



Human Resources

Time Off Policy

July 2018



Time Off Policy

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1. INTRODUCTION

This policy outlines all of the Council's time off arrangements:

- [Annual Leave](#)
- [Special Leave](#) (including compassionate leave)
- [Maternity Leave](#)
- [Paternity Leave](#)
- [Adoption Leave](#)
- [Parental Leave](#)

Details relating to flexi time and time off in lieu are contained within the Council's Flexible Working policy.

2. ANNUAL LEAVE

Not only employees, but also casual workers (who may or may not be employees) and agency workers are entitled to annual leave. However, the Council has a policy of contracting a minimum of agency and casual workers and their annual leave situation will depend on the circumstances, therefore this policy refers to Employees only throughout.

All requests for **Annual Leave** have to be considered in the context of the needs of the service and must be approved in advance by the line manager. If managers believe that the service could be adversely affected by granting a leave request, then the manager will discuss this with the employee to try to reach an acceptable alternative. If the employee takes time off intended as annual leave but without authorisation, the employee will generally be considered to absent without leave.

An employee will receive a pro-rata amount of **Annual Leave** up to their last day of employment with the Council.

The leave year runs from the employee's anniversary start date.

2.1 Annual Leave Table

This table provides a quick and easy way to calculate your **Annual Leave**.

Less than 5 years' service	5 years or more Local Govt. Service (any Local Authority)	Plus Brent Additional Leave			
		+ Extra Statutory (All Staff)	Brent Long Service + where applicable		
			5 yrs	or 10 yrs	or 15 yrs
22	25	4	1	2	3

2.2 Full-time employees

Employees on NJC Conditions of Service who are **full time** without continuous local government service are entitled to a minimum of 22 days Annual Leave, plus 4 extra statutory days determined by the Council in a leave year.

Annual Leave entitlement will be increased to 29 days (25 + 4) after five years' continuous local government service. In the first year this will be a pro rata amount based on the number of months remaining in the leave year rounded to the nearest full day.

Additionally, a day's leave after the fifth, tenth and fifteenth year of continuous service with Brent Council will be granted. Brent related service days are based on completed years of service at the start of the anniversary leave year. Accordingly in the leave year following five years of service at Brent, employees will be granted 30 days' leave.

The first twenty days of annual leave taken, excluding days taken off as bank holidays, comprise the employee's statutory entitlement as provided by the European Working Time Directive ("Directive Leave").

2.3 Part-time Employees and Employees Working Condensed Hours

Employees who work part-time are entitled to the same leave entitlement as full-time employees, on a pro-rata basis.

Annual Leave will normally be calculated in hours for employees who do not work the same hours every day and employees working condensed hours.

A part-time employee will receive a pro-rata amount of bank holidays, which will normally be added to the **Annual Leave** entitlement. Leave must be booked if a working day falls on a bank holiday.

Employees working condensed hours have the bank holiday entitlement added to their **Annual Leave** entitlement and are required to book the number of hours they would normally work as **Annual Leave** when a bank holiday falls on their working day.

If a bank holiday coincides with a non-working day, there is no requirement to book leave.

Workers who work on a casual basis have their **Annual Leave** paid as a proportion of their hourly rate.

Example of Leave Calculation for Employees Working Part Time Hours

The following is an example of how annual leave is calculated based on a 36 hour week and 26 days **Annual Leave** for full time employees.

An employee working 18 hours per week has an **Annual Leave** entitlement of 13 days, calculated as follows:

Full time leave entitlement 26 + 8 Bank Holidays*

= 34 days multiplied by 7.2 (hours) – the number of hours worked daily if working full time.

= 244.8 - divided by 36 (hours), the full-time working week.

= 6.8 - multiplied by 18, - the part-time hours worked by the employee.
= **122.4 hours Annual Leave entitlement (leave is calculated and booked in hours)**

As this entitlement already includes a pro-rata amount of leave for bank holidays, employees will be required to book leave when a bank holiday falls on their working day.

2.4 Hay Contracts

Employees on Hay contracts are entitled to 32 days annual leave.

2.5 Carry-over of Leave

At the end of the anniversary leave year up to five days **Annual Leave** can be carried over. Anything carried over above five days should be exceptional and subject to agreement of the Head of Service. This must be taken before the end of the following leave year.

2.6 Annual Leave and Sickness Absence

If an employee has pre-booked annual leave prior to the sickness absence they can take the **Annual Leave** provided they can demonstrate they are fit to return to work on the first day of the pre-booked **Annual Leave**. The normal medical certification arrangements will apply.

If an employee becomes unwell during a period of Annual Leave they should call their line manager on the first day of sickness. To reclaim **Annual Leave** due to sickness an employee must provide a fit for work certificate regardless of the number of days. This applies whether the leave has been taken at home or abroad.

An employee may take annual leave whilst on sick leave if they wish, but cannot be compelled to do so.

An employee who is absent for reasons of sickness will continue to accrue their Working Time Directive Leave, i.e. first 20 days of annual leave. If the employee has accrued that amount of annual leave (before going on sick leave), no more leave is accrued. When the employee returns to work, the remainder of their contractual annual leave continues to accrue at the contractual rate.

