

# Corporate Policy and Strategy Committee

10.00am, Tuesday 6 September 2016

## Maternity, Paternity, Adoption and Shared Parental Leave

Item number	7.5
Report number	
Executive/routine	
Wards	

### Executive summary

The Parental Leave Policy on the Birth or Adoption of a Child was approved by the Corporate Policy and Strategy Committee on 24 February 2015. It covers the Council's provisions for leave relating to Maternity, Adoption and Shared Parental Leave. At that time, Shared Parental leave was a new statutory right, coming into effect from 5 April 2015, which was available to all mothers, fathers, main adopters and partners of main adopters in the first year following a child being born or placed for adoption.

When the policy was introduced, employees taking Shared Parental Leave were paid the statutory minimum. Having considered the low uptake, and in line with the Council's public sector duty on equalities, it has been agreed that Shared Parental Leave for all eligible employees should match the enhanced maternity schemes currently available for female employees.

We have also taken the opportunity to refresh the policy, as well as the associated toolkits and factsheets, though changes were minimal. We also chose to simplify the title to Maternity, Paternity and Adoption.

### Links

Coalition pledges	P27
Council outcomes	CO27
Single Outcome Agreement	SO1

## Maternity, Paternity, Adoption and Shared Parental Leave

### Recommendations

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- 1.1 The Committee is asked to note the report.

### Background

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- 2.1 Shared Parental Leave (SPL) was a new statutory right that came into effect on 5 April 2015. It 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 SPL is currently paid at the statutory minimum. If a female employee wants to share her maternity pay and leave, she has to give up her right to enhanced maternity pay and move on to shared parental pay and leave.
- 2.3 The uptake of SPL has been very low. However, we have had some queries from male employees who are due to become parents, querying why they were not entitled to an enhanced paternity scheme, in the same way female employees have access to an enhanced maternity scheme.
- 2.4 Having considered this, it has been agreed that employees whose partners wish to take SPL can themselves have up to 14 weeks of paid SPL. Employees on teachers' terms and conditions will be entitled to 13 weeks at full pay, in line with the teachers' enhanced maternity scheme.

### Main report

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- 3.1 Currently, employees whose partners wish to take SPL are paid the statutory weekly rate (£139.58 per week). The Council's enhanced maternity scheme pays 14 weeks at full pay (13 weeks for teachers) with a further 25 weeks of statutory maternity pay.
- 3.2 There is an argument that this is indirect sex discrimination. While this argument is defensible to an extent, it is felt that the Council should be an exemplar in equalities. The Council should not be putting barriers in the way of employees who want to support their partners and be with their children in the first few months of their lives.

- 3.3 With this in mind, it has been agreed that employees who meet the criteria for shared parental pay and leave, will receive full pay in line with our enhanced maternity schemes. This means that Council employees who meet the criteria for SPL will be entitled to up to 14 weeks shared parental pay at full pay (13 weeks for employees on teachers' terms and conditions) followed by 25 weeks at the statutory. The total number of weeks will depend on how many weeks have been left to share, once the mother or main adopter has taken their maternity or adoption leave.
- 3.4 If parents decide to choose to go down the shared parental leave route, the mother or main adopter must end their maternity leave or adoption leave early. The balance of maternity or adoption leave remaining can then be shared between both parents. The mother or main adopter must take the first two weeks after the birth of the child as compulsory maternity leave but can return to work immediately after that, allowing the partner to have the rest.
- 3.6 As is now the case, managers will discuss SPL as part of their normal discussions about maternity or adoption leave when employees announce they are expecting a child or about to have a child placed with them for adoption.
- 3.7 There will be appropriate staff communications and supporting material for managers and staff about his change in policy.

## Measures of Success

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- 4.1 Reduced risk of claims of indirect sex discrimination, as the Council will be offering all employees enhanced pay for shared parental leave, in line with our scheme of enhanced maternity pay.
- 4.2 Improved recruitment and retention, as this policy adds to the overall recruitment package offered to employees.
- 4.3 Improved work/life balance for employees.
- 4.4 Greater productivity from more motivated employees.

## Financial impact

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- 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

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- 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

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- 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

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- 8.1 No impact.

## Consultation and engagement

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- 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.
- 9.2 Consultation and approval has been sought with the Corporate Leadership Team (CLT).

