



# Renfrewshire Valuation Joint Board

<b>Title</b>	Maternity, Adoption and Paternity Guidance
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1	Statutory Maternity Pay updated in line with legislation  Statutory Adoption and Paternity Guidance updated in line with legislation	2015

# **RENFREWSHIRE VALUATION JOINT BOARD**



## **Maternity, Adoption and Paternity Guidance**

### **Employee Guide**

**Practical advice & guidance for Renfrewshire Valuation Joint Board Employees**

April 2015

# **MATERNITY LEAVE AND PAY**

## MATERNITY RIGHTS FLOWCHART

GP confirms employee is expecting a baby, employee is entitled to paid time off for antenatal care. **See Section 8**

All employees are entitled to 52 weeks maternity leave (26 weeks Ordinary Maternity Leave (OML) + 26 weeks Additional Maternity Leave (AML) regardless of hours or length of service.

If an employee has completed 26 weeks continuous service by 15<sup>th</sup> week before EWC, she is entitled to 39 weeks Occupational Maternity Pay + Statutory Maternity Pay (provided average earnings are above the lower earnings limit for National Insurance contributions). **See Appendix 1**

If an employee has not completed 26 weeks continuous service by 15<sup>th</sup> week before EWC, she may be entitled to MA or other benefits. **See Section 5**

A pregnant employee must tell her employer of her intention to take maternity leave by 15<sup>th</sup> week before EWC, unless this is not reasonably practical. She will need to tell her employer:

- That she is pregnant
- The week her baby is expected to be born
- When she wishes to start her maternity leave

**See Section 6, Appendix 3 – Form PER/ML/1**

Employee must give 28 days of written notice if she wishes to alter the start date of her maternity leave. **See Section 6.3**

Employer must respond to employees' notification within 28 days, setting out when they expect the employee to return to work if she intends to take their full entitlement. **See Section 7 and Appendix 4**

Earliest start date for maternity leave is the beginning of the 11<sup>th</sup> week before EWC. **See Section 9**

If employee is absent from work with a pregnancy related illness during the 4 weeks before the start of EWC, maternity leave starts automatically regardless of when she actually wants her maternity leave to start. **See Section 9**

If baby born before the date employee has notified (or before any notification), maternity leave period starts automatically and employee must give employer notification as soon as is reasonably practicable. **See Section 9**

Employee continues to benefit from all terms and conditions during ordinary maternity and additional maternity leave (other than pay)

Employee must give 8 weeks' notice if she wishes to alter her date of return from maternity leave **Appendix 5 – Form PER/ML/2**

Employee returns to same job after Maternity Leave as if she hadn't been away on terms and conditions not less favourable than those which would have been applicable to her had she not been absent. **See Section 10.2**

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## 1. INTRODUCTION

- 1.1 The Maternity, Adoption and Paternity Leave, Allowances and Related Issues guidance outlines Renfrewshire Valuation Joint Board provisions for all employees.
- 1.2 This guidance has been developed in accordance with relevant legislation and nationally agreed provisions advised by COSLA.
- 1.3 Pregnancy and maternity are a protected characteristic under the Equality Act 2010. Unfavourable treatment towards a woman from the time they tell you they are pregnant to the end of their maternity leave (protected period) because of their pregnancy or a related illness or because of maternity leave will be considered discriminatory. Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave and includes treating a woman unfavourably because she is breastfeeding.
- 1.4 All pregnant employees, irrespective of length of service or hours worked, are entitled to 52 weeks maternity leave. This comprises of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML), provided that employees comply with the notification procedures outlined in Section 6. The employee's length of service will, however, determine what pay or maternity allowance she may be entitled to.
- 1.5 Whilst the employee is on maternity, adoption or paternity leave, normal terms and conditions of employment will apply, except those relating to pay.
- 1.6 Appendix 1 contains definitions of terminology used throughout this document.
- 1.7 The standard letters referred to in this document should be used as a guide and may need to be modified slightly in certain circumstances. It is recognised that services may have different practices in relation to responsibility for various stages of the process and letters and forms should be amended as required to reflect whether a line manager or nominated officer is responsible within each service. Advice can be obtained from HR and Organisational Development as required on the application of any aspect of this policy.
- 1.8 The following legislation was referenced in the review of this policy:-
  - Work & Families Act 2006
  - Statutory Maternity Pay, Social Security (Maternity Allowance) & Social Security (Overlapping benefits) (Amendment) Regulations 2006
  - Statutory Pay & Adoption Pay (General) & the Statutory Paternity Pay & Statutory Adoption Pay (Weekly Rates) (Amendment) Regulations 2006

- Maternity & Parental Leave etc & Paternity & Adoption Leave (Amendment) Regulations 2006
- Maternity & Parental Leave etc and the Paternity & Adoption Leave (Amendment) Regulations 2008
- Equality Act 2010
- The Shared Parental Leave Regulations 2014

## 2. MATERNITY LEAVE PROVISIONS AND ALLOWANCES

- 2.1 All pregnant employees are entitled to up to 52 weeks' maternity leave regardless of length of service.
- 2.2 The length of an employee's continuous service will, however, determine the amount of maternity pay and allowances, to which she may be entitled;
- 2.3 An employee with less than 26 weeks' continuous service by the 15th week before the expected week of childbirth (EWC) will be entitled to up to 52 weeks' unpaid leave (although she may be entitled to maternity allowance from Jobcentre Plus). Employees with at least 26 weeks' continuous service by this date will be entitled to up to 39 weeks paid leave and a further 13 weeks' unpaid leave. These provisions, as granted by Renfrewshire Council, are detailed in Appendix 2.

## 3. CONTINUOUS SERVICE

- 3.1 Continuous service, for the purpose of determining maternity leave and pay allowances, is:
  - continuous previous service with any public authority listed in the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) (Amendment) Order 2001.
- 3.2 Where an employee returns to local government service following a break for maternity reasons previous service may be taken into account in respect of sickness and maternity schemes provided that the break of service does not exceed 8 years and that no paid employment has intervened. For the purpose of the calculation to the entitlement to annual leave the 8 years' time limit does not apply provided that no paid employment has intervened.

## 4. STATUTORY MATERNITY PAY AND MATERNITY ALLOWANCE

- 4.1 There are two main types of Maternity Benefit paid by the Government, namely Statutory Maternity Pay (SMP) and Maternity Allowance (MA).
- 4.2 These are based on NI contributions and are subject to certain conditions.



- 4.3 An employee requires 26 weeks continuous service by the 15th week before the EWC in order to qualify for SMP. In addition average weekly earnings require to be at, or above, the lower earnings limit for national insurance contributions. In this case the employee will also be eligible to receive Occupational Maternity Pay (OMP) (refer to appendix 2).

