

Guidance on Paternity Leave / Statutory/Occupational Paternity Pay Adoption 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	15/02/2019	Author	Lindsay Millar, Millar1@northlan.gov.uk
Change made	<i>Extended paternity leave provisions</i>		

Summary of statutory paternity leave and ordinary statutory paternity pay – adoption

- **Statutory paternity leave and statutory paternity pay may be available for an employee who is one of two parents jointly adopting a child, or the partner of someone adopting a child individually (including same-sex partner or civil partner), subject to criteria detailed in 1.1 and 2.1 of this Guidance. The criteria differs for UK and overseas adoptions.**
- **Statutory paternity leave is time off to care for the child or to support the other adopter.**
- **Statutory paternity leave for Council employees is one week, which has to be taken as one complete week of leave. The leave can start any time from the date of the child's placement and must be completed within 56 days of the placement 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 2.1 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 –

Complete either Form HR 02 (UK adoption) or HR 03 (overseas adoption) and submit this to your line manager within the timescales detailed in 1.5 of this Guidance.

In addition to one week of Statutory Paternity Leave and two weeks Occupational Paternity Leave, Adoption Support Leave of five days at full pay continues to be available to eligible employees. To apply for Adoption Support Leave, Form HR 04 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. Statutory paternity leave - adoption

1.1 Eligibility criteria

To qualify for Statutory Paternity Leave (SPL) for adoption an employee must meet certain qualifying criteria. The criteria differ for UK and overseas adoptions.

The right to SPL – UK adoptions

An employee qualifies for SPL when adopting a child from the UK if they:-

- Are either one of two parents jointly adopting a child, or the partner of someone adopting a child individually.
- Have or expect to have responsibility for the child's upbringing with the other or main adopter.
- Are not taking statutory adoption leave and pay.
- Have been continuously employed by NLC for at least 26 weeks ending with the week in which they are notified of having been matched with the child – the qualifying week. The qualifying week starts on a Sunday and ends on a Saturday.
- Continue to work for NLC from the qualifying week to the date of the child's placement
- Have notified NLC that they want to take SPL, no more than seven days after the adopter is notified that they have been matched with a child.
- Will be taking time off to support the adopter and/or to care for the child. The employee cannot take SPL for any other purpose.

The right to SPL – overseas adoptions

An employee qualifies for SPL when adopting a child from overseas if they:-

- Are either one of two parents jointly adopting a child, or the partner of someone adopting a child individually.
- Have or expect to have responsibility for the child's upbringing with the other or main adopter.
- Are not taking statutory adoption leave and pay.
- Have been continuously employed by NLC for at least 26 weeks into the week that the adopter receives **official notification** or by the time they want their SPL to begin, whichever is later.
- Have provided the correct notification to NLC.
- Continue to work for NLC up until the point the child enters Great Britain.

Official notification for overseas adoption is written notification issued by or on behalf of the relevant domestic authority (usually the Department for Education in England or the Welsh or Scottish Ministers) that the authority either:-

- Is prepared to issue a certificate to the overseas authority dealing with the adoption of the child.
- Has issued a certificate and sent it to that authority.

In either case, the notification certificate confirms that the other or main adopter:-

- Is eligible to adopt.
- Has been approved as being a suitable adoptive parent.

1.2 Entitlement – both adoption categories

SPL entitlement for Council employees is **one week** of continuous leave, but can start on any day, for example from Tuesday to Monday.

In addition eligible council employees will be entitled to two weeks Occupational Paternity Pay.

An employee cannot take SPL for any purpose other than supporting the adopter and/or to care for the child. SPL is not meant to be used to cover any time spent travelling overseas to arrange the adoption or visit the child.

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 Choosing the start date of SPL – UK adoptions

SPL can begin any time from the date of the child's placement with the adopter but must be completed within 56 days of this date.

The employee can choose to begin SPL on one of the following:-

- The date on which the child is placed with the adopter, even if this is earlier or later than the expected date of placement. If the employee is at work on that date, their leave begins on the day after.
- A predetermined date after the expected date of placement.
- A date falling a specified number of days after the expected date of placement.

If the date of placement changes, the employee's chosen:-

- Start date of SPL could fall before the date of placement or even after the 56 day limit.

- End date of SPL could fall after the 56 day limit.