## Background reading/external references

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[Parental Leave Policy on the Birth or Adoption of a Child – report to Corporate, Policy and Strategy Committee – 24 February 2015](#)

### Hugh Dunn

Acting Executive Director of Resources

Contact: Katy Miller, Head of Human Resources

E-mail: [katy.miller@edinburgh.gov.uk](mailto:katy.miller@edinburgh.gov.uk) | Tel: 0131 469 5522

## Links

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<b>Coalition pledges</b>	P27: Seek to work in full partnership with Council staff and their representatives
<b>Council outcomes</b>	CO27: The Council supports, invests in and develops our people.
<b>Single Outcome Agreement</b>	SO1: Edinburgh's economy delivers increased investment, jobs and opportunities for all.
<b>Appendices</b>	Appendix 1 – Maternity and Adoption Leave Policy

# Maternity, Paternity and Adoption

**Implementation date:**

## Control schedule

**Approved by**

**Approval date**

**Senior Responsible Officer** Katy Miller

**Author** Stewart Cassie

**Scheduled for review** Annually

## Version control

Version	Date	Author	Comment
0.1	3 February 2015	Linda Holden	Committee Version
0.2	27 July 2016	Stewart Cassie	Committee Version

## Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
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# Maternity, Paternity and Adoption

## Policy statement

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- 1.1 We recognise that some of our employees will want to take time off either to have children or to adopt. Our aim is to support them through this change in their lives and to help make the transition for them as easy as possible, while still taking the needs of the business into consideration.
- 1.2 This policy sets out the support we offer, noting what is statutory and what 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 any of the leave covered in this policy will be protected against dismissal or detriment.

## Scope

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- 2.1 This policy applies to all Council employees.

## Definitions

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

## How the policy applies to you

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- 4.1 This policy applies to employees on an individual basis unless it says otherwise. If you are a part-time employee, the amounts of leave will be applied on a pro-rata basis.
- 4.2 You will only be entitled to Statutory Maternity Pay, Shared Parental Pay, Adoption Pay and Paternity Pay if you have earned more than the Lower Earnings Limit for National Insurance Contributions.
- 4.3 Our aim is support employees through the change that having and adopting children brings. However, we also need to consider the needs of the business. As part of this, we really need our employees to give us as much notice as they can before they ask for any of the types of leave covered by this policy. You should also be prepared to work with us and be as flexible as you can around appointment dates and times to help meet the needs of the service.

## Policy content

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### MATERNITY LEAVE AND PAY

5.1 This section applies 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. When you ask for time off, your manager will ask you for your appointment card. They will not be able to approve any time off for until they have seen your appointment card.

#### Maternity Leave and Pay

5.3 We have set out the amount of leave and pay you will get if you are a teacher in Appendix 3. For everyone else, leave and pay is set out in Appendix 2.

5.4 If you have **less than 26 weeks' continuous service** at the beginning of the 15<sup>th</sup> 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.

#### Paying Back Maternity Pay

5.5 We pay enhanced maternity pay because we want you to return to work when your maternity leave ends. If you do not return for a minimum of three months, we will ask you pay back some of your maternity pay. If you are sick during the three-month period, that will not count towards the total we need.

5.6 If you let us know that you do not intend to return to work after your maternity leave, we will only pay you 8 weeks maternity pay at your normal rate of pay plus any SMP you are entitled to.

5.7 If you are not sure if you are going to return to work, you can choose to receive 8 weeks normal pay and then make your mind up after that. If you then do decide to come back, we can pay you the remainder of your enhanced pay at a later date.

5.8 If you had intended to return to work and then change your mind, we will ask you to pay back the equivalent of 6 weeks' maternity pay. This will be your normal weekly pay less any SMP paid.

5.9 If you are a teacher, you will not have to pay back any maternity pay you get if you do not return to work after your maternity leave.