## **5. MATERNITY ALLOWANCE**

- 5.1 If an employee is not eligible to receive OMP/SMP, she may have an entitlement to Maternity Allowance. This is payable by Jobcentre Plus to a woman who has worked and paid NI contributions in 26 out of the 66 weeks prior to the expected week of childbirth. Maternity Allowance is payable for 39 weeks.
- 5.2 If an employee is excluded from entitlement to SMP, the Council is required to complete form SMP1 and give it to the employee, together with her MATB1 form within 7 days of the decision that she is not entitled to SMP. This will enable her to claim Maternity Allowance from Jobcentre Plus if she is eligible. She then claims benefit by completing form MA1 available from her local Jobcentre Plus office.

## **6. NOTIFICATION PROCEDURES**

- 6.1 In order to exercise her right to either maternity leave and/or pay an employee must give proper advance notification of her intentions. This requirement, which is underpinned by law, is detailed at 6.2 below.
- 6.2 An employee must notify the Council that she is pregnant 15 weeks before the EWC, indicating the date she intends to commence maternity leave. This can be done by completing the appropriate sections of Form PER/ML/1 (Appendix 3) which should be returned, along with the Maternity Certificate (Form MATB1) from a registered medical practitioner or midwife, to her line manager or nominated officer. If the employee does not have her MATB1 at this stage, this should be produced as soon as reasonably practicable.
- 6.3 If an employee wishes to alter the commencement date of her maternity leave she is required to give at least 28 days written notification of her revised date to the service.

## **7. EMPLOYER'S RESPONSIBILITIES**

- 7.1 On receipt of a completed Form PER/ML/1(Appendix 3) the line manager will write to the employee within 28 days, advising them of their latest return to work date. It will be assumed that the employee will return to work at the end of her full entitlement i.e. 52 weeks from the commencement of her maternity leave period. (If the employee wishes to return at an alternative date she is required to give 8 week's notice - see section 10.5).

- 7.2 Appendix 4 provides example letters that can be used to respond to applications for maternity leave.
- 7.3 The line manager or nominated officer must advise payroll, Finance & Resources that the employee is commencing maternity leave by forwarding to them a copy of the completed PER/ML/1 form (Appendix 3), her MATB1 form and the letter sent to her under paragraph 7.1.

## **8. TIME OFF FOR ANTE-NATAL CARE**

- 8.1 A pregnant employee will be allowed to take reasonable time off, without loss of pay, to attend ante-natal care and will be expected to produce evidence of appointments made if requested to do so by their line manager or nominated officer.
- 8.2 An employee of the Council who is an expectant father or the partner (including same sex) of a pregnant woman will be entitled to take unpaid time off work to accompany the woman to up to 2 of her ante-natal appointments. The time off is capped at 6.5 hours for each appointment to cover travel, waiting time and attendance at an ante-natal appointment. There is no qualifying length of service for this right and includes agency workers from day 1.
- 8.3 There will be no requirement for employees to provide evidence of the appointments as the appointment cards are the property of the expectant mother however employees will be asked to confirm the following information to their line manager as soon as possible in advance of the appointment:
- The date and time of the appointment;
  - The length of time off expected;
  - Confirmation that they qualify for the unpaid time off through their relationship with the expectant mother or child and;
  - That the time off is for the purpose of attending an ante-natal appointment on the advice of a medical practitioner, nurse or midwife.

## **8. COMMENCEMENT OF MATERNITY LEAVE AND PAY**

- 9.1 Maternity leave and pay can commence at any time from the beginning of the 11th week before EWC and can begin on any day of the week.
- 9.2 Employees who become ill whilst pregnant are entitled to sick pay in the normal way, whether or not the illness is pregnancy related. However, if an employee is absent from work on account of pregnancy after the start of the 4<sup>th</sup> week before the EWC, this will cause their ordinary maternity leave (OML) period to begin automatically.

- 9.3 In this situation, or if the child is born before the intended maternity leave start date, the employee must notify their manager in writing as soon as is reasonably practicable. Their maternity leave (and payment OMP/SMP) will start from the day following the first day they are absent from work on account of pregnancy or, in the case of an early birth, the day following the birth.
- 9.4 If the child is born before the employee has submitted the maternity certificate, she must give the Council medical evidence of the date of birth as soon as possible.
- 9.5 **Stillbirth**

If, in regrettable circumstances, the employee's child is stillborn on or before the 24th week of pregnancy, the employee will not meet the qualifying condition for maternity leave or pay, namely to be pregnant at the 15th week before the EWC. She will not, therefore, be entitled to SMP or OMP. However, if the employee is off sick as a result, SSP or Sickness Allowance may be payable instead.

Where a child dies or a stillbirth occurs at the 24<sup>th</sup> week or more of pregnancy, the employee is still entitled to the provisions of the scheme and/or pay as appropriate. In such circumstances it would be appropriate to advise the employee of the counselling service provided by the Council as the employee may appreciate such support. Medical advice and referral to Occupational Health may be required to confirm fitness for any early return to work.

## 10. RETURN TO WORK

### 10.1 Compulsory Maternity Leave

In the interests of the welfare of both mother and child, there is a statutory two week leave period following the birth of a child.

### 10.2 Returning from Maternity Leave

When an employee returns from ordinary maternity leave (first 26 weeks), she is entitled to return to the same job in which she was employed prior to her maternity leave and on terms and conditions no less favourable than those which would have been applicable to her if she had not been absent. Some changes in actual duties are permissible but no more than should be reasonable over this period of time.

When an employee returns from additional maternity leave, she is also entitled to return to the same job, unless there is a reason why it is not reasonably practicable for her to return to her old job, in which case she should be offered a similar job on terms and conditions which are not less favourable than her original job.

The contract of employment continues during maternity leave. The terms and conditions, other than those relating to remuneration (pay) continue both during ordinary and additional maternity leave, for example, notice periods, redundancy rights, accrual of annual leave and public holidays.

### **10.3 Breastfeeding**

The Council will ensure that breastfeeding mothers will have a safe working environment and that adequate support facilities are available.

### **10.4 Sickness Absence**

Where an employee is unable to attend work at the end of her maternity leave due to sickness, the normal absence notification procedures will apply.

If the employee is sick she will receive occupational sickness benefit, if appropriate, from the date of her proposed return to work.

### **10.5 Notified Date of Return**

If an employee wishes to return to work earlier than the end of her entitlement to maternity leave, she is required to notify the council in writing at least 8 weeks prior to her proposed date of return. This can be done by completing Form PER/ML/2 (Appendix 5) which should have been sent to the employee together with the letter issued confirming her latest date of return to work. This notice requirement applies during both ordinary and additional maternity leave.

If the employee fails to give 8 weeks' notice of an early return, the council is able to delay her return until the full 8 weeks' notice has been given, provided this is no later than the end of her maternity leave period.

On receipt of a completed form PER/ML/2 the line manager or nominated officer should ensure that a copy is forwarded to the payroll, Finance & Resources in order that the employee is reinstated on the payroll from the correct date.

