



Maternity/Adoption Support Leave (incorporating Statutory Paternity Leave) Policy and Procedure

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Purpose [\(Back to Top\)](#)

The purpose of this policy and procedure is to support employees whose partner or spouse has given birth to a child/is the main adopter of a child and also to ensure compliance with statutory requirements.

The Council’s provisions for Maternity/Adoption Support Leave supplement and enhance employees’ entitlement to Statutory Paternity Leave.

Scope [\(Back to Top\)](#)

This policy and procedure applies to all employees of Leicestershire County Council employed under the following conditions of service:

- National Joint Council for Local Government Services;

- School Teachers' Pay and Conditions (centrally employed teachers).

This policy and procedure is not applicable to employees based in schools/colleges with delegated budgets.

This policy and procedure applies to fathers and partners of mothers of children due on or after 3 April 2011 and to adoptive parents who are notified of having been matched with a child (or in the case of overseas adoptions, whose child enters the UK) on or after 3 April 2011.

Principles [\(Back to Top\)](#)

The Council's commitment to equality of opportunity will be observed at all times during the operation of this procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, gender, marital status, disability, age, sexual orientation, trade union membership or activity, political or religious belief and unrelated criminal conviction.

Roles and Responsibilities [\(Back to Top\)](#)

Employee	Complies with maternity/adoption support leave and pay conditions, notification procedures and deadlines, and submits relevant forms.
Line manager	Instigates administrative arrangements with the Employee Service Centre. Maintains reasonable contact with employee during maternity/adoption support leave.
HR Services	Provides advice and guidance on more complex queries about maternity/adoption support leave and pay.
Employee Service Centre	Is first point of contact for advice to managers and employees on maternity/adoption support leave and pay and undertakes necessary administration.

Maternity/Adoption Support Leave [\(Back to Top\)](#)

The legal provisions relating to Statutory Paternity Leave and Pay co-exist with the Council's provisions for Maternity/Adoption Support Leave.

An entitlement to Statutory Paternity Leave and Pay was introduced with effect from 6 April 2003 and amended with effect from 3 April 2011. This provides for an eligible employee to receive up to 2 consecutive calendar weeks of paid time off work (Ordinary Paternity Leave) following the birth of a child or adoption placement and to take an extended period of leave (Additional Paternity Leave) of up to 26 weeks. The 2 weeks of Ordinary Paternity Leave must be taken consecutively within the first 56 days of the birth/adoption placement.

As an enhancement to the statutory provisions, all Council employees, regardless of length of service, are entitled under the Local Conditions of Service to one week's leave on full pay (irrespective of whether they meet the eligibility criteria for Statutory Paternity Leave) if their partner or spouse has given birth to a child or is the main adopter of a child. In addition, in the special circumstances set out below, managers have discretion to grant a second week of leave at full pay:

- multiple birth; or
- Caesarean or difficult birth; or
- other dependent children to care for; or
- post-natal depression.

This second week must be taken immediately following the first week of paid leave.

For those employees who are eligible for Statutory Paternity Leave, the Council's provisions substitute for the first week of Ordinary Paternity Leave, and if an employee is granted a second week of leave at full pay under the Council's provisions, these substitute for the second week of Ordinary Paternity Leave. Therefore, the total amount of paid support leave that an employee may receive as either Ordinary Paternity Leave or Maternity/Adoption Support Leave is 2 weeks in total.

Statutory Paternity Leave [\(Back to Top\)](#)

Background

With effect from 6th April 2003, the government introduced Statutory Paternity Leave and Pay of up to 2 consecutive calendar weeks, in recognition that some organisations did not allow paid time off to employees who were the main carers of pregnant women. This entitlement is now referred to as **Ordinary Paternity Leave (OPL)**.

With effect from 3rd April 2011, Statutory Paternity Leave provisions were extended to provide for **Additional Paternity Leave (APL)**, which is an extended period of leave that can be taken by the partner of a mother/main adopter after Ordinary Paternity Leave.

Ordinary Paternity Leave (OPL) [\(Back to Top\)](#)

OPL may be taken by the partner or spouse of a mother/main adopter within 56 days of the birth of the child or adoption placement.