## **Confirming Your Maternity Leave Dates**

- 5.10 When you find out when your EWC is, you should let your manager know. You should also discuss your plans for maternity leave with them as soon as you are able to do so and **at least 15\* weeks before your EWC**.
- 5.11 Once you have discussed it with your manager, we need you to confirm what you have agreed in writing **at least 15\* weeks before your EWC**. In your letter, you need to confirm your EWC and the date that you want to start your maternity leave.
- 5.12 You will also need to give your manager the certificate you got from your doctor or midwife, confirming your EWC. This is called a **Mat B1 form**.
- 5.13 If you are a teacher, you need to give the same information to your line manager at least 21 days before your maternity leave starts.
- 5.14 After you have given your manager your Mat B1 form and your letter confirming your leave dates, they will reply to you in writing within 28 days, confirming the latest date that you must return to work by, if you take your full entitlement.
- 5.15 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**

- 5.16 Maternity leave can start on any day of the week but it cannot start earlier than 11 weeks before the EWC or from the date your child was born.
- 5.17 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**

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

## **Changing Jobs or Suspension on Health and Safety Grounds**

- 5.19 If you are pregnant (or have recently given birth or are breastfeeding), you can ask for a health and safety risk assessment to be carried out, to make sure you are able to continue to do your normal job safely. If the risk assessment shows that you cannot do your normal job, we will try to offer you suitable alternative work. If we are not able to find you suitable alternative work, then we will suspend you and continue to pay you as normal. You will be suspended until we can find suitable alternative work or until you go on maternity leave.



## **Return to Work**

5.20 We have set out your rights about returning to work after maternity leave in Appendix 4.

## **If You Lose Your Baby**

5.21 We understand that while you can make plans, things may not always work out. We appreciate that losing a baby is one of the most traumatic events that employees can go through. We can offer you help and support through our [Employee Assistance Programme](#). They are able provide counselling and discuss other forms of help free of charge.

5.22 In these circumstances, if you had decided not to return to work after your maternity leave ended, then we will try to find you another job with us, if we can. We will do our best to help and we may not be able to offer you the same post or a post at the same grade and salary.

5.23 We may have to ask for a note from your doctor, saying you are fit to return. This is for your own health and safety, as we have a duty of care towards you. We also ask that you give us the normal notice period for return to work after maternity leave, as set out in Appendix 4. If we are able to offer you a post, we would hope that you would return to work on the date that your maternity leave entitlement would have ended.

## **Contact With Work When You Are On Maternity Leave**

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

5.25 You and your manager need to agree contact arrangements before you start your maternity leave. You need to agree how often you will be in touch and how the contact will happen (e.g. office visits, home visits, by telephone, letter, e-mail etc.). If your circumstances change, you can agree changes with your manager.

5.26 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 at Work**

5.27 If you are 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:

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

5.28 We have an online Maternity Information Pack. Your manager can download it for you, if you do not have access to the Orb.

## **ADOPTION LEAVE AND PAY**

- 5.29 This section applies to all employees, unless stated otherwise.
- 5.30 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.
- 5.31 We appreciate that the selection process for becoming adoptive parents involves a number of assessment visits at home, which you have to attend. We will give you reasonable paid leave to attend these meetings. We ask that you give your manager reasonable notice before the meeting takes and place. You will also have to give your manager your appointment letters from the adoption agency, confirming the meetings are taking place

### **Summary of Arrangements**

- 5.32 We have set out the amount of leave and pay you will get if you are a teacher in Appendix 3. For everyone else, leave and pay is set out in Appendix 2.

### **Paying Back Adoption Pay**

- 5.33 We pay enhanced adoption pay because we want you to return to work when your adoption leave ends. If you do not return for a minimum of three months, we will ask you pay back some of your adoption pay. If you are sick during the three-month period, that will not count towards the total we need.
- 5.34 If you had intended to return to work and then change your mind, we will ask you to pay back the equivalent of 6 weeks' adoption pay. This will be your normal weekly pay less any SAP paid.
- 5.35 If you are adopting more than one child at the same time (e.g. siblings) you will only get one period of adoption leave.
- 5.36 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.
- 5.37 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.

## **Confirming Your Adoption Leave**

- 5.38 When you find out that you have been matched with a child, you should let your manager know as soon as you can and certainly **within 7 days of being told by the adoption agency**.
- 5.39 Once you have spoken to our manager, we need you to confirm in writing that you have been matched with a child **within 7 days of being told by the adoption agency**. In your letter, you need to tell us the date that the child is being placed with you and the date that you want your adoption leave to start.
- 5.40 You will also need to give your manager the adoption certificate the adoption agency gives you. We know that this may not happen immediately but please provide it as soon as you get it.
- 5.41 When you have given your manager your letter, they will write back to you within 28 days. In their letter, they will confirm the latest date when you can return to work, if you take your full entitlement to adoption leave.
- 5.42 If you change your mind about 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.