Where an employee does not return to work in accordance with the time limits set out above, and remain at work for at least three months, she will be required to refund to the authority the amount of occupational maternity pay paid to her for the 12 week period at five tenths pay or the appropriate amount thereof depending on when, and for how long, she returns to work. If the employee is on sick leave, annual leave, or is taking accrued public holidays these days will be counted towards the three month period. Payments made by way of SMP are not refundable.

Sympathetic consideration can be given in special cases where it is felt that the application of this advice will cause undue hardship. In such cases a submission to waive the requirement to repay the 12 weeks at half pay should be made to the Director of Finance and Corporate Services/Head of HR and Organisational Development for consideration in terms of the Scheme of Delegations.

**Note:** If it has been agreed that an employee may return to work on a job-share, part-time or other flexible working arrangement, the three month period will be based on the new contractual hours.

#### **10.5 Request for Flexible Working**

An employee may wish to request alternative flexible working arrangements for her return to work, including a return to work on a job sharing basis. For further information regarding this employees should refer to the Council's Right to Request Flexible Working Policy and Guidance and Job Sharing Policy, or contact their line manager or nominated officer. A request for flexible working may affect the period of notice the employee has to give to return to work.

#### **10.6 Non Return to Work**

If an employee changes her mind regarding returning to work after maternity leave she should notify her service as soon as possible by submitting a letter of resignation. The effective date of termination for continuous service purposes would be the date of receipt of the letter of resignation.

#### **10.7 Return to Work when an Employee has Terminated her Employment**

Where an employee has terminated her employment due to pregnancy or childbirth, but the child does not live, they will be entitled to return to work but without the right to return to the same post at the same grade and salary as applied immediately prior to the termination of employment unless the Council determines that this is not practicable.

However, an employee will not be entitled to return to employment with the Council in accordance with this paragraph unless:

- a suitable vacancy exists;
- she submits in writing a doctor's fit note that she is medically fit to return; and
- she satisfies the requirements of section 10.4 above.

Every effort would be made to accommodate the individual's return to work and offer support, for example referral to the employee counselling, if appropriate.

## **11. SICKNESS ABSENCE**

- 11.1 Maternity leave shall not be treated as sick leave or taken into account when calculating an employee's sickness pay entitlement or periods of sickness leave, however absence due to pregnancy or maternity will be treated in line with the Council's Supporting Attendance Policy.
- 11.2 Sickness Allowance will not be payable in the period between the notified commencement of maternity leave and the week of childbirth.

## **12. STATUTORY SICK PAY (SSP)**

- 12.1 An employee who is no longer receiving SMP may be entitled to SSP if she meets the necessary earnings criteria. A Statement for Fitness for Work will be required by Payroll, Finance and Corporate Services in this instance.

## **13. ANNUAL LEAVE**

- 13.1 Employees continue to accrue annual leave entitlements throughout the maternity leave period. However, employees should be encouraged to take their annual leave entitlement prior to commencing their maternity leave, where their leave year ends during maternity leave. Unless operational requirements or exceptional circumstances, for example, early birth or sickness absence, prevent the employee from taking annual leave, any untaken annual leave can only be carried forward to the next leave period in line with the arrangements for all other employees. In circumstances where the employee's return is in the following leave year, she will be entitled to the outstanding proportion of leave from the previous year.
- 13.2 An employee is allowed to take their full annual leave entitlement before maternity leave commences provided that:
- She intends to return to work;
  - She is aware that if she does not return to work, she will have to repay any leave she was not entitled to take;
  - If she subsequently decides not to return to work then the date used to calculate leave entitlement is her last day of employment;
  - The leave is operationally convenient and agreed by the line manager or nominated officer.
- 13.3 If an employee reduces their hours on their return to work their annual leave entitlement will be adjusted accordingly. This will be calculated from the date that the reduced hours commence.

- 13.4 If an employee resigns during maternity leave and has not taken her full leave entitlement, she will be entitled to pay in lieu of untaken leave. Payment will only be made in lieu of leave entitlement in the current leave year on a pro-rata basis to the last day of employment. If leave has been taken in excess of the contractual entitlement a repayment of the excess will be required.

## **14. PUBLIC HOLIDAYS**

- 14.1 Employees will accrue any public holidays that fall during both ordinary and additional maternity leave periods. Any public holiday leave accrued will be pro-rata to contracted hours. This entitlement will not be lost if the employee's leave year ends during maternity leave but the time off should be taken at the end of the maternity leave period.

## **15. PENSION SCHEME**

- 15.1 Both occupational maternity pay and SMP are subject to the deduction of pension contributions. Employee's can choose to pay their contributions for any period of unpaid maternity leave in order to maintain continuous service with the pension fund. Contributions during unpaid maternity leave are optional and employees will be asked to indicate their decision in relation to this on form S4 which is available from HR and Organisational Development and forwarding to Strathclyde Pension Fund within 30 days of returning to work.
- 15.2 The Council will be expected to maintain the full contribution, as if the employee was continuing to be paid her normal rate of pay in respect of the period during which the employee makes pension contributions.

## **16. DISMISSAL**

- 16.1 It is automatically unfair to dismiss an employee for any reason connected with pregnancy or maternity leave.

## **17. REDUNDANCY/REORGANISATION**

- 17.1 Where it is not practicable by reason of redundancy for the Council to allow the employee to return to work in her previous post the employee will be entitled to be offered a suitable alternative vacancy where one exists. The work to be done in that post should be suitable to her and appropriate to her circumstances and the capacity/place of employment and terms and conditions should not be less favourable than her previous job.
- 17.2 Suitable alternative employment may also be offered in exceptional circumstances, other than redundancy (e.g. a general re-organisation) which would have occurred if the employee had not been absent and necessitates a change in the post in which she was employed prior to her absence, provided

that the work to be done is suitable to her and appropriate to the circumstances and the terms and conditions are no less favourable than those of her previous post.

- 17.3 Managers should ensure that employees on maternity leave are included in any consultation/communication exercises which take place during her maternity leave period in relation to the above.

## **18. RISK ASSESSMENT AND SUSPENSION FROM WORK**

- 18.1 The Pregnant Workers Directive provides that employers must carry out an assessment of the risks which might be posed to pregnant or breast feeding employees in their workplace and decide what measures should be taken to avoid these risks by adjusting working hours or conditions. The employee should access the New and Expectant Mothers Risk Assessment database and undertake the risk assessment as soon as possible after finding out about their pregnancy.
- 18.2 There is a right for new or expectant mothers who perform night work to be offered suitable alternative employment. Where that is not possible, she shall be given leave (maternity suspension) at her full rate of normal pay providing she produces a medical certificate which shows that her health and safety are at risk if she continues with night working. The employee continues to be employed and so the period of maternity suspension counts towards her period of continuous employment.
- 18.3 Any alternative employment must be suitable and appropriate for the employee. The terms and conditions may be different but not less favourable to the employee. If the employee turns down an offer of such work, the employee loses her right to be paid while suspended from work on maternity grounds.

