

**North East Derbyshire District Council**

**Council**

**7 September 2015**

**Maternity Support Leave and Paternity Leave**

**Report No ADHRP/03/15-16/AG of the Assistant Director – Human Resources & Payroll**

**Purpose of the Report**

To ask Council to consider the attached revised Maternity Support Leave and Paternity Leave document and to approve it for adoption.

**1 Report Details**

- 1.1 Further to the introduction under the [Children and Families Act 2014](#) of a new system of shared parental leave and pay, all family policies at the Council have been reviewed.
- 1.2 The revised policy on Paternity Leave, which includes a section on Maternity Support Leave although this is not included in the title, has therefore been reviewed.
- 1.3 Attached at **Appendix A** is the draft revised document which gives information about the differences and entitlements of maternity support leave and paternity leave.

**2 Conclusions and Reasons for Recommendation**

- 2.1 Where policies reflect the legislative position, it is important to review these regularly to endure they remain fit for purpose.

**3 Consultation and Equality Impact**

- 3.1 At its meeting on 15 July 2015, JCG agreed to recommend this draft Policy document for adoption by the Council.

**4 Implications**

**4.1 Finance and Risk Implications**

- 4.1.1 None.

## 4.2 Legal Implications including Data Protection

4.2.1 None.

## 4.3 Human Resources Implications

4.3.1 None.

## 5 Recommendations

5.1 Council are asked to agree to the revised Maternity Support Leave and Paternity Leave document and approve it for adoption.

## 6 Decision Information

<b>Is the decision a Key Decision?</b> (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	N/A
<b>District Wards Affected</b>	N/A
<b>Links to Corporate Plan priorities or Policy Framework</b>	N/A

## 7 Document Information

Appendix No	Title
1	Maternity Support Leave and Paternity Leave
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
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# Maternity Support Leave and Paternity Leave

(July 2015)



## CONTROL SHEET FOR MATERNITY SUPPORT LEAVE AND PATERNITY LEAVE

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Maternity Support Leave and Paternity Leave
Current status - i.e. first draft, version 2 or final version	Final draft version
Policy author	T Morrell - HR & Payroll
Location of policy - i.e. L-drive, shared drive	Intranet
Member route for approval	Council
Cabinet Member (if applicable)	
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council / Committee	SAMT / JCG / Council
Date policy approved	
Date policy due for review (maximum three years)	
Date policy forwarded to Strategy and Performance (to include on Intranet)	

## **MATERNITY SUPPORT LEAVE AND PATERNITY LEAVE**

Maternity Support Leave (MSL) provided by National Conditions of Service is a similar entitlement to Paternity Leave, which has been introduced by legislation. Those employees who qualify for both will be entitled to one week's MSL at full pay and one week's paternity leave at the nationally agreed rate equivalent to SMP

### **MATERNITY SUPPORT LEAVE**

A partner or nominated carer of a woman expecting a baby is entitled to up to five days paid maternity support leave in any 12 month period. A nominated carer is the person nominated by the mother as their primary provider of support at or around the time of birth. In most cases such care and support would be provided by the father. However, the role may otherwise be fulfilled by a relative or someone who has a caring relationship with the mother and/or child. The purpose of granting the leave is to meet the needs of the employee in addressing problems or commitments outside work which are likely to have a bearing on the employee's wellbeing and ability to perform other duties. Such leave is subject to certain conditions as follows:

- advance notification\* from the employee to their line manager and a copy of the MatB1 form, and
- the leave being taken within eight weeks of the birth unless there are exceptional circumstances approved by the appropriate Core Manager.

(\*Notification is requested as early as possible, but needs to be at least 28 days before the start of EWC, or the first day of leave, whichever is later.)

### **STATUTORY PATERNITY LEAVE (SPL)**

A child's father, or the person who will share the responsibility with a partner for bringing up a child, may have the right to Statutory Paternity Leave and Pay. This includes those who are adopting a child.

Paternity leave is available to employees who:

- have, or expect to have, responsibility for the child's upbringing;
- are the biological father of the child, or the mother's husband or partner (including same sex relationships)
- have worked continuously for their employer for 26 weeks ending with the 15<sup>th</sup> week before the baby is due, or the end of the week in which the child's adopter is notified of being matched with the child;
- give the correct notice.

There is entitlement to only one period of leave regardless of the number of children born as a result of the pregnancy.

An employee still qualifies for paternity leave if the child is stillborn after 24 weeks of pregnancy, or dies subsequently.

## **Payment**

Paternity leave is paid at the standard rate of Statutory Maternity Pay (SMP) which applies in the year in which the leave starts. The rate is updated on 1 April annually.

If the employee qualifies for Maternity Support Leave and Statutory Paternity Leave, there is currently only an entitlement to a total of two weeks, ie one week's MSL on full pay and one week's SPL on Statutory Maternity Pay only.

## **When does SPL Commence?**

The employee can choose to take:

- one week's leave, or
- two consecutive weeks,
- and the leave must be taken within 56 days of the EWC.

The employee can choose to start SPL on

- The date the child is born
- A certain number of days after the child is born; or
- On a predetermined date after the first day of the EWC

Paternity leave cannot start before the birth of the baby.

## **Ante-natal appointments**

Fathers and partners of pregnant women are currently entitled to unpaid time off to attend two ante-natal appointments.

## **Notification**

An employee must give notice in writing of the following before the end of the 15<sup>th</sup> week before the EWC, or as soon as reasonably practicable:

- The EWC;
- The length of leave they wish to take;
- The date on which they want their leave to begin;
- Confirmation that he/she is taking leave to care for the child or support the child's mother;
- Confirmation that he/she is the father, or married to or the civil partner or partner of the child's mother;
- Confirmation that he/she expects to have responsibility for the upbringing of the child.

The employee can change his/her mind about the date that he/she wishes leave to start, provided notice is given as follows:

- If the employee wishes to take SPL on the date the child is born, notice must be given at least 28 days before the first day of the EWC
- Where the employee wishes to take leave a certain number of days after the child is born, he/she must give notice 28 days before that point

If an employee wishes to start his/her leave on a predetermined date, notice must be provided 28 days before that date.

Where it is not possible to give this much notice, notice must be provided as soon as is reasonably practicable.

Where the employee has chosen to take his/her leave on a predetermined date and the child has not been born by that date, the employee must choose another date or choose another option and give the employer notice of the change as soon as reasonably practicable.

It is possible for the employee to change the date more than once.

The employee must inform their line manager of the date the child was born as soon as reasonably practicable.

NB Where the employee has chosen to start his/her leave on the date the child is born and he/she is at work on this date, SPL will start on the following day. This is to fit in with the Statutory Paternity pay (SPP) Regulations which do not allow an employee to receive SPP in a week in which he/she has worked. Therefore, the employee's first SPP week cannot start on a day in which he/she has done some work and it will therefore start on the next day.