

## MINUTES OF COUNCIL MEETING HELD ON 7 SEPTEMBER 2015

### I N D E X

<b>Page No</b>	<b>Minute No</b>	<b>Heading</b>
1	252	Apologies for Absence
1	253	Declarations of Interest
1	254	Minutes of Council Meeting held on 26 May and extraordinary Council held on 27 July 2015
2	255	Chair's Announcements
2	256	Public Participation
2	257	Minutes of Meetings held between 6 July and 5 August 2015
3	258	Questions asked under Council Procedure Rule No 9
3	259	Motions under Council Procedure Rule No 10
3	260	Emergency Planning Update
4	261	Growth Strategy Update
5	262	Information Security and ICT Members Charter
5	263	Adoption Policy and Procedures
5	264	Maternity Policy
6	265	Maternity Support Leave and Paternity Leave
6	266	Parental Leave Policy
6	267	Shared Parental Leave Policy and Procedures
6	268	Smokefree Policy Update

8		Appendix A
23		Appendix B
41		Appendix C
46		Appendix D
50		Appendix E
62		Appendix F

**NORTH EAST DERBYSHIRE DISTRICT COUNCIL**

**MINUTES OF THE MEETING OF THE COUNCIL**

**HELD ON 7 SEPTEMBER 2015**

**Present:**

Councillor S Peters..... Vice Chair in the Chair

Councillor Mrs P Antcliff

“ W Armitage

“ Mrs J Austen

“ N Barker

“ B Barnes

“ G Baxter MBE

“ S Boyle

“ A Cooper

“ Miss C Cupit

“ S Ellis

“ Mrs A Foster

“ M Gordon

“ R Hall

“ Mrs C D Huckerby

“ C Hunt

“ P R Kerry

“ H Laws

Councillor B Lewis

“ J Lilley

“ W Lilleyman

“ T Mansbridge

“ A Powell

“ B Rice

“ Mrs L Robinson

“ Mrs K Rouse

“ D Skinner

“ R Smith

“ L Stone

“ M E Thacker

“ Ms C Tite

“ R Welton

“ J Windle

“ B Wright

**252 Apologies for Absence**

Apologies for absence were received from Councillors Mrs J Barry, Mrs L Blanshard, G Butler, A Dale, P Elliott, Miss M Emmens, M Foster, G Griffin-Chappel, A Garrett, Mrs E A Hill, Mrs J Hill, Mrs P A Holmes, G Morley, Mrs T Reader, B Ridgway, Mrs J Ridgway, Mrs C A Smith, K Tait and Ms T Williams.

**253 Declarations of Interest**

Members were requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no interests declared at this meeting.

**254 Minutes of the Council Meeting held on 13 July and the extraordinary Council held on 27 July 2015**

**RESOLVED** – That the minutes of the meeting of Council held on 13 July and the extraordinary Council meeting held on 27 July 2015 be approved as a correct record and signed by the Chair.

**255 Chair's Announcements**

Council was advised that the 57<sup>th</sup> Annual Brass Band Festival was taking place on Saturday, 26 September 2015 at Dronfield Sports Centre. Defending champions Shirebrook Miners Welfare Band would be joined by Matlock and Dronfield Genquip Bands. Tickets were £4.50 for adults and £3.50 concessions.

Members were reminded about a number of Council events which included:-

- Member Involvement Half Day on 8 September 2015;
- Joint Devolution Briefing on 11 September 2015;
- Tour of the District on 15 September 2015.

Following the Chair's announcements the Chair handed over to Councillor G Baxter MBE, Leader of the Council, who led a tribute to retiring Chief Executive, Wes Lumley, who was attending his final Council meeting. Councillor M E Thacker, on behalf of the Opposition, paid a similar tribute to Mr Lumley and his wife for his great many achievements during his time at North East Derbyshire District Council.

Finally, the Leader of the Council made reference to the international refugee crisis. The Council had received information from the Government on the Syrian Vulnerable Persons Relocation Scheme which outlined local authority responsibilities and what funding was available to help provide those responsibilities. The Leader expressed the desire for the Council to go further by acting as a conduit for anyone who wanted to provide a temporary home for vulnerable people and by acting as a donation centre where people could drop off essential items. He also wished to reach out to local trades people who may be able to offer their skills for free and be the liaison between local communities and any Syrian vulnerable person who came to North East Derbyshire.

The Council noted the announcements which were of an operational nature. Members were advised that should they wish to have a further debate on this matter then it could be raised as a motion to the Council meeting on 2 November 2015.

**256 Public Participation**

In accordance with Council Procedure Rule No 8 members of the public were allowed to ask questions about the Council's activities for a period of up to 15 minutes. No questions had been submitted.

**257 Minutes of meetings held between 6 July and 5 August 2015**

Council considered the following minutes of meetings held between 6 July and 5 August 2015:

	<b>MEETING</b>	<b>DATE</b>
(a)	Licensing Sub-Committee (Pubs & Clubs)	6 July 2015 20 July 2015
(b)	Planning Committee	7 July 2015 4 August 2015
(c)	Cabinet	8 July 2015 5 August 2015
(d)	Joint Appointments Panel	22 July 2015
(e)	Licensing Sub-Committee (Taxis)	30 July 2015
(f)	Communities Scrutiny Committee	31 July 2015
(g)	Growth Scrutiny Committee	4 August 2015

Referring to Minute 221 of Cabinet on 5 August 2015, Councillor Thacker asked why the Council was adapting its approach from a two stage plan to a single Local Plan and what the implications were for the planned green belt review.

In answer to the question, the Cabinet Member replied that a two stage Local Plan would almost certainly not be accepted by Government and further details of the planned green belt review were to come to Cabinet in due course.

**RESOLVED** – That the minutes of meetings held between 6 July and 5 August 2015 as set out above be noted.

**258 Questions from Members under Procedure Rule No 9**

There were no questions on notice from members.

**259 Motions from Members under Procedure Rule No 10**

There were no motions on notice from members.

**260 Emergency Planning Update**

Council considered a presentation from Liz Partington, Emergency Planning Manager, at Derbyshire County Council.

The presentation covered the following aspects:-

- The Service Level Agreements between County Emergency Planning and the District/Borough Councils and City Council;

- The responsibilities of the Councils as category one responders under the Civil Contingencies Act 2004;
- The importance of assessing major risks;
- The emergency and business continuity plans across Bolsover and North East Derbyshire District Councils;
- Elected members roles;
- Community resilience and the community risk register;
- Derbyshire emergency volunteers.

In relation to the role of members, Council was advised that local councillors were often the first port of call for residents who were affected by flooding, severe weather, large fires and chemical leaks and provided an important link between emergency planning and local communities. After an emergency, councillors also played an important role in terms of supporting those affected, assisting with community recovery, raising appeal funds, holding public meetings, attending memorial and remembrance services and disseminating lessons learnt.

Following the presentation the Emergency Planning Manager took questions from members.

**RESOLVED** – That the presentation from Derbyshire County Council on emergency planning be noted.

## **261 Growth Strategy Update**

Council considered a report and presentation which provided an update to members on the progress of the Growth Strategy and its transformational intervention projects.

The Growth Strategy had been developed following the LGA Peer Review by Bolsover and North East Derbyshire in 2013. Following internal and external consultation the Strategy had been approved by both Councils in June 2014. It was about maximising opportunities to ensure that the District's long term viability through economic regeneration and central government programmes such as New Homes Bonus and the Business Rate Retention Scheme were maximised. It had been developed in line with the Local Economic Partnership Plans for Sheffield City Region and D2N2.

Although the Strategy was joint, each Council had a separate action plan and specific transformation intervention projects had been identified. Each project had a lead department with responsibility for preparing project plans. Attached to the covering report was the updated action plan as of June 2015.

Officers from Property and Estates, Economic Growth and Planning and Environmental Health gave members mini presentations on each of the

specific strands within the Growth Strategy for which they were responsible. Council then observed a short video on the Avenue Development Project.

**RESOLVED** – That the Growth Strategy update be received.

**262 Information Security and ICT Members Charter**

Council considered a presentation from the Members ICT and Training Officer on information security and the ICT Members Charter.

The presentation gave details on the different ways in which Members connected to the internet, the rules around downloading and installing apps on Council equipment, best practice when using mail boxes and passwords, together with I-pad and laptop security.

Following the presentation, the Members ICT and Training Officer took questions.

**RESOLVED** – That the presentation on information security and the Members' ICT Charter be noted.

**263 Adoption Policy and Procedures**

Council considered Report No ADHRP/01/15-16/AG of the Assistant Director – Human Resources which set out a new Adoption Policy and Procedures document for adoption by the Council.

The Adoption Policy reflected the latest position in respect of legislation and conditions of service governing adoption, pay and leave.

**RESOLVED** – That the proposed Adoption Policy and Procedures document, attached at **Appendix A**, be approved.

(Assistant Director – Human Resources & Payroll)

**264 Maternity Policy**

Council considered Report No ADHRP/02/15-16/AG of the Assistant Director – Human Resources which set out a new Maternity Policy document for adoption by the Council.