## **19. MAINTAINING CONTACT**

### **19.1 Reasonable contact**

Throughout the pregnancy and maternity leave period, communication and information exchange between the Council and the employee are vital. During the leave period the line manager or nominated officer should ensure that the employee is kept informed of changing circumstances at work. It is therefore suggested that employees on maternity leave are sent information such as internal vacancies, training courses, relevant changes in employment legislation, employee newsletters, social events etc.

### **19.2 Keeping in touch days**



Employees can work during maternity leave on a 'keeping-in-touch' (KIT) day without bringing maternity leave to an end or losing SMP. It is possible to work for up to 10 KIT days during maternity leave. Working for part of a day will count as one whole KIT day.

- 19.3 KIT days must be agreed by the employee and the line manager and are an optional arrangement on both sides. Managers are not obliged to provide KIT days and employees do not have to work on such a day if they do not wish to do so. Before a KIT day is worked employees must discuss with their manager the arrangements and basis on which the KIT day would be worked.

Please note employees who work over the 10 KIT days allowance (including any part of a day which counts as one complete KIT day) and are in receipt of SMP will lose SMP for the whole week in which they worked the additional day/s.

Maternity leave will not be extended due to the fact that some work has been carried out during this period.

## 20. MATERNITY SUPPORT LEAVE

- 20.1 Maternity support leave of five days with pay (pro rated for part-time and job sharers) shall be granted to the child's father, or partner/nominated carer of an expectant mother at or around the time of the birth. A 'nominated carer' is the person nominated by the mother to assist in the care of the child and to provide support to the mother at, or around, the time of birth.

### Points of Clarification

1. Only one person may be granted maternity support leave in relation to any one pregnancy.
  2. It is recommended that the leave in normal circumstances should be taken during the period from one week prior to the expected date of childbirth up to three weeks following the birth.
  3. The five days maternity support leave do not require to be consecutive.
  4. Normally only one period of maternity support leave should be granted per employee in any one year.
  5. Employees should apply for maternity support leave as soon as the dates are known, using Form PER/ML/3 (Appendix 6).
- 20.2 On receipt of a completed form PER/ML/3 (Appendix 6) the line manager or nominated officer should confirm in writing to the employee the agreed dates of

maternity support leave and copy the completed form and letter to Payroll, Finance & Resources. This will allow payroll to recover any monies due from the Inland Revenue.

## **21. STATUTORY PATERNITY LEAVE AND PAY**

- 21.1 In addition to maternity support leave, fathers or partners of an expectant mother who have worked for the council for 26 continuous weeks at the start of the 15th week before the EWC are entitled to an additional week's statutory paternity leave (SPL) paid at the current rate of Statutory Paternity Pay (SPP) provided earnings are above the lower earnings limit for national insurance contributions.
- 21.2 Fathers or partners of an expectant mother who have worked for the Council for 26 continuous weeks at the start of the 15th week before the EWC who do not wish to take MSL, have a statutory entitlement to two weeks paternity leave, paid at the current rate of SPP provided earnings are above the lower earnings limit for national insurance contributions.
- 21.3 Partners of adopters are entitled to up to two weeks statutory paternity leave and pay which will be paid at the current rate of SPP. In the case of adoption of a child from overseas, the earliest date paternity leave can begin is the date on which the child enters the UK. (Employees may be entitled to the Council's Adoption Leave of one week at full pay, followed by the remaining 25 weeks of statutory leave at the current rate of SAP. Guidelines regarding this can be found at Appendix 7).
- 21.4 Statutory Paternity Leave and Pay can be taken from:
- a) the date of child's birth/placement or
  - b) from a date after birth/placement  
but must be taken within 56 days of actual date of birth/placement/the child entered the UK. The leave can start on any day of the week.
- 21.5 Statutory Paternity Leave must be taken in complete weekly blocks. (Note: MSL may be taken as individual days - see section 20 above).
- 21.6 Statutory Paternity Pay will be paid from the date of commencement of Statutory Paternity Leave.
- 21.7 Employees wishing to take SPL should complete form PER/ML/4 (Appendix G) by the 15th week before the EWC/expected week of child birth/placement, or as soon as is reasonably practicable.
- 21.8 On receipt of a completed form PER/ML/4 (Appendix 7) the line manager or nominated officer should confirm in writing to the employee the agreed dates of paternity leave and copy the completed form and letter to Payroll, Finance &

Resources. This will allow payroll to recover any monies due from the Inland Revenue.

- 21.9 An employee may alter the date on which their leave starts by giving 28 days notice in writing, where this is reasonably practicable.

## **22. ADOPTION LEAVE**

- 22.1 The Employment Act 2002 gives employees a right to leave of absence up to a maximum of 52 weeks, providing they meet certain qualifying criteria, for the purpose of adopting a child. Guidance on adoption leave and pay is detailed in the Councils Adoption Guidance.

## **23. PARENTAL LEAVE**

- 23.1 The Maternity and Parental Leave Regulations 1999 (and Maternity and Parental Leave Amendment Regulations 2001), give employees the right to take unpaid time off work to look after a child or make arrangements for the child's welfare.
- 23.2 Parental leave is unpaid time off work, up to 18 weeks' per child to their 5<sup>th</sup> birthday, 18<sup>th</sup> birthday if the child is adopted or the 5<sup>th</sup> anniversary of their adoption, whichever comes first, or 18 weeks up to 18<sup>th</sup> birthday for a child with a disability to look after or make arrangements for their care. Guidance on parental leave is detailed in the Council's Parental Leave Guidance.

## **24. SHARED PARENTAL LEAVE**

- 24.1 The Shared Parental Leave Regulations 2014 introduces a legal entitlement for eligible parents of babies due, or children placed for adoption on or after 5 April 2015. It provides bother parents with the opportunity to consider the best arrangement to care for their child during the child's first year. Further guidance on Shared Parental Leave is available on Renfo.

## APPENDIX 1 – TERMINOLOGY DEFINITIONS

### **Ordinary Maternity/Adoption Leave (OML / OAL)**

The first 26 weeks of the maternity/adoption leave period, normally with pay if appropriate.

### **Additional Maternity/Adoption Leave (AML / AAL)**

An additional period of up to 26 weeks leave which starts at the end of ordinary maternity/adoption leave. The first 13 weeks normally with pay if appropriate, giving a maximum of up to 39 weeks paid leave (OML - 26 weeks, AML - 13 weeks).

### **Expected Week of Childbirth (EWC)**

This is the week in which the baby is expected to be born as advised by a GP and entered on the employee's MATB1 form.

### **Expected Week of Placement (EWP)**

The week in which a child is expected to be placed for adoption.

### **Qualifying Week**

The 15th week before the EWC.

### **Statutory Maternity Pay (SMP)**

The rate of maternity pay to which employees are entitled by statute. Employees require 26 weeks continuous service at the 15th week before the EWC and earnings above the lower earnings limit for national insurance in order to qualify for payment.

