



East  
Northamptonshire  
Council

## Maternity and paternity leave policy



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## Consultees

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## Links to other documents

Document	Link
Flexible Working	

## Additional Comments to note

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## 1.0 Introduction

- 1.1 This policy sets out the rights and responsibilities of:
- employees who are pregnant or have recently given birth
  - employees whose spouse or partner is expecting a baby
  - employees who adopt a child through an approved agency

The policy reflects the changes to:

- maternity leave and pay brought in by the Work and Families Act 2006
- paternity leave and pay brought in by the Work and Families Act 2006
- additional paternity leave and pay for babies born on or after 3 April 2011

## 2.0 Statement of intent

- 2.1 The aim of the policy is to:
- provide pregnant employees with information about their rights and responsibilities during their pregnancy and following the birth of their baby and the procedure relating to booking maternity leave
  - provide employees, whose spouse or partner is expecting a baby, with details of their rights and the procedure relating to booking paternity and maternity support leave
  - provide employees who adopt a child through an approved agency with information about their entitlement to leave and notification procedures.

## 3.0 Scope of the policy

- 3.1 The maternity section of this policy and procedure applies to all pregnant employees of the council.
- 3.2 The paternity section of this policy and procedure applies to any employee whose wife, civil partner or partner gives birth to a child providing the employee has 26 weeks' continuous service before 15 weeks before the week in which the child is born.
- 3.3 The adoption section of this policy and procedure applies to all employees who adopt a child through an approved agency.

## 4.0 Outcomes

- 4.1 The outcomes to be delivered by this policy and procedure and the links to the council's corporate outcomes are as follows:

<b>Maternity and paternity policy and procedure outcomes</b>	<b>Links to corporate outcomes</b>
<ul style="list-style-type: none"><li>• Application of the policy and procedure ensures the council carries out its statutory obligations.</li><li>• Application of the policy and procedure is non-discriminatory</li></ul>	<p data-bbox="880 1827 1439 1868"><b>Business Processes</b></p> <ul style="list-style-type: none"><li>• Effective Management</li></ul>

## **5.0 Adoption leave**

- 5.1 The entitlement relating to adoption leave is very similar to maternity leave and reflects the statutory provisions under the Paternity and Adoption Leave (Amendment) Regulations 2008.
- 5.2 An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks adoption leave provided that they have at least 26 weeks continuous service at the time they receive notification of matching from the adoption agency.
- 5.3 The employee's entitlement is to take up to 26 weeks ordinary adoption leave followed immediately by up to 26 weeks additional adoption leave. The employee's maximum entitlement is therefore 52 weeks adoption leave.
- 5.4 In order to be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give the council written notification of his/her intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing to Organisational Development, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends his/ her adoption leave to start.
- 5.5 The employee is permitted to bring forward his/ her adoption leave start date, provided that they advise Organisational Development in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone his/ her adoption leave start date, provided that they advise Organisational Development in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The employee must also provide evidence of entitlement to adoption leave and pay by producing a 'matching certificate' from the adoption agency.
- 5.6 Within 28 days of receiving the employee's notice of intention to take adoption leave, Organisational Development will write to the employee confirming the latest date on which the employee must return to work after adoption leave.
- 5.7 Employees who qualify for adoption leave will also qualify for statutory adoption pay provided that their average weekly earnings are not less than the lower earnings limit for National Insurance contributions. Statutory adoption pay is payable for up to 39 weeks at a rate set by the Government for the relevant tax year. Further information on the current statutory pay rates is available from Organisational Development.
- 5.8 The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give appropriate notification. Alternatively, the employee may take his/ her full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return to work before the full period of adoption leave has elapsed, they must give at least eight weeks notice in writing to their line manager of the date on which they intend to return.

5.9 The additional adoption leave may be shared between the adoptive parents, see 19.0 additional paternity leave and pay for details.

5.10 Any member of staff eligible for adoption leave should contact Organisational Development in the first instance for advice.

## **6.0 Maternity leave - Notification of pregnancy**

6.1 On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there may be health and safety considerations. A risk assessment will be carried out by the line manager to assess the workplace risks to women who are pregnant. By the end of the 15<sup>th</sup> week before the estimated week of childbirth (EWC), or as soon as practicable afterwards, the employee must inform Organisational Development in writing of:-

- The fact that she is pregnant
- Her EWC
- The date on which she intends to start her maternity leave. This cannot be earlier than the 11<sup>th</sup> week before the EWC.

