
Unpaid Parental Leave

Policy and Procedure

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Policy

Aim

- 1.1 The Council recognises that there will be occasions when working parents wish to take time off to care for or spend time with their child or children.
- 1.2 The Council has a variety of flexible working arrangements for employees to utilise. In a number of circumstances the Council gives staff a more generous entitlement than that required by law. The Council supports the right of its employees to take time off work to deal with child care and other family commitments.
- 1.3 This policy and the Councils' Parental Leave Procedure reflects the statutory right of employees with at least one year's continuous service to take up to 18 weeks' unpaid parental leave in respect of each child.

Scope

- 1.4 This policy applies to all Council employees, but not agency workers or self-employed contractors.
- 1.5 This policy does not form part of any employee's contract of employment and may be amended from time to time in consultation with Employee Side Secretary. Notwithstanding this point, any dispute arising from the application of this policy, procedure and guidance will be raised with and dealt with by the Council's Employee Joint Committee or escalated to formal dispute resolution procedures with the Local Government Association as appropriate.
- 1.6 This policy should be read in conjunction with the Council's Parental Leave Procedure and Guidance on Parental Leave.

2. GENERAL

Employees will not be subjected to any detriment for taking or seeking to take parental leave in accordance with this policy and the Parental Leave Procedure.

3. IMPLEMENTATION OF THIS POLICY

- 3.1 The Council has overall responsibility for the effective operation of this policy and the Parental Leave Procedure however Human Resources will be responsible for advising managers to ensure compliance with the relevant statutory framework.
- 3.2 Managers have a specific responsibility to ensure the fair application of this policy and the Parental Leave Procedure and to ensure all members of staff are aware of the requirements and the responsibility of supporting colleagues who are subject of this policy.1.3

Procedure

Aim

- 4.1 This procedure reflects the statutory right of employees with at least one year's continuous service to take up to 18 weeks' unpaid parental leave in respect of each child. The entitlement to parental leave is in addition to an employee's entitlement to maternity, paternity, adoption or shared parental leave.

Scope

- 4.2 This procedure applies to all Council employees, but not agency workers or self-employed contractors.
- 4.3 This policy does not form part of any employee's contract of employment and may be amended from time to time in consultation with Employee Side Secretary. Notwithstanding this point, any dispute arising from the application of this policy, procedure and guidance will be raised with and dealt with by the Council's Employee Joint Committee or escalated to formal dispute resolution procedures with the Local Government Association as appropriate.
- 4.4 This procedure should be read in conjunction with the Council's Parental Leave Policy and Guidance on Parental Leave.

5. GENERAL

Employees will not be subject to any detriment for taking or seeking to take parental leave in accordance with this policy and the Parental Leave Procedure.

6. ENTITLEMENT TO PARENTAL LEAVE

- 6.1 Employees who meet the criteria set out below are entitled to take up to 18 weeks' parental leave in total (and up to 4 weeks maximum per year) in relation to each child for whom they are responsible.
- 6.2 To take a period of parental leave in relation to a child, an employee must:
- Have at least one year's continuous employment;
 - Have or expect to have responsibility for the child; and
 - Be taking the leave to spend time with or otherwise care for the child.
- 6.3 An employee has responsibility for a child if they:
- Are the child's biological mother or father (whether or not they are living with the child);
 - Are the child's adoptive parent; or
 - Otherwise have legal parental responsibility for the child (E.g., if they are the child's guardian or a step-parent who has a parental responsibility agreement or parental responsibility order).

- 6.4 If an employee is responsible for bringing up a child who lives with them but they do not have legal parental responsibility (e.g. they are a step-parent but have not legally adopted the child), the Council will not discriminate in terms of allowing leave under this procedure.
- 6.5 Any parental leave taken while working for another employer counts towards the 18-week entitlement. If an employee has taken parental leave during previous or concurrent employment, they should provide details to their Manager.

7. TAKING PARENTAL LEAVE

- 7.1 An employee can only take parental leave in respect of a child up until the child's 18th birthday.
- 7.2 An employee may not take more than four weeks' parental leave each year in relation to each child. A year for this purpose begins on the date when the employee became entitled to take parental leave in relation to the child in question.
- 7.3 Parental leave must be taken in blocks of a whole week or a whole number of weeks, unless the leave is to be taken in respect of a disabled child.
- 7.4 For the purposes of this procedure, a disabled child means a child who has a registered disability and is entitled to a disability living allowance, armed forces independence allowance or personal independence allowance.

8. HOW TO APPLY

Notice

- 8.1 An employee should give their manager 21 days written notice of their intention to take parental leave and the relevant dates.
- 8.2 If an employee wishes to take parental leave commencing immediately on the birth of a child, they must give notice of this intention 21 days before the start of the expected week of childbirth ("the EWC"). The written notice must specify the EWC and the duration of the period of leave required.
- 8.3 If an employee wishes to take parental leave commencing immediately on the adoption of a child, they should give notice of this intention 21 days before the start of the expected week of placement ("the EWP"). If this is not possible, they must give as much notice as they can and the manager will act sympathetically. The written notice must specify the EWP and the duration of the period of leave required.
- 8.4 To take parental leave straight after the birth or adoption of a child, an employee should give notice 21 days before the beginning of the expected week of childbirth or placement. In cases where this may not be possible they should give notice to the employer as soon as possible. For example, if a child is born prematurely or where less than 21 days notice is given that a child is to be placed with you for adoption.