### **Current rate of Statutory Maternity Pay (SMP)**

- 6 weeks at 90% of average earnings (higher rate SMP)
- 33 weeks at lower rate SMP (£139.58 per week or 90% of your average earnings effective 5 April 2015).

### **Occupational Maternity Pay (OMP)**

Maternity benefit paid by Renfrewshire Council which enhances SMP.

### **Current rate of Occupational Maternity Pay (OMP):**

- 6 weeks at 9/10ths of a week's pay i.e. the higher rate of SMP
- 12 weeks at 5/10ths of a week's pay, plus the lower rate SMP if eligible provided earnings do not exceed normal full pay
- 21 weeks at SMP (£139.58 per week with effect from 5 April 2015).

### **Maternity Allowance (MA)**

Maternity benefit paid by the Government via Jobcentre Plus. (Employees not eligible to receive SMP should enquire with the local Jobcentre Plus office as to their eligibility to receive MA).

## APPENDIX 1 – TERMINOLOGY DEFINITIONS

### **Week's Pay**

For employees who work the same number of hours each week, a week's pay is the amount received by the employee for fulfilling their normal contractual hours.

Where normal working hours can vary, a week's pay is the average remuneration in the period of 12 week's preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

If an employee had gone into a no pay situation following extended sickness prior to their maternity leave beginning then normal pay would be based on what she would have been receiving if she had not been off sick.

### **Statutory Sick Pay (SSP)**

The amount of sick pay due to employees in line with their statutory rights.

### **Occupational Sick Pay (OSP)**

The amount of sick pay due to employees which is dependent upon their length of service. This is an amount paid by Renfrewshire Council which enhances employees' statutory entitlement.

### **Statutory Paternity Leave (SPL)**

A period of up to two weeks leave for fathers or partners of expectant mothers, or partners of adopters, taken within 56 days of the date of birth.

### **Statutory Paternity Pay (SPP)**

The pay in respect of the above period of leave which is currently £139.58 per week with effect from 5 April 2015.

### **Maternity Support Leave (MSL)**

A period of five days paid leave, for the father of a child, partner or nominated carer of an expectant mother. The leave should be taken during the period from one week prior to the expected date of childbirth up to three weeks after the birth. The five days leave do not require to be consecutive. The five days leave are not in addition to Statutory Paternity Leave.

## APPENDIX 2 – MATERNITY LEAVE AND PAY ENTITLEMENT

All pregnant employees are entitled to 52 weeks' maternity leave (26 weeks' ordinary maternity leave plus 26 weeks' additional maternity leave) regardless of hours and length of service.

	Service	Maternity pay and allowances
1.	Less than 26 weeks' <b>continuous</b> service by the 15th week before the expected week of childbirth (EWC).	No entitlement to statutory maternity pay (SMP), however, employees may be eligible for maternity allowance (MA) from the Jobcentre Plus office. To be eligible the employee must have been employed and paid NI contributions in 26 out of the 66 weeks prior to the expected week of childbirth. If eligible, MA is payable for a maximum of 39 weeks.
2.	26 weeks' <b>continuous</b> service by the 15th week before EWC.	Employees will be entitled to up to 39 weeks occupational maternity pay as follows:- <ul style="list-style-type: none"> <li>- 6 weeks at 9/10ths of a week's pay i.e. the higher rate of SMP</li> <li>- 12 weeks at 5/10ths of a week's pay, plus the lower rate SMP if eligible provided earnings do not exceed normal full pay <ul style="list-style-type: none"> <li>- 21 weeks at statutory maternity pay</li> <li>- (£139.58 per week as at 5 April 2015) provided the average earnings are above the lower earnings limit for national insurance contributions.</li> </ul> </li> </ul>

### Notes:

- I. Continuous service is defined as 'continuous previous service with any public authority listed in the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) (Amendment) Order 2001.
- II. If an employee returns to work for all or part of any week before the maternity pay period is exhausted, the maternity pay period is reduced by a week for each week or part week in which the employee works.
- III. The 15th week is known as the qualifying week and the employee must continue to be employed during all or part of same.
- IV. IV. Employees not intending to return to work will only be entitled to 33 weeks SMP.

**RENFREWSHIRE VALUATION JOINT BOARD**  
**MATERNITY LEAVE/PAY SCHEME**  
**APPLICATION FOR MATERNITY LEAVE/PAY**  
**OR STATUTORY MATERNITY PAY**



This application should be submitted to your Line Manager or nominated officer 15 weeks before the EWC, or if that is not practical, as soon as reasonably possible.

<b>NAME :</b>		<b>SERVICE:</b>	
<b>DESIGNATION :</b>			
<b>PLACE OF EMPLOYMENT :</b>			
<b>HOME ADDRESS :</b>			
<b>DATE ENTERED SERVICE :</b>			
<b>EMPLOYEE NUMBER :</b>		<b>N. I. NUMBER :</b>	
<b>EXPECTED DATE OF CHILDBIRTH :</b>			

Please complete the appropriate section 1, 2, or 3 overleaf and attach form MATB1 if available. If you do not have your MATB1 yet, this should be forwarded as soon as you receive it.

- Section 1 applies if you intend to return to work and have more than 26 weeks service;
- Section 2 applies if you intend to return to work and have less than 26 weeks service;
- Section 3 applies if you intend to resign.

**Administrative Note:**  
***This completed form should be forwarded to Payroll along with the original MATB1 and a copy of the letter sent to the employee in response to this form. (Appendix 4)***

**Continued.**

**RENFREWSHIRE VALUATION JOINT BOARD**  
**MATERNITY LEAVE OPTIONS**  
**Complete and Sign the Section that is**  
**Applicable**



**Section 1 - Application for Occupational Maternity Leave/Pay for employees with 26 weeks Continuous Service**

As I have 26 weeks continuous service by the beginning of the 15th week before the expected week of childbirth, I wish to confirm that I intend to cease work temporarily due to pregnancy or childbirth and wish to apply for Maternity Leave and Pay to commence on \_\_\_\_\_

I agree to the conditions applicable and confirm that I intend to return to work for at least three months in accordance with the conditions of the scheme. I understand that if I do not return to work for at least three months I will require to refund to the Council the amount of maternity pay paid to me for the twelve week period at five tenths pay, or the appropriate amount thereof, depending on when and for how long, I return to work.

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Section 2- Application for Unpaid Maternity Leave for Employees with less than 26 weeks Continuous Service**

As I have less than 26 weeks continuous service by the beginning of the 15th week before the expected week of childbirth, I wish to confirm that I intend to cease work temporarily due to pregnancy or childbirth and wish to apply for Maternity Leave to commence on \_\_\_\_\_

I understand that if I meet the qualifying conditions I will receive Maternity Allowance.