Eligibility

To qualify for OPL, the employee must:

- have at least 26 weeks' continuous service with the Council by the end of the 15th week before the expected week of childbirth or the week in which the child is placed for adoption; and
- be either:
 - the child's father or

- the mother's spouse or
- the mother's partner or
- the mother's civil partner or
- one of a couple jointly adopting a child; and
- have the main responsibility (apart from the responsibility of the mother/main adopter) for the upbringing of the child; and
- be taking time off work to help care for the child or to support the child's mother/main adopter.

Pay

During OPL, an employee is entitled to receive Statutory Paternity Pay (SPP), at a rate set by the government for the relevant tax year or at 90% of the employee's average weekly earnings, if this figure is lower than the government's set weekly rate.

However under the Local Conditions of Service, all eligible Council employees are entitled to be paid at their normal rate of pay for the first week of OPL, which will be offset against their entitlement to SPP.

Notification arrangements

An employee wishing to apply for OPL must complete form [Adopt01](#) and submit it to their manager at least 15 weeks before the expected week of childbirth/no later than 7 days after the date on which notification of the match with a child has been given by the adoption agency.

Variation to start date

The employee can change their mind about the date on which they want the OPL to start provided they give at least 28 days' written notice of the new date or, if that is not possible, they give notice as soon as reasonably practicable.

Additional Paternity Leave (APL) (back to top)

APL is an extended period of leave which can be taken by the partner or spouse of a mother/main adopter once the mother/main adopter has returned to work, provided that the maximum period of maternity or adoption leave has not been exhausted. APL gives the mother/main adopter the option of "donating" up to 26 weeks' untaken maternity or adoption leave to their partner/spouse, thereby offering greater flexibility to both parents.

Eligibility

To qualify for Additional Paternity Leave **both the employee and their partner/spouse** must satisfy certain criteria, as follows:–

The employee wishing to take APL must:

- have at least 26 weeks' continuous service with the Council by the end of the 15th week before the expected week of childbirth or the week in which the child is placed for adoption; and
- be either:
 - the father of the child or

- the mother's spouse or
- the mother's partner or
- the mother's civil partner or
- the spouse/ partner of the main adopter; and
- remain in employment with the Council until the week before APL commences; and
- have the main responsibility (apart from the responsibility of the mother/main adopter) for the upbringing of the child.

The employee's partner/spouse (the mother/main adopter) must:

- be entitled to one or more of statutory maternity leave, statutory adoption leave, statutory maternity pay or maternity allowance or statutory adoption pay; and
- have returned to work before their maternity/adoption leave has been exhausted (as APL cannot commence until the mother/main adopter has returned to work).

A "partner" is defined as someone of either sex who lives with the mother/main adopter in an enduring family relationship, but is not the mother's parent, grandparent, sibling or aunt/uncle. It is not necessary for the mother/main adopter and their partner/spouse to both be employed by the Council in order to qualify for APL.

Length and timing of Additional Paternity Leave

An employee eligible for Additional Paternity Leave (APL) may take between 2 and 26 weeks' leave. The leave must be taken as one continuous period in complete weeks. The leave cannot begin until at least 20 weeks after the birth of the child/adoption placement and must be completed within 12 months of the birth/placement.

Only one period of APL can be taken, even if more than one child is born as a result of the same pregnancy or more than one child is placed for adoption at the same time.

The mother and her partner/spouse, or a couple jointly adopting a child, cannot both be absent on maternity/adoption leave and APL at the same time. However, the mother/main adopter may request annual leave at the end of their maternity/adoption leave period and this may coincide with some of the partner/spouse's APL.

Additional Statutory Paternity Pay

Employees are eligible to receive Additional Statutory Paternity Pay (ASPP) during the mother/main adopter's remaining maternity/adoption pay period provided:

- the mother has returned to work; and
- their weekly earnings are above the lower earnings limit for National Insurance purposes for the 8 weeks before the 15th week before the expected week of child birth or the week in which the adopter is matched with the child for adoption.

Because Occupational Maternity/Adoption Pay ceases after 18 weeks, this cannot transfer to the partner/spouse's ASPP entitlement (as the earliest that ASPP can commence is 20 weeks after the birth/ placement).

