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Family Leave Policy

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Introduction

This document sets out the entitlements for County Council employees with regard to maternity, paternity, surrogacy, adoption, shared parental leave and pay and unpaid parental leave.

Scope

This policy applies to all employees of Surrey County Council except employees in locally managed education establishments, who have their policies and procedures determined by their governors or by national terms and conditions, and uniformed Surrey Fire & Rescue employees who follow standard operating procedures and national terms and conditions.



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Summary of statutory thresholds, pay and leave entitlements

Statutory thresholds	
Lower Earnings Limit (LEL)	You need to earn this amount before tax to qualify for any of the statutory payments. See the direct gov website for the current amount
Average Weekly Earnings (AWE)	Calculated on the total payments made during an 8 week qualifying period.
Maternity Leave	
Statutory Maternity Leave (SML)	Up to 52 weeks
Maternity Pay	
Length of Service	Entitlement
Less than 26 weeks' service by the end of the 15th week before the Expected Week of Childbirth (EWC).	<p>No entitlement to Statutory Maternity Pay (SMP). Possible entitlement to Maternity Allowance (SMA) paid by Job Centre Plus.</p> <p>Occupational Maternity Pay</p> <p>2 weeks OMP (which equates to full pay less SMP) to be paid as a lump sum payment after you have returned to work for a 12-week period following maternity leave.</p>
At least 26 weeks' service by the end of the 15th week before the EWC, but less than one year's service at the beginning of the 11th week before the EWC.	<p>Statutory Maternity Pay</p> <p>Higher rate of SMP = 90% of basic salary payable for 6 weeks.</p> <p>Lower rate of SMP payable for up to 33 weeks or 90% of average weekly earnings whichever is the lower.</p> <p>If not entitled to receive SMP due to lower earnings limit, possible entitlement to Maternity Allowance paid (SMA) by JobCentre Plus.</p> <p>See the direct gov website for the current amount</p> <p>Occupational Maternity Pay</p> <p>2 weeks OMP (which equates to full pay less lower rate SMP), to be paid as a lump sum payment after you have returned to work for a 12-week period following maternity leave.</p>

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<p>One year's service or more at the beginning of the 11th week before the EWC.</p>	<p>Statutory Maternity Pay As detailed in the above box and in addition to...</p> <p>Occupational Maternity Pay If you are not entitled to receive SMP due to lower earnings limit and you have more than 1 year's continuous service you will receive 6 weeks contractual pay at 90% as OMP. Any SMA received will be offset.</p> <p>and whether you are entitled to SMP or not: For 20 weeks of the lower rate SMP period you will receive 50% of contractual pay in addition to lower rate SMP, provided the combined payments do not exceed full pay.</p> <p>OMP is a retention payment. To keep it you must return to work, for a period of 6 months following Maternity leave.</p>
<p>Adoption – main adopting parent</p>	
<p>Statutory Adoption Leave (SAL)</p>	<p>Up to 52 weeks</p>
<p>Less than 26 weeks continuous service before the week the employee has been matched with the child.</p>	<p>No entitlement to Statutory Adoption Pay</p> <p>Occupational Adoption Pay 2 weeks OAP (which equates to full pay less SAP) to be paid as a lump sum payment after you have returned to work for a 12 week period following adoption leave.</p>
<p>At least 26 weeks continuous service up to and into the week the employee has been matched with the child, but less than one year's continuous service before the week the employee has been matched with the child.</p>	<p>Statutory Adoption Pay Higher rate of SAP = 90% of basic salary payable for 6 weeks. Lower rate of SAP payable for up to 33 weeks or 90% of average weekly earnings whichever is the lower.</p> <p>Occupational Adoption pay 2 Weeks OAP (which equates to full pay less SAP), to be paid as a lump sum payment after you have returned to work for a 12 week period following adoption leave.</p>
<p>At least 1 year's continuous service up to and into the week the employee has been matched with the child</p>	<p>Statutory Adoption Pay As detailed in the above box and in addition to...</p> <p>Occupational Adoption Pay If you are not entitled to receive SAP due to lower earnings limit and you have more than 1 year's continuous service you will receive 6 weeks contractual pay at 90% as OAP.</p> <p>and whether you are entitled to SAP or not: For 20 weeks of the lower rate SAP period you will receive 50% of contractual pay in addition to lower rate SAP, provided the combined payments do not exceed full pay.</p> <p>OAP is a retention payment. To keep it you must return to work, for a period of 6 months following adoption leave.</p>



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Paternity – new fathers, partners or co-adopters	
Paternity Leave	2 weeks Paternity Leave An employee can choose whether to take 1 or 2 weeks but if 2 are taken they must be taken consecutively
Paternity Pay For birth Less than 26 weeks continuous service by the end of the 15th week before (EWC) For adoption Less than 26 weeks continuous service before the week the employee has been matched with the child.	2 weeks Occupational Paternity Pay. This equates to full contractual pay less Statutory Paternity Pay (SPP) PP
For birth At least 26 weeks service by the end of the 15th week before (EWC) For adoption At least 26 weeks continuous service up to and into the week the employee has been matched with the child.	Statutory Paternity Pay (SPP), payable for up to 2 weeks. It is paid at a standard rate or at 90% of average weekly earnings whichever is the lower and in addition Occupational Paternity Pay (OPP), payable for up to 2 weeks. OPP is the difference between SPP payment and full contractual pay. The combined payments must not exceed full pay
Shared Parental Leave and Pay	
Shared Parental Leave (ShPL)	Birthing parents: Up to 50 weeks' leave and 37 weeks' pay can be shared Adopting parents: Up to 52 weeks' leave and 39 weeks' pay can be shared
Shared Parental Pay (ShPP)	Paid at the same rate as the lower rate of SMP Subject to eligibility criteria
Parental Leave	
Parental Leave Only for those with more than one year's continuous service	<ul style="list-style-type: none"> • Unpaid statutory leave • Up to 18 weeks in total up to age 18 • Up to 4 weeks for each child in any leave year ▪ Both parents are eligible ▪ Birth and adopting parents are eligible
Surrogacy	
Surrogacy – Birth mother	Same as maternity