If an employee has not taken annual leave because they have been on sick leave, they are able to carry over their accrued Working Time Directive Leave to the following year. Accordingly, if an employee is on sick for the entire year and is on sick leave at the end of the anniversary leave year, they will have been unable to take any of their Working Time Directive Leave and will therefore carry over 20 days of annual leave.

The following example illustrates how annual leave is accrued when an employee is absent due to sickness:

If an employee with 26 days annual leave entitlement is at work for 6 months, they will have accrued 13 days annual leave, all of which is Working Time Directive Leave. If they are then on sick leave for 6 months they will only accrue the 20 days Working Time

Directive Leave. From those 20 days must be deducted the number of days leave they took prior to their absence; the remainder can be carried over to the following

year.

If an employee returns from sick leave having accrued a large amount of leave, if practicable their manager may require them to take that annual leave in a manner such that only five days remain at the end of the anniversary leave year to be carried over to the next leave year.

2.7 Bank Holidays

There are eight bank holidays each year as follows:

Good Friday	Summer Bank Holiday
Easter Monday	Christmas Day
May Bank Holiday	Boxing Day
Spring Bank Holiday	New Year's Day

3. EMPLOYMENT BREAK

Subject to the needs of the service, employees may take a break in employment (without pay and benefits) of up to three months to look after family, a friend, to travel, do voluntary work or undertake full time education or training.

The eligibility criteria are:

- Employees should have no less than two years' service with the council at the time the break is due to commence.
- Access to those provisions will be discretionary and will depend on operational and service requirements.
- An employment break should not commence when long term sickness, capability or disciplinary issues (where informal or formal) are pending or ongoing.
- There is no limit on the number of employment breaks an employee may request.

However, there should be a period of no less than two years between each one.

- Employees will need to gain the agreement of their line manager/service unit manager to the proposed employment break.

4. SPECIAL LEAVE

The Council acknowledges that staff may on occasions require **Special Leave** from work to deal with personal or other important matters. All requests will be considered on their merit and where appropriate the Council will respond reasonably to accommodate such requests taking into account service needs.

Special Leave for categories A and B with or without pay should not exceed 10 days in any 12 month period other than in very exceptional circumstances.

Special Leave for Category C should not exceed 10 days in total in any 12 month period with the exception of Jury Service.

Special leave will not be deducted from annual leave. Employees who take special leave will still be entitled to carry over up to five days of annual leave per annum.

4.1 Special Leave for Compassionate and Medical Reasons (Category A)

Special Leave for compassionate reasons includes, but is not limited to:

- the death, serious injury or illness of a dependent or partner/spouse, child, parent, or sibling - in these cases the full 10 day entitlement of special leave will be awarded;
- attending funeral or memorial service for other family members or for a close friend;
- dealing with a domestic emergency, for example where the home was damaged by fire, flood or burglary;
- caring for a dependent who becomes ill and cannot be reasonably left alone; □ Facilitating fostering or adoption arrangements.
- Undergoing a course of necessary medical treatment as recommended by a GP or other qualified medical specialist, including for treatments related to a known disability. Gender reassignment treatments and associated procedures including hair removal and speech therapy are also included.

4.2 Special Leave for Employment Related Education or Professional Development (Category B)

Special Leave for employment related education reasons includes, but is not limited to:

- Attending training courses or post-entry training;
- Studying (half a day per examination paper) and sitting exams (where special limits apply) for approved courses;
- Overseas study tours (requires approval of Chief Executive). Approval by exception and where it can be demonstrated there is benefit to the council for attendance.

4.3 Special Leave for Public Duties (Category C)

The provision of Special Leave with pay or without pay for public duties is set out against each activity listed below and the total leave granted across all activities will not exceed 10 days in any 12 month period (with the exclusion of jury service and justice of the peace).

- Jury Service - Where requested to attend court as a juror, employees will be granted time off to attend. Where the release of an employee for jury service raises major staffing or operational problems, assistance will be provided to the employee in order to apply to the court to defer the jury service
- A Certificate of Loss of Earnings/Benefit from the Court Service must be completed and submitted to Payroll.
- Where employees on jury service are released by 11am, the employee must work for the remainder of the day.
- *Service in non-regular armed forces* - up to 10 working days leave per annum;
- *Justices of the Peace* – justice of the peace are required to be in court for at least 13 days or 26 half days per annum. Any additional leave granted above 10 days will be unpaid. Employees can claim for loss of earnings where the leave granted is unpaid;
- Time off for Special Constables – up to 10 working days leave per annum. Where the release of an employee is likely to cause particular difficulties for service delivery, leave may be declined and the employee required to select alternative dates.

- *Time off for public bodies/civic duties meetings* - up to 10 working days, or the equivalent in hours, leave per annum;
- *School governors* – 1 day per term.

Relocation

Where an employee is required by the Council to relocate in order to take up their employment, **one working day's** leave is allowed.