The Maternity Policy reflected the latest position in respect of legislation and conditions of service governing maternity, pay and leave.

**RESOLVED** – That the proposed Maternity Policy document, attached at **Appendix B**, be approved.

(Assistant Director – Human Resources & Payroll)

**265 Maternity Support Leave and Paternity Leave**

Council considered Report No ADHRP/03/15-16/AG of the Assistant Director – Human Resources and Payroll which proposed a revised Maternity Support Leave and Paternity Leave Policy.

Council were advised that following the introduction of the Children and Families Act 2014 a new system of shared parental leave and pay was in place. As a result, all family policies at the Council had been reviewed, including the Paternity Leave Policy which had now been renamed the Maternity Support Leave and Paternity Leave Policy.

Additions to the document were given in track changes.

**RESOLVED** – That the proposed Maternity Support Leave and Paternity Leave document, attached at **Appendix C**, be approved.

(Assistant Director – Human Resources & Payroll)

**266 Parental Leave Policy**

Council considered Report No ADHRP/04/15-16/AG of the Assistant Director – Human Resources and Payroll which set out a new Paternal Leave Policy document for adoption by the Council.

The Paternal Leave Policy reflected the latest position in respect of legislation and conditions of service governing paternal leave and pay.

**RESOLVED** – That the proposed Paternal Leave Policy document, attached at **Appendix D**, be approved.

(Assistant Director – Human Resources & Payroll)

**267 Shared Parental Leave Policy and Procedures**

Council considered Report No ADHRP/05/15-16/AG of the Assistant Director – Human Resources and Payroll which proposed a Shared Parental Leave Policy and Procedures document.

The Children and Families Act had introduced a new system of shared parental leave and pay and attached to the report was the draft policy and procedures document which gave information about entitlement, rules and procedures.

**RESOLVED** – That the proposed Shared Parental Leave Policy and Procedures document, attached at **Appendix E**, be approved.

(Assistant Director – Human Resources & Payroll)

**268 Smokefree Policy Update**

Council considered Report No ADHRP/06/15-16/AG of the Assistant Director – Human Resources and Payroll which proposed an update to the Council's Smokefree Policy.

The Smokefree Policy was approved in 2014. The changes proposed were in section three which related to smoking and the use of electronic cigarettes in Council grounds, which was not permitted.

Because the new Mill Lane headquarters were a significant distance from the nearest off-site location and the gate was close to domestic properties it was felt that the requirement to leave Council grounds would lead to a significant amount of lost time and potentially bring smokers into close proximity with residents.

Therefore, it was proposed to designate an area at the Mill Lane premises for smokers to use but they would still need to remain five metres from the workplace. The proposed amendment to the policy was shown as a tracked changed in the attached document.

**RESOLVED** – That the proposed Smokefree Policy, attached at **Appendix F**, be approved.

(Assistant Director – Human Resources & Payroll)

---

## Appendix A

North East Derbyshire District Council

# Adoption Policy

(July 2015)



## CONTROL SHEET FOR ADOPTION POLICY

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Adoption
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)	

## **ADOPTION POLICY**

### **SCOPE**

This policy applies to all employees, subject to certain conditions being satisfied.

Adoption provisions will not be granted to two employees in respect of the same adoption. In such cases, the other employee will be entitled to the same provisions as maternity support leave.

Prospective adopters are legally required to be 21 years of age or older. There is no upper age limit.

Statutory adoption pay and adoption leave are also available to parents who will become the legal parents of a child under a surrogacy arrangement, and local authority foster parents who are also prospective adopters ('foster to adopt'), but are not normally available to step-parents who go on to adopt a child.

### **PURPOSE**

This Policy is intended to help managers and employees understand adoption leave and pay.

Adoption provisions can be very complex and the information contained in the policy is intended to answer the initial questions managers and employees may have. If you have any further queries regarding adoption leave and pay, please contact a member of the Human Resources Team.

For pension and salaries enquiries, please contact the Human Resources and Payroll team.

### **DEFINITIONS**

#### **Adopter**

For the purpose of this guidance, an adopter is a person who has been matched with a child for adoption or, if a couple have been matched jointly, the member of the couple who has chosen to take adoption leave and/or statutory adoption pay.

#### **Adoption Agency**

An adoption agency has the meaning given to it in section 1(4) of the Adoption Act 1976 in England and Wales. In Scotland, it has the meaning given to it in section 1(4) of the Adoption (Scotland) Act 1978.

## **Matched/Matching**

A person is matched with a child for adoption when an adoption agency decides that the person would be a suitable adoptive parent for the child, either individually or with another person.

## **Notification of Matching**

A person is notified of having been matched with a child on the date on which they receive notification of the Agency's decision that they have been matched with a child for adoption.

## **Placement**

A child is placed for adoption when the child goes to live with the adopter or adopters with a view to being adopted by them in the future.

## **Paternity**

In this guidance the term 'paternity' is used in reference to those entitlements applying either to the individual who is the member of a jointly adopting couple who has chosen not to take statutory adoption leave or pay, regardless of the sex of either, or an individual adopter's partner, regardless of the sex of either.

## **Relevant Week**

The week in which a person is notified by the adoption agency of being matched with a child.

## **Abbreviations**

**OAL** Ordinary Adoption Leave

**AAL** Additional Adoption Leave

**SAP** Statutory Adoption Pay

**CAP** Contractual Adoption Pay

## **UK ADOPTIONS**

### **1 LEAVE**

There are two types of adoption leave: ordinary and additional.

#### **1.1 Ordinary Adoption Leave (OAL) and Additional Adoption Leave (AAL)**

An employee (including those employed under the Apprenticeship Scheme) is entitled to 26 weeks' ordinary adoption leave and 26 weeks' additional adoption leave for the purpose of caring for their newly adopted child if all of the following conditions have been satisfied:

- They are the child's adopter.
- They have notified the Agency that they agree for the child to be placed with them and agree the date of placement.
- They have given notice in writing no more than seven days after notification has been received that they have been matched with a child. If it is not reasonably practicable for the employee to give notice of their intention to take OAL within seven days of the date on which they are notified of having been matched with the child, they will still qualify for such leave provided they give notice as soon as it is reasonably practicable;
- They have provided a Matching Certificate from the adoption agency.

If the above conditions have not been met, there is no entitlement to OAL and AAL.

All employees who take adoption leave have the right to return to work at any time during either ordinary adoption leave or additional adoption leave, subject to their following the correct notification procedures.

#### **1.2 Notification Requirements for Taking OAL**

In order to satisfy the notification requirements for taking ordinary adoption leave, an employee must provide the following written notification within seven days of being informed that they have been matched with the child:

- The date on which the child is expected to be placed with the employee.
- The date on which they intend to begin their OAL

On receipt of an employee's notification that they intend to take ordinary adoption leave, the employer will respond in writing within the next 28 days acknowledging the employee's intentions and informing them of the latest date on which they may return to work after their AAL. This will be 52 weeks after the start of the employee's adoption leave.

### **1.3 When OAL Can Begin**

An employee may choose to start their OAL on:

- The date on which the child is placed with them for adoption. If the employee is at work on this date, their OAL will begin on the following day.
- A pre-determined date specified in writing that falls within the 14-day period immediately before the date of placement.

### **1.4 Changing the Start Date of OAL**

An employee who has already provided notification in writing of the date on which they intend to begin their ordinary adoption leave may change that date provided they give at least 28 days notice:

- Where the change is to provide for the employee's OAL to begin on the date on which the child is expected to be placed with them for adoption,
- Where the change is to provide for the employee's OAL to begin on a pre-determined date (or a different pre-determined date).

The employee must give notice in writing of the changed start date of the OAL as soon as is reasonably practicable if unable to give the minimum 28 days' notice.

On receipt of an employee's notification that they intend to change the start date of their ordinary adoption leave, the employer must respond in writing within the next 28 days acknowledging the employee's intentions and informing the employee of the new revised date on which they may return to work after their AAL.

### **1.5 Length of OAL or AAL Where the Adoption Has Been Disrupted**

Where the adoption is disrupted or fails to take place, the employee's OAL or AAL will end eight weeks after the end of the week in which the disruption occurred.

A 'disruption' will occur in the following circumstances:

- The employee is notified, before the placement, that it will not now occur;
- The child dies;
- The child is returned to the adoption agency;
- The child ceases to live with the adopter

### **1.6 Early Return from Adoption Leave**

If an employee wishes to return to work before the end of their additional adoption leave, they should give notification in writing at least eight weeks before the date of their intended return.

An employee who has notified the Council that they wish to return to work before the end of the full 52 weeks of adoption leave, as set out above, is entitled to change their mind. However, in these circumstances they should give the Council notice of this new, later, date of return at least eight weeks before the earlier date.

If an employee fails to provide the required eight weeks' notice, the Council can postpone their return to work by up to eight weeks (but not beyond the end of their AAL period).