6.2 The employee must also provide a MAT B1 form which is a certificate from a doctor or midwife confirming the EWC.

## **7.0 Time off for antenatal care**

7.1 An employee who is pregnant is entitled to paid time off during their normal working hours in order to receive antenatal care which includes appointments with GPs, hospital clinics and relaxation/ parenthood classes. Whenever it is possible to do so, appointments should be arranged for the start or end of the working day.

7.2 Employees should advise their line managers that they will be absent as far in advance of their appointment as possible. If requested they must provide an appointment card or some other confirmation of their attendance.

## **8.0 Maternity leave**

8.1 Providing that the employee complies with the notification requirements, all female employees (regardless of the length of service) will be entitled to 26 weeks Ordinary Maternity Leave and a further 26 weeks Additional Maternity Leave. This will start at the end of the Ordinary Maternity Leave period and therefore allow 52 weeks in total.

8.2 Maternity leave will commence no earlier than 11 weeks before the EWC. If an employee's maternity leave has not already started it will be triggered by the birth of the child, or pregnancy related absence from the beginning of the 4<sup>th</sup> week before the EWC. In cases where childbirth occurs early, the employee's maternity leave automatically commences on the Sunday following the child's birth. In both these situations, the employee should notify the council, as soon as reasonably practicable, that she has given birth or that she is absent wholly or partly because of pregnancy.

8.3 Due to the way in which Statutory Maternity Pay is calculated, maternity leave will

normally commence on a Sunday.

## **9.0 Maternity pay**

9.1 Employees with less than one year's continuous local government service at the beginning of the 11<sup>th</sup> week but at least 26 weeks by the end of the 15<sup>th</sup> week before the EWC will receive Statutory Maternity Pay (SMP). This is six weeks at 9/10ths normal pay followed by 33 weeks at SMP.

9.2 Employees who have completed more than one year's continuous local government service at 11<sup>th</sup> week before EWC will be entitled to the following:

- Weeks 1-6 – 9/10ths of a week's pay for the first six weeks of ordinary maternity leave (This will be offset against any payments of SMP or Maternity Allowance).
- Weeks 7-18 – where an employee has declared in writing that she intends to return to work she will receive half pay plus SMP. This is paid on the understanding that the employee will return to their employment at ENC for at least three months. If the employee leaves before three months has elapsed, a repayment to the council will be required and the authority will recover any overpayments made.
- Weeks 19-39 – the remaining 21 weeks will be paid as SMP only.

## **10.0 Contact during maternity leave**

10.1 Shortly before an employee's maternity leave starts, her manager will discuss the arrangements for her to keep in touch during her leave, should she wish to do so. The council reserves the right, in any event, to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply to update her on developments at work during her absence.

## **11.0 Keeping-in-touch days**

11.1 Except during the first two weeks after childbirth an employee can agree to work for the council (or to attend training) for up to 10 days during either Ordinary Maternity Leave or Additional Maternity Leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes.

11.2 The council has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between the council and the employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for the council.

## **12.0 Returning to work**

- 12.1 Organisational Development will write to the employee advising her of the date she will be expected to return to work if she takes her full 52 week entitlement to maternity leave. The employee is expected to return on this date, unless she notifies the council otherwise. If she is unable to attend work at the end of her maternity leave due to sickness or injury, the council's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 12.2 While the employee is under no obligation to do so, it helps if she confirms as soon as convenient during her maternity leave, that she will be returning to work as expected. If the employee wishes to return to work earlier than the expected return date, she must give at least eight weeks' notice of her date of early return, preferably in writing. If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment.

## **13.0 Rights on or after return to work**

- 13.1 On resuming work after Ordinary Maternity Leave, the employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. On resuming work after additional maternity leave, she is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable to allow the employee to return to the same job, the council may offer the employee suitable alternative work, on terms and conditions that are no less favourable than would have applied if she had not been absent.
- 13.2 An employee who worked full-time prior to her maternity leave has no automatic right to return to work on a part-time basis or to make other changes to her working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of the council. If an employee would like this option to be considered, she should write to her line manager setting out her proposals as soon as possible in advance of her return date, so that there is adequate time for full consideration of the request. The procedure for dealing with such requests is set out in the Flexible Working policy.