4.4 Special Unpaid Leave

Discretionary unpaid leave may also be agreed to allow employees periods of extended leave. Advice should be sought from Human Resources and extended leave will require the approval of the relevant Operational Director and will not in any circumstances exceed three months unpaid leave.

5. MATERNITY LEAVE

Council employees are entitled to 26 weeks' **Ordinary Maternity Leave** followed by 26 weeks' **Additional Maternity Leave**, giving a total of 52 weeks' continuous leave.

From April 2015, employees will be entitled to curtail their maternity leave and take **Shared Parental Leave** with their partner or the father of the child. This applies to any employee whose due date is on or after 5 April 2015. See 7.1-7.3 below.

Maternity Leave will begin no earlier than 11 weeks before the expected week of childbirth (EWC), or from the day following childbirth if that is earlier.

Payments for employees who have less than one year's continuous local government service at the beginning of the 11th week before EWC shall be the employee's entitlement to Statutory Maternity Pay (**SMP**) where eligible. Employees who have completed not less than one year's continuous service will receive enhanced maternity payments.

Ordinary Maternity Leave, Additional Maternity Leave and Shared Parental Leave will be regarded as continuous service for the purposes of the National Joint Council's sickness and **maternity schemes and Annual Leave**.

An employee may choose not to take the full 52 weeks leave, but is required to take 2 weeks' maternity leave following childbirth. Eligible employees may also choose not to take the full 52 weeks and opt for **Shared Parental Leave**. See more details in 7.1- 3 below.

5.1 Statutory Maternity Pay (SMP)

Employees meeting the criteria below will receive **SMP**, paid by the Council. Employees who do not meet these criteria may be eligible to claim Maternity Allowance, which is a state benefit and not paid through the Council payroll.

An employee who:

- has at least 26 weeks continuous service with the Council continuing into the 15th week before the expected week of childbirth. The 15th week is known as the qualifying week;
- has average earnings above the NI lower earnings limit, during the eight weeks (two months) up to and including the qualifying week;

- is still pregnant in the 11th week before the week her baby is due or who has given birth by this time;
- gives **28 days' notice** (to the line manager) of the expected date for the start of **SMP**. If this is not reasonably practicable, the notice must be given as soon as reasonably practicable. The notice must be in writing if the line manager requests it;
- gives the Council medical evidence (usually a **Form MAT B1**) showing the expected week of childbirth. This medical evidence must be given to the Council by the end of the third week of the maternity pay period, although the time limit can be extended if there is good reason for the delay to the end of the thirteenth week of the maternity pay period. The Council cannot start paying **SMP** until it has the certificate and the employee has stopped working.

All employees who satisfy these conditions qualify for **SMP**, even if they do not intend to return to work after the baby is born. The only exception is an employee who resigns voluntarily from her job for a reason unconnected with her pregnancy after the start of the qualifying week, but before **Maternity Leave** starts.

5.2 Payment of **SMP**

SMP cannot start earlier than the 11th week before the expected week of childbirth,

unless the baby is born before the 11th week, but a woman has some flexibility as to exactly when it does start.

A woman will not lose any week of **SMP** even if she works up to the date her baby is born, provided her **SMP** period has not started. The latest date the maternity pay period can start is the week immediately following the week in which she gave birth.

A woman who is absent due to a pregnancy related reason (or childbirth) from the fourth week before the expected week of childbirth will be transferred into her **SMP** period and will not be able to get Statutory Sick Pay (**SSP**). Her **SMP** period will start on the day after the first day of that absence.

Premature births – if a woman's baby is born before she has notified the Council of when she is starting her maternity pay period, or before the notified date, her 26 week maternity pay period will begin the day following the date the childbirth actually occurred.

Stillbirths – **SMP** is paid to a woman who gives birth to a stillborn child after 24 weeks of pregnancy (i.e. from week 16 before the expected week of childbirth).

Babies who die shortly after birth – if a woman's baby survives only for an instant it is always treated as a live birth, and **SMP** is payable.

Miscarriages – if a woman suffers a miscarriage before the 24th week of pregnancy, **SMP** is not payable. A woman in this situation should receive any relevant sick pay entitlement.

No **SSP** can be paid to a woman during her maternity pay period, even if she is not in receipt of **SMP**. Where occupational sick pay is payable she should receive this in the ordinary way. **SMP** can be offset against occupational sick pay.

5.3 Occupational Maternity Pay for Employees with Not Less than One Year's Service Employees Who Intend to Return to Work

Occupational Maternity pay is payable to an employee provided that:

- She has completed the maternity leave form confirming her return.

Under these circumstances, she is entitled to:

- For the first **six weeks of absence**: 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is due. This is inclusive of **SMP** where eligible; (or 9/10th SMP whichever is higher)
- For the next **12 weeks of absence**: half contractual pay plus **SMP** where eligible, except where combined pay and **SMP** exceeds full pay
- After the first 18 weeks SMP only will be paid up to 39 weeks or whenever the employee decides to return to work.
- The above payments will also apply to employees who chose to take Shared Parental Leave, who have not less than one year's service and intend to return to work.