Under the Paternity and Adoption Leave Regulations 2002 (SI 2002/2788), reg.25(4), where an employee is notified that their return to work has been postponed until a certain date, but they return to work before that date, the Council is under no contractual obligation to pay their remuneration until the date to which their return was postponed.

## **2 PAY**

There are two types of pay to which an employee may be entitled. Statutory Adoption Pay (SAP) which comes from the Government, and Contractual Adoption Pay (CAP) which is paid by the Council. Both are based on length of service.

### **2.1 Statutory Adoption Pay**

An employee is entitled to receive 39 weeks statutory adoption pay, if the following conditions have been satisfied:

- They have been continuously employed for at least 26 weeks by the week in which they are notified by the adoption agency of being matched with a child (relevant week).
- They are the person with whom a child is, or is expected to be, placed for adoption under the law of any part of the United Kingdom.
- They have taken ordinary adoption leave in order to care for the child.
- Have normal weekly earnings over the eight-week period ending with the relevant week not less than the lower earnings limit for National Insurance purposes.
- Have provided evidence of their entitlement to SAP.
- Have complied with the notification requirements for taking SAP.

SAP is payable as follows:

- 39 weeks a rate set annually by the Government or 90% of normal wage, whichever is lower.

It should be noted that SMP is regarded as earnings and therefore tax and National Insurance contributions will be deducted.

An employee is entitled to no more than 39 weeks' SAP where more than one child is placed for adoption, or is expected to be placed for adoption, as part of the same arrangement.

An employee is not entitled to receive SAP if they have exercised their entitlement to receive statutory paternity pay. (NB Please see Maternity Support Leave and Paternity Leave Policy.)

In addition to this, an employee is not entitled to receive SAP for the adoption of a child if their partner is eligible (and has elected) to receive SAP for the adoption of the same child.

## **2.2 Evidence of Entitlement to SAP**

As evidence of entitlement to SAP, an employee must provide one or more of the following documents from the adoption agency containing:

- The name and address of the person claiming SAP.
- The name and address of the adoption agency.
- The date on which the child is expected to be placed for adoption (or where the child has already been placed for adoption, the date the child was placed).
- The date on which the employee claiming SAP was informed by the adoption agency that the child would be placed for adoption with them.
- A declaration that they have elected to receive SAP (and not statutory paternity pay) for the newly adopted child.

The document(s) and the declaration must be given to the Council as least 28 days before the start of the SAP period, or as soon as is reasonably practicable thereafter.

## **2.3 Notification Requirements for SAP**

In order to satisfy the notification requirements for SAP, the employee must give at least 28 days' notice in writing of the date from which they expect to start receiving SAP or, if that is not reasonably practicable, as soon as they reasonably can.

At the same time, the employee is also required to provide notice of the date on which the child is expected to be placed with them for adoption.

Where an employee has chosen to begin their SAP period on the date the child is placed with them for adoption, they must further notify the Council as soon as is reasonably practicable of the date the child was actually placed for adoption.

## **2.4 When the SAP Period Can Begin**

The statutory adoption pay period begins at the same time as the period of ordinary adoption leave.

## **2.5 Length of the SAP Period Where the Adoption Has Been Disrupted**

Where the adoption is disrupted or fails to take place, the employee's entitlement to SAP will end eight weeks after the end of the week in which the disruption occurred.

## **2.6 Contractual Adoption Pay**

Employees with at least one year's continuous service at the time of the adoption placement will be entitled to the following Contractual Adoption Pay:

- Weeks 1 – 6                      90% of a week's pay (offset against payments made by way of SAP\*).
- Weeks 7 - 18                    Where an employee has declared in writing that they intend to return to work, they will receive half pay plus SAP, provided that this does not exceed full pay. This is paid on the understanding that an employee will return to local authority employment for at least three months following adoption leave. For employees not intending to return, payment will be the employee's entitlement to SAP only.

(If an employee is unsure whether or not they will return, there are two options; - to repay the half pay if they decide not to return, - or to ask the employer to withhold the half pay and receive this in a lump sum if they decide to return.)

- Weeks 19-39                    For the remaining 21 weeks, the employee will receive their SAP entitlement only.

(\*This means that the statutory payments are made in addition to Contractual Adoption Pay, but the salary element will be adjusted so that the total does not exceed full pay.)

## **OVERSEAS ADOPTIONS**

Some of the criteria listed above also apply to employees who adopt a child from overseas. The eligibility criteria for UK Adoptions for Ordinary Adoption Leave, Additional Adoption Leave, Statutory Adoption pay and Contractual Adoption Pay should therefore be read taking into account the following amendments relating to Overseas Adoptions.

### **3 Leave**

#### **3.1 Ordinary Adoption Leave (OAL) and Additional Adoption Leave (AAL)**

An employee is entitled to 26 weeks' ordinary adoption leave and 26 weeks' additional adoption leave for the purpose of caring for their newly adopted child if all of the following conditions have been satisfied:

- The employee is the child's adopter.
- The employee has been continuously employed for at least 26 weeks either:
  - a) Ending with the week in which they receive official notification, or
  - b) Starting with the week in which their employment with the employer began.

"Official notification" means written notification, issued by or on behalf of the relevant domestic authority (eg the Secretary of State for Health), that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to the authority confirming, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

The reasoning behind option (b) (which is not available in the case of domestic adoptions) is that it can take a long time between an employee being notified as a suitable parent and actually having a child from overseas being placed with them for adoption.

- The employee has complied with a request to provide written evidence of their entitlement to OAL for a child adopted from overseas.
- The employee has complied with the notification requirement for taking OAL for a child adopted from overseas.

If the above conditions have not been met, there is no entitlement to OAL and AAL.

#### **3.2 Evidence of Entitlement to OAL**

As proof of their entitlement to ordinary adoption leave, an employee must give their employer a copy of the official notification together with evidence of the date of entry of the child into Great Britain.

#### **3.3 Notification Requirement for Taking OAL**

In order to satisfy the notification requirements for taking ordinary adoption leave for a child adopted from overseas, an employee must provide written notification of:

- The date on which they receive an official notification;
- The date on which the child is expected to enter the UK;

These must both be given either within 28 days of the date they received an official notification, or on the date on which they complete 26 weeks' continuous employment, whichever is later.

- The date on which they wish to begin their OAL.
- The date on which the child actually enters Great Britain. – this must be given no more than 28 days after the date of entry into Great Britain.

On receipt of an employee's notification that they intend to take ordinary adoption leave, the employer must respond in writing within the next 28 days acknowledging the employee's intentions and informing them of the latest date on which they may return to work after their AAL. This will be 52 weeks after the start of the employee's adoption leave.

### **3.4 When OAL Can Begin**

An employee may choose to start their OAL for a child adopted from overseas on:

- The date on which the child enters Great Britain. (If the employee is at work on this date, their OAL will begin on the day after that date.)
- A predetermined date specified in their notice under the notification requirements for OAL for a child adopted from overseas, that is no later than 28 days after the date on which the child enters Great Britain.

### **3.5 Changing the Start Date of OAL**

An employee who has already provided notification in writing of the date on which they intend to begin their ordinary adoption leave may change that date provided they give at least 28 days notice:

- Where the change is to provide for the employee's OAL to begin on the date on which the child enters Great Britain,
- Where the change is to provide for the employee's OAL to begin on a pre-determined date (or a different pre-determined date).

The employee must give notice in writing of the changed start date of the OAL as soon as is reasonably practicable if unable to give the minimum 28 days' notice.

On receipt of an employee's notification that they intend to change the start date of their ordinary adoption leave, the employer must respond in writing within the next 28 days acknowledging the employee's intentions and informing the employee of the new revised date on which they may return to work after their AAL.

## **4 Pay**

### **4.1 Evidence of Entitlement to SAP**

As evidence of their entitlement to statutory adoption pay in the case of an overseas adoption, an employee must provide notification in writing of:

- A copy of the official notification.
- The name and address of the person claiming SAP.
- The date on which it is expected that the child will enter Great Britain or, where the child has already entered Great Britain, the actual date of entry.
- A declaration that they have elected to receive SAP (rather than statutory paternity pay) for the child. (NB Please see Maternity Support Leave and Paternity Leave Policy.)
- Evidence of the date on which the child entered Great Britain within 28 days of that date.

### **4.2 Notification Requirements for SAP**

In order to satisfy the notification requirements for statutory adoption pay for an overseas adoption, the employee must give at least 28 days' notice in writing of the date from which they expect to start received SAP or, if that is not reasonably practicable, as soon as they reasonably can.

In addition, an employee must also give written notice of;

- The date on which official notification was received, within 28 days of that date or within 28 days of their completion of 26 weeks' continuous employment, whichever is later.
- The actual date on which the child enters Great Britain within 28 days of that date.

Where the child has not entered Great Britain on the expected date of entry, an employee who still wishes to claim SAP for that child must notify the Council as soon as is reasonably practicable that their SAP period will start on a different date.

### **4.3 When the SAP Period Can Begin**

The statutory adoption pay period for overseas adoptions begins at the same time as the period of ordinary adoption leave for overseas adoptions.