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Surrogacy – Main adopter	Same as adoption
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Maternity – New or expectant mothers

1. Claiming your entitlements

Written notice – expectant mothers

- 1.1. To be eligible to claim maternity entitlements, an **employee who is** an expectant mother needs to inform her manager that she is pregnant.
- 1.2. If you are pregnant, you need to do this both:
 - in writing - using the [Notification of Maternity Leave Form](#) and
 - not later than the 15th week before your Expected Week of Childbirth (EWC)
 You must state both
 - whether you would like to take maternity leave or resign (see [resignation - things you need to know](#)) and
 - the date you would like to start your maternity leave, which cannot be earlier than the beginning of the 11th week before EWC (see [changing the start date of OML](#)).
- 1.3. A pregnant employee carrying a child as a surrogate mother has the same entitlements as any new or expectant mother.

MAT B1 certificate

- 1.4. Your manager will need to send your maternity certificate, known as a MATB1, with the [Notification Of Maternity Leave Form](#) to Employee Services. If a copy is to be sent ask your manager to sign to confirm they have seen the original.
- 1.5. The MATB1 certificate is normally issued by a doctor or midwife around 20 weeks before the due date.

Resignation – things you need to know

- 1.6. If you do not intend to return to work after maternity leave, you should give the normal notice required by your contract of employment.

Note: If you state that you do not intend to return, your right to return to work is lost and you may not change your mind at a later date.
- 1.7. Therefore expectant mothers are advised to keep their options open, by indicating the [Notification of Maternity Leave](#) Form that they may return to work.
- 1.8. If you decide to resign, you can still apply for any maternity pay to which you may be entitled. See [Maternity Pay](#).

Changing the start date of OML

- 1.9. If you wish to change your mind about the start date of your OML you may do so, but you must give your manager and Employee Services at least 28 days notice in advance, unless this is not reasonably practicable.



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2. Antenatal and other pregnancy related medical appointments

The right for expectant mothers to attend maternity-related medical appointments does not require qualifying service and applies to both full and part time employees.

- 2.1. Pregnant employees are entitled to paid time off to attend antenatal appointments. This right applies to ante natal medical appointments and in some circumstances may extend to ante natal or other maternity related classes, where these have been recommended by a doctor or midwife.
- 2.2. Managers are expected to act reasonably in allowing time off for pregnant employees to attend medical appointments related to their pregnancy. Similarly, employees are expected to act reasonably with the booking of such appointments. Where possible these should be booked at the beginning or end of the day.
- 2.3. For all maternity-related medical appointments, except the first one, you are expected to provide your line manager with some evidence of pregnancy (such as the MATB1 certificate) and proof of the appointment (such as a hospital appointment card).

Fertility treatment

- 2.4. Any employee (male or female) undergoing fertility treatment has the right to time off for the purpose of undergoing the treatment. All time off for antenatal care or fertility treatment, including travelling and waiting time, will be paid at the employee's normal weekly rate of pay. If working hours vary from week to week, pay will be based on the average pay for the previous 12 complete working weeks, excluding overtime unless it is compulsory.
- 2.5. With the exception of the first visit, evidence of appointments should be provided to your manager

3. Health and Safety Risk Assessment

Employers have a legal duty to assess all workplace risks to the health and safety of new and expectant mothers.

- 3.1. Your manager will carry out a health and safety risk assessment when you have informed them that you are pregnant. This is to enable them to support your health and safety in the workplace during your pregnancy.
- 3.2. Alternative Work

If the risk assessment shows that you are unable to carry out your current job then your manager will offer you an adjustment in duties or a suitable alternative role. If you unreasonably reject suitable alternative work you will be suspended on maternity grounds which will be unpaid. Your contract will be preserved.

If your manager is unable to offer an adjustment in duties or a suitable alternative role then you will be suspended on maternity grounds, on full pay and for as long as is necessary to avoid the health and safety risks. In these circumstances, maternity entitlements continue but Ordinary Maternity Leave and SMP (if applicable) automatically start at the 4th week before the Expected Week of Childbirth.
- 3.3. For further information, see the [New and Expectant Mothers Risk Assessment](#) in the [Health and Safety Manual](#).



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4. Sickness Absence

If you take sick leave because of a pregnancy related illness then this needs to be recorded as such on SAP.

5. Maternity leave

Maternity leave – the law

All new or expectant mothers have a legal right to take up to 52 weeks Statutory Maternity Leave (SML), regardless of their length of service with their employer and their hours of work.

New mothers who have given birth must remain absent from work for the 2 weeks immediately after the birth of their child.

The start of Ordinary Maternity Leave must not be earlier than the beginning of the 11th week before the week the baby is due.

5.1. Statutory Maternity Leave comprises:

- Ordinary Maternity Leave (OML) the first 26 weeks; and
- Additional Maternity Leave (AML) – the second 26 weeks

5.2. Ordinary Maternity Leave is automatically triggered if you either:

- give birth prior to your Expected Week of Childbirth (EWC); or
- are absent from work due to a pregnancy related illness in the 4 weeks before your EWC.