Employees who do not return to work for a minimum of three months immediately following maternity leave will be required to repay the 12 weeks half-pay. Payments made to the employee by way of **SMP** are not refundable.

Employees who do not intend to return to work

An employee who confirms that she does not intend to return to work as defined above, or who is undecided, is entitled to:

- Six weeks' at 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is due. This is inclusive of **SMP** where eligible;
- 33 weeks' **SMP** at the lower rate where eligible.
- The above rates will also be applicable to those employees who meet the same criteria but wish to take Shared Parental Leave.

If the employee decides to return to work the following criteria must be met to receive the enhanced maternity payments:

- Return to work must be immediately after the end of the maternity leave;
 - Return must be for a period of at least 13 weeks.

At the end of the qualifying period payment of the difference between the maternity pay the employee has already received, and the maternity pay as outlined above for employees who confirmed their intention to return to work, will be made.

5.4 Annual Leave

Annual Leave will accrue during the whole period of maternity leave and should be taken within the leave year. **Annual Leave** of up to 5 days may be carried forward to the next year in accordance with section 2.5 above.

In exceptional circumstances, following prior agreement from the Head of Service, additional leave may be carried forward.

5.5 Health and Wellbeing Ante-natal care

Employees are entitled to be given paid time off to attend ante-natal care (provided in respect of the second and subsequent appointments she produces evidence of the appointment, if requested to do so).

Health and Safety

The Council will provide suitable facilities for pregnant women and nursing mothers to rest and will carry out suitable and sufficient risk assessments of the health and safety at work of new and expectant mothers and their babies, and women of childbearing age where the work may involve risk to the woman or to the baby.

If the risk cannot be avoided, the Council will alter the employee's working conditions or hours of work if it is reasonable to do so and if such measures would avoid the risk.

A pregnant employee has the right to:

- request alternative work for the duration of her pregnancy where the working conditions are, or become, hazardous to her health. In such cases, she will be expected to return to her normal duties at the completion of the pregnancy and/or her return from **Maternity Leave**;
- immediate transfer (to equivalent alternative work), or to paid leave, if her work puts her in unavoidable contact with a reportable disease(s).

5.6 Keeping in Touch (KIT) Days

KIT days are intended to facilitate a smooth return to work for women returning from **Maternity Leave**. Before going on leave, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** during the employee's **Maternity Leave**. Up to ten days may be agreed for which payment will be made for the actual hours worked. Payment will not affect **SMP**.

5.7 Pension

During any period of paid **Maternity Leave** or additional paid **Maternity Leave** (including any period during which only **SMP** is payable) a member of the Local Government Pension Scheme (LGPS) must pay pension contributions on the pay actually received. The period of service will count as normal for pension purposes i.e. as if the employee had been at work.

Equally during any period of unpaid **Additional Maternity Leave** the unpaid period will not count for pension purposes unless the employee makes an election for it to count.

Such an election will have to be made within the period of 30 days, starting with the date the employee returns to work or ceases to be employed (if earlier). If the election is made the employee will have to pay pension contributions for the unpaid period based on the pay they were entitled to receive on the day before the unpaid period began.

5.8 Right to Return to Work

Employees are entitled to return to their job with the Council at the end of **Maternity Leave**. Where redundancy makes it impractical for the Council to allow her to return to her job, the employee is entitled to be offered a suitable alternative vacancy **where one exists**.

An employee loses her right to return if and when her contract of employment with the Council ends. An employee who has indicated she does not intend to work at the end of her **Maternity Leave** is still entitled to return to her original job in the absence of her giving clear notice of resignation.

5.9 Exercising the Right to Return to Work

An employee must notify the Council in writing, if requested, at least 21 days before the day on which she proposes to return, if this is before the end of the **Maternity Leave** period. Where the notice given is less than 21 days the Council may postpone the return to ensure 21 days' notice, but not beyond the end of the **Maternity Leave** period.

If an employee changes her mind about the day she proposes to return, she must give her line manager 21 days' notice of the new date, if this is **earlier** than the original date she notified. If she now proposes to return **later** than the original date, she must give notice of the new return date 21 days before the original return date.

Where an employee does not return to work at the end of her **Maternity Leave** period, she will be treated like any other employee who does not return after authorised leave.

If, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect the employee to return on the due date, she may return when work resumes, or as soon as reasonably practicable thereafter.

The employee will be able to apply using the statutory right to apply for flexible working.

5.10 Sickness Leave

Maternity Leave will not be treated as sick leave and will not be taken into account when calculating the period of entitlement to sickness leave.

5.11 A week's pay

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

5.12 Role and Responsibilities Employees

An employee must notify her line manager at least 28 days before her absence begins

or as soon as is reasonably practicable:

- that she is pregnant;
- of the expected week of childbirth; of the date of the beginning of her absence.
- If she plans to take Shared Parental Leave.

The employee has the right to change her mind about when her **Maternity Leave** starts, provided she gives notice at least 28 days before the date originally notified or before the new start date, whichever is the earlier. Where this is not reasonably practicable, notice of the start date must be given as soon as possible. Where an employee wishes to take Shared Parental Leave, 52 days' notice must be given. See below for more details.