## **5 Keeping-in-Touch Days – UK or Overseas Adoptions**

Employees on ordinary or additional adoption leave may do up to 10 days' work under their contract of employment without bringing their adoption leave period to an end or losing their entitlement to statutory adoption pay. These days are known as 'keeping-in-touch' days.

The employee can go in for one hour or a whole day. This will still be a 'keeping-in-touch' day. The days of work may be separate days or a single block, as agreed between the employee and their manager. The provision can be used in a number of ways, for example to invite an employee on adoption leave to go on a training course, to attend an important team meeting, or to undergo an appraisal interview.

Line managers may not, however, oblige the employee to do any work during their adoption leave. Neither are employees entitled to be offered any work to do. The amount and type of work to be done is subject to the agreement of both parties, as is the amount of remuneration that the employee will be paid. An employee's adoption leave will not be extended due to the fact that they have carried out some work during this period.

#### **4 Reasonable Contact – UK or Overseas Adoptions**

Managers may make reasonable contact with employees who are on adoption leave, for example to discuss the employee's plans to return to work, significant workplace developments, job vacancies, training opportunities or whether the employee might wish to seek any changes to their working hours or pattern of work on their return. This would not constitute 'work' and would not therefore count towards the 10 days.

#### **5 Contractual Benefits – UK or Overseas Adoptions**

Apart from remuneration, an employee is entitled to benefit from the same terms and conditions of employment throughout the ordinary adoption leave and additional adoption leave period.

##### **What qualifies as remuneration?**

Examples of payments which count as remuneration are:

- Basic Pay
- Contractual overtime

##### **5.1 Car User Allowances**

An employee is entitled to receive the allowance in full (pro rata to hours worked) for the whole of the ordinary adoption leave and additional adoption leave period.

##### **5.2 Mobile Phone**

Employees who are in receipt of a mobile phone will continue to have the provision of the mobile phone for the whole of the ordinary adoption leave and additional adoption leave period.

### **5.3 Childcare Vouchers**

An employee is entitled to request and receive childcare vouchers – please see intranet for further information.

### **5.4 How will adoption leave affect an employee's annual leave entitlement?**

Annual leave is a contractual benefit and therefore must be protected during the AAL period. This means that annual leave continues to accrue during the adoption leave period and will be added to their entitlement for the leave year. Therefore the time when an employee is on adoption leave will count towards their continuous service for the purposes of qualifying for additional annual leave (ie the additional five days leave after five years service) and longer sick pay entitlement.

However, it should be noted that there is no provision for carry-forward of leave from one leave year to the next. Therefore dependent on the employee's individual leave year and the timing of the adoption leave, the employee may wish to convert part of the unpaid AAL period to paid leave. For guidance on this, please speak to a member of the Human Resource Team.

### **5.5 What happens to the employee's pension contributions?**

During the employee's paid adoption leave they will continue to pay superannuation contributions on the actual adoption pay they have received (including statutory pay, contractual pay and any payment in respect of KIT days). The employer's contributions will be based on the employee's assumed pensionable pay which will be calculated in accordance with the Local Government Pension Scheme rules.

No contributions will be payable by either the employee or the employer in any period of AAL in which an employee receives no pay. Any period of unpaid AAL will not count as membership unless an election is made to pay contributions for this period following return to work or resignation (see below).

When the employee returns to work, or equally if they resign or are dismissed during or after the AAL, the employee can pay the contributions relating to any period of unpaid adoption leave. If the employee wishes to buy back the amount of 'lost' pension in respect of the unpaid period of absence, they can do so through an age-related APC (Additional Pension Contribution) contract, either over a period of time or, if impracticable, Derbyshire County Council may determine that a lump sum is appropriate. If the employee elects to enter into an APC contract within 30 days of returning from the leave, the cost will be split 1/3<sup>rd</sup> employee and 2/3<sup>rd</sup>s employer. If they elect for an APC contract after the 30 day period, the full cost of the APC will be borne by the employee.

An employee's membership in the pension scheme is preserved whilst their contributions are payable. Therefore employees in the Local Government Pension Scheme will have their continuity of membership preserved during OAL and for any period of the AAL in which they receive SAP and/or contractual adoption pay, or have entered into an APC contract for the unpaid period of absence.

**5.6 Can the employee request a variation to their working pattern on return?**

Yes, and employees should refer to the Council's Policies on Job-sharing, Carer's Leave and the Career Break Scheme. In addition, an employee has a statutory right to apply for flexible working. Please refer to the Flexible Working Policy for further information.

## Appendix B

North East Derbyshire District Council

# Maternity Policy and Procedures

(July 2015)



## CONTROL SHEET FOR MATERNITY POLICY

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Maternity
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 POLICY**

### **SCOPE**

This policy applies to all women employees who, regardless of length of service and hours of work are entitled to maternity leave. The information in this Policy reflects the relevant legislation and specifically deals with the occupational maternity scheme of the National Joint Council for Local Government Services.

### **HOW TO USE THIS POLICY**

Both the statutory and contractual maternity scheme offer benefits to employees which vary depending on their length of service. This leads to three groups of employees who have slightly different entitlements:

- those who have been continuously employed for 26 weeks by the 15<sup>th</sup> week before EWC,
- those who have less than 26 weeks continuous employment by the 15<sup>th</sup> week before EWC, and
- those with at least one year's continuous service at the 11<sup>th</sup> week before the EWC.

### **PURPOSE**

This Policy is intended to help managers and employees understand maternity leave and pay.

Maternity provisions can be very complex and the information contained in the policy is intended to answer the initial questions managers and employees may have. If you have any further queries regarding maternity leave, pay, or pensions, please contact a member of the Human Resources and Payroll Team.

### **DEFINITIONS**

#### **Childbirth**

In this context, childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.

#### **Expected Week of Childbirth (EWC)**

In this context, expected week of childbirth means the week, beginning with midnight between Saturday and Sunday, in which it is expected that the baby will be born.

## **Week of Childbirth**

In this context, week of childbirth means the week, beginning with midnight between Saturday and Sunday, in which the baby is actually born.

## **Average weekly earnings**

Average weekly earnings take into account what an employee actually earned in the 8 week period ending with the qualifying week. Therefore bonuses, pay awards and other ad-hoc payments which fall in that period count in the calculation of SMP.

## **Qualifying week**

The qualifying week is the 15<sup>th</sup> week before the expected week of childbirth.

## **ABBREVIATIONS**

**EWC** Expected Week of Childbirth

**OML** Ordinary Maternity Leave

**AML** Additional Maternity Leave

**APL** Additional Paternity Leave

**SMP** Statutory Maternity Pay

**MA** Maternity Allowance

**SPL** Statutory Paternity Leave

**MSL** Maternity Support Leave

**SPL** Shared Parental Leave

**ShPP** Statutory Shared Parental Pay

## **MATERNITY ENTITLEMENT:**

Maternity entitlement can be divided into two main areas: Entitlement to Time Off, and Entitlement to Pay.

### **1 LEAVE**

There are three types of maternity leave: ordinary, additional and compulsory.

#### **1.1 Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML)**

Regardless of length of service, all women are entitled to take 26 weeks' Ordinary Maternity Leave (OML), followed by 26 weeks' Additional Maternity Leave (AML). All pregnant employees are therefore entitled to a total period of up to 52 weeks' maternity leave. This includes those employed under the Apprenticeship Scheme.

In order to be eligible for ordinary maternity leave and additional maternity leave, an employee must give notification:

- That she is pregnant;
- Of her expected week of childbirth;
- Of the date on which she intends her maternity leave to start.

If requested, the employee must provide notification in writing and provide a certificate from a registered medical practitioner or a registered midwife stating the expected week of childbirth. (Please see section 3 on Notification.)

OML can start on any day from the 11<sup>th</sup> week before the EWC.

If an employee's maternity leave has not already started, it will be triggered by the birth of the child, or a pregnancy-related absence from the beginning of the 4<sup>th</sup> week before the EWC. In both of these situations, the employee must notify her employer in writing as soon as reasonably practicable. If the employee gives birth prior to the start of her OML, OML begins on the day childbirth occurs.

An employee is still entitled to OML if she has a stillbirth after 24 weeks of pregnancy, or if the child dies.

#### **1.2 Compulsory Maternity Leave**

An employee must not return to work for two weeks following the date of childbirth.

### **1.3 When Does Maternity Leave Commence?**

Maternity leave can start on any day from the beginning of the 11<sup>th</sup> week before the Expected Date of Childbirth (EWC), apart from two circumstances.

- If childbirth occurs before this date, or before the employee has been able to notify the Authority of her intention, maternity leave will begin the day after childbirth (NB See definition).
- The start of ordinary maternity leave will be triggered automatically if the employee is absent from work wholly or partly on account of a pregnancy-related condition within four weeks of the week her baby is due.