I agree to the conditions applicable and confirm that I intend to return to work.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Section 3 - For Employees Who Wish To Resign Due to Pregnancy or Childbirth**

I wish to confirm that I intend to resign due to pregnancy or childbirth. I understand that if I meet the qualifying conditions I will receive Statutory Maternity Pay. My resignation will be effective from \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## APPENDIX 4 – STANDARD LETTER TO EMPLOYEE IN RESPONSE TO APPLICATION FOR MATERNITY LEAVE

***(For employees with less than 26 weeks continuous service by the 15th week before the EWC).***

Dear *[name of employee]*

Congratulations and thank you for telling me about your pregnancy and the date that your baby is due. I am writing to you about your maternity leave and pay.

In accordance with your length of service and the conditions of the scheme, you are eligible for 52 weeks' maternity leave (26 weeks' ordinary maternity leave plus 26 weeks' additional maternity leave).

Given your chosen start date of *[insert date]*, your maternity leave will end on *[insert date]* and you will be expected to return to work on *[insert date of first working day]*.

If you want to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date, or 28 days before *[insert date leave starts]* (your original start date), whichever is sooner.

If you decide to return to work before *[insert date leave ends]*, you must give me at least 8 weeks' notice. (You can do this by completing and returning the attached form PER/ML/2).

As we discussed, you are not eligible for Occupational or Statutory Maternity Pay.

The Payroll Section will complete and pass Form SMP1 to you which explains why you do not qualify for Statutory Maternity Pay. You may however be entitled to Maternity Allowance. If you take form SMP1 to your local Jobcentre Plus office they will be able to tell you more.

As your employer I want to make sure that your health and safety during your pregnancy are protected while you are working and that you are not exposed to risk. Now you have told me you are pregnant I will arrange for a specific risk assessment of your job and we will discuss what actions to take if any problems are identified. The risk assessment will be carried out by your departmental safety representative. If you have any further concerns, following this assessment and specifically in relation to your pregnancy, please let me know immediately.

If you decide not to return to work you must still give proper notice in accordance with your contract of employment i.e. *[insert notice period e.g. 4 weeks notice]*.

If you have any questions about any aspect of your maternity entitlement, please do not hesitate to get in touch with me. Finally, may I take this opportunity to wish you well with your pregnancy.

Yours sincerely  
Line manager or nominated officer

**Enc:** Form PER/ML/2

**APPENDIX 4 – STANDARD LETTER TO EMPLOYEE IN RESPONSE TO APPLICATION FOR MATERNITY LEAVE**

*(For employees with at least 26 weeks' continuous service by the 15th week before the EWC)*

Dear *[name of employee]*

Congratulations and thank you for telling me about your pregnancy and the date that your baby is due. I am writing to you about your maternity leave and pay.

In accordance with your length of service and the conditions of the scheme, you are eligible for 52 weeks' maternity leave (26 weeks' ordinary maternity leave plus 26 weeks' additional maternity leave).

Given your chosen start date of *[insert date]*, your maternity leave will end on *[insert date]* and you will be expected to return to work on *[insert date of first working day]*.

If you want to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date, or 28 days before *[insert date leave starts]* (your original start date), whichever is sooner.

If you decide to return to work before *[insert date leave ends]*, you must give me at least 8 weeks' notice. (You can do this by completing and returning the attached form PER/ML/2).

As we discussed, you are eligible for 39 weeks Maternity Pay.

The amount of pay which you will receive will be as follows:

<u>First 6 weeks</u>	<u>Next 12 weeks</u>	<u>Next 21 weeks</u>	<u>Any Further Period</u>
9/10ths pay	5/10ths pay (+ lower rate SMP if eligible)	SMP	Without pay

The current rate of SMP is 139.58 per week as at 5 April 2015. You will be required to return to work for at least 3 months following your maternity leave in order to retain the Occupational Maternity Pay element (12 weeks at 5/10ths pay). If you do not return to work for the three month period you will be required to refund to the Council the amount of occupational maternity pay paid to you for the 12 week period at 5/10ths pay, or the appropriate amount thereof depending on when, and for how long, you return to work. However, if you are on sick leave, annual leave or taking accrued public holidays, these days will be counted towards the three month period.

**APPENDIX 4 – STANDARD LETTER TO EMPLOYEE IN RESPONSE TO APPLICATION FOR MATERNITY LEAVE**

Maternity pay is treated as earnings and will be subject to deduction of income tax, national insurance contributions and pension contributions. You will receive maternity pay at your normal pay period.

As no pension contributions will be made during the period of unpaid additional maternity leave for example, the last 13 weeks, you can choose to pay contributions in respect of this period in order to maintain continuous service with the pension fund. The contributions will be calculated on the rate of pay you were receiving immediately prior to the commencement of your additional maternity leave. If you wish to do this you should contact Strathclyde Pension Fund, P.O. Box 27001, Glasgow, G2 9EW, telephone number 0845 213 0202.

As your employer I want to make sure that your health and safety during your pregnancy are protected while you are working and that you are not exposed to risk. You should now access the New and Expectant Mothers Risk Assessment database and undertake the risk assessment and we will discuss what actions to take if any problems are identified. If you have any further concerns, following this assessment and specifically in relation to your pregnancy, please let me know immediately.

If you decide not to return to work you must still give proper notice in accordance with your contract of employment i.e. *[insert correct notice period e.g. 4 weeks notice]*. Your decision will not affect your entitlement to Statutory Maternity Pay.

If you have any questions about any aspect of your maternity entitlement please do not hesitate to get in touch with me. Finally, may I take this opportunity to wish you well with your pregnancy.

Yours sincerely

Line Manager or Nominated Officer

Enc: Form PER/ML/2

**APPENDIX 5 – PER/ML/2**

**RENFREWSHIRE VALUATION JOINT BOARD**  
**MATERNITY LEAVE OPTIONS**  
**Complete and Sign the Section that is Applicable**



You should complete Section 1 of this form and return the form to your line manager or nominated officer if you wish to alter your return to work date at the end of your maternity/adoption leave period. You are required to give a minimum of 8 weeks notice of an altered date of return. Your line manager or nominated officer will complete and return section 2 of this form to you.

**SECTION 1** *(to be completed by employee)*

<b>NAME :</b>		<b>SERVICE :</b>	
<b>DESIGNATION :</b>	<b>EMPLOYEE NUMBER:</b>		
<b>PLACE OF EMPLOYMENT :</b>			
<b>HOME ADDRESS :</b>			
<b>DATE FORM COMPLETED:</b>			

My period of Ordinary / Additional \* Maternity/Adoption\* Leave is due to end on \_\_\_\_\_  
*(insert date as advised by your manager).*

\* **delete as appropriate**

However, I wish my maternity/adoption leave period to end on \_\_\_\_\_  
*(insert date you wish your maternity/adoption leave to end).*

**SECTION 2** *(Line Manager/HR Adviser should complete either Statement A or B and return the form to the employee, keeping a file copy)*

A. I acknowledge receipt of your request to alter your date of return from maternity /adoption leave. I confirm that your request is acceptable and your maternity/adoption leave period will now end on \_\_\_\_\_ *(insert revised date of return)* and I look forward to your return to the office on \_\_\_\_\_ *(insert date of first working day).*

B. I acknowledge receipt of your request to alter your date of return from maternity /adoption leave. However I am unable to agree your request as the required notification of 8 weeks was not received. I therefore confirm that your maternity/adoption leave period will end on \_\_\_\_\_ *(insert date which gives 8 weeks notice period, or original date of return).*

**Signature:** \_\_\_\_\_  
Line Manager or nominated officer

**Date:** \_\_\_\_\_

cc: Payroll Section, Finance & Resources

## APPENDIX 6 – PER/ML/3

### RENFREWSHIRE VALUATION JOINT BOARD MATERNITY SUPPORT LEAVE OPTIONS Complete and Sign the Section that is Applicable



This application should be submitted to your line manager or nominated officer.