If childbirth occurs before the planned date of absence, Maternity Leave will begin on the day after the date of the birth. The employee must notify her line manager in writing of the date of childbirth and produce a certificate from a registered medical practitioner or a registered midwife.

The employee must remain absent from work if certified medically unfit to do so and produce evidence of ante-natal appointments, if requested.

The Council's recognised trade unions have agreed that, wherever possible, employees should give more notice than set out in the NJC conditions of service in order to help the Council arrange temporary cover for **Maternity Leave**, and to give adequate notice to temporary staff.

Line Managers

Line managers are responsible for informing pregnant women of their maternity rights. Within 28 days of receipt of initial notification, line managers must write to the employee informing her of the last day of **Maternity Leave** and the expected date of return.

Line managers must, on the production of evidence of appointments, allow employees reasonable paid off-time to attend ante-natal clinics, and to take **Maternity Leave, Shared Parental Leave** and the pay to which she is entitled.

If an employee intends to return to work earlier than the due date, and fails to give 21 days' written notice of early return, the line manager may postpone the return date to ensure the 21 days' notice. This postponement may not be extended beyond the due date.

Where a line manager has received notice of the start date of **Maternity Leave and/or Shared Parental Leave**, they must write to the employee within 28 days of receiving the notice stating her expected date of return from **Maternity/SP Leave** if she takes her full entitlement to **Maternity Leave**. Where the employee has exercised her right to change her mind about when she wants to start her leave, the line manager must write to the employee within 28 days of the start of the **Maternity Leave**.

The line manager must inform their HR Manager, Senior Employee Relations officer and payroll of the expected maternity start date and any Shared Parental Leave dates, in order for the correct pay to be processed.

6. ADOPTION LEAVE

Eligible council employees who adopt a child from 5 April 2015 onwards are entitled to 26 weeks' **Ordinary Adoption Leave** as well as any entitlements from Shared Parental Leave. Additional Adoption Leave is no longer available for adoption placements which begin on or after 5 April 2015.

Main adopters are also entitled for paid leave to cover up to five adoption appointments before the final placement. Secondary adopters are entitled to paid leave to cover up to two pre-adoption appointments before the final placement.

Eligibility

6.1 Statutory Adoption Leave

To qualify for Statutory Adoption Leave, you must:

- be an employee
- give the [correct notice](#)
- give [proof of the adoption](#) to HR

From April 2015, Statutory Adoption Leave will legally become a 'day one' right, and employees will therefore not need to have worked for the council for 26 continuous weeks before being eligible (although this is still a requirement for Statutory Adoption Pay). This applies to any adoption placement which begins on or after 5 April 2015.

The leave period may commence up to 14 days before the expected date of placement; on the placement date; or one day later if working on the placement date.

Adoption leave applies to one member of a couple where a couple adopt jointly (the couple must choose which partner is the 'main adopter' and if/how they wish to distribute their Shared Parental Leave).

6.2 Statutory Adoption Pay (SAP)

During **Adoption Leave** employees will be entitled to **SAP**, which will be paid for up to 39 weeks providing:

- they have average weekly earnings not less than the lower earnings limit for national insurance purposes;
- have been continuously employed for **a minimum of 26 weeks** ending with the week in which notification of the adoptive match occurs; □ provide evidence of the adoption.

For these purposes normal weekly earnings are calculated by reference to a period which ends on the nearest pay day before the first day of the week after the week in which the adopter is notified of having been matched with the child for adoption. The calculation period begins on the last pay day which is at least eight weeks prior to the end date.

For those who meet the eligibility criteria above, **SAP** commences on the day **Adoption Leave** begins and continues for 39 weeks, unless an employee returns to work sooner.

6.3 Occupational Adoption Pay for Employees with not less than one year's Service

Occupational Adoption Pay is payable to an employee with not less than one year's service who has confirmed that they intend to return to work after the birth of their child, provided that:

- they have completed the adoption leave form confirming their return;
- they provide evidence of the adoption.

Under these circumstances, the employee is entitled to:

- For the first **six weeks of absence**: 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is adopted. This is inclusive of **SAP** where eligible;
- For the next **12 weeks of absence**: half contractual pay plus **SAP** where eligible, except where combined pay and **SAP** exceeds full pay
- After the first 18 weeks **SAP** will be paid up to 39 weeks or whenever the employee decides to return to work.

Adoption Pay is paid as normal salary would be, with NI, tax and pension deducted. All other terms and conditions remain the same.

For employees who choose to curtail their Adoption Leave in order to take Shared Parental Leave, they will be entitled to Shared Parental Pay which is equal to the rate of **SAP** and paid in the same way. For more details, see 7.3 below.

For employees who have average weekly earnings below the lower earnings limit for NI contributions, and do not qualify for **SAP**, additional support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. For further advice employees should contact their Social Security office or Jobcentre Plus office.

Annual Leave

Annual leave will accrue during the whole period of **Adoption Leave** and should be taken within the leave year. Annual leave up to 5 days may be carried forward to the next year in accordance with the Council's Annual Leave Policy.