## **14.0 Breastfeeding**

- 14.1 The council recognises the importance of breastfeeding and will actively support employees who return to work and wish to continue being able to breastfeed. Employees may use the first aid room to breastfeed or express milk. If an employee wishes to store expressed milk, she should contact Organisational Development who will arrange for a dedicated refrigerator to be made available.

## **15.0 Paternity leave - Qualification for paternity leave**

- 15.1 The entitlement relating to paternity leave reflects the statutory provisions under the Paternity and Adoption Leave (Amendment) Regulations 2008

In order to be eligible for paternity leave, employees must have or expect to have responsibility for the child's upbringing and satisfy one of the following:-

- be the biological father of the child or
- be the mother's husband or partner or
- be a partner within a same sex couple

## **16.0 Entitlement**

16.1 Employees are entitled to choose to take either one week or two consecutive week's paternity leave (not odd days and one week is defined as 7 consecutive days).

16.2 Employees are entitled to choose whether they want to start their leave:

- from the date of the child's birth or
- from a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected).

16.3 Leave can start on any day of the week following the child's birth but must be completed:

- within 56 days of the actual date of birth of the child or
- if the child is born early, within the period from the actual date of birth up to 56 days after the expected week of birth.

16.4 Only one period of leave will be available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

16.5 Maternity Support Leave (MSL) provided by the national joint council (green book) conditions of service is a similar entitlement to paternity leave. Those employees who qualify for both will be entitled to the first week's paternity leave at full pay (MSL) offset against payments made by way of Statutory Paternity Pay (SPP) and the second week's paternity leave at the SPP rate.

16.6 SPP will be paid at the lower of 90% of average earnings or the current statutory weekly amount, for the chosen period of leave. The SPP entitlement will be offset against full pay in the first week.

## **17.0 Notification**

17.1 An application for paternity leave must be made to the employee's line manager in writing by the 15th week before the baby is expected. Once the baby has been born, the employee must confirm the actual details of the leave in writing.

An employee can change the date on which he wants the leave to start as long as he gives 28 days notice where practicable.

## **18.0 Relationship with existing policies**

18.1 Paternity leave is in addition to any existing contractual rights such as Parental Leave or Special Leave.

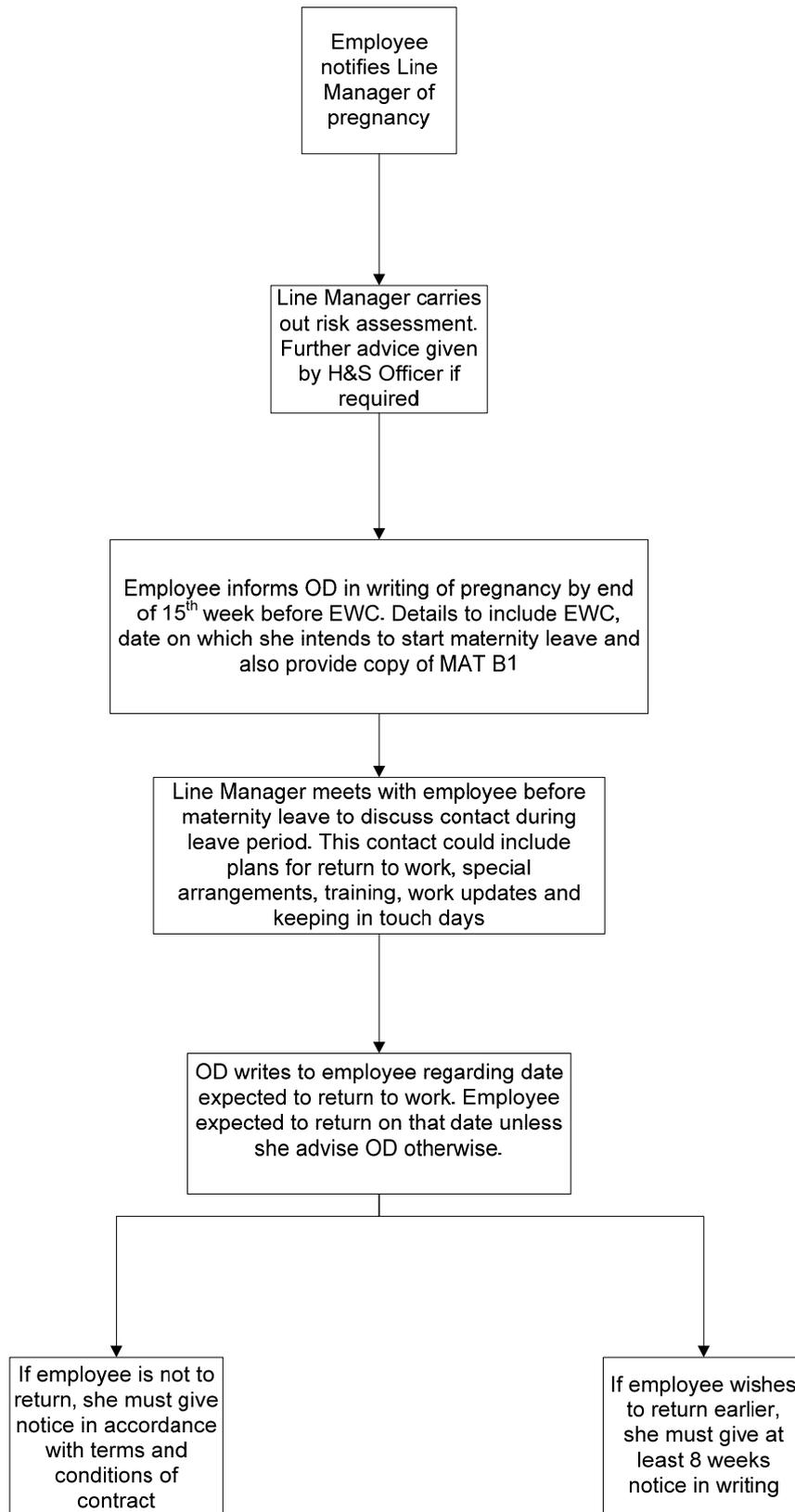
## **19.0 Additional paternity leave and pay**