In these circumstances, the employee should:-

- Discuss the situation with their line manager as soon as possible.
- Give the appropriate notice to change the start date.

1.4 Choosing the start date of SPL – overseas adoptions

An employee adopting a child from overseas may choose to start their SPL:-

- From the date the child enters the UK.
- From a fixed date which is later than the date the child enters the UK.

The employee must complete their period of leave within 56 days of the date the child enters the UK. Leave can start on any day of the week.

1.5 Applying for statutory paternity leave - adoption UK adoptions

When adopting a child from within the UK, an employee must make a request for SPL by completing form HR 02 and signing the declaration in that form.

The employee should submit the completed form to their line manager no more than seven days after the adopter is notified that they have been matched with a child.

If it is not reasonably practicable for them to meet this deadline, they must notify their line manager as soon as possible.

Overseas adoptions

When adopting a child from overseas, an employee must give notice in three stages that they intend to take SPL – Form HR 03.

- Stage 1 – the employee must inform their line manager of:-
 - The date on which the other or main adopter received official notification.
- The date the child is expected to enter the UK.
- Stage 2 – the employee must give their line manager at least 28 days notice of the actual date they want their SPL and Ordinary Statutory Paternity Pay (OSPP), if they qualify, to start. This notice can be given at the first notification stage if the date is known. SPL cannot start before the child has entered the UK. 28 days notice of a change of start date must be given by the employee, or as soon as is reasonably practicable.

- Stage 3 – the employee must tell their line manager the date the child entered the UK. They must tell their line manager within 28 days of the child's date of entry.

1.6 Applying for occupational paternity leave

Employees who meet the criteria for statutory 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.

2. Ordinary statutory paternity pay - adoption

2.1 Eligibility criteria

There are different sets of eligibility criteria which apply to Ordinary Statutory Paternity Pay (OSPP) depending on whether it relates to a UK adoption or an overseas adoption.

UK adoptions

An employee qualifies for ordinary statutory paternity pay (OSPP) when adopting a child from within the UK if they have:-

- At least 26 weeks continuous service with NLC by the 'matching week' – this is the week (beginning on Sunday and ending on Saturday) in which the adopter is notified of having been matched with the child.
- Continued to work for NLC from the matching week to the date of the child's placement.
- Average weekly earnings (AWE) at or above the lower earnings limit for National Insurance Contributions that applies at the end of the matching week.
- Declared their eligibility for OSPP by submitting a completed form HR 02 at least 28 days before they want OSPP to start.

Overseas adoptions

An employee qualifies for OSPP when adopting a child from overseas provided:-

- Official notification relating to the adoption has been received.
- The employee has worked for NLC continuously for at least 26 weeks either by the week that official notification is received, or the time they want payment of OSPP to begin, whichever date is later.
- They continue to work for NLC up until the point the child enters the UK
- They have declared their eligibility for OSPP by submitting a completed form HR 03 at least 28 days before they want their OSPP to start, or as soon as is reasonably practicable.

- They have AWE at or above the lower earnings limit for National Insurance Contributions that applies at the later of either the end of the week in which official notification is received or the end of the week in which they complete 26 weeks' service.

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

- The standard weekly rate of Ordinary Statutory Paternity Pay (this rate will increase every April in line with other statutory payments).
- 90% of average weekly earnings, however this will topped up to full pay

3. Shared Parental Leave

3.1 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. Please see the Adoption Policy for more information for adoptive parents.

Co-parents are defined as fathers, spouses, civil partners, partners and adopters.

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.

3.2 Eligibility criteria

To be eligible for SPL and ShPP, both adoptive parents must:

- Share responsibility for the child
- Meet the work and earning criteria – these are different depending on which one of you wants to use the SPL and pay

If both parents want to share the SPL and ShPP

You and your partner must:

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

If only one of the parents wants to take the SPL and ShPP

The parent who wants to take the leave and pay must:

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

The other parent 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 child was placed with you
- Have earned at least £390 in total of the 66 weeks (add up the highest paying weeks, they do not need to be in a row)

3.3 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.

3.4 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).

3.5 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.

3.6 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).

3.7 Application for Shared Parental Leave

To apply for SPL or ShPP 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.

3.8 Booking blocks of leave

Employees can book up to 3 separate blocks of SPL 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.