6.4 Keeping in Touch (KIT) Days

KIT days are intended to facilitate a smooth return to work from **Adoption Leave**. Before going on leave, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** during the employee's **Adoption Leave**. Up to ten days may be agreed for which payment will be made for the actual hours worked. Payment will not affect **SAP**.

6.5 Pension

During any period of paid adoption leave (**SAP**) an employee who is a member of the Local Government Pension Scheme (LGPS) must pay pension contributions on the pay actually received. The period of service will count as normal for pension purposes i.e. as if the employee had been at work.

Equally during any period of unpaid **Adoption Leave** the unpaid period will not count for pension purposes unless the employee makes an election for it to count. Such an election will have to be made within the period of 30 days starting with the date the employee returns to work or ceases to be employed (if earlier). If the election is made the employee will have to pay pension contributions for the unpaid period based on the pay they were entitled to receive on the day before the unpaid period began.

6.6 Returning to Work

If an employee does not specify when they intend to return to work, the Council will assume they are taking 52 weeks' leave. An employee is required to give six

weeks' notice if they wish to change the date of their return to work.

An employee has the right, where possible, to return to the same job providing it is practical to do so. If not, an employee may be offered suitable alternative employment (**subject to availability of a suitable post**) and will be consulted in line with Council policy and procedure. Reasons why an employee may not be able to return to their original job would include reorganisation for business reasons leading to redundancy.

An employee loses the right to return if and when the contract of employment with the Council ends. An employee who has indicated they do not intend to work at the end of **Adoption Leave** is still entitled to return to their original job in the absence of giving clear notice of resignation.

6.7 A week's pay

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

6.8 Role and Responsibilities Employees

Adoption Leave requests should be submitted to the line manager at least 28 days before the chosen date for the start of the leave, or as soon as practical afterwards. Any changes in the starting date for the leave or **SAP** should be notified as soon as possible and at least 28 days in advance where practical.

To access **SAP**, employees must provide evidence of the adoption.

Employees should specify when they intend to return to work, or the council will assume they are taking the full 52 weeks leave allowance.

Line Managers

Line managers are responsible for informing adoptive parents of their adoption leave and SPL rights. Within 28 days of receipt of initial notification, line managers must write to the employee informing them of the last day of **Adoption Leave/SPL** and the expected date of return.

Where a line manager has received notice of the start date of **Adoption Leave**, they must write to the employee within 28 days of receiving the notice stating their expected date of return from **Adoption Leave** if the employee takes their full entitlement to **Adoption Leave**. Where the employee has exercised their right to change their mind about when they want to start their leave, the line manager must write to the employee within 28 days of the start of the **Adoption Leave**.

The line manager must inform their HR Manager, Senior Employee Relations officer and payroll of the expected **Adoption Leave** start date, in order for the **SAP** pay to be processed.

Before leave begins, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** days during the employee's **Adoption Leave**.

7. PATERNITY LEAVE

To be entitled to statutory **Paternity Leave** and pay an employee must have, or expect to have, responsibility for the child's upbringing. They must also have average weekly earnings of at least the lower earnings limit for National Insurance purposes and have been continuously employed for a minimum of 26 weeks either:

- by the end of the fifteenth week before the child's expected week of birth, or
- by the end of the week in which the child's adopter is notified of having been matched with the child for adoption.

In order to be entitled to Statutory Paternity Pay (**SPP**), the employee should be one or more of the following:

- Father of the child
- Spouse of the child's mother
- Civil partner of the child's mother
- Partner of the child's mother/partner of child's adopter
- One of a couple jointly adopting a child.

Male and female employees may qualify for Statutory Paternity Leave or Pay if they meet the eligibility criteria above. Leave should be taken to support the mother/main adopter and/or child during the first 56 days following the birth/placement.

7.1 Ordinary Paternity Leave and Pay

Employees are entitled to **three weeks Paternity Leave** (which is on full pay inclusive of **SPP**). Leave should generally be taken in one week blocks and can be consecutive. Employees should give their line manager 6 weeks notice of their intention to take **Ordinary Paternity Leave**, which must begin in the first 8 weeks after the birth and be taken within the first 12 weeks after the birth.

7.2 Shared Parental Leave

For babies born or adopted on or after 5 April 2015, fathers or spouses/civil partners of the mother of the child are no longer entitled to Additional Parental Leave, but may instead be eligible for Shared Parental Leave (and Pay). For more details, see Shared Parental Leave in section 7 below.

7.3 Annual Leave

Annual leave will accrue during the whole period of **Paternity Leave** and should be taken within the leave year. Annual leave up to five days may be carried forward to the next leave year in accordance with section 2.5 of this policy.

7.4 Keeping in Touch (KIT) Days

KIT (KIT) days are intended to facilitate a smooth return to work from **Paternity Leave**. Before going on leave, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** during the employee's **Paternity Leave**. Up to ten days may be agreed for which payment will be made for the actual hours worked. Payment will not affect **SAP**.