## **2 PAY**

There are two types of pay to which an employee may be entitled. Statutory Maternity Pay which comes from the State, and Occupational Maternity Pay which is paid by the employer. Both are based on length of service as follows:

### **2.1 Statutory Maternity Pay**

An employee who is pregnant will be eligible to receive Statutory Maternity Pay (SMP) for 39 weeks provided that:

- She has been employed for a minimum of 26 weeks as at the end of the 15<sup>th</sup> week before the week her baby is due (which is known as the qualifying week);
- She is still employed during that week, ie has not resigned or been dismissed before the beginning of that week;
- Her average weekly earnings during the period of eight weeks that immediately precede the 14<sup>th</sup> week before the expected week of childbirth, are equal to or greater than the lower earnings limit for national insurance contributions.\*

If the above conditions have not been met, SMP will not be payable.

SMP is payable once the employee begins her maternity leave and it can begin on any day of the week. If an employee chooses to return to work before SMP is due to end (ie before the 39<sup>th</sup> week), she will forfeit any outstanding SMP that would otherwise have been due to her.

SMP is payable whether or not the employee intends to return to work or actually returns to work after maternity leave.

SMP is payable as follows:

- 6 weeks at 90% of average earnings;
- 33 weeks at a rate set annually by the Government or 90% of normal wage, whichever is lower.

It should be noted that SMP is regarded as earnings and therefore tax and National Insurance contributions will be deducted.

\* If earnings are below this level the employee should complete form SMP1 so that she can claim Maternity Allowance from the Benefits Agency. Where a woman qualifies, she will receive 39 weeks' Maternity Allowance payable at the same flat rate as SMP or 90 percent of earnings, if less.

NB If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether OML or AML), the higher or standard rate of SMP will be recalculated to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively, or that she may qualify for SMP if she did not previously. The employee will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise.

## 2.2 Occupational Maternity Pay

Employees with at least one year's continuous service at the 11<sup>th</sup> week before the EWC will be entitled to the following Occupational Maternity Pay:

- **Weeks 1 – 6** 90% of a week's pay (offset against payments made by way 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, provided that this does not exceed full pay. This is paid on the understanding that a woman will return to local authority employment for at least three months following maternity leave. For employees not intending to return, payment will be the employee's entitlement to SMP only.

(If an employee is unsure whether or not she will return, there are two options; - to repay the half pay if she decides not to return, - or to ask the employer to withhold the half pay and receive this in a lump sum if she decides to return.)

- **Weeks 19-39** For the remaining 21 weeks, the employee will receive their SMP entitlement only.  
(\*This means that the statutory payments are made in addition to Occupational Maternity Pay, but the salary element will be adjusted so that the total does not exceed full pay.)

### **3 NOTIFICATION**

#### **3.1 Notification of Pregnancy**

An employee must notify her employer of the following as soon as possible, and at least 28 days before her absence begins:

- That she is pregnant
- Of her expected week of childbirth (EWC)
- Of the date on which she wants her maternity leave to start. This cannot be earlier than the 11<sup>th</sup> week before the EWC.

If an employee who has already provided notification of her maternity leave start date subsequently changes her mind, she may do so by giving at least 28 days' notice of the revised start date. This may be earlier or later than the date originally notified, but cannot be earlier than the 11<sup>th</sup> week before the EWC.

On receipt of an employee's notification that she intends to take maternity leave, the employer must respond in writing within the next 28 days acknowledging the employee's intentions and informing her of the latest date on which she may return to work after her maternity leave. This will be 52 weeks after the start of the employee's maternity leave.

If childbirth occurs early the employee must notify the Authority that she has given birth. This notification must be provided as soon as reasonably practicable and must be in writing.

#### **3.2 Notification of Return**

An employee who decides to return to work at the end of her additional maternity leave is not required to give any specific notice of her return date. She may simply turn up to work in the usual way on the appropriate date.

If however she wishes to return to work early, including at the end of her ordinary maternity leave, she must give at least eight weeks' notice in writing of the date on which she intends to return.

### **3.3 Requests to return on varied hours**

If a woman wishes to return from maternity leave on reduced hours, she should make the request as soon as possible, and no later than 28 days prior to her intended return to work date.

### **3.4 Right to return to the same job**

The employee has the right to resume working in the same job on return from OML. If the employee returns to work after a period of AML, she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Employees on an Apprenticeship contract have a right to return to the job in which they were employed up to the end of the Apprenticeship contract.

### **3.5 Failure to return to work**

Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current fit note before the end of the maternity leave period.

If the employee decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to the organisation as soon as possible and in accordance with the terms of her contract of employment.

## **4 KEEPING-IN-TOUCH DAYS**

Employees on ordinary or additional – but not compulsory – maternity leave may do up to 10 days' work under their contract of employment without bringing their maternity leave period to an end or losing their entitlement to statutory maternity pay. These days are known as 'keeping-in-touch' days.

The employee can go in for one hour or a whole day. This will still be a 'keeping-in-touch' day. The days of work may be separate days or a single block, as agreed between the employee and her manager. The provision can be used in a number of ways, for example to invite an employee on maternity leave to go on a training course, to attend an important team meeting, or to undergo an EDPR interview.

Line managers may not, however, oblige the employee to do any work during their maternity leave. Neither are employees entitled to be offered any work to do. The amount and type of work to be done is subject to the agreement of both parties, as is the amount of remuneration that the employee will be paid. A woman's maternity

leave will not be extended due to the fact that she has carried out some work during this period.

## **5 REASONABLE CONTACT**

Managers may make reasonable contact with employees who are on maternity leave, for example to discuss the employee's plans to return to work, significant workplace developments, job vacancies, training opportunities or whether the employee might wish to seek any changes to her working hours or pattern of work on her return. This would not constitute 'work' and would not therefore count towards the 10 days.

## **6 CONTRACTUAL BENEFITS**

Apart from remuneration, an employee is entitled to benefit from the same terms and conditions of employment throughout the ordinary maternity leave and additional maternity leave period.

### **What qualifies as remuneration?**

Examples of payments which count as remuneration are:

- Basic Pay
- Contractual overtime

### **6.1 Car User Allowances**

An employee is entitled to receive the allowance in full (pro rata to hours worked) for the whole of the ordinary maternity leave and additional maternity leave period.

### **6.2 Mobile Phone**

Employees who are in receipt of a mobile phone will continue to have the provision of the mobile phone for the whole of the ordinary maternity leave and additional maternity leave period.

### **6.3 Childcare Vouchers**

An employee is entitled to request and receive childcare vouchers for the whole of the ordinary maternity leave and additional maternity leave period.

### **6.4 Annual Leave**

Annual leave is a contractual benefit and therefore must be protected during the AML period. This means that annual leave continues to

accrue during the maternity leave period and will be added to their entitlement for the leave year. Therefore the time when an employee is on maternity leave will count towards her continuous service for the purposes of qualifying for additional annual leave (ie the additional five days leave after five years service) and longer sick pay entitlement.

However, it should be noted that there is no provision for carry-forward of leave from one leave year to the next. Therefore dependent on the employee's individual leave year and the timing of the maternity leave, the employee may wish to convert part of the unpaid AML period to paid leave. For guidance on this, please speak to a member of the Human Resource Team.

## **6.5 Sickness Absence**

If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory / contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun OML. If, however, the employee is absent from work due to a pregnancy related illness after the beginning of the fourth week before her EWC, her maternity leave will start automatically.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the EWC, she must confirm this in writing as soon as reasonably practicable.

## **6.6 Pension Contributions**

During the employee's paid maternity leave she will continue to pay superannuation contributions on the actual maternity pay she has received (including statutory pay, contractual pay and any payment in respect of KIT days). The employer's contributions will be based on the employee's assumed pensionable pay, which will be calculated in accordance with the Local Government Pension Scheme rules.

No contributions will be payable by either the employee or the employer in any period of AML in which a woman receives no pay. Any period of unpaid AML will not count as membership unless an election is made to pay contributions for this period following return to work or resignation (see below).

When the employee returns to work, or equally if she resigns or is dismissed during or after the AML, she can pay the contributions relating to any period of unpaid maternity leave. If the employee wishes to buy back the amount of 'lost' pension in respect of the unpaid period of absence they can do so through an age related APC (Additional Pension Contribution) contract, either over a period of time or, if impracticable, Derbyshire County Council may determine that a lump sum is appropriate. If the employee elects to enter into an APC

contract within 30 days of returning from the leave, the cost will be split 1/3<sup>rd</sup> employee and 2/3<sup>rd</sup>s employer. If they elect for an APC contract after the 30 day period the full cost of the APC will be borne by the employee.

An employee's membership in the pension scheme is preserved while her contributions are payable. Therefore, employees in the Local Government Pension Scheme will have their continuity of membership preserved during OML and for any period of the AML in which they receive SMP and/or contractual maternity pay, or have entered into an APC contract for the unpaid period of absence.

## **6.7 Working Pattern**

Employees returning from maternity leave may request a variation to their working pattern, and should refer to the Council's Policies on Job-sharing, Carer's Leave and the Career Break Scheme. In addition, employees have a statutory right to apply for flexible working. Please refer to the separate policy on Flexible Working.