9. EVIDENCE OF ENTITLEMENT

- 9.1 Before an employee takes a period of parental leave under this procedure, the manager may ask to see evidence of:
- The employee's responsibility or expected responsibility for the child, such as a birth certificate, adoption or matching certificate, parental responsibility agreement or court order;
 - The child's date of birth or date of adoption placement; and
- 9.2 For details of what evidence is required in particular circumstances, or if the employee has any difficulties obtaining the evidence, they should contact their manager.

10. CHANGING LEAVE DATES OR CANCELLING LEAVE

- 10.1 Although the council will always try to accommodate requests for parental leave, it might postpone a requested period of parental leave for up to 6 months unless there is a significant reason, e.g. it would cause serious disruption to the business.
- 10.2 If the Council needs to postpone an employee's request for parental leave, they will consult with the employee about alternative dates. The manager will notify the employee in writing of the reason for postponement and the new start and end dates for the parental leave, no more than 7 days after receipt of the original request for leave.
- 10.3 The Council will not postpone parental leave if the employee has requested it to start immediately on the birth or adoption of a child.
- 10.4 The Council will not postpone parental leave if, in the case of a disabled child, the postponement would result in the leave being taken after the child's 18th birthday. In all other circumstances, parental leave cannot be taken in respect of someone who is over 18 years even where it has been postponed.

11. TERMS AND CONDITIONS DURING PARENTAL LEAVE

- 11.1 Parental leave under this procedure is unpaid. An employee's contractual provisions relating to pay and benefits are suspended during parental leave.
- 11.2 However, during parental leave the employee is entitled to benefit from any terms and conditions in relation to being given notice, redundancy compensation and disciplinary and grievance procedures. Holiday entitlement will continue to accrue.
- 11.3 During parental leave an employee remains bound by their obligation of good faith towards the Council, any contractual terms relating to the giving of notice, and any contractual restrictions on the disclosure of confidential information, the acceptance of gifts and benefits, or participation in another business (for example, by working for a third party).

12. PENSIONS

- 12.1 If the employee is a member of the Local Government Pension Scheme, or a defined benefit (final salary) pension scheme, a period of parental leave under this policy will count towards pensionable service, subject to the employee choosing to pay pension contributions during the period of absence. If the leave is for less than 30 days, contributions will be automatically deducted from pay for the first 30 calendar days. For leave totalling more than 30 days, the employee may need to make special arrangements to continue making payments.
- 12.2 If the employee is a member of the LGPS, the Council will not make contributions during a period of unpaid parental leave. Your employer must however pay employer contributions towards the cost of buying back lost pension within 30 days of returning to work. Please go to <http://www.lgps2014.org/> to find out how to make up lost pension.

13. RETURNING TO WORK

- 13.1 An employee is entitled to return to work following parental leave to the same position they held before commencing leave. The terms of employment will be the same as they would have been had they not been absent.
- 13.2 However, where the period of parental leave has been longer than 4 weeks, or has been combined with a period of additional maternity, Shared Parental leave or adoption leave, it might not be possible in some cases for the employee to return to the same job. In such circumstances, the Council will offer the employee a suitable and appropriate alternative position on the same pay and grade with no less favourable terms and conditions.
- 13.3 The Council will deal with any requests by employees to change their working patterns (such as working part-time) after parental leave on a case-by-case basis, in accordance with the Council's Flexible Working Policy and Flexible Working Procedure. The Council will try wherever possible to accommodate the employee's wishes, bearing in mind the needs of the Council's business.

Additional Guidance

Aim

- 14.1 The Council is committed to ensuring that its managers understand the Council's Parental Leave Procedure and how it is applied. This guidance is designed to aid such understanding.
- 14.2 Where there is any doubt as to how the Parental Leave Procedure is applied, Human Resources should be asked to provide the necessary clarification.

Scope

- 14.3 This guidance is designed for use by Managers, and should be read in conjunction with the Parental Leave Policy and the Parental Leave Procedure.

15. GENERAL

- 15.1 Parental leave can be taken in addition to other forms of statutory leave (such as maternity, paternity, adoption and shared parental leave).
- 15.2 Under the statutory default scheme, employees with at least one year's continuous service can take up to 18 weeks' unpaid parental leave per child. The leave must be taken before the child's 18th birthday.
- 15.3 Employees are protected from dismissal or being subject to any detriment on the basis that they have taken or sought to take statutory parental leave.

