

PATERNITY LEAVE GUIDANCE

Notes:

- This policy should be read in conjunction with the relevant Service Order for fire employees on Grey & Gold Book Terms & Condition

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INTRODUCTION

This guidance describes Paternity Leave entitlements and pay and the conditions attached to them.

MINIMUM STANDARDS

Costs arising from the operation of this scheme will be met in the normal way through Director Area budgets.

Paternity Leave is a separate arrangement from and is in addition to annual leave.

RESPONSIBILITIES

DIRECTOR AND ASSISTANT DIRECTOR LEVEL

Implementing the policy and ensuring that employees have the necessary information.

SERVICE MANAGER – PEOPLE MANAGEMENT

Periodic review and revision of this guidance as necessary.

PROCEDURE

Qualifying employees will have the right to take up to **2 weeks** Ordinary Paternity Leave (OPL) and 26 weeks Additional Paternity Leave (APL), for babies due (or children placed for adoption), where the mother or primary adopter has returned to work.

ORDINARY PATERNITY LEAVE

To be eligible for the two weeks entitlement of ordinary paternity leave an employee must:

- have or expect to have responsibility for the child's upbringing
- be the biological father of the child or the mother's spouse/partner or civil partner
- have worked continuously for Lincolnshire County Council for 26 weeks ending with the 15th week before the baby is due

Ordinary paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave. (See [Adoption Leave Policy](#)) In respect of an adopted child, the employee must have 26 weeks' continuous service by the week in which the child's adopter is notified of having been matched with the child for adoption.

The employee can choose to take either one week or two consecutive weeks' ordinary paternity leave (not odd days). Leave is pro rata for part-time employees.

Leave can start on any day of the week on or following the child's birth or adoption but must be completed:

- within 56 days of the actual date of birth of the child or adoption, or
- if the child is born early within the period from the actual date of birth up to 56 days after the first day of the expected week of birth
- only one period of leave is available to employees irrespective of whether more than one child is born as the result of the same pregnancy

BEFORE STARTING ORDINARY PATERNITY LEAVE

The employee must inform their manager in writing by no later than the end of the 15th week before the baby is due (or as soon as reasonably practicable) the following information:

- the week the baby is due
- whether they wish to take one or two weeks' ordinary paternity leave
- when they want their ordinary paternity leave to start

In the case of an adopted child, the employee must give written notice of their intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start ordinary paternity leave, the length of the intended ordinary paternity leave period and the date on which the adopter was notified of having been matched with the child.

The employee must complete and return a [Paternity Leave Form](#) (available from George) and return to Serco Payroll.

The employee may change their leave dates providing 28 days' notice is given (unless this is not reasonably practicable).

The employee must also, if so requested, complete and sign a self-certificate declaring that they are entitled to ordinary paternity leave and ordinary statutory paternity pay.

ORDINARY STATUTORY PATERNITY PAY (SPP)

SPP is treated as "pay" and will be subject to deductions, e.g. tax and national insurance.

An employee will be eligible to Statutory Paternity Pay if:

- they have been continuously employed by Lincolnshire County Council for at least 26 weeks by the end of the 15th week before the baby is due
- they have average weekly earnings of over the lower limit for National Insurance contributions

ADDITIONAL PATERNITY LEAVE

Eligible employees may take up to 26 weeks' additional paternity leave within the first year of their child's life provided that the mother has returned to work.

Additional paternity leave is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work.

The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date.

Additional paternity leave must be taken as a single block. The minimum period is two consecutive weeks and the maximum period is 26 weeks.

Salary may be replaced by statutory paternity pay for some of the additional paternity leave period if the employee is eligible to receive it. The remaining period of additional paternity leave is unpaid.

ELIGIBILITY FOR ADDITIONAL PATERNITY LEAVE

In order to be eligible for additional paternity leave, an employee must satisfy each of the following criteria:

- They must be the father of the child or married to, the civil partner of, or the partner of, the child's mother, or married to, the civil partner of, or the partner of, the primary adopter, and, in the case of a birth child, expect to have the main responsibility for the upbringing of the child (apart from the mother's responsibility). In the case of adoption, they must have been matched with the child for adoption. In both cases, they must be taking the leave to care for the child.
- They must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which they was notified of having been matched with the child.
- They must remain in continuous employment until the week before the first week of additional paternity leave.
- The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance. In the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption pay.
- The mother or primary adopter must have returned to work.