Note: this excludes absences from work for routine ante-natal or other pregnancy related medical appointments.

5.3. If you are unsure whether an illness is pregnancy related, contact your doctor for advice and keep your manager informed. If you need advice you can also contact Occupational Health.

5.4. Not all maternity leave is paid. To qualify for paid maternity leave you must meet the eligibility criteria. See [Maternity Pay](#)

Loss of the child

5.5. In the circumstances that you lose the child during the first 24 weeks of pregnancy, maternity leave will not apply. Sickness absence or compassionate leave may apply, depending on the circumstances. Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) are not paid.

5.6. In the circumstances that you lose the child, after the end of the 24th week of pregnancy, maternity leave will apply and both SMP and OMP will be available if you are otherwise eligible. Please inform your manager as soon as is reasonably practicable.

Annual leave and maternity leave

5.7. The period of the maternity leave, whether paid or unpaid, will qualify for annual leave entitlement. Details of annual leave entitlement and the conditions relating to the carrying forward of leave is contained in the Annual Leave Policy

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- 5.8. Employees are encouraged to take any outstanding accrued annual leave before the start of maternity leave. If this is not possible due to exceptional circumstances then managers may approve the employee carrying forward their leave entitlement, in line with the guidance in the Annual Leave Policy.
- 5.9. Wherever possible, accrued annual leave should be taken as paid leave before you return to work. If you wish to use up your accrued leave by returning to the payroll earlier than your intended return date, you must give 8 weeks' notice as it will be treated as if returning to work early from maternity leave.
- 5.10. If you return to work on a reduced hours contract, any accrued annual leave, still outstanding at the date of return to a reduced hours contract, will be converted to hours
- 5.11. Those on term time only contracts, once their return date is known, are given the following options to take any annual leave accrued during maternity leave. They may either:
- substitute a period of unpaid maternity leave for a period of paid annual leave. This effectively becomes an earlier "return to work" date (i.e. earlier end to maternity leave) for the employee. or
 - have the annual leave accrued during maternity leave paid in instalments over subsequent months (e.g. if on M/L for 6 months – then pay annual leave in 6 future instalments).

Commented [PM1]: Policy change as outlined in para. 7 of Ctte paper.

Appraisal

- 5.12. Where possible you should have an appraisal with your manager before you go on maternity leave

Restructuring and redundancy

- 5.13. If there is a restructuring process during a period of maternity leave, every reasonable effort will be made to allow you full participation in the consultation process if you are on maternity leave.
- 5.14. Being pregnant or on maternity leave does not mean your post cannot be made redundant, however there are certain protections for pregnant women and new mothers.

Dismissal

The law gives women protection from being dismissed for a pregnancy or maternity related reason regardless of their length of service.

- 5.15. However, dismissal may be considered fair if it is for non-pregnancy related reasons
All staff who are dismissed receive a written statement explaining the reasons for the dismissal.
- 5.16. The end of a fixed term contract is a dismissal in law. If you are on a fixed term contract you will be treated in the same way as someone on a continuing contract.



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6. Maternity pay

An employee on maternity leave is not automatically entitled to pay: it will depend on her length of service.

- 6.1. Maternity pay is made up of two parts:
- Statutory Maternity Pay (SMP); and
 - Occupational Maternity Pay (OMP).
- 6.2. Often the payment of these two is combined, provided the combined payments do not exceed full pay.. The eligibility criteria are different for SMP and OMP.
- 6.3. The [Maternity Pay Table](#) summarises the information about maternity pay and eligibility criteria set out in the following sections.

Statutory Maternity Pay (SMP) eligibility criteria

- 6.4. SMP will be paid by the County Council on behalf of the Department for Work and Pensions (DWP) if you meet all of the following qualifying criteria:
- **Service:** have continuous service of at least 26 weeks continuously into the 15th week before the week your baby is due (the EWC).
 - **Average Weekly Earnings (AWE):** have earnings equal to at least the National Insurance Lower Earnings Limit in the qualifying 8 week period. See [Statutory Thresholds](#).
 - **Proper Notice:** have given the Employee Services 28 days' notice of the date you want SMP to be paid. This date cannot be earlier than the beginning of the 11th week before the week the baby is due (your EWC).
- 6.5. Entitlement to SMP can also be affected by other factors such as:
- working for another employer; or
 - being taken into legal custody.

It is your responsibility to inform your manager if you are affected by these factors.

Duration of payment

SMP cannot be paid before maternity leave has started and the latest date payment can start is the day after the child is born. SMP cannot be paid while an employee is working.

- 6.6. If you return to work before the 39 week payment period is completed, you will lose a proportion of your SMP.

Note: attending work for [Keeping in Touch Days](#) is not regarded as return to work for this purpose.

- 6.7. Any deductions which can lawfully be made from pay can also be made from SMP, including PAYE income tax, National Insurance and pension contributions. Attachment of Earnings Orders and Deductions of Earnings Orders made by the Child Support Agency do not apply to payments of SMP.
- 6.8. If you resign from your post, you will still be entitled to the full 39 weeks' SMP, unless you return to work in another capacity during the 39 week period.



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Statutory Maternity Allowance (SMA)

6.9. If you are not entitled to receive SMP you will be notified by Employee Services an SMP1 form which you can take to Job Centre Plus of the reason in writing and your MATB1 form will be returned to you.

