



ADUR & WORTHING
COUNCILS

(OLD) LEAVE POLICY

The sections previously in this policy covering the following are now detailed in the new Leave Policy available on the Intranet:

- *Annual leave*
- *Compassionate leave*
- *Study leave*
- *Career breaks*
- *Other paid leave*
- *Other unpaid leave*

Time off for volunteering is now detailed in the Volunteering policy and study leave will be included in the new Learning and Development Policy.

MATERNITY AND PATERNITY LEAVE

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Scope

This policy applies to all employees of the Council.

Policy to be reviewed

The Work Life Balance Policy will be kept up to date in line with any new legislation and is relevant to the needs of the councils and its employees. The Councils reserve the right to alter or add to the policy from time to time, as appropriate.

Legislative Framework

The Councils will work within the existing legislative framework which includes abiding by the:

- The Working Time Directive 1998
- Health and Safety at Work Act 1974.
- Employment Protection Act 1975
- Human Rights Act 1998
- Part time workers Regulations 2000
- Employment Rights Act 1996
- Employment Act 2002
- Work and Families Act 2006
- Equalities Act 2010

Maternity leave

There are statutory provisions relating to maternity leave and pay for all pregnant employees, regardless of their length of service or hours per week that they work. These are set out in detail in Part 2 of the National Agreement on Pay and Conditions of Service for Local Government staff (the "Green Book") and are also contained in the statement of conditions of service employees receive on joining the council (see Appendix One).

Pension Regulations whilst on Maternity Leave

Employees who contribute to the local government pension scheme should read carefully the Maternity Scheme.

Maternity Support/Paternity Leave

Employees are entitled to two weeks paid leave in order to care for an expectant mother at or around the time of birth, regardless of their length of service.

- The two weeks will be paid at 90% pay or the current statutory amounts whichever is the highest.

Leave will be granted provided that the employee is the person nominated by the expectant mother as the primary provider of support at or around the time of birth. In most cases, this will be the expectant mother's husband or partner, but otherwise will be a close relative or someone who has a caring relationship with the mother and child.

To apply for maternity support leave employees are asked to complete the application form and enclose a clear photocopy of the expectant mother's certificate of expected confinement (MAT B1). Certain details are requested on the form so that the council is able to monitor the use of this leave scheme. Section 2 of the form needs to be completed by the expectant mother.

Obviously, you may not know the exact date that the leave will need to be taken, as in most cases this will depend on when the baby is born. However, employees need to submit the form to their Executive Head as early as possible but no later than 15 weeks before the expected date of childbirth so that the line manager knows that the employee will be absent around that time.

The employee must take all the leave within 56 days of the birth of the child. This leave can only be taken in a 1 week or 2 week block (not as 2 one week blocks or individual days).

Further details of the scheme, together with an application form, are available from Human Resources.

Additional Paternity Leave

Changes in legislation with effect from 03 April 2011 will entitle employees to Additional Paternity Leave. This is a minimum of two weeks and maximum of 26 weeks which can be taken when the baby is 20 weeks old and before the baby is one year old which must be taken in a single continuous blocks in multiples of a week. Full details of these entitlements including pay will be issued in due course. Full details are in Appendix Two.

Adoption leave and Pay

Adoption Leave

This is the leave that parents who adopt children take during the period up to adopting the child/children, and subsequently.

If the employee has had less than 26 weeks continuous local government service by the date they are notified of a new match with a child they will not be entitled to adoption leave.

If the employee has had at least 26 weeks of continuous local government service (ending with the week the employee is notified by the adoption agency of the new

match) they will be entitled to 26 weeks of ordinary adoption leave (OAL) and 26 weeks additional adoption leave (AAL), a total of 52 weeks.

"New match" means that adoption leave does not apply to adoption by existing foster carers or stepfamilies.

Statutory Adoption Pay

The employee will normally be entitled to Statutory Adoption Pay (SAP) for up to 39 weeks. If your average weekly earnings are £97 or more (before tax), Statutory Adoption Pay is paid at £124.88 or 90 per cent of your average weekly earnings if this is less.