NOTIFICATION OF ADDITIONAL PATERNITY LEAVE

Where an employee wishes to request additional paternity leave and pay, they must give their line manager eight weeks' written notice of the date on which they wish to take the leave and, if applicable, additional statutory paternity pay to commence.

The request form must be in writing and specify, in the case of a birth child, the date on which the child was expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption. In both cases, the notice must also specify the employee's name and intended start date and end date of additional paternity leave and statutory paternity pay.

The employee must also submit a written and signed self-certification form not less than eight weeks before the proposed start date of additional paternity leave and pay stating that the purpose of the additional paternity leave/statutory paternity pay period is to care for the child and that they satisfy the relationship eligibility conditions for additional paternity leave and pay.

At the same time, the mother or primary adopter must submit a written and signed declaration form stating:

- their name, address and national insurance number;
- the date that they intend to return to work;
- that they have given notice to their employer of returning to work;
- that they are entitled to statutory maternity pay, maternity allowance or statutory adoption pay;
- the start date of their maternity or adoption pay period;
- confirmation that the employee satisfies the relationship eligibility conditions;
- that they consent to the Council processing the information contained in the declaration form; and
- that the employee is to their knowledge the sole applicant for additional statutory paternity pay and, in the case of a birth child, also that the employee is to their knowledge the only person exercising the entitlement to additional paternity leave in respect of the child.

On request by the employer, the employee must produce:

- the name and business address of the mother's or primary adopter's employer and
- a copy of the child's birth certificate or, in the case of an adopted child, evidence of the name and address of the adoption agency, the date on which they was notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

The employee must supply this information within 28 days of it being requested. The employee is permitted to bring forward their additional paternity leave start date, provided that they advise their employer in writing at least six weeks before the new start date or, if that is not possible, as soon as reasonably practicable.

The employee may also postpone their additional paternity leave start date, or cancel their additional paternity leave altogether, provided that they advise their employer in writing at least six weeks before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The employer will formally respond in writing to the employee's notification of their additional paternity leave plans within 28 days, confirming the relevant start and end dates of additional paternity leave and pay.

ADDITIONAL STATUTORY PATERNITY PAY

Additional statutory paternity pay may be payable during some of additional paternity leave. This is paid at the same fixed rate as SMP, or 90% of the

employee's average weekly pay if that is less than the fixed rate. An employee is entitled to additional statutory paternity pay if:

- They are the father of the child or married to, the civil partner of, or the partner of, the child's mother, or married to, the civil partner of, or the partner of, the child's primary adopter, and, in the case of a birth child, expects to have the main responsibility for the upbringing of the child (apart from the mother's responsibility) or, in the case of adoption, has been matched with the child for adoption, and in either case intends to care for the child during the additional statutory paternity pay period;
- They have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which they was notified of having been matched with the child;
- They remain in continuous employment until the week before the additional statutory paternity pay period begins;
- Their average weekly earnings for the period of eight weeks ending with the relevant week are not less than the lower earnings limit for national insurance contributions;
- The mother is entitled to statutory maternity pay or maternity allowance or, in the case of adoption, the primary adopter is entitled to statutory adoption pay, has stopped claiming SMP/SAP or maternity allowance, and has returned to work;
- The mother or primary adopter has at least two weeks of their maternity or adoption pay period that remains unexpired; and
- They give proper notification in accordance with the rules set out above.

TRANSFER OF MATERNITY/ADOPTION LEAVE AND PAY

Employees may be eligible to transfer up to 26 weeks of the outstanding maternity/adoption leave (and outstanding statutory maternity/adoption pay) to their spouse, civil partner or partner; to be taken as additional paternity leave (and additional statutory paternity pay) once the employee has returned to work.

Additional paternity pay is paid for any period of additional paternity leave that falls within the unexpired part of the mother's or primary adopter's 39 week SMP/SAP or maternity allowance period.