7.5 Pension

During any period of paid **Paternity Leave** a member of the Local Government Pension Scheme (LGPS) must pay pension contributions on the pay actually received. The period of service will count as normal for pension purposes i.e. as if the employee had been at work.

Equally during any period of unpaid **Shared Parental Leave** the unpaid period will not count for pension purposes unless the employee makes an election for it to count. Such an election will have to be made within the period of 30 days starting with the date the employee returns to work or ceases to be employed (if earlier). If the election is made the employee will have to pay pension contributions for the unpaid period based on the pay they were entitled to receive on the day before the unpaid period began.

7.6 Returning to Work

Employees are entitled to return to their job with the Council at the end of **Additional Paternity Leave or Shared Parental Leave**. Where redundancy makes it impractical for the Council to allow the employee to return to the same job the employee is entitled to be offered a suitable alternative vacancy **where one exists**.

An employee loses the right to return if and when the contract of employment with the council ends. An employee who has indicated they do not intend to work at the end of **Paternity Leave** is still entitled to return to their original job in the absence of giving clear notice of resignation.

An employee must notify the Council in writing of the end date of their **Additional Paternity Leave or Shared Parental Leave period(s)**. The employee is expected to return on the next working day after this date, unless they notify the Council otherwise.

If the employee wishes to return to work earlier than the expected return date, they must give the Council at least six weeks' notice of their date of early return, preferably in writing. If they fail to do so, the Council may postpone their return to such a date as will give the Council six weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after **Additional Paternity Leave or Shared Parental Leave**, they must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment. If the notice period would expire after **Additional Paternity Leave or Shared Parental Leave** has ended, the Council may require the employee to return to work for the remainder of the notice period.

7.7 A week's pay

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

7.8 Roles and Responsibilities Employees

Employees should give 6 weeks' notice of their intention to take ordinary **Paternity Leave** or 8 weeks' notice for any period of **Shared Parental Leave** and should include:

- The date the baby is expected
- The date the leave will commence
- Indicate if it is the intention to take the leave as consecutive weeks.

Employees should adhere to the Council's rules regarding giving notice of intention to return to work.

Line Managers

Line managers are responsible for informing applicants of their paternity rights. Within 8 days of receipt of initial notification, line managers must write to the employee informing them of their last day of **Paternity Leave** and the expected date of return. Where a line manager has received notice of the start date of **Paternity Leave**, they must write to the employee within 28 days of receiving the notice stating their expected date of return from **Paternity Leave** if the employee takes their full entitlement to **Paternity Leave**. Where the employee has exercised their right to change their mind about when they want to start their leave, the line manager must write to the employee within 28 days of the start of the **Paternity Leave**.

If an employee intends to return to work earlier than the due date, and fails to give 21 days' written notice of early return, the line manager may postpone the return date to ensure the 21 days' notice. This postponement may not be extended beyond the due date.

The line manager must inform their HR Manager, Senior Employee Relations officer and payroll of the expected **Paternity Leave** start date, in order for the paternity pay to be processed.

Before leave begins, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** days during the employee's **Paternity Leave**.

8. SHARED PARENTAL LEAVE

The Shared Parental Leave Regulations 2014 allow any employee whose baby's due date or adoption placement date is on or after 5 April 2015 to take **Shared Parental Leave** with their partner. Eligible mothers, fathers, adopters and their

partners can choose to be on leave concurrently and/or to take it in turns to have periods of parental leave, up to a maximum of 52 weeks. This includes the two obligatory weeks a mother must take immediately following the birth of her baby.

8.1 Eligibility

To qualify, the mother or adopter must be entitled to, and have given notice to curtail their, maternity or adoption entitlements (as detailed in 4 and 5 above) and must share the main responsibility for caring for the child with the child's father or their partner. For a parent to be eligible to take Shared Parental Leave they must be an employee and they must pass the continuity of employment test. In turn, the other parent in the family must meet the employment and earnings test, even if they are not a council employee.

- Continuity of employment test: the person must have worked for the council for at least 26 weeks at the end of the 15th week before the week in which the child is due (or at the week in which an adopter was notified of having been matched with a child or adoption) and still be employed in the first week that Shared Parental Leave is to be taken.
- Employment and earnings test: the person must have worked for at least 26 weeks in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold of £30 week in 13 of the 66 weeks.

If only one parent in a couple is entitled to Shared Parental Leave, they may use this to book their leave in separate blocks.

Employees who wish to use shared parental leave must decide when they will curtail their maternity/adoption leave and how they will divide their remaining entitlement between themselves and their partner.

They must then provide their manager with a notice of entitlement to take **Shared Parental Leave**. The notice must be given at least eight weeks before the start of a period of Shared Parental Leave and must include:

- their partner's name
- maternity/adoption leave start and end dates
- the total amount of Shared Parental Leave and Shared Parental Pay available and how much they and their partner intend to take
- that they're sharing childcare responsibility with their partner. It must also include a signed declaration from the partner stating:
- their name, address and National Insurance number
- that they satisfy the qualifying requirements for a council employee to take Shared Parental Leave and Shared Parental Pay
- that they agree to their partner/spouse/mother of child taking Shared Parental Leave and Shared Parental Pay.