Note: if you are entitled to OMP, but not SMP, the Statutory Maternity Allowance payments will be deducted from your OMP.

Occupational Maternity Pay (OMP) Eligibility criteria

6.10. The amount of OMP that you may receive depends on your length of service.

6.11. An employee with less than one year's continuous service at the beginning of 11th week before EWC will receive 2 weeks OMP as a lump sum after they have returned to work 12 weeks.

6.12. An employee with at least one year's continuous service at the beginning of the 11th week before the EWC will receive 20 weeks OMP rate which is 50% of salary. OMP is a retention payment. To keep it you must return to work, for a period of 6 months following Maternity leave.

An employee may choose to receive OMP after she has returned to work, rather than during maternity leave.

Commented [PM2]: Change as outlined in para 5 of Ctte paper.

OMP and SMP

- Your OMP is paid in addition to SMP.
- OMP and SMP entitlements will be applied at the same time but the combined payments will not exceed full pay.

SMP and OMP and premature birth

6.13. The entitlement does not change in the event of a premature birth. However, if the birth occurs before your notified date for the start of maternity leave and pay, you must inform your manager as soon as is reasonably practicable and OMP will start from the actual birth date. Your manager will inform Employee Services.

Factors affecting retention of OMP

To keep the 20 weeks' half pay, employees must return to work for a minimum of 6 continuous months on the same type of contract that they had before they took maternity leave.

6.14. You can choose, on the [Notification of Maternity Leave Form](#), to have your 20 weeks' OMP half pay withheld, if you are unsure whether you will want to return to work following the birth. Payment will then be made if, and when, you return to work.

6.15. If you leave your job before completing 6 months' continuous service, you will have to repay the 20 weeks' OMP.

6.16. See also [Sickness at the end of maternity leave](#).



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7. Keeping in Touch (KIT) Days

- 7.1. You may attend work for Keeping in Touch Days (KIT Days) at any time during your maternity leave, excluding the 2 weeks' compulsory maternity leave period immediately following childbirth.
- 7.2. A KIT Day can include training or any activity undertaken to enable you to keep in touch with your workplace.
- 7.3. KIT Days are not compulsory. Your manager cannot insist that you carry out work or training whilst on maternity leave. Equally, you cannot insist on being given work to do.
- 7.4. Working for part of a day counts as one KIT day. Up to a maximum of 10 KIT Days may be worked during a period of maternity leave without affecting entitlement to maternity payments.
- 7.5. For attending KIT Days you will receive payment for hours actually worked based on your contractual pay. If you are still within the maternity pay period you will receive your maternity pay topped up to the equivalent of contractual pay. If you are outside of the maternity pay period you will simply receive contractual pay.
- 7.6. Your line manager will keep a record of the dates and hours that you work as KIT days. They will send the record to Employee Services at the end of your maternity leave. You will be paid for the KIT days when you return to work.

8. Returning to Work

Notice of return

- 8.1. If you are taking your full maternity leave entitlement, the return to work date is based on the date that maternity leave started. You should return to work on the date given in the letter sent by Employee Services confirming your entitlement to maternity leave and pay.
- 8.2. If you want to return to work earlier than the date given in this letter, you may do so at any time after the compulsory first two weeks' maternity leave after giving birth have passed, provided you give at least 8 weeks' written notice of the date you wish to return.
- 8.3. You should discuss your return date with your manager so everyone is clear about the timescales.

Requesting flexible working

- 8.4. The right to return to work is essentially to the same job and the same contract that you had prior to the period of maternity leave. There is not a right to return to work on different terms and conditions, for example different hours or work pattern.
- 8.5. However employees with 26 weeks' continuous service are able to apply to work flexibly. For further information see the [Requesting Flexible Working on snet](#).

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Unpaid Leave.

8.6. If at the end of your maternity leave you would like to take unpaid leave you may ask your manager. Unpaid leave is for a maximum duration of up to six months. You may apply in writing to your line manager at least two months before you would like to take unpaid leave. The period of unpaid leave does not count toward the period you need to work to keep your OMP. See information about [unpaid leave](#) on snet

Sickness at the end of maternity leave

8.7. If you are unwell when you are due to return to work at the end of your maternity leave period, you should submit a doctor's certificate and you will be treated as being on sick leave in the normal way.

Note: a period of sickness absence immediately following your return to work will not count towards the required 6 months' working period after maternity leave for the purposes of retaining [Occupational Maternity Pay](#) (OMP). If you fail to return to work after the sickness absence, you will have to repay any OMP paid.

8.8. If you are aware, prior to your date of return from maternity leave, that you are unlikely to be fit to attend work on the due date, it would be helpful to inform your manager in advance.

Deciding not to return to work

8.9. If you indicated on your Notification of Maternity Leave Form that you may, or will, return to work following maternity leave, you can change your mind at a later date. However you will need to give notice of resignation in accordance with the terms of your employment contract.

Note: employees who decide not to return to work will have to repay any OMP payments which have been made.



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Adoption

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9. Eligibility for adoption leave

Eligibility criteria

Only adoptions arranged through an approved adoption agency qualify for adoption or paternity leave. For information about adoption see the [County Council's website](#).

- 9.1. Employees who adopt through an approved adoption agency are eligible for Statutory Adoption Leave.

- 9.2. The couple choose which partner takes Adoption Leave. The other partner (referred to elsewhere in this document as the “co-adopter”) may be entitled to [Paternity Leave](#).

- 9.3. Dual approved prospective adopters may be eligible for adoption leave and pay where they have agreed to have a child placed with them in accordance with section 22C of the Children Act 1989 with a view to them adopting that child.