For example, if the mother or primary adopter takes 30 weeks' statutory maternity leave/statutory adoption leave and pay, nine weeks of the SMP/SAP period remains unexpired. If the employee then takes 20 weeks' additional paternity leave following on immediately, the employee will be eligible for additional paternity pay for the first nine weeks of that leave.

The maximum additional paternity pay period is generally 19 weeks and it can be paid for part weeks as well as completed weeks.

If there is a gap between the end of the mothers' maternity leave period/primary adopter's adoption leave period and the start of the additional paternity leave period, the employee will lose some of their entitlement to additional paternity pay.

For example, if the mother or primary adopter returns to work with five weeks of their SMP/SAP period remaining, but the employee did not start their additional paternity leave until two weeks later; the entitlement to additional paternity pay will be only three weeks.

CONTRACT OF EMPLOYMENT DURING PATERNITY LEAVE

During your paternity leave your terms and conditions of employment will be maintained, with the exception of pay. The employee will have the right to return to the job in which they were employed.

Employees continue to accrue annual leave during the period of paternity leave.

This also applies to any bank holidays that fall during Paternity Leave. A compensatory day will be given for each bank holiday that occurs (or for part time employees, the number of bank holidays that they would have received had they not been on paternity leave).

Where a bank holiday falls on the first day of the paternity leave period the paternity leave would start the day after the bank holiday for the specific period.

If bank holiday falls in week 2 a compensatory day off would be provided. If bank holiday falls on the first day of the paternity leave period the leave would commence the day after the bank holiday for the specific period.

If bank holiday falls in week 2 would not provide a compensatory day off as the individual would be taking this as annual leave and not Statutory Paternity Leave.

RETURNING TO WORK AFTER ADDITIONAL PATERNITY LEAVE

The employee will have been formally advised in writing by the Council of the end date of their additional paternity leave. They are expected to return on the next working day after this date, unless they notify the Council otherwise. If the employee is unable to attend work at the end of additional paternity leave due to sickness or injury, the authority's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

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 planned date of early return, preferably in writing. If they fail to do so, the authority may postpone their return to such a date as will give the authority 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, 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 has ended, the authority may require the employee to return to work for the remainder of the notice period.

MATERNITY SUPPORT LEAVE

If the employee is entitled to Maternity Support Leave through their conditions of service and also qualify for Ordinary Paternity Leave (OPL) they will be entitled to one week's Maternity Support Leave at full pay and one week's Ordinary Paternity Leave at SPP rates (if eligible).

Maternity Support Leave also applies in cases of adoption, where the employee requesting Maternity Support Leave meets the same criteria as that for a birth.

NB: Maternity Support leave is separate from statutory parental leave, and is pro rata for part time staff.

GENERAL INFORMATION

CONTACT DURING ADDITIONAL PATERNITY LEAVE

Before your additional paternity leave commences the employee's Line Manager will discuss suitable arrangements for them to keep in touch during their leave, should they wish to do so. The Council reserves the right in any event to maintain reasonable contact with the employee from time to time during their additional paternity leave.

This may be to discuss the employee's plans to return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

KEEPING IN TOUCH DAYS

The employee can agree to work for the Council (or attend training) for up to 10 days during additional paternity leave without that work bringing the period of their additional paternity leave and pay to an end. These are known as "keeping in touch days". Any work carried out on a day shall constitute a day's work for these purposes.

The Council cannot insist that the employee carry out any work, nor can the employee insist that they do so. Any work undertaken, including the amount of salary paid for any work done on keeping in touch days, is entirely a matter for agreement between the Council and the employee.

Any keeping in touch days worked do not extend the period of additional paternity leave. Once the keeping in touch days have been used up, the employee will lose a week's SPP for any week in which they agree to work.

It may also bring the additional paternity leave period to an end.

DETRIMENT/UNFAIR TREATMENT

The employee must not be subjected to any detriment or unfairly treated or dismissed for taking, or seeking to take, ordinary and/or additional paternity leave.

ADDITIONAL RELEVANT GUIDANCE

[Maternity Leave Policy & Guidance](#)