Notification

To start the leave period employees must give notice in writing to their Executive Head within 7 days of being notified of the new match by the adoption agency.

To be entitled to Statutory Adoption Pay the employee must notify the Executive Head in writing at least 28 days before they want the SAP to be paid.

Adoption Leave can start up to 14 days before the date of the placement.

Employees must also provide a copy of the adoption certificate within three months of the adoption.

If the employee wishes to return within the agreed adoption leave period they must write to the Executive Head at least 56 days before they expect to return.

Parental leave

Parental leave is for parents, adoptive parents, legal guardians and stepparents to care for their children.

If an employee has a baby, adopts a child or becomes a legal guardian or stepparent of a child and they have completed one year's continuous service with the Council they are entitled to take up to 13 weeks unpaid leave for each child, to be taken up until the child is five. With effect from 1st April 2015 this entitlement is extended until the child is eighteen.

If the child is disabled (in receipt of disability living allowance) then this right lasts until the child is 18 years old.

If the child has been adopted, the right lasts until five years from the date of placement for adoption or until the child reaches the age of 18, whichever is the earlier.

On applying for parental leave, the employee must produce a copy of the child's birth certificate. If this does not show proof of parental responsibility the employee may be required to produce further evidence e.g. adoption papers.

Parental leave must be taken in blocks of at least one week up to a maximum of four weeks per child in any one year. Any part weeks that are taken count as a week's parental leave, except for parents of disabled children who can take blocks of one day. The council is flexible as to how the leave should be taken, whether as a single block or as variable blocks over the first five years of the child's life.

The timing of leave will be granted at the discretion of the relevant Executive Head taking into account the needs of the employee and operational requirements.

An employee is required to give his/her Executive Head at least 21 days written notice requesting parental leave. This must include the dates the leave will begin and end.

Shared Parental Leave

Shared parental leave is a type of leave that is available to parents and adoptive parents with babies due on or after 5 April 2015. 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 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.

Full details can be found in the shared parental Leave Policy

Appendix One

Introduction

Maternity Scheme

Information for pregnant employees

This document explains entitlement, which you may have in accordance with the council maternity scheme. This scheme applies to all pregnant employees.

The scheme applies to all pregnant employees regardless of the number of hours worked per week.

The scheme complies with rights you may have under the Employment Protection (Consolidation) Act, the Trade Union Reform and Employment Rights Act, the Employment Act 2002 and the Work and Families Act 2006. Nothing in the provisions provides less favourable rights than statutory rights. The details below have also been incorporated into the terms and conditions of employment for local government staff, the Green Book.

Definitions

A weeks pay:

- Means where there are normal working hours, this is the amount payable under your current contract of employment for a normal week's work.
- Where there are no normal working hours, this is an average week's pay worked out from the previous 12 weeks preceding the date on which the last complete week ended, although not counting any week for which you received no pay.

Expected date of childbirth

- Childbirth is defined as the birth of a living child, or the birth of a child whether living or stillborn after 24 weeks of pregnancy. The expected date of childbirth (EDC) is the date which your GP or midwife calculates that your baby is due.
- The expected week of childbirth (EWC) is the week, starting on a Sunday and ending on a Saturday in which the expected date of childbirth falls.

Continuous local government service

- In general this is service with any local authority where you have had no breaks in service or breaks between different contracts of employment. If you are not sure whether your service is continuous or not, please seek advice from Human Resources.

Maternity Leave

All employees are entitled to Ordinary Maternity Leave (OML) of 26 weeks.

All employees are also entitled to take Additional Maternity Leave (AML) of 26 weeks, which will follow on from your Ordinary Maternity Leave, a total of 52 weeks maternity leave.

Maternity leave shall commence no earlier than 11 weeks before the EWC or from the time of the childbirth if that is earlier. However, if your manager has any concerns about your medical fitness to work beyond the 11th week before the EWC, this will be discussed with you and you may be asked to obtain a medical certificate to show whether you are fit to work.

It is a legal requirement that you must take maternity leave during the two weeks after your confinement.

Sickness absence that is pregnancy related that occurs at or after the 4th week before the EWC will act as an automatic commencement of maternity leave.