Entitlement to ASPP ceases 39 weeks from the date on which the mother/main adopter commenced ordinary maternity/adoption leave. Any leave taken after this date is therefore unpaid.

ASPP is payable whether or not the employee intends to return to work after their period of Additional Paternity Leave.

Notification arrangements

The employee must complete the following forms and submit them to their manager at least 8 weeks before the intended date of commencement of APL:

- Notice of Leave Form;
- Employee Declaration Form;
- Mother Declaration Form.

The employee must also provide:

- a copy of the child's birth certificate or in the case of adoption, a document from the adoption agency showing the name and address of the agency, the date the adopter was notified of matching and the expected date of placement; and
- the name and address of the mother's employer.

On receiving the employee's [Notice of Leave Form](#), the manager will then arrange for the Employee Service Centre to write to the employee, within 28 days of receipt of their written notification, to confirm the dates of the APL.

Amendment of start or end date

Before a period of APL has begun, the employee may cancel or vary the start or end date provided they advise the Council in writing at least 6 weeks before the original agreed date, or 6 weeks before the new date, or as soon as reasonably practicable.

If it is not reasonably practicable to accommodate the employee's changed arrangements, the Council may require the employee to take the APL as originally agreed. In these circumstances, the APL will start on the date agreed and will end either 6 weeks after the employee submitted their request to vary the leave or the end date previously specified in the "Notice of Leave", whichever is the sooner.

The ESC will confirm any agreed change(s) of date in writing within 28 days of receipt of the employee's request.

Withdrawal of request

An employee must advise the Council in writing if their circumstances change and they:

- are no longer the mother's/main adopter's partner/spouse; or
- no longer has main responsibility for the child's upbringing;

and hence are no longer entitled to receive APL.

If the employee's notice of withdrawal is submitted less than 6 weeks before the APL is due to start and it is not reasonably practicable to accommodate the employee's revised request, the Council may require the employee to take the APL as originally agreed. In these circumstances, the APL will start on the date agreed and will end either 6 weeks after the notice of withdrawal was submitted or the end date previously specified in the "Notice of Leave", whichever is the sooner.

The ESC will confirm the dates of the APL in writing within 28 days of receipt of the withdrawal notice.

If the employee's notice of withdrawal is submitted after the employee has already commenced their APL and it is not reasonably practicable to accommodate the employee's revised request, the Authority may require the employee to remain on APL as originally agreed. In these circumstances, the APL will end either 6 weeks after the employee submitted the notice of withdrawal or the end date previously specified in the "Notice of Leave", whichever is the sooner. The period of leave will still be deemed to constitute APL.

Early return to work

If an employee wishes to return to work earlier than the date specified in their "Notice of Leave", they must give at least 6 weeks' notice of their new return date. If less than 6 weeks' notice is given, and the new date cannot reasonably be accommodated, the Council has the right to delay the return date to ensure that 6 weeks notice has been given.

Death of mother

In the event of the death of the mother, APL can be taken at any time from the mother's death up to 12 months after the child's birth provided that the mother would have been entitled to one or more of statutory maternity leave, statutory maternity pay or maternity allowance or statutory adoption pay.

Death of child or return of child to adoption agency

In the event of the death of the child or the return of the child to the adoption agency in the course of the APL period:

- if the end date of the employee's APL is within less than 8 weeks, the APL will still finish on this date;
- if more than 8 weeks of the employee's APL remains, the APL will finish 8 weeks after the death of the child/return of the child to the adoption agency.

Right to Request Flexible Working ([back to top](#))

As a parent of a child under age 16 the employee has a [statutory right to request flexible working](#), i.e. returning on reduced hours, to a different working pattern or to a different work location.

Annual Leave, Public Holidays and Concessionary Days ([back to top](#))

An employee is encouraged to take any outstanding annual leave that they have earned, but not yet taken, before starting APL.

During APL, an employee will continue to accrue annual leave together with any public holidays and concessionary days that fall during this period.

An employee may take in full the leave that they have accrued during the period of APL. However, the employee is not permitted to carry forward excess leave beyond the first year after their return into subsequent annual leave years.

Essential Car User Allowance and Car Leasing ([back to top](#))

An employee with essential car user status will continue to receive the essential car user lump sum throughout their APL period.

