

EXMINSTER PARISH COUNCIL MATERNITY, PATERNITY AND ADOPTION POLICY

1. INTRODUCTION

This Policy describes how the Council meets the statutory requirements for Maternity, Paternity and Adoption leave.

2. MATERNITY POLICY

2.1 DEFINITIONS

The following definitions are used in this policy:

- "Expected week of childbirth" (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects the employee to give birth; and
- "Qualifying week" means the fifteenth week before the expected week of childbirth

2.2 APPLICABILITY

The occupational maternity scheme shall apply to all pregnant employees regardless of the number of hours worked per week.

2.3 NOTIFICATION REQUIREMENTS

An employee shall notify the Parish Clerk in writing at least 28 days before their absence begins or as soon as is reasonably practical:

- That they are pregnant;
- Of the EWC, providing a copy of form MATB1 as supplied by a registered medical practitioner; and
- The date on which they intend to start their maternity leave.

An employee can change their notified start date as long as they gives 28 days' notice or as soon as is reasonably practical.

2.4 HEALTH AND SAFETY

On receipt of written notification from an employee that they are pregnant, the Parish Clerk should arrange a risk assessment. The employee and relevant manager should be fully informed of any risks identified. The manager and employee have an ongoing responsibility to monitor any potential risks that may be present.

2.5 ANTE-NATAL CARE

Any pregnant employee has the right to paid time off to attend ante-natal appointments and must produce evidence of appointments if requested to do so. Wherever possible these should be arranged outside of core time.

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2.6 MATERNITY LEAVE

All employees regardless of their length of service, are entitled to 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML) providing a right to one year's maternity leave in total.

Maternity leave shall commence no earlier than 11 weeks before the EWC or from the time of childbirth if that is earlier. From the beginning of the fourth week before the EWC, an employee's maternity leave is triggered if they are absent because of her pregnancy, e.g. due to a pregnancy-related illness or fatigue.

2.7 MATERNITY PAY

a) Less Than One Year's Continuous Service

Payments for employees who have less than 1 year's continuous local government service at the beginning of the eleventh week before the EWC shall be the employee's entitlement to Statutory Maternity Pay (SMP) or Maternity Allowance (MA).

In order to qualify for SMP, an employee must have at least 26 weeks' service with the Council by the end of the fifteenth week before the EWC.

The payment of SMP is for 39 weeks.

b) More Than One Year's Continuous Service

Payments for employees who have completed 1 year's continuous local government service at the eleventh week before the EWC shall be as follows.

- For the first six weeks of absence, an employee shall be entitled to 90% of a week's pay offset against payments made by way of SMP (or MA for employees not eligible for SMP).
- An employee who declares in writing that they intend to return to work will for the subsequent 12 weeks receive half a week's pay spread over a distribution agreed mutually by the employee and the Council without deduction except by the extent to which the combined pay and SMP (or MA and any dependant's allowances if the employee is not eligible for SMP) exceeds full pay. The half pay will be repayable if the employee does not return to local authority employment for a minimum of 3 months.
- For employees not intending to return to work, payments during the 33 weeks after the first 6 weeks shall be the employee's entitlement to SMP.

2.8 CONTINUOUS SERVICE

The period of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) will count as continuous service for statutory and contractual purposes.

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2.9 LEAVE DURING MATERNITY LEAVE

a) Annual Leave

Annual leave continues to accrue during both ordinary and additional maternity leave.

b) Bank/Public Holidays

Bank/public holidays accrue during ordinary maternity leave and additional maternity leave.

c) Carry Forward of Annual Leave

Where an employee's maternity leave spans one leave year to the next, she can carry over any unused annual leave.

d) Treatment of Leave Where a Woman Changes Her Hours after Maternity Leave

If an employee changes their hours after taking maternity leave, all leave accrued up to the agreed date when their hours change is calculated based on their original hours and any leave accrued subsequently is calculated on her new hours.