- 19.1 Eligible employees may take up to 26 weeks additional paternity leave within the first year of their child's life provided that the mother has returned to work.
- 19.2 Additional paternity leave is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work.
- 19.3 The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date.
- 19.4 Additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.
- 19.5 Additional SPP will be payable only during the period that the mother would have received SMP or allowance had she not returned to work
- 19.6 In order to be eligible for additional paternity leave and pay, an employee must satisfy each of the following criteria:
- They must be the father of the child or married to the civil partner of, or the partner of, the child's mother, or married to the civil partner of, or the partner of, the primary adopter and, in the case of a birth child, expect to have the main responsibility for the upbringing of the child.
  - They must have a minimum of 26 weeks' service, as at the end of the 15<sup>th</sup> week before the week in which the child is due to be born.
  - They must remain in continuous employment until the week before the first week of additional paternity leave.
  - The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance. In the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption pay.
  - The mother or primary adopter must have returned to work.
- 19.7 Where an employee wishes to request additional paternity leave and pay, they must give their line manager eight weeks written notice of the date on which they wish to take the leave. The request must be in writing and specify the start date and end date of the leave and include the mothers details form, see Appendix 2.

## **20.0 Monitoring of policy and procedure**

This policy and procedure will be reviewed every 3 years.

## Action Flowchart – Maternity Procedure





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# Applying for Paternity leave

<b>Name of employee:</b>	
<b>Payroll Number:</b>	
<b>Name of child's mother:</b>	
<b>Address of mother:</b>	
<b>Mother's national insurance number:</b>	
I, the child's mother, have now given notice to my employer that I am returning to work from my maternity leave and the relevant details are as follows:	
<b>I became entitled, by reference to becoming pregnant with my child, to either statutory maternity pay or a maternity allowance.</b>	
<b>The start date of my statutory maternity pay period, or my maternity allowance period, in respect of my child was:</b>	
<b>I intend to return to work from my maternity leave on:</b>	
<b>I confirm that the employee named above is (please tick one box):</b>	
My child's father	
Not my child's father, but my spouse, partner or civil partner (A partner is a person, whether of a different sex or the same sex, who lives with the mother and the child in an enduring family relationship but is not a relative of the mother.)	
<b>In addition, I confirm that (please tick each box):</b>	
They have, or expect to have, the main responsibility (apart from my responsibility) for the upbringing of my child	
The employee is, to my knowledge, the only person exercising the entitlement to additional statutory paternity leave and pay, in respect of my child	
<b>I consent to the Council processing such of my information as is contained in this form.</b>	
<b>Signed:</b>	
<b>Dated:</b>	
<b>Notes:</b> To qualify for additional paternity leave and pay, the employee must return this form to Human Resources not less than eight weeks before the start date chosen by them for additional paternity leave and pay.	