16. ENTITLEMENT TO LEAVE

- 16.1 Entitlement to parental leave is as set out paragraph 3 of the Council's Parental Leave Procedure. This is the minimum statutory parental leave entitlement and that this includes leave taken in previous or concurrent employment.
- 16.2 The eligibility requirements are also set out.

17. PURPOSE OF LEAVE

- 17.1 The leave must be taken to care for the child.
- 17.2 The scope of "caring for a child" would seem to be fairly wide. On the parental leave, the government gives the following examples of reasons for which leave might be taken:
- Spending more time with children.
 - Looking at new schools.
 - Settling a child into new childcare arrangements.
 - Spending more time with family (for example, visiting grandparents).

- 17.3 By its nature, parental leave is designed to be agreed in advance; under the Parental Leave Procedure, advance notice has to be given.

18. LENGTH OF LEAVE

- 18.1 Each parent is entitled to take 18 weeks' parental leave for each child. The right is a personal one; it cannot be transferred from one parent to another.
- 18.2 The entitlement is to take 18 weeks' leave in total in relation to each child and not 18 weeks with each separate employer. So an employee who has already taken 9 weeks' parental leave with their former employer and then comes to work for the Council would only have 9 weeks' leave remaining.

A Week's Leave

- 18.3 Where the period for which an employee is normally required to work in the course of a week does not vary, one week's leave is defined as "a period of absence from work which is equal in duration to the period for which [the employee] is normally required to work". In other words, if an employee usually works from Monday to Friday, then a week's leave for the purposes of parental leave will be equal to five days. Similarly, if the employee only worked on Mondays, Wednesdays and Fridays, one week's leave would amount to just 3 days. In practice, for employees with regular working patterns, a week's leave equals one calendar week, for which the employee will forfeit 1/52nd of a year's salary.

19. POSTPONEMENT OF LEAVE

- 19.1 The Council cannot postpone a request for parental leave without a valid reason or because the request is being made by a father or partner
- 19.2 In some cases, the council may respond to a request to take parental leave by suggesting an alternative date and postponing it for up to six months. In this case, the designated manager will write to the employee within seven days and without changing the amount of leave requested.

Please refer to paragraph 10.1 to 10.4 of the Procedure.

20. TERMS AND CONDITIONS DURING LEAVE

- 20.1 Certain terms and conditions of the employment contract will continue to apply during parental leave.
- 20.2 Employees will continue to benefit from statutory rights during the period of absence, such as the accrual of statutory holiday entitlement. The employee's continuity of service will continue to accrue during parental leave.
- 20.3 During parental leave, the employee is entitled to benefit from:
- The Council's implied obligation of trust and confidence;
 - Any contractual terms and conditions relating to notice periods, compensation for redundancy; and

- The Councils Employment procedures e.g. Discipline and grievance procedures.

20.4 At the same time, the employee remains bound by:

- The implied obligation of good faith (or fidelity) towards the employer;
- Any contractual terms and conditions relating to notice periods, disclosure of confidential information, acceptance of gifts or benefits; and
- the Employee Code of Conduct.

21. REMUNERATION AND BENEFITS

Please refer to the contract of employment for terms and conditions.

22. PENSIONS

22.1 If parental leave is unpaid the Council does not have to make employer contributions to the Local Government Pension Scheme. Your employer must also pay towards buying back this lost pension if you decide to buy it within 30 days of returning to work Please go to <http://www.lgps2014.org/> to find out how to make up lost pension.

23. RETURNING TO WORK

23.1 Employees are entitled to return to the job in which they were employed following:

- Parental leave for an isolated period of four weeks or less;
- Parental leave for a period of 4 weeks or less which was the last of 2 or more consecutive periods of statutory leave which did not include any period of parental leave of more than 4 weeks; or
- Any period of statutory leave which, when added to any other period of statutory leave (excluding parental leave) taken in relation to the same child means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks.

23.2 The employee enjoys the same rights and protection as someone returning from ordinary maternity leave.

Same Job or Suitable Alternative

23.3 In cases not falling within either of the above categories, employees will still have the right to return to the same job in which they were employed prior to the parental leave (as above) unless that is not reasonably practicable. In such a case, the employee will have the right to return to another job which is both suitable and appropriate for the employee to do in the circumstances at the same grade and with the same terms and conditions. This applies following:

- Parental leave for a period of more than 4 weeks.

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- Parental leave for a period of four weeks or less that was immediately preceded by a period of statutory leave which included a period of AML or additional adoption leave.

Terms and Conditions on Return to Work

- 23.4 There may have been a variation to the relevant terms and conditions during the employee's absence (such as a pay review) and, whether or not such changes are to the employee's benefit, they will apply on the employee's return to work subject to the normal employment processes for variations to the contract of employment e.g. national pay bargaining.

The Council has a duty of consultation to keep employees informed of any changes to their terms and condition whilst on leave and to seek their agreement and to consult with the Employee Side and recognised Trade Unions in accordance with procedures.

DATE OF IMPLEMENTATION

With effect from: 1st April 2016