## **6.8 Less favourable treatment**

An employee who is treated less favourably on the grounds of their pregnancy or ordinary or additional maternity leave period, can make a claim for maternity-related discrimination.

# **7 HEALTH AND SAFETY**

The Authority owes their employees a duty of care. The Authority must therefore take adequate steps to protect their employee's health and safety whilst at work. There are various pieces of health and safety related employment legislation which address many aspects of this obligation.

In the field of maternity, there are a number of statutory obligations on employers regarding the health and safety of pregnant employees and those who are new mothers.

## **7.1 Stage One: Notification of Pregnancy**

Where an employee notifies the Authority that she is pregnant or a new mother, the particular risks that she faces specifically in her working environment as a result of her condition will have to be assessed.

### **Risk Assessment**

Under the Management of Health and Safety at Work Regulations, employers are required to make a suitable and sufficient assessment of

the health and safety risks to which their employees are exposed at work.

Where women of child bearing age are employed the risk assessment must take into account risks to new and expectant mothers.

The Health and Safety Adviser is available to be consulted in relation to pregnant workers and risk assessment. However, all managers have an important role to play as they will be more aware of any potential risks in their areas. The following are examples of the type of risks that can arise in the workplace.

- For pregnant women and women who have had a caesarean section, lifting heavy items can lead to injury.
- Physical fatigue from standing for long periods of time can lead to miscarriage.

Special consideration should be paid towards the higher risks incurred in early pregnancy when the foetus is in the early stages of formation eg of muscular – skeletal problems as well as the risks from chemical/pathogenic hazards.

Once the risk assessment has been carried out further action may be required to make sure that everything possible has been done to reduce or eliminate the risk.

## **7.2 Stage Two: Action Following Notification**

Appropriate steps should be taken as follows by the Health and Safety Adviser:

- Checks must be made to ensure that the preventative action identified as a result of the risk assessment has been undertaken. If the employee is still exposed to a risk that could jeopardise her health and safety after the identified action has been carried out, then her working conditions and hours of work should be temporarily adjusted, or if it is not reasonable to do this, or it would not avoid the risk, suitable work should be offered, if any is available.

### **Alternative work will be suitable if:**

- It is a kind which is suitable in relation to her and appropriate for her to do in the circumstances; and
- The terms and conditions applicable, if they differ from her normal conditions, are not substantially less favourable to her;

All measures taken must continue for as long as the risk exists.

If there is no suitable alternative work available, the employee must be suspended on full pay for as long as the risk remains or until the commencement of her maternity leave.

Managers play an important role in helping to identify the risks and in helping to adapt working arrangements if necessary.

Please contact Human Resources and/or the Health and Safety Adviser for advice if an employee informs management that she is pregnant, has recently given birth or is breast feeding.

It is important to review the assessment as risks can vary according to the stage of pregnancy and there are different risks for those who are breast feeding.

If the employee works in a manual job which involves lifting, ladder work, contact with hazardous substances or work that is particularly stressful, the Authority will give the employee every help and assistance to continue their job. At a later stage in the pregnancy, redeployment may be considered wherever practicable.

### **Display Screen Equipment**

DSE (display screen equipment) users who have concerns over their work will be given an opportunity to discuss any anxieties with their line manager. Consideration will be given to either reduce or eliminate the need for work at DSE should this be requested. There are no scientific or medical reasons to link DSE work with any risks to pregnancy.

### **Ante-Natal Care**

All pregnant employees are entitled to take a reasonable amount of paid time off work on medical advice to attend antenatal appointments. An employee can be asked to produce a medical certificate or appointment card, except in the case of her first request for time off.

Managers cannot ask employees to work additional hours to make up for any time spent at ante-natal appointments,

“Ante-natal care” includes doctors, midwives and hospital appointments. It can also include relaxation and exercise classes and parentcraft classes, where the appointment has been made on the advice of a registered midwife, doctor or health visitor.

The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

## **8 QUESTION AND ANSWERS**

### **8.1 What if the employee has more than one contract?**

The Authority aggregates its payment of National Insurance Contributions (NICs) for the employee, therefore the contracts of employment are effectively combined for SMP purposes and only one entitlement arises.

### **8.2 What are the employee's rights on returning to work?**

After a period of OML, the woman is entitled to return from leave to the job in which she was employed before her absence. This does include apprentices, provided that maternity leave ends before the conclusion of the apprenticeship contract.

After AML, the woman is entitled to return either to the job she was in before her absence or, if impracticable, the employer has the right to have her return to another job which is both suitable and appropriate for her in the circumstances.

### **8.3 What if the employee becomes pregnant again during maternity leave?**

It will be possible, although rare, for a woman to be able to take a further period of ordinary and additional maternity leave (if she was having another child) following on from a former period of ordinary and additional maternity leave. Identical provisions apply, and her right to return will be as it was after the first period of AML.

### **8.4 What happens if the employee is sick?**

If an employee notifies the Authority that she intends to return to work before the end of the 26 week period, and is unable to do so due to sickness or she returns and is subsequently absent due to sickness, she should receive SMP until the end of the 39 week period. This should be topped up with occupational sick pay, but the total should not exceed her normal pay. The employee's entitlement to occupational sick pay will depend on her length of service and the amount of sick leave already taken.

If an employee is unable to return to work at the end of the 52 week maternity leave period or on the date she has notified (if she intended to return early) due to illness she will be entitled to SSP as she will then be outside the Maternity Pay Period. This should be made up to full pay

with occupational sick pay, if eligible. The normal sickness provisions will apply from the date she was due to return.

### **8.5 What happens if the employee decides not to return to work?**

If the employee simply fails to turn up for work, her absence is unauthorised and should be dealt with as any other case of this nature, under the Council's Disciplinary Procedure if necessary. It is important to ensure that an employee is aware of the last day by which she must return.

If the employee no longer wishes to return to work, she will effectively be resigning and should notify the Council in accordance with her contractual obligations.

### **8.6 What is the difference between Parental Leave and Shared Parental Leave?**

**Parental Leave** Parental leave is for employees to take time off work to look after a child's welfare, is normally unpaid, and is available for each child up to their 18<sup>th</sup> birthday.

If the employee has completed one year's service with the Council, they are entitled to a total of 18 weeks unpaid parental leave for each child born or adopted. The leave can be taken in blocks of a week or multiples of a week, and may not be taken as odd days unless the child is disabled. No more than four weeks parental leave can be taken during a year. Please see separate policy on Parental Leave for more information.

**Shared parental leave** enables mothers to commit to ending their maternity leave and pay at a future 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 leave and opt in to shared parental leave and pay at a later date.

Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Council will have to accept the request as long as eligibility and notice requirements are met), or as a number of separate blocks of leave (in which case the employee needs the Council's agreement to this). Please see separate policy on Shared Parental Leave for full information.

### **8.7 What should an employee do if she feels she is being treated differently because she is pregnant and intends to take maternity leave?**

Employees have a right not to suffer any harassment, intimidation or detriment on the grounds of pregnancy, childbirth or maternity leave.

Employees who are treated less favourably can bring a claim for maternity-related discrimination. Employees should discuss this with a member of the Human Resource Team and/or their Trade Union Representative who will advise on their rights.

**8.8 What happens if an employee changes her mind about returning to work, or does not complete the three months after receiving half pay under the Occupational Maternity Pay scheme?**

If she does not return for three months she must repay the 12 weeks half pay (but not the SMP) as determined by the Authority. However, the longer she returns to work the less she will have to repay.

If the employee simply fails to turn up for work, her absence is unauthorised and should be dealt with as any other case of this nature.

**8.9 What happens if the baby dies, or if the employee miscarries?**

If the baby dies or is still-born after 24 weeks pregnancy the Scheme applies. Where miscarriage occurs before 24 weeks, sympathetic consideration will be given to the circumstances and as necessary special leave or sick leave will be considered. The decision will be based upon the needs of the employee and medical opinion.

**8.10 What can the employee do to ensure a healthy lifestyle?**

During the first three months of your pregnancy, working may be difficult particularly if you are feeling sick and tired. You should make maximum use of lunchtime periods to rest but if you feel the need to rest at some other time explain this to your supervisor or manager.

In general – employees wanting specific advice on diet/exercise, smoking, alcohol and drugs should consult their GP or other relevant health care professional.

**8.11 How will the employee's maternity pay be paid?**

Maternity pay is usually paid in the same way as wages/salary.

**8.12 What about pay awards?**

Any pay award will be reflected in the calculation of maternity pay. Employees are entitled to backdated awards.

**8.13 Will the employee's grade be affected?**

Maternity leave will not affect job grade, employees are entitled to return to exactly the same grade as before they left. Unless for reasons of redundancy or reorganisation it is not possible or practicable for employees to return to their own job following maternity

leave, they will normally return to the job they are contracted to on terms and conditions not less favourable than had they not been absent.

**8.14 What happens if the employee is part way through post-entry training?**

If an employee is part way through a Post Entry Training course when she goes on maternity leave then she will not be required to continue attendance. However, should she wish to do so she may continue on a voluntary basis but she will not be eligible to claim travelling and subsistence expenses. The two year repayment clause will be waived automatically.