For **Shared Parental Leave** to start, the mother or adopter must do one of the following:

- end their maternity or adoption leave by returning to work give the council 'binding notice' (a decision that can't normally be changed) of the date when they'll end their maternity or adoption leave
- end maternity pay or Maternity Allowance (if not entitled to maternity leave, e.g. agency workers)

A mother cannot return to work before the end of the compulsory 2 weeks of maternity leave following the birth.

Any notice booking **Shared Parental Leave** must be given at least eight weeks (56 days) before the leave is due to start. This is the case for both mothers/adopters and their partners.

Fathers and/or partners of mothers or adopters who are entitled to request **Shared Parental Leave** from the council and must also give at least 8 weeks (56 days) notice to the council.

8.2 Division of leave

Each eligible parent is entitled to give up to three separate notices booking or varying leave. An employee may take shared leave as one continuous block, or as discontinuous leave blocks over the agreed shared leave time period.

The council will not refuse any request for a continuous block of leave to be taken under the Shared Parental Leave arrangements. However, any requests for discontinuous leave will need to be assessed on a case-by-case basis in line with business need. The council has the right to refuse and ask the employee to take one continuous period of leave.

8.3 Shared Parental Pay (ShPP)

Shared parental pay is paid at the same rate as statutory maternity pay, up to 39 weeks (or 37 for non-adopters, taking into account the two weeks leave a mother is obliged to take after birth). If a mother or main adopter take their leave in discontinuous blocks of leave, they will be entitled to the same rates of occupational maternity/adoption pay they would have been eligible for before the introduction of SPL. For example the first six weeks will be paid at 9/10 of full salary regardless of whether those weeks are taken consecutively or interspersed with periods where the employee returns to work.

If an employee who takes adoption leave is entitled to SAP (See 5.1 above for eligibility criteria) they are also entitled to ShPP at the same rates as SAP.

If an employee who takes paternity leave is entitled to SPP (see 6.1 above) they are also entitled to ShPP at the same rates.

9. PARENTAL LEAVE

Eligible employees can take unpaid **Parental Leave** to look after their child's welfare, for example:

- to spend more time with their children
- to look at new schools
- to settle children into new childcare arrangements
- to spend more time with family. Employment rights will remain protected.

For child/dependent illness, see [Special Leave](#) entitlement (above).

9.1 Eligibility Criteria

Employees qualify for **Parental Leave** if all below apply:

- they have been employed for more than a year;
- they are named on the child's birth certificate;
- they have, or expect to have, **parental responsibility*** (see below for definition of parental responsibility);
- they are not self-employed or a 'worker' (e.g. contractor/agency worker);
- they are not a foster parent (unless with court secured PR);
- the child is below 18 years old.

The Council has the discretion to ask for proof of a child's age where it considers it reasonable to do so.

9.2 Entitlement

Parental Leave is unpaid. The child must be under 18 years old.

The entitlement is 18 weeks up to their 18th birthday.

18 weeks is the total allowance over the prescribed period. The **maximum Parental Leave** entitlement each year is 4 weeks, unless agreed otherwise with the Council.

Leave should be taken in **blocks of one week**, unless agreed otherwise with the Council. One week is equivalent to the hours normally worked each week by the employee. Therefore, if an employee normally works three days per week, then their Parental Leave entitlement is the equivalent.

Leave is applicable to each child, not the parent's job. If, for example, an employee uses 10 weeks of the **Parental Leave** entitlement with a previous employer, they would be entitled to 8 weeks **Parental Leave** with the Council.

9.3 Notice to Request Parental Leave

Employees must give 21 days' notice prior to the date they wish the **Parental Leave** to start.

If they or their partner are having a baby or adopting, then the employee must provide 21 days' notice before the expected arrival of the baby/child.

Employees must confirm start and end dates in their notice. **Parental Leave** requests should be in writing to the employee's line manager.

***Parental Responsibility Definition**

Parental responsibility is defined as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to a child and his or her property". Parental responsibility is concerned with bringing the child up, caring for him or her and making decisions about him or her, but does not affect the relationship of parent and child for other purposes.

Who has Parental Responsibility?

The mother of the child automatically has Parental Responsibility; the father usually has Parental Responsibility, especially if married to the child's mother, or is listed on the birth certificate;

Unmarried parents; fathers can get legal responsibility by:

- jointly registering the child's birth with the child's mother (since December 2003)
- getting a Parental Responsibility Agreement with the mother
- getting a Parental Responsibility Order in court;

Same sex parents:

- civil partners/spouses - same-sex partners who were civil partners or married at the time of the treatment/birth will both have Parental Responsibility.
- non-civil partners - the 2nd parent can get Parental Responsibility by:
 - applying for Parental Responsibility if a parental agreement was made
 - becoming a civil partner or spouse of the other partner and making a Parental Responsibility Agreement, or jointly registering the birth.

Additional Information

For further information on all time off arrangements in the policy please contact Human Resources.