2.10 RETURNING TO WORK

a) Notification requirements

Managers must assume that an employee will return after 52 weeks. An employee need only notify their employer that she is returning to work if she is going to do so before the end of their maternity leave. Otherwise, the employee simply returns at the end of their maternity leave. However, as the return to work impacts on the half pay element of maternity pay, a manager can ask the employee to inform them if they intend to return to work. Please note that an employee can change their mind up to the point when they actually give notice and resign. If an employee can let their manager know when they are likely to return as soon as possible that would be appreciated.

b) Early return

If an employee wishes to return early or on a different date than they had previously notified, they must give 8 weeks' notice.

c) Keeping In Touch

An employee can do 10 days' work during their maternity leave, in agreement with their manager, without bringing their maternity leave to an end. Working for part of a day will count as one day. An employee will not lose any SMP (Statutory Maternity Pay) for working up to 10 days.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

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Managers need to ensure that they keep in touch with their employees whilst they are on maternity leave. If you do not wish to be contacted, please notify your manager. Newsletters and any other relevant correspondence will be sent to all employees whilst they are on maternity leave.

3. PATERNITY POLICY

3.1 APPLICABILITY

An employee has a statutory entitlement to take paternity leave for the purpose of caring for a child or supporting the child's mother in the first few weeks following the birth.

3.2 ORDINARY PATERNITY LEAVE (OPL) AND MATERNITY SUPPORT LEAVE (MSL)

Eligibility Criteria

To qualify for paternity leave the employee must satisfy the following. They must:

- Be the father of the child, or married to or the partner of the child's mother;
- Have or expect to have responsibility for the upbringing of the child; and
- Have 26 weeks' continuous service with the Council by the end of the fifteenth week before the expected week of childbirth (EWC).

Paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either adoptive parent may take paternity leave where the other adoptive parent has qualified and elected to take adoption leave.

3.3 ORDINARY PATERNITY LEAVE (OPL)

An employee who meets the qualifying criteria is entitled to two weeks' Ordinary Paternity Leave.

An employee can take either one week or two consecutive weeks' Ordinary Paternity Leave, paid at the current Statutory Paternity Pay (SPP) rate. It must be taken within 56 days after the child is born or adopted. Employees must take this leave in full weeks, i.e. either one or two weeks' leave.

3.4 MATERNITY SUPPORT LEAVE (MSL)

This is provided for the child's father, or the partner or nominated carer of an expectant mother at or around the time of birth. There is no qualifying service requirement for this right.

Maternity Support Leave replaces one week of Statutory Paternity Leave; during this time any SPP is topped up to full pay. Therefore an employee who would otherwise have been entitled to two weeks' Statutory Paternity Leave will be entitled to one week's Maternity Support Leave (during which Statutory Paternity Pay will be topped up to full pay) and one week's Statutory Paternity Leave (during which they will receive Statutory Paternity Pay).

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3.5 NOTIFICATION REQUIREMENTS

a) Before leave starts

The employee must provide the following in writing by the end of the fifteenth week before the expected week of childbirth. If this is not reasonably practical, notice must be provided as soon as is reasonably practical:

If requested, the employee must also give the employer a signed declaration confirming they are:

- The baby's biological father, married to or in a civil partnership with the mother, or living with the mother in an enduring family relationship, but are not an immediate relative; and
- Will be responsible for the child's upbringing and will take time off work to support the mother or care for the child.

b) After the birth

The employee must also inform the employer of the date the child was born, as soon as is reasonably practical after the child's birth.

3.6 SHARED PARENTAL LEAVE

This policy applies to a parent wishing to share traditional Maternity or Adoption Leave. Unpaid Parental Leave remains as does the right to take 52 weeks Maternity or Adoption Leave. Surrogacy parents may be able to take Shared Parental Leave if they fulfil the eligibility requirements.

The right to shared parental leave (SPL) and statutory shared parental pay (ShPP) enables eligible employees who are parents (whether by birth or adoption) to take paid and/or unpaid leave within the first year of their child's life or the first year after their child's placement for adoption, provided always that the eligible mother or adopter has volunteered to end their maternity leave and/or pay or adoption leave and/or pay early (or has already returned to work early). Instead, they can then opt into the SPL regime, enabling the balance of their untaken leave and pay to be shared between them and the other eligible parent or adopter – up to a maximum of 50 weeks of SPL and 37 weeks of ShPP.

To take advantage of this provision the mother must commit, in writing, to ending their Maternity/Adoption Leave and pay at a set date, and to share the untaken balance of leave and pay as Shared Parental Leave and pay with their partner, or to return to work early from Maternity or Adoption Leave and opt in to Shared Parental Leave and pay at a later date.

The timescales and process to plan Shared Parental Leave is quite complex so please speak to your Line Manager if you have any queries or wish to discuss possible

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arrangements. Good communication during the planning is the key to finding a workable plan for both employee and the Company.

4. ADOPTION POLICY

4.1 APPLICABILITY

This policy applies to all Council employees seeking to adopt a child from approved Adoption Agencies.