## **Returning to Work**

- 5.43 We have set out your rights about returning to work after adoption leave in Appendix 4.

## **Contact With Work**

- 5.44 You and your manager should maintain reasonable contact during your adoption leave. This gives you both the opportunity to discuss your return to work plans, any job vacancies, development opportunities or significant workplace developments and changes during your absence.
- 5.45 You and your manager need to agree contact arrangements before you start your adoption leave. You need to agree how often you will be in touch and how the contact will happen (e.g. office visits, home visits, by telephone, letter, e-mail etc.). If your circumstances change, you can agree changes with your manager.
- 5.46 This sort of contact during Adoption Leave does not constitute work and does not count towards your 10 Keeping In Touch Days (see below).

## **PARTNER SUPPORT LEAVE AND PAY**

- 5.47 This used to be called Paternity Leave and Pay. We have changed the name to because the definition of those eligible for this leave has changed. You can take partner support leave and pay if you are taking time off to look after a child if you are:
- the father of a child due to be born;
  - the husband or partner of a child due to be born;

- the husband or partner of a child due to be placed for adoption;
- adopting a child.

### **Before birth**

5.48 If you are the child's father or the partner or nominated carer of a woman expecting a baby (see Definitions – Appendix 1), you are entitled to paid time off to accompany the mother-to-be to up to three ante-natal appointments. You need to give reasonable notice of when you want to take leave. When you ask for leave, your manager will ask you for your appointment card. They will not be able to approve any time off for you until they have seen your appointment card. They 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.

### **Before adoption**

5.49 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 that are part of the adoption process. You need to give your manager reasonable notice of when the meetings are due to take place. Your manager will also ask you for a copy of the letter telling you when the meeting is taking place. They will not be able to give you any time off if you cannot give them some proof that the meetings are taking place. Your 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.

### **Partner Support Leave**

5.50 You can take Partner Support Leave if you meet any of the definitions at 5.47.

5.51 If you are matched with more than one child at a time or if there is a multiple birth, you will still only get one period of leave.

5.52 You can take either one whole week or a single two-week block of Partner Support Leave. 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.

5.53 We have set out the amount of leave and pay you will get if you are a teacher in Appendix 3. For everyone else, leave and pay is set out in Appendix 2. You will not get Partner Support Leave or Pay if you are already getting maternity leave and pay or adoption leave and pay or shared parental leave and pay.

5.54 When you have decided that you want to take Partner Support Leave, you should speak to your manager as soon as you can, so that you can discuss when you want to take your leave.

5.55 Once you have agreed dates with your manager, you need to confirm your leave in writing as soon as you can. In the case of birth, you must send us your letter **by the 15<sup>th</sup> week before the child is expected**. In your letter, you need to confirm the following:

- (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 main adopter;
- (e) that the child is under 18, in the case of adoptions.

5.56 If you change your mind about the dates you want to take, you will need to give your manager 28 days notice, in writing, where this is reasonably practicable. You will also need to confirm again whether you are taking one week or two weeks.

## **SHARED PARENTAL LEAVE**

5.57 Shared Parental Leave (SPL) is where the mother or main adopter agrees to end their maternity or adoption leave and share the remainder of their entitlement with their partner or with the child's father. If you are eligible for SPL, it is up to you how you want to share the leave. You may also be entitled to Shared Parental Pay (ShPP). All Council staff who meet the criteria can take SPL and ShPP.

5.58 You do not have to take Shared Parental Leave if you do not want to. You can still choose to take maternity or adoption leave. The choice is up to you.

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

- (i) you are the mother or main 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 main adopter.

## **Eligibility**

5.60 To be eligible for SPL **both** you and your partner must meet the following criteria:

- you must both have been continuously employed for at least 26 weeks by the end of the 15th week before the EWC;
- You must still be employed until the week before any period of SPL starts;
- You are both responsible for caring for the child;
- The mother is entitled to statutory maternity leave, in the case of births;
- The main adopter is entitled to statutory adoption leave, in the case of adoptions;
- The mother has stopped her entitlement to maternity leave or has returned to work, the case of births;
- The main adopter has stopped their entitlement to adoption leave or has returned to work, in the case of adoptions;
- You have both given your employers written notice that you are entitled to SPL and that you intend to take SPL;
- You have provided evidence of the birth or adoption within 14 days of being asked;
- You have given the Council the correct period of leave notice.