Notification requirements

Using form MAT/L2 you should notify your Executive Head at least 15 weeks before your absence begins (or as soon as reasonably practicable) that you are pregnant, giving your expected date of confinement supported by a certificate of expected confinement MAT B1, issued by your GP or midwife, and stating the date that you wish to start your maternity leave.

Within 28 days of receipt of form MAT/L2, Human Resources will write to you stating your expected date of return from maternity leave, should you take your full entitlement.

Maternity Pay

Payments to employees who have less than one year's continuous local government service at the beginning of the 11th week before the EWC:

Shall be the employee's entitlement to Statutory Maternity Pay (SMP), if eligible.

Depending upon your weekly earnings and the statutory qualifying conditions you may be entitled to SMP. If so, you will be entitled to a maximum of 39 weeks SMP, which will be paid during your 26 weeks OML and for 13 weeks of your AML. This will be paid to you by the Payroll Section. SMP will cease if you return to work before the end of the 39 week period.

If you do not qualify for SMP you may be entitled to a Maternity Allowance (MA) from the Benefits Agency. The Payroll Section will issue you with form SMP1 that you should take to your local Benefits Agency office.

Payments for employees who have completed one year's continuous local government service by the 11th week before the EWC:

Shall be as follows:

- For the first six weeks of absence you shall be entitled to 9/10th of a weeks' pay.
- If you state in writing that you intend to return to work you will receive the subsequent 12 weeks at half pay (plus SMP) without deduction unless the combined amount of pay and benefits exceeds your normal full pay.
- Alternatively the 12 weeks OMP can be paid on any other mutually agreed distribution, over the paid maternity leave period.
- For the remaining 21 weeks of your paid maternity leave period you will receive only SMP, if you are eligible.
- You must return to local authority employment for a period of at least three months, unless the council decides you have a good reason not to do so. The Strategic Director will make this decision in conjunction with your Executive Head of Service.
- In the event of you not returning for at least three months as planned and there being no accepted good cause then you will need to refund the monies paid by the council. Payments made to you by way of SMP are not refundable.
- If you are not intending to return to work after your maternity leave then payments after the first six weeks shall be 33 weeks of your entitlement to SMP only, if you are eligible.
- There is a further entitlement to 13 weeks Additional Maternity Leave, which is unpaid.

Temporary contract information

If you are on a temporary contract which expires whilst you are on maternity leave and providing the post is still required in the section, you have the right to have your contract extended. If it is not required or funding no longer exists, your temporary contract will come to an end. If you are unsure about your specific circumstances you should contact Human Resources.

Right to return to work

You are entitled to return to the job you were employed to do before you went on maternity leave. On your return you are entitled to terms and conditions no less favourable than if you had not been absent.

Where it is not practical by reason of redundancy for the council to permit you to return to the same job then you are entitled to be offered a suitable alternative vacancy where one exists.

If you wish to return to work before the end of the Ordinary Maternity Leave period then you must notify the council in writing at least 28 days before the day you propose to return.

If you wish to return before the end of the Additional Maternity Leave period you must notify the council in writing at least 56 days before the day you propose to return.

You do not need to notify a date of return if this is either the Ordinary Maternity Leave period or the Additional Maternity Leave period as this date will be worked out in advance and will be recorded on form MAT/L2.

If you are unable to return to work on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

If you are unable to return to work on the expected day because of an interruption of work (whether due to industrial action or some other reason that would make it unreasonable to expect you to do so) then you may return when work resumes, or as soon as reasonably practicable thereafter.

Keeping in touch days

Employees may, by agreement with their line manager, do up to 10 days' work known as 'keeping in touch days' (KIT days) under their contract of employment during their maternity leave period.

You may work for up to 10 days without bringing your maternity leave to an end or losing your SMP or MA. You can work during ordinary or additional maternity leave but you cannot work during the two weeks of compulsory maternity leave immediately after the birth.

KIT days can be used for any work-related activity including training, conferences or meetings. Working for part of one day will count as one KIT day work.

Employees will be paid at their normal hourly rate of pay (for each hour worked), which will be offset against any SMP that is due.

