



# Maternity and Adoption Support and Paternity Leave

## Policy

This policy sets out our policy for maternity and adoption support leave and statutory paternity leave within the Council.

Although the term 'father' is used in this document, maternity and adoption support leave and statutory paternity leave will also be available to same sex partners and civil partners of mothers and members of adopting couples who are employed.

The UK government information tends to refer to "fathers" and the pronouns "he", "him" and "his" when describing these entitlements. To make this document easy to read we have also done this but it is emphasised that a female employee will be entitled to this leave and pay if she meets the eligibility criteria.

The policy covers the following areas:

1. Why we have a maternity and adoption support and paternity leave policy
2. The main principles of our policy
3. Maternity and adoption support leave
4. Ordinary paternity leave
5. Additional paternity leave
6. Requesting leave
7. Keeping-in-touch days during additional paternity leave

Each section summarises our main principles in this area.

## **I. Why we have a maternity and adoption support leave and paternity leave policy?**

I.1 This policy sets out how we will manage:

- Maternity and adoption support leave
- Statutory paternity leave (both ordinary and additional)
- Eligibility criteria
- Requesting leave
- Payment during leave period

Our policy covers all Fife Council employees (excluding uniformed Police) and prospective employees. We plan to review this policy every three years or earlier if we need to.

### **Who should use this policy, and when they should use it**

- I.2 This policy is for all our employees. It outlines the rights and responsibilities of our employees, provides guidance to managers and to those responsible for administering the leave arrangements.
- I.3 Employees should refer to this policy to help them determine which type of leave they are eligible for. This will help them to select the most appropriate type of leave for their individual situation.
- I.4 Managers should use this policy every time they are dealing with a request for either maternity and adoption support leave or statutory paternity leave.
- I.5 The policy follows the legal framework relating to paternity leave within the workplace and ensures the Council meets its statutory obligations. Maternity and adoption support leave is not a statutory right, it is a contractual right that we offer above the legal minimum. We also offer full pay for the first week of ordinary paternity leave which again goes above the statutory minimum.

### **How to get help and advice if you are using this policy**

- I.6 This policy covers the key information regarding maternity and adoption support leave and statutory paternity leave for both employees and managers.
- I.7 If you are interested in maternity and adoption support leave or paternity leave then you may also be interested in flexible working arrangements, flexi leave schemes and childcare provisions which will all contribute to the balance of work and family life.
- 1.8 For more information please refer to the publications listed below:
- [FW10 Statutory Flexible Working Requests Procedure](#)
  - [FW11 Flexible Working Guidelines](#)
  - [LV17 Discretionary Leave Guidelines](#)
  - [LV18 Parental Leave Procedure](#)
  - [MA80 Getting the Balance Right](#)

You can also get advice and help from HR Direct.

HR Direct

VOIP 2000

E-mail [hr.direct@fife.gov.uk](mailto:hr.direct@fife.gov.uk)

## **2. The main principles of our policy**

- 2.1 The Council is fully committed to helping working parents to balance work and family life.
- 2.2 The Council provides support for employees when they have responsibility for looking after a child. We recognise that at this particular time, employees may choose to take a period of leave away from work to help manage their working lives alongside their personal lives.
- 2.3 The Council endeavours to promote policies which support all employees to integrate work, family and personal responsibilities. This approach not only allows employees to achieve this balance it also helps us to maintain employees' productivity, loyalty and motivation.

## **3. Maternity and adoption support leave**

- 3.1 The Council offers support leave to spouses, partners or 'nominated carers' at or around the time of the birth or placement in cases of adoption. A 'nominated carer' is the person nominated by the mother to assist in the care of the child (e.g. a mother, sister or friend, it can be taken by both males and females).
- 3.2 It may also be taken by the other parent of the child in circumstances where that person would not be eligible for statutory paternity leave (see Section 4).
- 3.3 Under this provision, Fife Council employees are entitled to one week's leave with normal pay (part time and job share employees are entitled to this on a proportionate basis). Employees must take this leave as a block and not as individual days.

### **Requesting maternity and adoption support leave**

- 3.4 Employees should provide managers with 28 days notice when requesting maternity and adoption support leave. Failure to provide this notice may result in the request being refused.

## **4. Statutory paternity leave**

- 4.1 The Work and Families Act 2006 gives a statutory right that if an employee's partner or spouse is either giving birth or adopting a child then the employee may be entitled to statutory paternity leave (subject to satisfying the conditions of eligibility).
- 4.2 Statutory paternity leave is designed to help fathers look after their child where they have an enduring relationship with the child's mother.
- 4.3 It allows leave to be taken at or near the time of the birth or adoption and allows parents to swap the role of main carer once the baby is a little older.

- 4.4 As this leave is statutory, changes may be required to be made if the law changes.
- 4.5 Paternity leave may be taken in addition to annual leave, flexi-leave or parental leave. This is a legal entitlement that allows employees (both mothers and fathers), who have at least one years continuous service, to take a period of unpaid leave to care for each child born or adopted after 15<sup>th</sup> December 1994.