-----

**North East Derbyshire District Council**

# **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.

## Appendix D

North East Derbyshire District Council

# Parental Leave Provisions

(July 2015)



## CONTROL SHEET FOR PARENTAL LEAVE PROVISIONS

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Parental Leave Provisions
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)	

## PARENTAL LEAVE PROVISIONS

Parental Leave is for employees to take time off work to look after a child's welfare. This leave is on an unpaid basis, and is available for each child up to their 18<sup>th</sup> birthday.

**Parental Leave should not be confused with Shared Parental Leave which is a new entitlement for eligible parents of children due to be born or adopted on or after 5 April 2015 (see separate policy and procedures document).**

### Entitlement

Parental leave of 18 weeks shall be granted to employees with one year's continuous service, who have or are expecting to have parental responsibility for a child (ie they must be the parent:

- named on the child's birth certificate OR
- named on the child's adoption certificate OR
- with legal parental responsibility for a child under 18.)

The Authority will also make parental leave available to foster parents, who do not currently fall under the legal definition.

### Notice

- Every attempt must be made by the employee to give as much notice as possible with a minimum of 21 days' notice in writing before the day on which s/he proposes to take the leave.
- 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 notice should be given as soon as possible, eg if a child is born prematurely or where less than 21 days notice is given that a child is to be placed for adoption.
- As long as the employee qualifies for parental leave and gives the correct notice, it should be possible to take this leave at any time.
- Parental leave may be granted to employees who have not given the required notice in special circumstances at the discretion of the Head of Service. Such discretion shall not be unreasonably withheld.

### Postponement

An employer can only postpone parental leave if they have a good business reason for doing so, for example seasonal production, another member of staff is off or the staff absence would harm the business. Parental leave can be postponed for up to 6 months but can not be postponed so that the leave ends after the child's 18th birthday.

Every attempt will be made by the Head of Service to avoid postponement. In any event, leave shall not normally be postponed for more than three months except in exceptional circumstances. Postponement will not be used in the following circumstances:

- Following maternity support leave
- Following maternity/adoption leave

In the event that postponement becomes an option, the Head of Service will undertake a consultation exercise with the Employee and their Trade Union representative (if applicable) with a view to coming to agreement over alternatives. These could include:

- A different pattern of leave – e.g. part time rather than full time
- A shorter or longer period of leave
- Alternative dates within the period

Where there is no agreement, the Head of Service will permit the employee to take a period of leave of the same duration and beginning on a date determined in consultation with the employee no later than three months after the originally notified start date.

Following consultation, and not more than seven days after the employee's notice was given to the Head of Service, the Head of Service shall give the employee notice in writing of the postponement, stating the reasons for it and specifying the date on which the agreed period of leave will begin and end.

Parental leave should be taken in blocks of a week, or multiples of a week and should not be taken as 'odd' days off, unless this is agreed for exceptional reasons. Employees cannot take off more than four weeks during a year.

#### Return

Employees on parental leave shall have the same right to return to their job as provided to those on maternity leave

#### Terms and conditions during parental leave

- Time taken as parental leave shall be treated as continuous service for the purpose of Part 2 Paragraph 14 of the Terms and Conditions of Service.
- Employees who fall sick during a period of parental leave and who give the Authority the relevant notification shall be entitled to pay under the sickness scheme and this period shall not count towards their parental leave entitlement for the period covered by the Fit Note from their doctor.

## Appendix E

North East Derbyshire District Council

# Shared Parental Leave Policy and Procedures

(July 2015)



**CONTROL SHEET FOR SHARED PARENTAL LEAVE**

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Shared Parental 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)	

## Shared Parental Leave Policy and Procedure

Shared Parental Leave is a legal entitlement for eligible parents of babies due, or children placed for adoption, on or after 5 April 2015. It provides both parents with the opportunity to consider the best arrangement to care for their child during the child's first year.

### Scope

This policy applies in relation to employees of the Council, whether they are the mother/adopter (see definition below) or the partner. If it is the mother who is employed by the Council, her partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place.

Similarly, if it is the partner who is employed by the organisation, the mother must (where relevant) submit any notifications to take shared parental leave to her own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

### Introduction

This policy sets out the rights of employees to shared parental leave and pay. Shared parental leave enables parents to share the caring responsibilities evenly or have one parent taking the main caring role, depending on their preferences and circumstances. Unlike maternity / adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit three notices booking periods of leave. Please note, the mother can share her leave with only **one** other person.

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave.

As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, they should clarify the relevant procedures with a member of the HR and Payroll team.

### Definitions

The following definitions are used in this policy:

SPL: Shared Parental Leave

'Mother' means the mother or expectant mother of the child, or the adopter (the adopter means the person who is eligible for adoption leave and/or pay. They can be male or female).

'Partner' means the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. This includes someone, of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

'EWC' means 'expected week of childbirth' and in this context means the week, beginning with midnight between Saturday and Sunday, in which it is expected that the baby will be born or the child placed for adoption.

'NEI' means Notice of Entitlement and Intention

The vast majority of employees who will be eligible for, and who will apply for, shared parental leave and/or pay will be birth parents, and therefore the references within this policy will refer to birth parents. However, the same principles apply to employees who are adopting and the intended parents in a surrogacy arrangement where they are applying for a parental order and are eligible for adoption leave and pay. Therefore, references to 'birth' will also apply to 'placement'; references to maternity leave or pay will also apply to adoption leave and pay; pregnancy to adoption etc

### **Amount of shared parental leave available**

The amount of shared parental leave to which an individual is entitled will depend on when the mother brings her maternity leave period to an end and the amount of leave that the other parent takes in respect of the child. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Council is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the Council's agreement). A maximum of three requests of leave per pregnancy can normally be made by each parent.

The maximum period that parents could take as shared parental leave is 50 weeks between them, although it will normally be less than this because of any maternity leave that a mother takes before the birth.

The mother's partner can begin a period of shared parental leave at any time from the date of the child's birth, but the partner should bear in mind that he/she is entitled to take up to two weeks' ordinary paternity leave following the birth, which will be lost if shared parental leave is taken first. The mother and partner must take any shared parental leave within 52 weeks of the birth or placement.

### **Eligibility for shared parental leave**

For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

#### *Mother's eligibility for shared parental leave*

The mother is eligible for shared parental leave if she:

- Has at least 26 weeks' continuous employment ending with the 15<sup>th</sup> week before the EWC (OR at the week in which notification of matching was given by the adoption agency); and
- Remains in continuous employment with the Council until the week before any period of shared parental leave;
- Has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- Is entitled to statutory maternity leave, in respect of the child;
- Complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave) and shared parental leave notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, the partner must:

- Have been employed, or been a self-employed earner, in at least 26 of the 66 weeks immediately preceding the EWC;
- Have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks; and
- Have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

#### *Partner's eligibility for shared parental leave*

The partner is eligible for shared parental leave if he/she:

- Has at least 26 weeks' continuous employment ending with the 15<sup>th</sup> week before the EWC (OR at the week in which notification of matching was given by the adoption agency); and
- Remains in continuous employment with the Council until the week before any period of shared parental leave;
- Has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- Complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, the mother must:

- Have been employed or been a self employed earner during at least 26 of the 66 weeks immediately preceding the EWC;
- Have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks;
- Have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- Be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- Comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

## Notice requirements for shared parental leave

The notices that the parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:

- A 'maternity leave curtailment notice' from the mother setting out when she proposes to end her maternity leave (unless the mother has already returned to work from maternity leave);
- A 'notice of entitlement and intention' from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting; and
- A 'period of leave notice' from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

The notice periods set out below are the minimum required by law. However, the earlier the employee informs the Council of his/her intentions, the more likely it is that the organisation will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.

Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time.

### *Mother's notice curtailing maternity leave*

Before the mother or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave (by giving the required eight weeks' notice of her planned return) or provide the Council with a maternity leave curtailment notice. This notice must be in writing and state the date on which maternity leave is to end. That date must be:

- After the compulsory maternity leave period, which is the two weeks after birth;
- At least eight weeks after the date on which the mother submits the maternity leave curtailment notice to the Council
- At least one week before what would be the end of the additional maternity leave period.

The mother must provide her maternity leave curtailment notice at the same time she provides either her notice of entitlement and intention or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention (see relevant paragraph below).

### *Revocation of maternity leave curtailment notice*

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- It is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- The maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- The partner has died.

*Employee's notice of entitlement and intention (NEI)*

The employee, whether the mother or the partner, must provide the Council with a non-binding notice of entitlement and intention. This must be in writing, and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee. It should contain the following information:

If the employee is the mother, the NEI must set out:

- The mother's name
- The partner's name
- The start and end dates of any statutory maternity leave taken or to be taken by the mother;
- The total amount of shared parental leave available;
- The child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
- How much shared parental leave the mother and partner each intend to take; and
- A non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's NEI must also include a declaration signed by her that:

- She satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- The information she gives in the NEI is accurate; and
- She will immediately inform the Council if she ceases to care for the child.