As your employer, the Council can also make reasonable contact with you during your leave, for example, to discuss your return to work.

Relationship to sickness and annual leave

Maternity leave is not treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement of sickness leave/pay.

OML and AML shall be regarded as continuous service for the purposes of the council's sickness, maternity and annual leave schemes.

Annual leave, and bank holidays, continue to accrue during both Ordinary and Additional Maternity Leave.

If you take OML either with or without AML and you return to work in a new annual leave year then you will only be allowed to carry forward 5 days annual leave. The rest of the annual leave will be paid to you, through Payroll, so that you do not have an excessive amount of accrued leave to take on your return to work.

Relationship to pension regulations

If you do contribute to the local government pension scheme then for the whole period of the OML you must pay pension contributions. Your contributions will be based on the actual remuneration (including SMP) that you receive.

If you take AML, 13 weeks of which is unpaid, you have a choice whether or not to pay pension contributions for the period of the unpaid leave. The Payroll Section will write to you at the appropriate time asking you to notify the council of your decision.

For the remaining 13 weeks of AML, pension contributions are based on the actual remuneration you receive immediately before the previous 13 week AML period.

If you choose not to pay pension contributions for the remaining 13 weeks AML period this period will not count as service for pension purposes.

All pregnant employees

All pregnant employees have the right to paid time off to attend antenatal care, provided that the doctor or midwife has advised such care. If you request such time off, your manager may ask to see your appointment card as confirmation of your visit, although this would not be necessary for your first visit.

Consideration will be given to any health and safety implications if you are pregnant or breast feeding, identified by a risk assessment by your line manager. Further information is available in the policy and guidance booklet *New and Expectant Mothers*.

If any other medical or welfare problems arise during your pregnancy or maternity leave, advice or help can be obtained from your manager. Confidential advice may also be obtained from Human Resources staff or the Corporate and Public Safety Manager.

Appendix 2

Paternity Leave

Introduction

This document explains entitlements, which you may have in accordance with the Council's paternity leave scheme. This scheme sets out the statutory rights and responsibilities of employees who wish to take paternity leave. It applies to all employees whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child and that child is born on or after 03 April 2011.

Ordinary Paternity Leave

2.1 Ordinary Paternity Leave Entitlements

- Two weeks ordinary paternity leave at or around the time of birth regardless of length of service with the Council
- This leave must be taken in a single block of one or two week (not as individual days or 2 one week blocks).
- Ordinary paternity leave must be taken within 56 days (eight weeks) of the birth of the child

Ordinary paternity leave is granted in addition to an employee's normal annual leave entitlement.

Eligibility criteria

To qualify for Ordinary Paternity leave you must:

- be the baby's biological father, or married to or in a civil partnership with the mother, or living with the mother in an enduring relationship, but not be an immediate relative;
- have or expect to have responsibility for the upbringing of the child;
- be making the request to help care for the child or to support the child's mother.

Notification requirements

Obviously, you may not know the exact date you will need to take leave, as in most cases this will depend on when they baby is born. However, you will need to:

- request in writing using appendix 1 as early as possible but no later than 15 weeks before the expected date of confinement (as shown on the MAT B1 certificate).
- Section 1 of the form to be completed by you with a clear photocopy of the MAT B1.

- Section 2 of the form is to be completed by the expectant mother.
- The completed form must be sent to your Executive Head of Service.

2.4 Ordinary Paternity Leave Pay

- Up to two weeks will be paid at 90% of pay or £128.73 per week, whichever is the highest.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Additional Paternity Leave

3.1 Additional Paternity Leave Entitlements

- Up to 26 weeks additional paternity leave within the first year of the child's life provided that the mother has returned to work
- The earliest that additional paternity leave can commence is 20 weeks after the child's birth.
- Additional paternity leave must end on or before the child's first birthday.
- This leave must be taken as a single block of complete weeks.
- The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks.
- Leave will commence on a chosen start date which will be specified in the leave notice (see notification requirements).
- Annual leave and bank holiday entitlements continue to accrue during ordinary and additional paternity leave.

