

Guidance on Paternity Leave / Statutory/Occupational Paternity Pay Birth of a Child

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Governance Committee		Date approved	
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Strategic Alignment

Improving the Council's Resource Base – A Workforce Strategy that is built around the needs of the Council (as a single resource base) to deliver the priority outcomes, ensuring future workforce requirements, new skills and innovative approaches, and succession planning are recognised.

Consultation process		
Stakeholders	Contacts identified for each service	
	<i>Joint Trade Unions</i>	
Distribution		

Change record

Date	<i>15/02/2019</i>	Author	<i>Lindsay Millar, Millarl@northlan.gov.uk</i>
Change made	<i>Extended paternity leave provisions</i>		

Summary of ordinary paternity leave and ordinary statutory paternity pay - birth

- **Ordinary paternity leave and statutory paternity pay may be available for the father of a newborn child; husband / partner (including same-sex partner or civil partner) of the mother, subject to eligibility criteria detailed in 1.1 and 1.6 of this Guidance.**
- **Ordinary paternity leave is time off to care for the newborn child or to support the mother following the birth.**
- **Ordinary paternity leave for Council employees is one week, which has to be taken as one complete week of leave. The leave must be taken and end within 56 days of the actual birth date.**
- **In addition the Council offer occupational paternity leave of two weeks, which has to be taken in blocks of no less than one week. This leave must be taken within 12 months of the birth.**
- **Subject to eligibility criteria detailed in 1.6 of this Guidance, an employee will receive the lower of:-**
 - **The standard weekly rate of Ordinary Statutory Paternity Pay at the time of payment,**
 - **90% of average weekly earnings, however this will be topped up to full pay.**
 - **Occupational paternity pay will be paid at full pay.**

How to apply –

- **Completion of Form HR 01 for submission to the line manager by the 15th week before the week the baby is due.**

In addition to one week of Ordinary Paternity Leave and two weeks occupational paternity leave, Maternity Support Leave of five days at full pay continues to be available to eligible employees. To apply for Maternity Support Leave, Form HR 07 should be completed for submission to the line manager prior to the period of leave, providing as much notice as possible of the proposed dates

1. Ordinary paternity leave - birth

1.1 Eligibility criteria

An employee qualifies for ordinary paternity leave (OPL) on the birth of a baby if they are :-

- Have or expect to have responsibility for the baby's upbringing, and they are either:-
 - the biological father of the baby, or
 - the mother's (or adopter's) husband, civil partner or partner (including same sex partner) but not the child's father.
 - or the adopter of the child

A partner is someone who lives with the mother and the baby in an enduring family relationship but is not an immediate relative of the mother.

In addition, they must:-

- Have 26 weeks' continuous employment with North Lanarkshire Council (NLC), ending with the 15th week before the expected week of childbirth (EWC) – the qualifying week.
- Be working with NLC from the qualifying week up to the date of birth. If the employee's contract of employment ends before the birth, they do not qualify for OPL. If the employee's contract of employment ends after the birth, they retain their right to OPL (and pay if they qualify).
- Have complied with the notice requirements of their intention to take OPL.
- Be taking time off to care for the newborn child or to support the mother following the birth.

1.2 Entitlement

OPL entitlement for Council employees is **one week** of continuous leave, but can start on any day, for example from Tuesday to Monday. It cannot be taken before the child is born.

The entitlement will remain as one week regardless of the number of children resulting from a single pregnancy.

In addition eligible council employees will be entitled to two weeks occupational paternity pay.

If the mother gives birth to a stillborn baby, the employee is still entitled to OPL but only if the birth happens after 24 weeks of pregnancy. If the baby is born alive but then later dies, the employee is still entitled to OPL.

Ordinary paternity leave must end:-

- Within 56 days (8 calendar weeks) of the actual birth date.
- If the child is born earlier than expected, between the birth and 56 days from the first day of the EWC.

Occupational paternity leave must be taken and completed

- Within 12 months from the date of the child's birth or, in the case of adoption, within 12 months of the child being placed.
- In the event of the child is born early, within 12 months from the first day of the expected week of childbirth

1.3 Applying for ordinary paternity leave - birth

An employee must make a request for ordinary paternity leave by the 15th week before the week the baby is due, by completing form HR 01, signing the declaration within the form, and submitting the completed form to their line manager.

1.4 Applying for occupational paternity leave

Employees who meet the criteria for ordinary paternity leave and have had this approved can apply for occupational paternity leave by requesting this through Myself and the line manager must approve this. This will be recorded as special leave – occupational paternity leave.

1.5 When can ordinary paternity leave start

An employee cannot start their OPL until the birth of the baby. Otherwise, an employee can choose to start their leave:-

- On the actual date of the baby's birth (whether earlier or later than expected).
- On a date notified by the employee, falling a specified number of days after the actual birth date (whether earlier or later than expected).
- On a date notified by the employee, falling after the first day of the expected week of childbirth. If the baby is born later than this date, the employee must delay their leave until the date of the actual birth.

1.6 Changing the start date of ordinary paternity leave

An employee requesting a change to their start date of OPL must provide the following notice:-

- To change the start date of the leave so that it starts on the date of birth - at least 28 days notice before the first day of the EWC.

- To change the start date of the leave so that it starts on a particular date - 28 days notice before that date.
- To change the start date of the leave so that it starts a specified number of days after the birth - at least 28 days notice before the date falling the same number of days after the first day of the EWC. For example, if the employee wants to start their leave 14 days after the birth and the EWC begins on 16 July, they must notify their line manager of the new date on 2 July, i.e. 28 days before 14 days after 16 July.

If an employee has changed the start date of their leave, a new application form should be completed to replace the existing one.