If the employee participates in the Council's lease car scheme, they must notify ESPO of their APL at the earliest opportunity. The employee may retain their lease car during APL, but must contact the Employee Service Centre to set up a direct debit payment to cover their monthly contributions during the **unpaid** period of their APL.

Pensions ([back to top](#))

For an employee who is a member of either the Local Government Pension Scheme or the Teachers' Pension Scheme, pension contributions will continue to be deducted each month from their salary during the **paid** period of their APL. Contributions will be based on the levels of pay applicable at the various stages of APL.

Unpaid Period of Additional Paternity Leave

When an employee enters a period of unpaid leave, it will not be possible to collect pension contributions.

➤ **Teachers' Pension Scheme**

For members of the Teachers' Pension Scheme, pension contributions cease at the end of the paid period of leave and membership of the scheme is suspended. For further information, employees should contact Teachers' Pensions, Mowden Hall, Darlington, DL3 9EE or visit their website <http://www.teacherspensions.co.uk/contact/contactus.htm>. Alternatively they may contact the Employee Service Centre by telephone on 0116 305 8815 or by email at eschelpdesk@leics.gov.uk.

➤ **Local Government Pension Scheme**

For members of the Local Government Pension Scheme, it is possible to make up 'missing' contributions on their return to work so that the period of service concerned can be counted for pension purposes. An employee wishing to make up their contributions must notify the Pensions Section of their decision by completing and returning the [Option](#) form **within 30 days of their return to work**. The outstanding contributions can be paid either as a lump sum or, by agreement, in instalments.

Keeping-in-touch Days ([Back to Top](#))

Keeping-in-touch (KIT) days are intended to help the employee keep in touch with their workplace during APL. KIT days can be used, for example, for attending a training course, team meeting or Personal Development Review meeting, or to participate as a member of an interview panel.

An employee may undertake up to, but not exceeding, 10 KIT days during their APL without bringing their APL to an end or affecting their ASPP (see note below). KIT days can be worked separately or in a block, and either as full or part days, by agreement between the employee and their manager.

The employee is paid at their normal rate of pay for the hours/days worked as KIT days and this will be offset against their ASPP. The hours worked should not exceed the employee's normal weekly contracted hours. The manager is responsible for completing and certifying a [form](#) for payment of the hours/days worked.

Important Note: If an employee has worked 10 KIT days and then does further work for the Council during their adoption leave, they will lose ASPP for each week in which they work. If an employee works their 10th KIT day and then does a further day's work in the same week, they will lose ASPP for that week. In this context, a week means any period of 7 days e.g. if the employee's ASPP started on a Thursday, a week will run from Thursday to Wednesday.

The Council cannot require an employee to undertake KIT days and an employee does not have any entitlement to be offered them. The amount and type of work that is to be done should be mutually agreed between the employee and their manager, subject to the above provisions.

Reasonable contact during Additional Paternity Leave

A manager is entitled to make reasonable contact with an employee during their APL e.g. to discuss their plans for returning to work or whether the employee might be seeking to change their hours of work or pattern of working. The employee will also need to be kept up to date about any changes that may be taking place in the organisation.

Details of job vacancies are available on the Council's website. If an employee is unable to access the website and would like to receive a copy of

the Council's Vacancy Bulletin, this can be arranged by their manager on request.

Child Care Vouchers [\(back to top\)](#)

Child care vouchers are a "salary sacrifice" scheme. They are paid through the employer and are a way of saving money on child care fees as a percentage of the employee's payment is exempt from income tax and National Insurance contributions.

The Council's [child care vouchers scheme](#) is provided and administered by an external provider. Further information is available on CIS.

If an employee already participates in the Council's child care vouchers scheme, they will continue to be eligible to receive child care vouchers during their APL.

Glossary of terms [\(back to top\)](#)

Adopt01	Formal application form for maternity/adoption support leave and pay
APL	Additional Paternity Leave
ASPP	Additional Statutory Paternity Pay
KIT Days	Keeping-in-touch Days
Option Form	Notification to pay LGPS pension contributions during Additional Paternity Leave
OPL	Ordinary Paternity Leave
SPL	Statutory Paternity Leave, comprising Ordinary Paternity Leave and Additional Paternity Leave
SPP	Statutory Paternity Pay