- 9.4. Intended parents in a surrogacy arrangement who meet the qualifying requirements are newly matched with the child through an approved adoption agency and intend to apply for a Parental Order are eligible for the same entitlements as others who adopt .

Ineligible adoptions

- 9.5. Employees are not eligible for statutory adoption leave or pay if they:
 - become a special guardian or kinship carer



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- adopt a stepchild
- adopt a family member
- adopt privately, e.g. without permission from a UK authority or adoption agency

10. Adoption Leave

Eligible employees can take up to 52 weeks' Statutory Adoption Leave (SAL).

10.1. This is made up of Ordinary Adoption Leave (OAL), the first 26 weeks starting from either:

- the date of the child's placement; or
- from a fixed date which can be up to 14 days before the expected date of placement

and Additional Adoption Leave (AAL) – the second 26 weeks which immediately follows OAL.

10.2. Adoption leave can start on any day of the week.

10.3. Only one period of leave is available, irrespective of whether more than one child is placed for adoption as part of the same arrangement.

Pre-adoption appointments

10.4. Primary adopters are entitled to paid time off to attend up to five pre-adoption appointments, similar to the right to attend ante-natal appointments for mothers. Co-adopters are entitled to unpaid time off for up to two such appointments.

10.5. Adopters are eligible for time off to attend training and assessment days – please see the Special Leave policy.

Claiming adoption leave – general

10.6. It is acknowledged that it is not always possible to plan the arrival of an adopted child with the same degree of certainty as a pregnancy.

10.7. Therefore you are strongly encouraged to contact your manager at the earliest stage of your adoption process for support and guidance, to enable you to meet the timescales for claims set out below wherever possible, and to allow them to provide you with flexibility in unforeseen circumstances.



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Claiming adoption leave

10.8. Within 7 days of being matched with a child, you must inform your manager, who will inform Employee Services, either:

- that you intend to take adoption leave; or
- that you intend to resign (see [Resignation -things you need to know](#))

You must also state:

- the expected date of placement of the child; and
- the date you would like to start adoption leave, which cannot be later than the expected date of placement, or earlier than 14 days before placement.

10.9. The notice must be in writing. Use the [Notification of Adoption Form](#) available on [snet](#).

Changing the adoption leave start date

10.10. If the date of placement changes, you may change the date adoption leave starts accordingly, provided you give your manager at least 4 weeks' notice in writing (unless this is not reasonably practicable). Your manager will inform Employee Services.

10.11. Employee Services will write to you if the start and leave dates of the adoption leave have to be amended.

Returning to work

10.12. If you are taking your full adoption leave entitlement, the return to work date is based on the date that your adoption leave started. You should return to work on the date given in the letter sent by Employee Services confirming your entitlement to adoption leave and pay.

10.13. If you want to return to work earlier than the date given in this letter, you may do so at any time, provided you give at least 8 weeks' written notice of the date you wish to return.

10.14. You should discuss your return date with your manager so everyone is clear about the timescales. [See KIT days](#).

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11. Adoption Pay

Eligibility for adoption pay

11.1. To be eligible to receive Statutory Adoption Pay (SAP) you must:

- have Average Weekly Earnings (AWE) equal to at least the National Insurance Lower Earnings Limit in the qualifying 8 week period (see [Statutory Thresholds](#)); and
- give 4 weeks' written notice of the date you want SAP payments to start using the [Notification of Adoption Form](#); and
- supply your manager with documents which show:
 - the name and address of the adoption agency; and
 - your name and address; and
 - the 'matching certificate' from the adoption agency and the date of placement – letter from adoption agency

Statutory adoption pay (SAP)

11.2. If eligible, you will receive SAP for 6 weeks at 90% of your AWE followed by 33 weeks of either 90% of your AWE or the flat rate of SMP, whichever is lower.

11.3. SAP is subject to deductions such as tax, National Insurance and pension contributions.

Occupational Adoption Pay (OAP)

11.4. Occupational Adoption Pay has the same eligibility criteria as Occupational Maternity Pay and is paid at the same rate. OAP is subject to the same repayment provisions as OMP



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12. Antenatal/Adoption appointments

Prospective fathers or a mother’s partner can take unpaid time off, to attend up to 2 antenatal medical appointments or 2 adoption appointments

Eligibility criteria

12.1. To be eligible for the right to unpaid time off to attend ante natal appointments, you must have a “qualifying relationship” with the pregnant woman or her expected child. You are in a “qualifying relationship” if you are any of the following:

- The husband or civil partner of the pregnant woman;
- You live with the pregnant woman in a long term family relationship, but are not a member of her family (co-habitation);
- You are the father of the expected child;
- You are a woman in a same sex relationship and your partner becomes pregnant
- You are a potential applicant for a parental order in a surrogacy arrangement

This right applies to medical appointments only and does not extend to other ante natal or maternity related classes.

12.2. For all maternity-related medical appointments, you are expected to confirm in writing to your manager stating the date and time of the appointment; that you qualify for the unpaid time off through your relationship with the mother or child; and that the time off is for the purpose of attending an antenatal appointment with the expectant mother that has been made on the advice of a registered medical practitioner, nurse or midwife.

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12.3.If you are a co-adopter you may take time off to attend 2 adoption appointments after you have been matched with a child.

13. Paternity leave

13.1.Paternity leave can be granted in both a birth and an adoption situation, but the rules for claiming adoption paternity leave and pay are slightly different.