The right to adoption leave is available to men and women (whether married or single) who adopt a child through an approved adoption agency. Where a couple jointly adopts a child, only one of them will be entitled to take adoption leave (the couple can choose which). The other adoptive parent will normally be entitled to take paternity leave, provided that he or she meets the relevant statutory criteria.

4.2 ELIGIBILITY CRITERIA

To qualify for adoption leave and pay an employee must be the child's adopter, i.e. have been matched with the child for adoption. A person is matched with a child when an adoption agency decides that they would be a suitable adoptive parent for the child.

If an employee meets the eligibility criteria, then they are entitled to both Ordinary and Additional Adoption Leave.

The notification week is the week in which the employee is informed by the adoption agency that they have been matched with a child.

The employee needs to have agreed with the adoption agency that the child should be placed with them and the date the placement should occur and provide the Council with the appropriate notice and evidence of entitlement.

4.3 NOTIFICATION REQUIREMENTS

Within 7 days, or as soon as possible after the day the employee receives notification from the adoption agency that they have been matched with a child, an employee must inform the Parish Clerk in writing of the following:-

- the date the child is expected to be placed with them for adoption;
- the date the employee has chosen to start their leave and pay.

4.4 EVIDENCE

In order to receive adoption pay and leave, the employee must provide the Parish Clerk with either a matching certificate and/or a letter from the adoption agency which shows the following:-

- the name and address of the adoption agency;

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- the employee's name and address;
- the date the child is expected to be placed for adoption, or where the child has already been placed, the date of placement, and;
- the date the employee was informed that the child would be placed with them.

Where an employee is entitled to Statutory Adoption Pay (SAP) they must provide a signed declaration that they have elected to receive SAP and not statutory paternity pay (SPP).

4.5 ADOPTION LEAVE

a) Time Off Before a Child is Placed

The main adopter will be able to take paid time off for up to 5 adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to 2 appointments.

b) Adoption Leave

All employees who meet the eligibility criteria are entitled to take up to 52 weeks Statutory Adoption Leave. The first 26 weeks is known as 'Ordinary Adoption Leave', the last 26 weeks as 'Additional Adoption Leave'.

Leave can start:

up to 14 days before the child starts living with the employee (UK adoptions)

when the child arrives in the UK or within 28 days of this date (overseas adoptions)

An employee can change their mind about when they start their leave, provided they give sufficient notice. They must inform their manager of the new date 28 days before the date they now wish their leave to start, or as soon as is reasonably practical.

4.6 ADOPTION PAY

The first six weeks will be paid at 90% of the employee's normal earnings. The remaining 33 weeks will be the rate of statutory adoption pay.

4.7 LEAVE DURING ADOPTION LEAVE

a) Annual Leave

Annual leave continues to accrue during ordinary adoption leave and additional adoption leave.

b) Bank/Public Holidays

Bank/public holidays accrue during ordinary adoption leave (OAL), and additional adoption leave (AAL).

4.8 RETURNING TO WORK

a) Notification Requirements

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Managers must assume that an employee will return after 52 weeks. An employee need only notify their employer that they are returning to work if they are going to do so before the end of the adoption leave. Otherwise, the employee simply returns at the end of the adoption leave. Please note that an employee can change their mind up to the point when they actually give notice and resign. If an employee can let their manager know when they are likely to return as soon as possible that would be appreciated.

b) Early Return

If an employee wishes to return early or on a different date than they had previously notified, they must give 8 weeks' notice.

c) Keeping in Touch

An employee can do 10 days' work during their adoption leave, in agreement with their manager, without bringing their adoption leave to an end. Working for part of a day will count as one day. An employee will not lose any SAP (Statutory Adoption Pay) for working up to 10 days.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Managers need to ensure that they keep in touch with their employee whilst they are on adoption leave. If you do not wish to be contacted please notify your manager. Newsletters and any other relevant correspondence will be sent to all employees whilst they are on adoption leave.

5. PARENTAL BEREAVEMENT LEAVE

From 6th April 2020, the Parental Bereavement (Leave and Pay) Act 2018 provides for at least two weeks' leave for employees following the loss of a child under the age of 18 or a stillbirth after 24 weeks of pregnancy. Employees with 26 weeks' continuous service will be entitled to two weeks of paid leave at the statutory rate and other employees will be entitled to unpaid leave.

This Policy has been reviewed by Belinda Newton, HR specialist.