#### Notes

- *Maternity support leave of five days with pay (pro rata for part-time/job sharers) shall be granted to the child's father, or partner or nominated carer of an expectant mother at or around the time of birth.*
- *This leave should (in normal circumstances) be taken during the period from one week prior to the EWC up to three weeks following the birth.*
- *The five days do not require to be consecutive.*
- *Normally only one period of MSL shall be granted per employee per year.*
- *Fathers or partners of expectant mothers, who have worked for the council for 26 continuous weeks at the beginning of the 15th week before the EWC, will also be entitled to an additional week's Statutory Paternity Leave (SPL). Application for this leave should be made on Form PER/ML/4.*

<b>NAME :</b>		<b>SERVICE :</b>	
<b>DESIGNATION:</b>	<b>EMPLOYEE NUMBER:</b>		
<b>PLACE OF EMPLOYMENT :</b>			
<b>EXPECTED WEEK OF CHILDBIRTH:</b>			
<b>REQUESTED DATES OF MSL:</b>			

#### DECLARATION

With reference to the conditions of the maternity support leave scheme, I declare that I am the child's father, or partner or nominated carer of the expectant mother and that I am applying for leave to assist in the care of the child and to provide support to the mother at or around the time of birth.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

cc: Payroll Section, Finance & Resources

## APPENDIX 7 – PER/ML/4

### RENFREWSHIRE VALUATION JOINT BOARD

### APPLICATION FOR PATERNITY LEAVE



This application should be completed by employees wishing to apply for paternity leave. This includes partners of adopters who are eligible to apply for paternity leave. Once complete it should be submitted to your line manager or nominated officer at least 15 weeks before the expected week of childbirth/placement.

#### Notes

- Employees require to be continuously employed by the council at the beginning of the 15th week before the EWC to qualify for SPL and SPP.
- SPL is a period of up to two week's leave which requires to be taken in blocks of complete weeks. Employees can take Maternity Support Leave as one of these week's leave and then a week's SPL - see Form PER/ML/3.
- SPL should be taken within 56 days of the date of birth.
- SPL and SPP is available to fathers or partners of an expectant mother, or partners of adopters.
- Employees must be able to complete the declaration at the end of this form.

<b>NAME:</b>		<b>SERVICE:</b>	
<b>DESIGNATION:</b>		<b>EMPLOYEE NUMBER:</b>	
<b>PLACE OF EMPLOYMENT:</b>			
<b>EXPECT WEEK OF CHILDBIRTH/PLACEMENT:</b>			

#### **SECTION 1 - APPLICATION FOR STATUTORY PATERNITY LEAVE AND PAY**

***Complete this section if you are applying for Statutory Paternity Leave and Pay. You need to declare if you wish one or two week's leave.***

I would like my SPL and SPP to start on: \_\_\_\_\_

I want to be away from work for one/two\* weeks (*\*delete as appropriate*)

Is this in addition to Maternity Support Leave (requested on PER/ML/3)?

**Yes\***

**No**

\*If 'Yes', only one week's Statutory Paternity Leave and Pay can be applied for.

**Remember to complete the declaration at the end of this form**

**APPENDIX 7 – PER/ML/4**

**SECTION 2 - APPLICATION BY PARTNER OF ADOPTER FOR STATUTORY PATERNITY LEAVE AND PAY**

**Complete this section if you are the partner of an adopter and wish to apply for Statutory Paternity Leave and Pay. You need to declare if you wish one or two week's leave.**

I would like my SPL and SPP to start on: \_\_\_\_\_

I want to be away from work for one/two\* weeks (\*delete as appropriate)

**Remember to complete the declaration at the end of this form**

---

**DECLARATION (TO BE COMPLETED BY ALL EMPLOYEES APPLYING FOR PATERNITY LEAVE AND PAY)**

With reference to the conditions of Statutory Paternity Leave and Pay, I declare that:

I am:

- the baby's biological father, or
- married to the mother/person adopting the child, or
- living with the mother/person adopting the child in an enduring family relationship, but am not an immediate relative

I will have responsibility for the child's upbringing

I will take time off work to support the mother/person adopting the child or to care for the child