Eligibility criteria for Statutory Paternity Leave

13.2.To qualify for statutory paternity leave an employee must meet all of the following:

- have, or expect to have, the main responsibility for the child's upbringing (apart from the mother/adopter);
- be the biological father of the child or be the husband, partner, co-adopter or civil partner of the mother/adopter;
- be taking time off to look after the new mother/adopter and child;
- not be claiming adoption leave;
- inform their manager and Employee Services in writing of their intention to take paternity leave using the relevant forms and correct notice period;
- be an employee and have continuous service of 26 weeks by the 'qualifying week' which is either:
 - the end of the 15th week before the EWC; or
 - the end of the week in which you are notified of the adoptive match.

Eligibility criteria for Occupational Paternity Leave

13.3.Occupational paternity leave is available for employees with less than 26 weeks continuous service. Otherwise the eligibility criteria is the same as for Statutory Paternity Leave

Paternity Leave

Eligible employees may take either one or two consecutive weeks paid leave (not odd days). Only one period of leave may be taken.

13.4. Paternity leave cannot start before:

- the birth; or
- the adoption placement.

It must be taken within 8 weeks of these dates.

13.5.A week is the same amount of days that you normally work in a week, for example, if you only work on Mondays and Tuesdays, a week is 2 days.



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13.6. Paternity leave can start on any day of the week from either:

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

How to request paternity leave

13.7. You may request paternity by informing your manager in writing, of your intention to take paternity leave at least 15 weeks before the expected date of birth, unless this is not reasonable practicable.

In cases of adoption, let your manager know of your intention to take paternity leave as soon as you are aware of the adoption and give written notice within 7 days of you and your co-adopter or partner being matched with a child.

13.8. The notice needs to state either:

- the date the baby is due; or
- the date of placement

It must also state:

- whether you wish to take 1 or 2 weeks' paternity leave; and
- when you want to start your leave; and
- whether you are requesting Statutory Paternity Pay (SPP), if eligible – see [Paternity Pay](#)

Changing the start date of paternity leave

13.9. You must give at least 28 days' written notice if you want to change the start date of your paternity leave.

Premature or still birth and death in childbirth

13.10. An eligible employee will still qualify for paternity leave (and SPP if applicable) if either:

- their child is still born after the end of the 24th week of pregnancy; or
- the mother dies in childbirth; or
- the baby is born prematurely.

Note: if the child is born early, PL must be completed within the period from the actual date of birth up to 8 weeks after the Expected Week of Childbirth (EWC).

14. Paternity pay

Eligibility for Statutory Paternity Pay (SPP)

14.1. Employees claiming SPP must:

- meet the [Eligibility criteria for paternity leave](#) set out above; and
- be employed up to the date of birth/ placement; and



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- earn at least the National Insurance Lower Earnings Limit before tax (see [Statutory thresholds](#)); and
- give the correct notice.

Claiming Statutory Paternity Pay

14.2. If you meet the eligibility criteria you must complete the relevant HMRC form (SC3/SC4) and provide it to your manager who will send it to Employee Services at least 28 days before you want your SPP to start.

14.3. The forms can be downloaded from [snet](#)

14.4. If you change your mind about the start date for SPP you must give your manager at least 28 days' written notice, unless this is not practicable.

Occupational Paternity Pay (OPP)

14.5. OPP is paid through payroll to eligible employees who take paternity leave.

- For employees with less than 26 weeks service it is made up of full contractual pay less SPP.
- For employees with at least 26 weeks service it is made up of SPP topped up to full contractual pay. The combined payments must not exceed full pay.

Returning to work

14.6. If you are returning to work after a period of either:

- Paternity leave; or
- Parental leave following paternity leave and not exceeding 4 weeks

You have the right to return to the same job, on the same terms and conditions of employment, as if you had not been absent.

14.7. If you take more than 4 weeks' leave following paternity leave by taking additional unpaid leave, you may return to the same job, on the same terms and conditions, unless this is not reasonably practicable.

14.8. If it is not reasonably practicable, you have the right to return to suitable alternative employment on terms and conditions that are no less favourable than those that applied to your original role.



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Shared Parental Leave

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- Shared Parental Leave enables parents to share up to 50 weeks leave, during the first year of their child’s life. The aim of the legislation is to provide parents with more flexibility in deciding how to care for their child and supports work life balance.
- Shared parental leave was introduced to give families more flexibility about how leave is taken following a child's birth. Parents of a child (including adoptive parents) can decide how to divide a total of 52 weeks of leave between them (ie the mother’s maternity leave). Please note the earliest that the mother can end her statutory maternity leave and start a period of shared parental leave is after the end of the two-week compulsory maternity leave period.
- You can start shared parental leave if you are eligible and, you or your partner end their maternity or adoption leave or pay early. The remaining leave will be available as shared parental leave and you can share the leave with your partner if they are also eligible. The remaining pay may be available as shared parental pay. Parents can choose how much of the shared parental leave each of you will take. Shared parental leave cannot be taken after the baby's first birthday.

15. Who can apply for shared parental leave?

15.1 To qualify for shared parental leave, the child’s mother (or adoptive parent) must be eligible for either:

- maternity leave or pay
- maternity allowance
- adoption leave or pay.

Employees must also:

- have continuous service of at least 26 weeks by the end of the 15th week before the due date (or placement date for adoption)
- have the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the child's father)
- still be employed by the council while they take shared parental leave
- give the correct notice, including a declaration that your partner meets the employment and income requirements which allow you to get shared parental leave.

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The mother's partner must also satisfy minimum employment and earnings criteria to be eligible for shared parental leave.