1.7 Ordinary statutory paternity pay - birth

An employee will qualify for Ordinary Statutory Paternity Pay (OSPP) if they have:-

- At least 26 weeks continuous service with NLC by the end of the 15th week before the expected week of childbirth.
- Average weekly earnings (AWE) at or above the lower earnings limit (LEL) for National Insurance Contributions (NICs).
- Declared their eligibility for OSPP by submitting a completed form at least 28 days before they want their OSPP to start (or as soon as reasonably practical)

An employee who is eligible for OSPP will receive the lower of:-

- The standard weekly rate of OSPP at the time of payment (this rate will increase every April in line with other statutory payments).
- 90% of average weekly earnings.

2. Shared Parental Leave

2.1 How it works

Both partners may be able to get Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if they are having a baby or adopting a child.

Shared parental leave (SPL) is designed to afford mothers and co-parents more flexibility in how to share the care of their child in the first year following birth or adoption.

The option to use SPL will apply to mothers and co-parents who meet the eligibility criteria (below), where a baby is due to be born on or after 5 April 2015, or for children who are placed for adoption on or after this date.

SPL does not alter a mother's entitlement to 52 weeks maternity leave. However, in order to take SPL, the mother must have served 8 weeks notice of her decision to end (curtail) her maternity leave or maternity pay early. The remaining leave will be available as SPL. The remaining weeks of pay may be available as Statutory Shared Parental Pay (ShPP). The mother must take a minimum of 2 weeks maternity leave following the birth, leaving up to 50 weeks available for SPL.

To qualify for SPL a mother must be entitled to maternity or adoption leave, or statutory maternity or adoption pay or maternity allowance, and must share the main responsibility for caring for a child with the child's father or her partner.

2.2 Eligibility criteria

To be eligible for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), both parents must:

- Share responsibility for the child at birth
- Meet work and pay criteria – these are different depending on which parent wants to use the shared parental leave and pay

You are not eligible if you started sharing responsibility for the child after it was born

If both parents want to share the SPL and ShPP

Both partners must:

- Have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- Stay with the same employer while you take SPL
- Be employees
- Each earn on average at least £116 a week

If the mother's partner wants to take SPL and ShPP

The mother must:

- Have been working for at least 26 weeks (they do not need to be in a row during the 66 weeks before the week the baby's due
- Have earned at least £390 in total across any 13 of the 66 weeks

The mother's partner must:

- Have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- Stay with the same employer while they take SPL
- Be an employee
- Earn on average at least £116 a week

If the mother wants to take the SPL and ShPP

The mother's partner must

- Have been working for at least 26 weeks (they do not need to be in a row during the 66 weeks before the week the baby's due
- Have earned at least £390 in total in 13 of the 66 weeks (add up the highest paying weeks, they do not need to be in a row)

The mother must:

- Have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- Stay with the same employer while they take SPL
- Be an employee
- Earn on average at least £116 a week

2.3 When can you take it?

SPL may be taken at any time within the period which begins on the date the child is born or placed for adoption and ends 52 weeks after that. Leave must be taken in complete weeks and may be taken either in a continuous period or in up to 3 separate (discontinuous) blocks (subject to exigencies of the

service). The Council is not obliged to accept applications for discontinuous blocks.

The minimum period of leave must be one week. Eight weeks' notice is required of an intention to take a block of SPL.

2.4 Compulsory leave

A mother cannot return to work before the end of the compulsory 2 weeks of maternity leave following the birth (4 weeks if she works in a factory).

2.5 Shared Parental Leave in Touch (SPLIT) days

SPLIT days will be available to both parties during SPL. These are in addition to the Keeping in Touch days outlined in section 6.

If mutually agreed by the manager and employee, an employee can do up to 20 days paid work during the period of his/ her SPL except during the 2 week compulsory leave period immediately following childbirth, without losing statutory payments or bringing SPL to an end. There is no obligation on the employee to do this and it is important to note that SPLIT days are distinct from keeping in contact with the employee.

2.6 Statutory Shared Parental Pay

If eligible and the mother ends maternity leave and pay (or maternity allowance) early, then the partner can:

- Take the rest of the 52 weeks of maternity as SPL
- Take the rest of the 39 weeks of maternity pay (or maternity allowance) as Statutory Shared Parental Pay

Statutory Shared Parental Leave is paid at the rate of £145.18 a week or 90% of your average weekly earnings, whichever is lower. This is the same as Statutory Maternity Pay (SMP) except that during the first 6 weeks SMP is paid at 90% of whatever you earn (with no maximum).

2.7 Application for Shared Parental Leave

To apply for shared parental Leave or shared parental pay you must:

- Follow the rules for starting SPL and ShPP
- Need to give 8 weeks' written notice of your leave dates

To apply, complete Form HR 08 and submit this to your line manager in accordance with the guidance on the form.

2.8 Booking blocks of leave

Employees can book up to 3 separate blocks of shared parental leave instead of taking it all in one go, even if you are not sharing the leave with your partner.

If your partner is also eligible for SPL, you can take up to 3 blocks of leave each. You can take leave at different times or both at the same time.

You must give details of your plans for leave when you apply for SPL. You can change these plans later but you must give at least 8 weeks notice before you want to begin a block of leave.

Splitting blocks of leave

Where agreed, you can split blocks into shorter periods of at least a week.

Example

A mother finishes her maternity leave at the end of October and takes the rest of her leave as SPL. She shares it with her partner, who is also eligible. They each take a whole of November as their first block of SPL. The partner then returns to work.

The mother also returns to work in December. She gives notice that she will go on leave again in February and this will be her second block of SPL. This is agreed on a work pattern of 2 weeks on, 2 weeks off during the block.