You are encouraged to take any outstanding annual leave due to you before the commencement of additional paternity leave. Employees are reminded that holiday must be taken in the year that it is earned and therefore if the holiday year is due to end during additional paternity leave, you will only be allowed to carry forward five days annual leave. The rest of the annual leave will be paid to you so that you do not have an excessive amount accrued leave to take on your return to work.

3.2 Eligibility Criteria

To qualify for Additional Paternity Leave you must satisfy all of the points below:

- You must be the baby's biological father, or married to or in a civil partnership with the mother, or living with the mother in an enduring relationship, but not be an immediate relative;
- You must have or expect to have responsibility for the upbringing of the child (apart from the mother's responsibility);
- You must be taking the leave to care for the child;

- You must have a minimum of 26 weeks service with this Council by the end of the 15th week before the expected date of confinement (as detailed on the MAT B1 certificate) i.e by week 25 of pregnancy;
- You must remain in continuous employment with the Council until the week before the additional paternity leave commences;
- The mother must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance;
- The mother must have returned to work.

3.3 Notification requirements

You will need to:

- Request in writing by completing and submitting Appendix 2 as early as possible but no later than 8 weeks before you intend the additional paternity leave and statutory paternity pay (if applicable) to commence

All items on the form must be completed as this information is required by law and additional paternity leave and pay cannot be granted without it.

At the same time the mother will need to:

- Complete and submit Appendix 3 which confirms personal details and information relating to maternity leave being taken and intention to return to the workplace.

All items on the form must be completed as this information is required by law and additional paternity leave and pay cannot be granted without it.

- Both forms must be signed and passed to your Executive Head of Service or such person as they delegate / determine.

In some cases the Council may need and therefore request from you, the name and business address of the mother's employer and a copy of the child's birth certificate. This must be supplied within 28 days of the request.

If, once your request for Additional Paternity Leave has been granted, you need to bring forward, postpone or cancel the date of commencement you must advise Human Resources in writing as soon as possible but no less than six weeks before the new start date.

Human Resources will respond in writing to a notification of additional paternity leave plans within 28 days confirming relevant start and end dates of additional paternity leave.

3.4 Additional Statutory Paternity Pay

- Is £128.73 per week, or 90% of your average weekly earnings, if this figure is lower.

You are entitled to statutory paternity pay if:

- You have given proper notification and you meet all of the eligibility criteria detailed above;
- the mother has at least two weeks of her maternity pay period that remains unexpired.
- your average weekly earnings for the period of eight weeks ending with the relevant week are not less than the lower earning limit for national insurance contributions.

Statutory paternity pay is payable whether or not you intend to return to work after your additional paternity leave.

3.5 Keeping in touch days

You may, by agreement with your Manager, do up to 10 day's work now as 'keeping in touch days' (KIT days) under your contract of employment during additional paternity leave.

You can work for up to 10 days without bringing your additional paternity leave or pay to an end. KIT days can be used for any work-related activity including training, conferences or meetings.

Working for part of one day will count as one KIT day worked. You will be paid at your normal hourly rate of pay (for each hour worked), which will be offset against any Statutory Paternity Pay that is due.

The council reserves the right to maintain reasonable contact with you from time to time during additional paternity leave. This may be to discuss your plans for return to work, discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

3.6 Returning to work after Additional Paternity Leave

You are entitled to return to the job you were employed to do before you went on ordinary or additional paternity leave. On your return you are entitled to the same terms and conditions of employment as if you had not been absent.

You will have been advised in writing by the Council of the end date of your additional paternity leave and you are expected to return on the next working day after this date.

If you are unable to return to work on the expected day due to sickness the absence will be covered by the Sickness Absence Policy in the normal way. If you are unable

to return to work on the expected day because of an interruption to work (whether due to industrial action or some other reason that would make it unreasonable to expect you to do so) then you may return when work resumes, or as soon as reasonably practicable thereafter.

If you wish to return to work earlier than the expected return date you must notify Human Resources in writing at least six weeks before the date of your early return. If you decide not to return to work after additional paternity leave, you must give notice as soon as possible and in accordance with the terms and conditions of your employment.

Signed:

Date:

Alex Bailey, Chief Executive

Signed:

Date:

UNISON