## **Agreeing Your SPL**

- 5.61 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.
- 5.62 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.
- 5.63 This meeting is informal. However, you can choose to be accompanied to the meeting by a work colleague or a trade union representative, if you want.
- 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.
- 5.64 If you are a father or the partner of the mother or main adopter, you can still take SPL if the mother or main adopter works but does not qualify for statutory maternity leave or statutory adoption leave. This may be the case if the mother or main adopter is self-employed.

## **Shared Parental Leave Arrangements**

- 5.65 The conditions relating to SPL and ShPP are set out in Appendix 5.
- 5.66 The mother or main adopter 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. The partner can take SPL at any time, including during the first two weeks after the child's birth.

## **Shared Parental Pay (ShPP)**

- 5.67 The number of weeks that you can receive ShPP will depend on the number of weeks the mother takes as maternity leave or the main adopter takes as adoption leave. It can be paid for a maximum of 37 weeks. To be eligible for ShPP you must:
- have an average weekly wage for the eight weeks up to and including the 15<sup>th</sup> week before the EWC/matching date that is not less than the lower earnings limit for national insurance contributions;
  - be employed by the Council until at least the first week of ShPP;
  - give proper notice as set out below.

## **Continuous SPL**

- 5.68 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.
- 5.69 The total number of weeks you can take as continuous SPL is the total number of weeks still available, once the mother has ended her maternity leave or the main

adopter has ended their adoption leave. The total will be noted in your notice of entitlement.

### **Discontinuous SPL**

5.70 You do not have to take all your SPL at once. You can choose to take up to three separate periods of SPL. This is called Discontinuous SPL. If you ask for Discontinuous SPL, your manager can turn your request down. This is at your manager's discretion and they will take the needs of the service into consideration when making their decision.

5.71 If you ask for discontinuous SPL, your manager will do one of the following within two weeks of getting your written request:

- agree to 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.

5.72 If you and your manager cannot agree on alternative dates, then you have two choices:

- (i) you can withdraw your request for SPL; or
- (ii) you can take the total amount of leave you asked for as a single period of shared parental leave.

5.73 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**

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

- (i) the mother needs to bring her maternity leave to an end, in the case of births;
- (ii) the main adopter needs to bring their adoption leave to an end, in the case of adoptions;
- (iii) 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;
- (iv) you and your line manager need to agree your SPL dates.

5.75 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 or main adopter 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.**

5.76 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), in the case of births;
- the start and end dates of the main adopter's statutory adoption leave and pay (either contractual or SAP), in the case of adoptions;
- how much SMP or MA the mother will have received before SPL starts (if they are entitled to any), in the case of births;
- how much SAP the main adopter will have received before SPL starts (if they are entitled to any), in the case of adoptions;
- 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 or main adopter, they are either the father of the child or the spouse, civil partner or partner of the mother or main 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.

5.77 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.

5.78 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.

5.79 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**

5.80 You and your manager should maintain reasonable contact during your SPL. This gives you both the opportunity to discuss your return to work plans, any job vacancies, development opportunities or significant workplace developments and changes during your absence.



- 5.81 You and your manager need to agree contact arrangements before you start your SPL. You need to agree how often you will be in touch and how the contact will happen (e.g. office visits, home visits, by telephone, letter, e-mail etc.). If your circumstances change, you can agree changes with your manager.
- 5.82 This sort of contact during SPL does not constitute work and does not count towards your 10 Shared Parental Leave In Touch (SPLIT) Days (see below).

## **Return to Work Arrangements**

- 5.83 We have set out your rights about returning to work after adoption leave in Appendix 6.
- 5.84 If you change your mind and want to return to work earlier than agreed, you will need to agree this with your manager and give 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**

- 5.85 You can work up to 10 KIT days if you decide to take maternity or adoption leave.
- 5.86 You can take up to 20 SPLIT days if you decide to take Shared Parental Leave (SPL). This means that if you are the mother of the child, or the main adopter, can take up to 10 KIT days **plus** 20 SPLIT days. You have to take your KIT days during your maternity leave i.e. before you take any SPL.
- 5.87 Taking KIT or SPLIT days does not bring maternity, adoption or shared parental leave to an end and it does not 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 part in training or development.
- 5.88 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.
- 5.89 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.
- 5.90 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**

- 5.91 Maternity Leave is not treated as sick leave and will not be counted towards sickness absence.