In addition, the mother's NEI must include a declaration signed by her partner:

- Specifying the partner's name, address and national insurance number (or declaring that the partner does not have a national insurance number);
- Declaring that the partner satisfies, or will satisfy, the conditions set out above (see mother's eligibility for SPL);
- Declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;

- Declaring that the partner consents to the amount of leave that the mother intends to take; and
- Declaring that the partner consents to the Council processing the information in the partner's declaration.

If the employee is the partner, the partner's NEI must set out:

- The partner's name;
- The mother's name
- The start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
- The total amount of SPL available;
- The child's EWC and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of SPL to be taken by the partner);
- How much SPL the partner and mother each intend to take; and
- A non-binding indication as to when the partner intends to take SPL (including the start and end dates for each period of leave).

The partner's NEI must include a declaration signed by the partner that:

- He/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- The information given by the partner in the NEI is accurate; and
- He/she will immediately inform the organisation if he/she ceases to care for the child or if the mother informs him/her that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, the partner's NEI must include a declaration signed by the mother:

- Specifying the mother's name, address and national insurance number (or declaring that the mother does not have a national insurance number);
- Declaring that the mother satisfies, or will satisfy, the conditions set out above (see Partner's eligibility for SPL) and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- Declaring that the mother consents to the amount of leave that the partner intends to take;
- Declaring that she will immediately inform the Council if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
- Declaring that the mother consents to the Council processing the information in the mother's declaration.

Within 14 days of receiving an NEI from the employee, whether the mother or partner, the Council can request from the employee;

- A copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth – if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
- The name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the information to the Council.

#### *Variation or cancellation of notice of entitlement and intention*

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of an NEI, provided that he/she does this in writing. The written notice must contain:

- An indication as to when the employee intends to take SPL (including the start and end dates for each period of leave);
- Details of any periods of SPL that have been notified through a period of leave notice;
- Details of any periods of statutory shared parental pay that have been notified in relation to periods where SPL was not to be taken; and
- A declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

#### *Employee's period of leave notice*

To take a period of shared parental leave, the employee must provide the Council with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of SPL requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

#### *Variation or cancellation of period of leave notice*

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides the Council with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- Vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- Request that a continuous period of leave become discontinuous periods of leave; or

- Request that discontinuous periods of leave become a continuous period of leave.

#### *Limit on number of requests for leave*

The employee can provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy.

#### **Continuous period of shared parental leave**

If the employee submits a period of leave notice requesting one continuous period of leave, they will be entitled to take that period of leave.

#### **Discontinuous periods of shared parental leave**

The employee may submit a period of leave notice requesting discontinuous periods of leave. The Council will respond within two weeks and will either:

- Consent to the pattern of leave requested;
- Propose an alternative pattern of leave; or
- Refuse the pattern of leave requested.

If agreement is not reached within the two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify the Council of that date within five days of the end of the two-week discussion period, and if they do not do so then the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if the Council has refused the request, or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15<sup>th</sup> day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

#### **Shared Parental Pay**

- If an employee meets the qualification criteria they will be entitled to a maximum of 37 weeks shared parental pay between them (NB this excludes the 2 weeks compulsory maternity leave immediately following childbirth and any maternity leave taken prior to the birth).
- Shared parental pay is at a nationally fixed standard weekly rate equivalent to SMP or 90% of the employee's normal weekly earnings if they earn less than this.
- It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

### *Eligibility for statutory shared parental pay*

Both the mother and partner are eligible for statutory shared parental pay if they meet the criteria for statutory shared parental leave (see above), and if the mother is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced. In addition they must also:

- have normal weekly earnings for a period of eight weeks ending with the 15<sup>th</sup> week before the EWC of at least the lower earnings limit for national insurance contribution purposes;
- be absent from work and intend to care for the child during each week in which they receive statutory shared parental pay.

### **Rights during shared parental leave**

During shared parental leave, all terms and conditions of the employee's contract, except normal pay, will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible to receive this.

Whilst this means that holidays will continue to accrue when an employee is off on SPL, please note that carry-forward of untaken leave from one leave year to the next is not permitted so this should be taken into consideration when applying for SPL.

### **Contact during SPL**

The Council reserves the right to maintain reasonable contact with employees during SPL. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

An employee can agree to work for the Council (or to attend training) for up to 20 days during SPL without that work bringing the period of SPL and pay to an end. These are known as 'shared parental leave in touch (SPLIT) days'.

The Council has no right to require employees to carry out any work, and employees have no right to undertake any work, during their SPL. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, will be a matter of agreement between the employee and the Council. If you are entitled to receive statutory shared parental pay for any week during which you attend work for SPLIT days, you will still receive this in the usual way. In addition, the employee will be paid for each hour that they work during a SPLIT day at their normal hourly rate.

### **Returning to work following SPL**

The employee has the right to resume working in the same job when returning to work from SPL if the period of leave, when added to any other period of SPL, SML or SPL taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from SPL and the period of leave taken is more than 26 weeks when added to any other period of SPL, SML or SPL taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same

job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the organisation to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

## **SMOKEFREE POLICY**

### **1. Introduction**

It is a well known and scientifically proven fact that exposure to second hand smoke, also known as passive smoking, increases the risk of lung cancer, heart disease and other illnesses. Ventilation or segregating smokers in the same airspace as non-smokers does not completely eliminate potentially dangerous exposure.

Since the introduction of electronic cigarettes there has been little research into the possible side effects and ongoing effects of using electronic cigarettes as an alternative to cigarettes. For this reason electronic cigarettes will be treated in the same way as cigarettes by the Council and for the purpose of this policy.

### **2. Aims of the Policy**

The Council recognises that exposure to second hand smoke has an adverse effect on the health of employees, workers, service users, customers and visitors.

This Policy Statement has been prepared and seeks to:-

- make arrangements which will protect persons employed by or having business with the Council from exposure to second hand smoke, and
- assist compliance with the Health Act 2006.

### **3. Policy Statement**

It is the policy of the Council that:-

- all workplaces under the Council's control are smoke free and
- the Council's image and reputation are protected and
- that all employees have a right to a smoke free environment.

The original policy came into effect on 1<sup>st</sup> October 2007. This revised version of the policy includes the addition of electronic cigarettes. The following rules will apply.

- Smoking and the use of electronic cigarettes is prohibited in all Council controlled workplaces with no

exceptions. This includes council vehicles.

The policy applies to all employees, elected members, workers, contractors, customers, and visitors.

- Smoking and the use of electronic cigarettes will not be permitted in Council grounds, except in designated areas, where appropriate.

The Council will introduce guidance to limit employee exposure to second hand smoke from clients/ members of the public, the following steps will be taken.

- Ask any service users or clients who are visited regularly not to smoke for a certain period prior to any pre-arranged visit and during a visit. The client should also be asked to ensure that no-one living in the house with them smokes.
- If people do smoke, ask that they limit their smoking to rooms where people will not be working and open windows in rooms where people are working to help clear secondhand smoke.
- Identify employees who have a pre-existing condition that is made worse by exposure to tobacco smoke, such as asthma, COPD and cardiovascular disease or who face additional risks e.g. due to pregnancy. Employees who have such conditions are at higher risk and particular care should be taken to prevent or minimise their exposure to tobacco smoke.
- Ensure that no employee is expected to make consecutive visits, or even a sequence of visits, to houses in which they are likely to be exposed to tobacco smoke.
- Smoking is permitted outside the workplace and outside working hours, i.e. before/after work or during breaks. Employees on flexi time may be permitted to take smoking breaks, subject to the requirement to 'clock/swipe' out. However this is at the discretion of the manager, and is subject to the needs of the service.
- Employees are prohibited from smoking within 5 metres of any Council workplace.

#### **4. Implementation**

Overall responsibility for the implementation of this policy rests with Line Managers.

All employees are expected to co-operate in the implementation of the policy.

The policy shall be included in the Employee Handbook/Intranet.

Line managers shall ensure that all new employees are made aware of the requirements of the policy.

Appropriate signs relating to smoking restrictions shall be displayed in all premises and vehicles.

Tender documents shall include reference to the policy requirements where appropriate.

## **5. Non-Compliance**

Disciplinary action will be taken against any employee failing to comply with the policy.

Any visitor seen to be smoking or using electronic cigarettes at any premises will be advised of the policy and asked to extinguish/put away smoking materials and/or electronic cigarettes.

Any contractor seen to be smoking or using electronic cigarettes at any premise shall be reminded of the contractual conditions verbally and in writing.

All persons attending Council premises need to be aware of the requirement to comply with the policy and that non-compliance will be a breach of the Health Act 2006 and therefore a criminal offence.

Private Dwellings: smokers will be requested to refrain from smoking during visits from Council employees and that, if people insist on smoking in the presence of Council employees, the visit will be ended and they will be asked to attend a Council office.

## **6. Policy Review**

This policy shall be reviewed as necessary and will be subject to change to take account of any operational or legislative requirements.

September 2013