In addition, the mother's partner (ie the child's father or the mother's spouse or civil partner) must:

- have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth;
- have average weekly earnings of at least £30 for any 13 of those 66 weeks; and
- have the main responsibility for the child at the date of the birth (apart from the responsibility of the mother).

Sometimes only one parent in a couple will be eligible to get shared parental leave and shared parental pay. This means that you can't share the leave.

16. How to apply for shared parental leave

If you qualify for shared parental leave you must notify your manager of your entitlement and intention to take leave at least eight weeks before your first period of leave.

This notification must include:

- details of how much shared parental leave is available
- the amount of leave each parent intends to take
- a non-binding indication of when you intend to take leave.

You can subsequently vary the amount of leave that each parent will take by notifying your employers of the change.

17. Self-certification

Both parents must notify their employer, giving declarations about your entitlement to take shared parental leave and that you agree to the amount of shared parental leave the other parent wishes to take. You will need to provide a copy of the child's birth certificate and the name and address of the partner's employer within 14 days. The employer then has 14 days to respond to the request.

18. How can the leave be taken?

You must give a separate written notice at least eight weeks before the start of any period of shared parental leave. The notice must state when the leave will start and end, and can request more than one period of leave. Any one period must be in a block of at least one week.

If you have asked for a single continuous period of leave, you are entitled to take it. If you have asked for separate periods of leave your manager can:

- agree to the requested pattern of leave
- refuse the request



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- refuse the request but propose alternative dates. If an agreement cannot be reached within two weeks, you can withdraw your request, or take the leave requested as a single continuous period.

You can give up to three notices of your intention to take leave. If a notice is withdrawn because a leave pattern cannot be agreed, it does not count towards this limit.

19. What is the right to return?

During shared parental leave your normal terms and conditions of employment are maintained, except those relating to pay.

You can work on up to 20 days during shared parental leave without bringing the leave to an end. These are called 'shared parental leave in touch' (or SPLIT) days. The requirements are the same for [Keeping in touch days](#) described in the maternity section.

When returning from shared parental leave you are normally entitled to return to the same job if you are coming back from a period of leave including shared parental leave of 26 weeks or less. If the period of leave exceeds this, and it is not reasonably practicable to return to the same job, you are entitled to return to a suitable alternative.

20. What is the entitlement to leave/pay?

Employees who are absent from work on ShPL may be entitled to Shared Parental Pay (ShPP) if they meet either of the following eligibility criteria:

- they qualify for Statutory Maternity Pay or Statutory Adoption Pay; or
- they qualify for Statutory Paternity Pay and have a partner who qualifies for either Statutory Maternity Pay, Statutory Adoption Pay or Maternity Allowance;

Eligibility for ShPP is based on the circumstances of the individual employee and cannot be transferred between partners.

If both partners are eligible for ShPP, their applications must detail how they wish for it to be shared.

The maximum number of weeks ShPL that can be shared is either 37 (in cases of birth) or 39 (in cases of adoption).

ShPP is paid at the same rate as SMP.

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Parental Leave

Parental leave is unpaid, statutory leave for employees to look after the welfare of their child.

Eligibility

To be eligible, employees must have one year's continuous service when leave is taken.

21. It applies to:

- natural or adoptive parents
- those with legal parental responsibility.

Entitlements

22. Employees can take 18 weeks in total of parental leave, up to their child's 18th birthday.

23. In any one year (a year runs between January and December) parents can only take up to 4 weeks of parental leave for each child. This needs to be taken in a block of at least one week (unless agreed otherwise, or unless the child is disabled).

24. A week is equal to the number of days an employee works each week. Parental leave is specific to each individual - if he or she changes jobs, the amount of parental leave taken in the past will be deducted from the total parental leave by the new employer.

Applying for parental leave

25. Employees must complete the parental leave request form at least 21 days before the start of the leave.

26. Your line manager will respond to your request within seven working days.

- Where the request is for parental leave immediately following birth or adoption of a child approval is always given.
- Where the request is for parental leave at other times it will be sympathetically considered in accordance with the needs of the service. Your manager will discuss the reason with you to agree to postpone it. Your manager will agree a new start date which must be within 6 months of the start date requested.

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27. Pension information and contacts

If you need advice please contact [My Helpdesk Pensions](#)

28. Pension contributions

28.1. During any period of paid maternity, adoption, paternity or shared parental leave your pension is worked out to make sure your pension is not affected by the reduction in pay. This means that you will continue to build up a pension in the section of the LGPS you are in, as if you were working normally and receiving pay. For an example of how assumed pensionable pay is calculated see the LGPS website. You will pay your basic pension contributions on the pay you actually receive.

28.2. However, any period of unpaid additional maternity or adoption leave (normally from weeks 39-52) or unpaid shared parental leave will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of unpaid absence. If you are interested in buying the pension lost you must contact My Helpdesk Pensions within 30 days of returning to work.

28.3. If your manager allows you to take a period of unpaid leave, including parental leave, the period will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of absence. If you are interested in buying the pension lost you must contact My Helpdesk Pensions within 30 days of returning to work.