- 5.92 Your time on maternity leave counts towards continuous service with the Council.
- 5.93 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.
- 5.94 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**

- 5.95 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.

- 5.96 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 24<sup>th</sup> week of pregnancy).
- 5.97 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.
- 5.98 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.
- 5.99 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.

- 5.100 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**

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

## **Shared Parental Leave**

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

## **PENSIONS ISSUES**

### **Employees other than teaching staff**

5.103 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 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.

5.104 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.

5.105 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.

5.106 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**

5.107 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**

5.108 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**

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

## **Roles and responsibilities**

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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**

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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**

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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**

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

## **Risk assessment**

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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**

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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	<p>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.</p> <p><b>Note:</b> 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.</p>
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

TERM	MEANING
	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 <sup>th</sup> week before the week in which the maternity certificate indicates that the baby is due.
Shared Parental Leave (SPL)	Leave which entitles eligible mothers, fathers, partners and 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 an 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	If your pay does not change with the amount of work done over the period, a week's pay is the amount the Council

<b>TERM</b>	<b>MEANING</b>
	<p>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, Adoption and Partner Support Benefits: All Staff Except Teaching Staff

	Statutory Entitlement	Eligibility Requirement	CEC Enhancement	Eligibility Requirement
<b>Maternity Leave</b>	Up to <b>52 weeks</b> – can start 11 weeks before EWC	No minimum service but must be in employment	Up to <b>63 weeks</b> – can start 11 weeks before EWC	Employed for 26 weeks continuously up to 15 weeks before EWC
<b>Maternity Pay</b>	<b>6 weeks</b> @ 90% of normal pay plus up to 33 weeks pay at SMP rate or 90% of normal salary whichever is lowest <b>Total 39 weeks pay</b>	Employed for 26 weeks continuously up to 15 weeks before EWC	<b>14 weeks*</b> @ normal pay plus up to <b>25 weeks</b> @ SMP rate or 90% of normal salary whichever is lowest <b>Total 39 weeks pay</b>  *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
<b>Adoption Leave</b>	Up to 52 weeks – can start 11 weeks before EWC	No minimum but must be in employment	No enhancement to statutory entitlement	N/A
<b>Adoption Pay</b>	39 weeks pay at SMP rate	Employed for 26 weeks	<b>14 weeks*</b> @ normal pay	Employed for 26 weeks

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

## Maternity, Adoption and Partner Support Benefits: Teaching Staff only

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

<b>Maternity/Adoption Support Leave and Pay</b>	1 or 2 weeks @ SMP rate or 90% of normal salary whichever is lowest	<ol style="list-style-type: none"> <li>1. Employed for 26 weeks continuously up to 15 weeks before EWC; <b>or</b> date notified of match.</li> <li>2. You must be the father, the husband or partner of the mother or adopter or the child's adopter.</li> </ol>	1 week @ normal pay plus 1 week @ SMP rate	<ol style="list-style-type: none"> <li>1. Employed for 26 weeks continuously up to 15 weeks before EWC; <b>or</b> date notified of match.</li> <li>2. You are child's father or the mother's partner; <b>and</b></li> <li>3. You have or expect to have responsibility for the upbringing of the child.</li> </ol>
			1 week @ normal pay plus an additional week unpaid leave.	Employed for less than 26 weeks

## Returning From Maternity and Adoption Leave: All staff

	Statutory Entitlement	Eligibility	Council Enhancement	Eligibility
<b>Return from Maternity Leave</b>	<p><b>NOTICE</b></p> <p>1. If you return on the date you were told was the latest date you could after taking your full entitlement to maternity leave, you do not need to give notice of your return.</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' notice. If you do not, your return may be postponed by your manager as follows:</p> <ul style="list-style-type: none"> <li>- By up to 7 days If you were entitled to 52 weeks leave</li> </ul>	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. 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</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>	As for statutory entitlement –see column 2.

	<b>Statutory Entitlement</b>	<b>Eligibility</b>	<b>Council Enhancement</b>	<b>Eligibility</b>
	<ul style="list-style-type: none"> <li>- By up to 21 days, if you were entitled to 63 weeks leave.</li> <li>3. If you take up to 26 weeks' leave you can return to the same job;</li> <li>4. If you take more than 26 weeks' leave, you have the right to return to the same or a similar job.</li> </ul>			
	<p><b>Teachers</b> 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.		