## 5. Ordinary paternity leave

- 5.1 Ordinary paternity leave (one or two weeks leave) must be taken within eight weeks of the birth or adoption of the child.
- 5.2 In order to be eligible for ordinary statutory paternity leave, an employee must:
- be the biological father of the child, child's mother's husband or partner (including same-sex relationships), child's adopter or husband or partner of the child's adopter
  - have worked continuously for Fife Council for 26 weeks by the start of the 15<sup>th</sup> week before the baby is due or in cases of adoption, 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
  - follow the correct notification procedures
- 5.3 An employee who has less than 26 weeks service at the start of the 15<sup>th</sup> week before the expected week of childbirth does not have an entitlement to statutory paternity leave. He can, however, take one week's Fife Council maternity and adoption support leave with normal pay (see Section 3).
- 5.4 Employees who request ordinary paternity leave have the choice to take either one or two weeks leave. The first week would be at normal pay **and the second at the statutory rate for Ordinary Statutory Paternity Pay (OSPP), or 90% of average weekly earnings, whichever is less.** If the employee elects to take the two weeks then they must be taken together.

### Requesting ordinary paternity leave

- 5.5 Where an employee wishes to request ordinary paternity leave in respect of a birth child, he must give his manager 15 weeks' written notice of the date on which his partner's baby is due or within seven days of being told by the adoption agency that they have been matched with a child by completing the appropriate HM Revenue and Customs (HMRC) self certificate. This will ensure he receives his entitlement to OSPP.
- 5.6 Employees should also provide managers with at least 28 days notice when requesting ordinary paternity leave using the Maternity and Adoption Support & Paternity Leave Form. Failure to provide this notice may result in the request being refused.

## 6. Additional paternity leave

- 6.1 The Additional Paternity Leave Regulations 2010 came into force on the 3 April 2011. Eligible employees have the option of taking additional paternity leave. Additional paternity leave is available from two weeks up to a maximum of 26 weeks leave. This entitlement is in addition to the one to two weeks ordinary paternity leave.
- 6.2 This gives employed fathers a right to up to 26 weeks of additional paternity leave once the mother or partner has **returned to work** and after the baby is 20 weeks old, for up to one year later. These entitlements will provide greater choice for parents in how they divide childcare responsibilities between them and will enable fathers to have a greater involvement in raising their child in the first year of the child's life.
- 6.3 Employees will be entitled to Additional Statutory Paternity Pay (ASPP) only from the date that the mother returns to work to week 39.
- 6.4 Employees who are eligible for additional paternity leave and have followed the correct notification procedures will be entitled to ASPP during the 39 week period when Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA) is payable.
- 6.5 Employees may return earlier or adjust the dates for additional paternity leave by giving sufficient notice.
- 6.6 In order to be eligible for additional statutory paternity leave, an employee must:
- be the biological father of the child, child's mother's husband or partner (including same-sex relationships), child's adopter or husband or partner of the child's adopter
  - have worked continuously for Fife Council for 26 weeks by the start of the 15<sup>th</sup> week before the baby is due, or in cases of adoption, 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
  - remain in continuous employment with Fife Council until the week before the first week of additional paternity leave
  - follow the correct notification procedures

The employee's partner must:

- be entitled to one or more of maternity leave, Statutory Maternity Pay or maternity allowance (not necessarily with Fife Council). In the case of adoption, the primary adopter must be entitled to one of both of adoption leave or Statutory Adoption Pay
- have returned to work and forfeited a portion of his maternity or adoption leave

## **Requesting additional paternity leave**

- 6.7 Where an employee wishes to request additional paternity leave and pay, he must give his manager at least eight weeks' written notice of the date on which he wishes to take the leave. Employees should complete Maternity and Adoption Support & Paternity Leave Form.
- 6.8 At the same time employees should also complete the appropriate HMRC self certificate. This will ensure he receives his entitlement to ASPP.
- 6.9 The employee's wife, partner or civil partner must satisfy the qualifying conditions for entitlement to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA) and sign their declaration on the appropriate HMRC form.
- 6.10 On request, the employee must supply the information within 28 days of it being requested:
- Produce 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 he was notified of having been matched with the child and the date on which the agency expects to place the child for adoption
  - Provide the name and address of the mothers' employer.

## **7. Keeping in touch days during additional paternity leave**

- 7.1 Managers should maintain reasonable contact with employees from time to time during their additional paternity leave.
- 7.2 This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease his return to work or simply to update him on developments at work during his absence.
- 7.3 An employee can agree to work, or to attend training for up to 10 days during additional paternity leave without that work bringing the period of his additional paternity leave to an end and without loss of a week's ASPP. The employee should be paid the equivalent of their normal pay for this time which will be inclusive of ASPP.

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