For further information see the [LGPS website](#) or contact [My Helpdesk Pensions](#)

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Terms used in Family Leave document

CS: Continuous Service	This is the continuous service covered by the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification) order 1999 as amended
Partner	The term 'partner' is used in the definition of eligibility. A partner is someone who is married to or lives with the mother of the baby (or with the adopter) in an enduring family relationship, whether of different sex or the same sex, but it is not an immediate relative This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and the child.
	Terms related to maternity pay and leave
SMP: Statutory Maternity Pay	This is payable to eligible employees who take maternity leave or leave employment because of pregnancy or childbirth. Payment of SMP is subject to qualifying conditions; subject to deductions for tax, national insurance and pension contributions, if applicable; and is payable only for complete weeks. Once paid SMP is not repayable
OMP: Occupation Maternity Pay	This is an enhanced level of maternity pay provided by the County Council to eligible employees
MA: Maternity Allowance	This is the allowance payable by JobCentre Plus to employees not entitled to Statutory Maternity Pay
MPP: Maternity Pay Period	This is the period during which SMP is payable to an eligible employee
SMP1: Statutory Maternity Pay Form	This is the form, which Employee Services will give to an employee who is not entitled to Statutory Maternity Pay (SMP) for the purpose of claiming Maternity Allowance (MA)
NI	National Insurance
Lower Earnings Limit:	the level of earnings the employee must receive in order to pay National Insurance and to be entitled to state benefits e.g. MA. This weekly earnings level is set annually by the HM Revenue & Customs
QW: Qualifying Week for SMP -	This is the end of the 15th week before the Expected Week of Childbirth (EWC) for the payment of Statutory Maternity Pay (SMP)
OML: Ordinary Maternity Leave	This is the 26-week maternity leave period to which all pregnant employees are entitled to regardless of length of service or hours worked
AML: Additional Maternity Leave	This is the 26-week maternity leave period, which immediately follows Ordinary Maternity Leave. The first 13 weeks of AML is paid the second 13 weeks is unpaid



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CML: Compulsory Maternity Leave	This is the first 2 weeks following the birth of the baby, which must be taken as maternity leave
	Terms relating to pregnancy/childbirth
EWC: Expected Week of Childbirth	This is the week in which the baby is due to be born as certified by the employees Doctor or Midwife on the Maternity Certificate (MAT B1)
MAT B1: Maternity Certificate	This is the maternity certificate given to a pregnant woman by a Doctor or Midwife, which states the Expected Week of Childbirth and is issued after the 20th week of pregnancy. It is required for the payment of SMP

Adoption terms

	Terms relating to adoption pay and leave
SAP: Statutory Adoption Pay	Payable by the employer to eligible employees who take adoption leave. Payment of SAP is subject to qualifying conditions; and subject to deductions for tax and NI and Pension Contributions, if applicable; it is payable only for complete weeks. Once paid it is not repayable
OAP: Occupational Adoption Pay	this is an enhanced level of adoption pay, (i.e., over and above statutory requirements), provided by the council to eligible employees. There are different provisions available depending on length of service.
APP: Adoption Pay Period	the period during which SAP is payable to an eligible employee.
LEL: Lower Earnings Limit	the level of earnings the employee must receive in order to pay National Insurance and to be entitled to state benefits e.g. SAP. This weekly earnings level is set annually by the HM Revenue and Customs.
OAL: Ordinary Adoption Leave	this is the 26 week adoption leave period that eligible employees are entitled to.
AAL: Additional Adoption Leave	this is the 26 week leave period that immediately follows on from Ordinary Adoption Leave and is unpaid.
Main Adopter:	a person who has been matched with a child for adoption, or, if a couple have been matched jointly, the member of that couple who has chosen to take adoption leave and /or Statutory Adoption Pay
Matched:	A person/couple are matched with a child for adoption when an adoption agency decides that that person/couple would be a suitable adoptive parent for the child.
Notification Of Matching	A person/couple is notified of having been matched with a child on the date which they receive notification of the agency's decision under regulation 11 (2) of the Adoption Agencies Regulations 1983.

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Matching Certificate:	A certificate provided by an Adoption Agency that confirms that someone has been matched with a child for adoption and may be used as evidence for the purposes of Statutory Adoption Leave and Pay
Placement	the Placement of a child for adoption occurs when the child goes to live with the adopter permanently with a view to being formally adopted in the future.

Paternity

	Terms used relating to paternity leave and pay
SPP Statutory Paternity Pay	Payable to eligible employees who take paternity leave. Payment is subject to qualifying conditions, deductions for tax, national insurance and pensions contributions, if applicable and is payable for complete weeks only. Once paid SPP is not repayable.
OPP Occupational Paternity Pay	This is an enhanced level of paternity pay provided by the council to eligible employees
SPP1 Form Statutory Paternity Pay Form	This is the form, which is given to an employee who is not entitled to SPP for the purposes of claiming other state benefits.
SPL Statutory Paternity Leave	This is the 2 weeks leave given to eligible employees that can be taken after the date of the baby's birth or after the date on which a child is placed for adoption.
OPL Occupational Paternity Leave	This is the level of paternity leave given to employees with under 26 weeks' continuous service.

Shared Parental Leave terms

SPL: Shared Parental Leave.	Shared Parental Leave enables birth parents and adopters to share up to 50 weeks leave.
ShPP: Statutory Shared Parental Pay	Shared parental pay at the statutory rate which is the same as Statutory maternity pay (SMP)
SPLIT day: Shared Parental Leave in Touch Day.	These are the days that can be worked during shared parental leave without bringing the leave to an end.
Continuous leave	a period of leave that is taken in one block e.g. four weeks' leave.
Separate periods of leave	periods of leave that are arranged around weeks where the employee will return to work e.g. an arrangement where an employee will work every other week for a period of three months.
Curtail	where an eligible mother or main adopter brings their maternity/adoption leave and, if appropriate, pay or allowance entitlement to an end early.