	<b>Statutory Entitlement</b>	<b>Eligibility</b>	<b>Council Enhancement</b>	<b>Eligibility</b>
<b>Return from Adoption Leave</b>	<ol style="list-style-type: none"> <li>1. If you return after taking your full entitlement to maternity leave, you do not need to give notice.</li> <li>2. If you want to return to work before the end of your full entitlement, you need to give your manager 28 days' notice.</li> <li>3. If you do not, your return may be postponed by you by up to 21 days.</li> <li>4. If you take up to 26 weeks' leave you can return to the same job;</li> <li>5. If you take more than 26 weeks' leave, you have the right to return to the same or a similar job</li> </ol>	Employed for 26 weeks continuously up to 15 weeks before EWC	<ol style="list-style-type: none"> <li>1. You have the right to return to the same job you were doing before you went on maternity leave.</li> <li>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.</li> <li>3. You must give your line manager at least 28 day' notice before the date you want to return. If you do not, your line manager can postpone your return to work for up to 21 days. However, they cannot postpone your return to a date later than the end of your full adoption leave period.</li> </ol>	

## Shared Parental Leave and Pay Benefits: All Staff

	<b>Statutory Entitlement</b>	<b>Council Enhancement</b>	<b>Eligibility</b>
<b>Shared Parental Leave</b>	<ol style="list-style-type: none"> <li>Up to 50 weeks to be taken before the child's first birthday <b>OR</b> before the first anniversary of the child's placement;</li> <li>Minimum period is one week;</li> <li>Can be taken in one single block or up to three separate blocks;</li> <li>Can start on any day of the week.</li> </ol>	<ol style="list-style-type: none"> <li>As statutory</li> </ol>	<ol style="list-style-type: none"> <li>Both parents to have been continuously employed for at least 26 weeks by the end of the 15<sup>th</sup> week before EWC;</li> <li>Mother must be entitled to statutory maternity leave <b>OR</b> the main adopter must be entitled to statutory adoption leave;</li> <li>Mother must have stopped her maternity leave or agreed to end it <b>OR</b> the main adopter must have stopped their adoption leave or agreed to end it;</li> <li>Employee must have given at least 8 weeks' notice that they want to take SPL.</li> </ol>
<b>Shared Parental Pay</b>	<ol style="list-style-type: none"> <li>Up to 37 weeks at the statutory Shared Parental Pay (ShPP) rate.</li> </ol>	<p><b>Teachers</b> Up to 13 weeks full pay followed by 25 weeks at the statutory Shared Parental Pay (ShPP) rate</p> <p><b>All Other Staff</b> Up to 14 weeks full pay followed by</p>	<p>As above plus:</p> <ol style="list-style-type: none"> <li>The mother must be entitled to statutory maternity pay <b>OR</b> the main adopter is entitled to statutory adoption pay;</li> <li>The mother must have agreed to end her entitlement to</li> </ol>



	<b>Statutory Entitlement</b>	<b>Council Enhancement</b>	<b>Eligibility</b>
		25 weeks at the statutory Shared Parental Pay (ShPP) rate	<p>maternity pay early <b>OR</b> the main adopter must have agreed to end their entitlement to adoption pay early;</p> <p>3. You must be looking after the child during the weeks you're getting ShPP;</p> <p>4. You must continue to be employed by the Council until at least the first week you get ShPP.</p>

## Returning from Shared Parental Leave – All Staff

	Statutory Entitlement	Eligibility	Council Enhancement	Eligibility
<b>Return From Shared Parental Leave</b>	<ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol>	<ol style="list-style-type: none"> <li>1. Both parents to have been continuously employed for at least 26 weeks by the end of the 15<sup>th</sup> week before EWC;</li> <li>2. Mother must be entitled to statutory maternity leave <b>OR</b> the main adopter must be entitled to statutory adoption leave;</li> <li>3. Mother must have stopped her maternity leave or agreed to end it <b>OR</b> the main adopter must have stopped their adoption leave or agreed to end it;</li> <li>4. Employee must have given at least 8 weeks' notice that they want to take SPL.</li> </ol>	<ol style="list-style-type: none"> <li>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.</li> <li>2. If you cannot return to your previous post, then you are entitled to be offered a suitable alternative post, where a vacancy exists.</li> </ol>	As for statutory entitlement –see column 2.