks continuously up to 15 weeks before EWC; or date notified of match. You are child's father or the mother's partner; and You have or expect to have responsibility for the upbringing of the child.
			1 week @ normal pay plus up to 1 week unpaid leave	Employed for less than 26 weeks

Maternity and Adoption Benefits Teaching Staff only

	Statutory Entitlement	Eligibility Requirement	CEC Enhancement	Eligibility Requirement
Maternity Leave	Up to 52 weeks – can start 11 weeks before EWC	No minimum service but must be in employment	None	N/A
Maternity Pay	6 weeks @ 90% of normal pay plus up to 33 weeks pay at SMP rate or 90% of normal salary whichever is lowest Total 39 weeks pay	Employed for 26 weeks continuously up to 15 weeks before EWC	13 weeks @ normal pay plus up to 26 weeks @ SMP rate or 90% of normal salary whichever is lowest Total 39 weeks pay	Employed for 26 weeks continuously up to 15 weeks before EWC
Adoption Leave	Up to 52 weeks – can start 11 weeks before EWC	No minimum but must be in employment	No enhancement to statutory entitlement	N/A
Adoption Pay	39 weeks pay at SMP rate or 90% of normal salary whichever is lowest	Employed for 26 weeks continuously up to date notified of match	No enhancement to statutory entitlement	N/A

	Statutory Entitlement	Eligibility Requirement	CEC Enhancement	Eligibility Requirement
Maternity/Adoption Support Leave and Pay	1 or 2 weeks @ SMP rate or 90% of normal salary whichever is lowest	1. Employed for 26 weeks continuously up to 15 weeks before EWC; or date notified of match. 2. You must be the father, the husband or partner of the mother or adopter or the child's adopter.	1 week @ normal pay plus 1 week @ SMP rate	1. Employed for 26 weeks continuously up to 15 weeks before EWC; or date notified of match. 2. You are child's father or the mother's partner; and 3. You have or expect to have responsibility for the upbringing of the child.
			1 week @ normal pay plus up to 1 week unpaid leave	Employed for less than 26 weeks

Returning From Maternity and Adoption Leave All staff

	Statutory Entitlement	Eligibility	Council Enhancement	Eligibility
Return from Maternity Leave	<p>NOTICE</p> <ol style="list-style-type: none"> 1. If you return after taking your full entitlement to maternity leave, you do not need to give notice of your return. 2. If you want to return to work before the end of your full entitlement, you need to give your manager 28 days' notice. If you do not, your return may be postponed by your manager as follows: <ul style="list-style-type: none"> - By up to 7 days if you were entitled to 52 weeks leave - By up to 21 days, if you were 	Employed for 26 weeks continuously up to 15 weeks before EWC	<ol style="list-style-type: none"> 1. You have the right to return to the same job you were doing before you went on maternity leave. 2. If your job has changed /does not exist on your return, you are entitled to be offered a suitable alternative post if one exists. 	As for statutory entitlement –see column 2.

	Statutory Entitlement	Eligibility	Council Enhancement	Eligibility
	<p>entitled to 63 weeks leave.</p> <p>3. If you take up to 26 weeks' leave you can return to the same job;</p> <p>4. If you take more than 26 weeks' leave, you have the right to return to the same or a similar job.</p>			
	<p>Teachers</p> <p>If you are unable to give 28 days' notice the minimum you are required to give is 7 days.</p>	Employed for 26 weeks continuously up to 15 weeks before EWC.		
Return from Adoption Leave	<p>1. If you return after taking your full entitlement to maternity leave, you do not need to give notice.</p> <p>2. If you want to return to work before the end of your full entitlement, you need to give your manager 28 days'</p>	Employed for 26 weeks continuously up to 15 weeks before EWC	<p>1. You have the right to return to the same job you were doing before you went on maternity leave.</p> <p>2. If your job has changed/does not exist on your return, you are entitled to be offered a suitable alternative post if one exists.</p>	

	Statutory Entitlement	Eligibility	Council Enhancement	Eligibility
	<p>notice.</p> <p>3. If you do not, your return may be postponed by you by up to 21 days.</p> <p>4. If you take up to 26 weeks' leave you can return to the same job;</p> <p>5. If you take more than 26 weeks' leave, you have the right to return to the same or a similar job</p>			

Shared Parental Leave and Pay Benefits

All Staff

	Statutory Entitlement	Eligibility
Shared Parental Leave	<ol style="list-style-type: none"> Up to 50 weeks to be taken before the child's first birthday OR before the first anniversary of the child's placement; Minimum period is one week; Can be taken in one single block or up to three separate blocks; Can start on any day of the week. 	<ol style="list-style-type: none"> Both parents to have been continuously employed for at least 26 weeks by the end of the 15th week before EWC; Mother must be entitled to statutory maternity leave OR the main adopter must be entitled to statutory adoption leave; Mother must have stopped her maternity leave or agreed to end it OR the main adopter must have stopped their adoption leave or agreed to end it; Employee must have given at least 8 weeks' notice that they want to take SPL.
Shared Parental Pay	<ol style="list-style-type: none"> Up to 37 weeks at the statutory Shared Parental Pay (ShPP) rate. 	<p>As above plus:</p> <ol style="list-style-type: none"> The mother must be entitled to statutory maternity pay OR the main adopter is entitled to statutory adoption pay; The mother must have agreed to end her entitlement to maternity pay early OR the main adopter must have agreed to end their entitlement to adoption pay early; You must be looking after the child during the weeks you're getting ShPP; You must continue to be employed by the Council until at least the first week you get ShPP.

Returning from Shared Parental Leave

	Statutory Entitlement	Eligibility	Council Enhancement	Eligibility
Return From Shared Parental Leave	<ol style="list-style-type: none"> 1. If you take 26 weeks or less leave (including maternity/ adoption/ paternity and SPL) you have the right to return to the same job. 2. If you take more than 26 weeks leave (including maternity/ adoption/ paternity and SPL) you have the right to return to the same job unless it is not reasonably practicable to do so. 	<ol style="list-style-type: none"> 1. Both parents to have been continuously employed for at least 26 weeks by the end of the 15th week before EWC; 2. Mother must be entitled to statutory maternity leave OR the main adopter must be entitled to statutory adoption leave; 3. Mother must have stopped her maternity leave or agreed to end it OR the main adopter must have stopped their adoption leave or agreed to end it; 4. Employee must have given at least 8 weeks' notice that they want to take SPL. 	<ol style="list-style-type: none"> 1. You have the right to return to the same job you were doing before you went on SPL regardless of the length of leave, unless it is not reasonably practicable to do so. 2. If you cannot return to your previous post, then you are entitled to be offered a suitable alternative post, where a vacancy exists. 	As for statutory entitlement – see column 2.