**You must be able to tick all three boxes above to qualify for Statutory Paternity Leave and Pay.**

**Signature:** \_\_\_\_\_

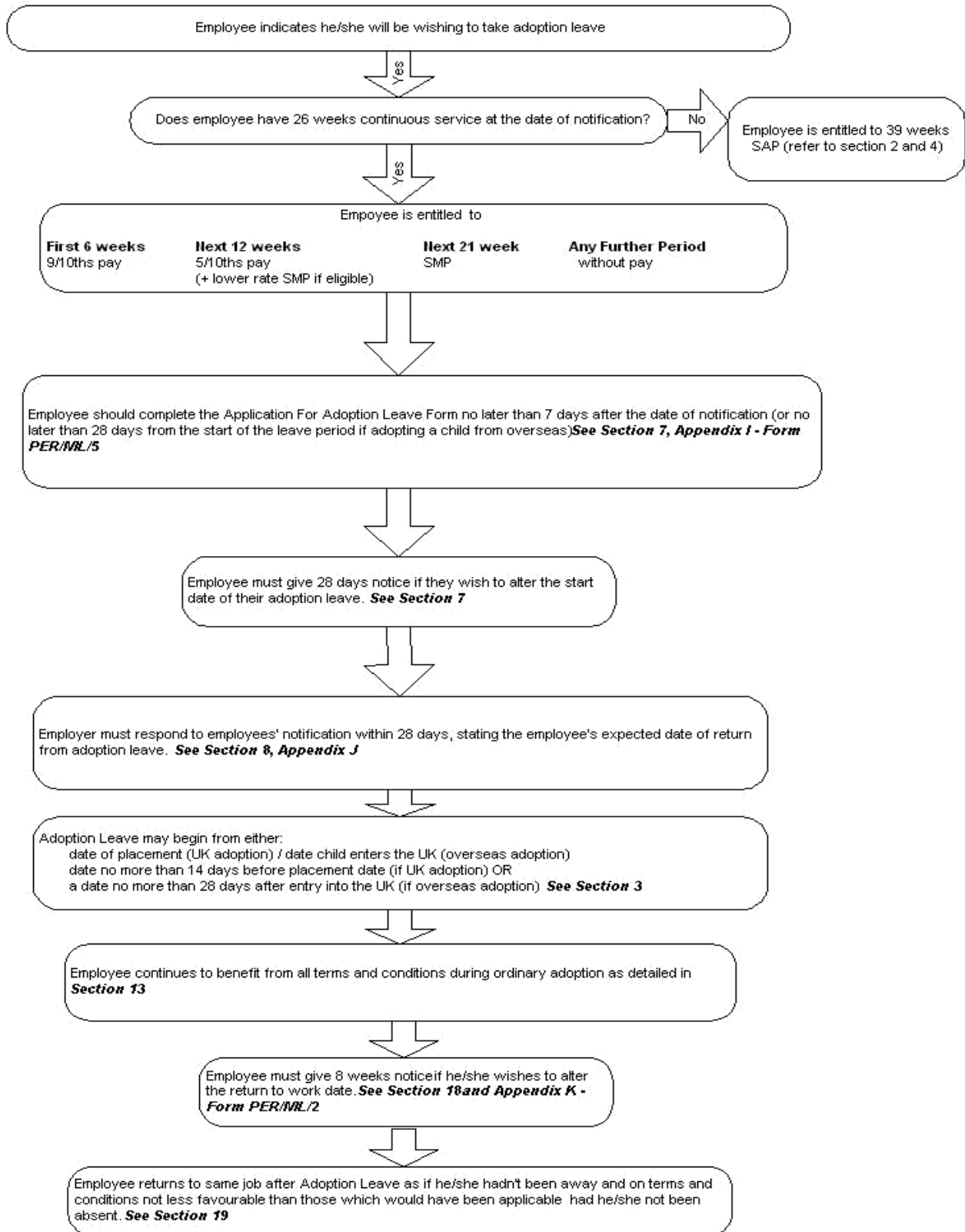
**Date:** \_\_\_\_\_

cc: Payroll Section, Finance & Resources



# **ADOPTION RIGHTS LEAVE AND PAY**

## ADOPTION RIGHTS FLOWCHART



## APPENDIX 8 - ADOPTION LEAVE

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1. **What is adoption leave?**

Adoption leave is a statutory right to take time off work to look after an adopted child (under the age of 18) in the same way as a new mother has the right to maternity leave. Only one parent of an adopting couple has the right to adoption leave, with the spouse or partner being entitled to adoption support leave, paternity or parental leave. Adoption leave is available to parents adopting children within the UK or from abroad and applies to children adopted on or after 6 April 2003, or in the case of adoption of a child from overseas, if the child enters the UK on or after 6 April 2003.

2. **Who can take adoption leave and how much leave can be granted?**

Employees who are adopting and who have been notified by an adoption agency that he or she has been matched with a child for the purposes of adoption, irrespective of length of service or hours worked, are entitled to 52 weeks adoption leave (26 weeks' ordinary adoption leave plus 26 weeks' additional adoption leave).

If a couple are both employed by the Council, adoption leave is not available to both parents. If one partner is eligible for adoption leave and pay, the other may take adoption support leave, paternity or parental leave.

3. **Commencement of Adoption Leave**

Adoption leave may begin from either:

- the date of the child's placement; or
- a fixed date no more than 14 days before the expected date of placement.

In the case of overseas adoptions, adoption leave cannot begin before the child enters the UK. The latest the adoption leave can begin is 28 days after the date of entry.

4. **What is the rate of pay for adoption leave?**

Employees who are notified of being matched with a child for adoption will be entitled to Statutory Adoption Pay (SAP).

**Current rate of Statutory Adoption Pay (SMP)**

- 6 weeks at 90% of average earnings (higher rate SAP)
- 33 weeks at lower rate SMP (£139.58 per week or 90% of your average earnings effective 5 April 2015).

Thereafter the employee will be entitled to a further 13 weeks additional adoption leave which is unpaid.

Adopters whose average earnings are below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP.

Payments for employees who have completed 26 weeks or more continuous service prior to the week in which he/she is notified of being matched with a child for adoption will be as follows:

- (i) For the first **6 weeks** of absence all employees will be entitled to nine-tenths of a week's pay which includes SAP where eligible.
- (ii) For employees intending to return to work, the employee will be entitled to **12 weeks** at half pay plus SAP, except by the extent to which the combined pay and SAP (or any dependants' allowances if the employee is not eligible for SAP) exceeds full pay. For the subsequent **21 weeks** the employee will only be entitled to SAP. Thereafter the employee will be entitled to a further 13 weeks additional adoption leave which is unpaid.
- (iii) For employees not intending to return to work, payments during the 33 weeks (12 weeks + 21 weeks under (ii) above), will be entitled to SAP if eligible.
- (iv) Employees must return to work for a period of 3 months, otherwise they will have to repay the Council the 12 weeks half pay under (ii) above. Payments made to the employee by way of SAP are not refundable.

5. **What if the employee is adopting more than one child?**

An employee's entitlement to adoption leave is not affected by the placement of more than one child. This means that only one period of adoption leave will be granted in the case of multiple adoptions, i.e. if adopting two or more children at the same time.

6. **My partner's children live with us and I wish to adopt them. Am I entitled to adoption leave?**

Employee's wishing to adopt his/her partner's children that currently live in their household would not be entitled to adoption leave or pay. The employee may, however, be entitled to unpaid parental leave provided he/she meets the qualifying criteria for parental leave.

7. **How much notice is required?**

An employee must give notice in writing of his/her intention to take adoption leave no more than 7 days after receiving notification from the adoption agency of being successfully matched with a child where this is reasonably practicable. In the case of adopting a child from overseas, the employee must give 28 day's notice of the start date of their leave.

Such notification should include the expected date of placement, the date on which he/she wishes to commence adoption leave and a matching certificate from the adoption agency/official notification (issued by or on behalf of the relevant domestic authority, usually the Department of Health). This can be done by completing form PER/ML/5 (Appendix 8).

If, in exceptional circumstances, it is not practicable for the employee to give notice as detailed above, this should be done as soon as reasonably practicable.

If the employee subsequently wishes to alter the start date of his/her adoption leave, notice of this change should be given in writing no later than 28 days prior to the new commencement date or the original agreed date of commencement whichever is sooner.

8. **Response to request for adoption leave**

The employee will receive a letter within 28 days of receipt of his/her notice of intention to take adoption leave, stating his/her expected date of return from adoption leave. It will be assumed that the employee will return to work at the end of his/her full entitlement i.e. 52 weeks from the date of commencement of his/her adoption leave period. (If the employee wishes to return at an alternative date he/she is required to give 8 weeks' notice).

An example of a letter which can be used for this purpose can be found at Appendix 9. (Form PER/ML/2 should be enclosed with this letter - Appendix 9).

The service should advise Payroll, Finance & Resources that the employee is commencing Adoption Leave by forwarding a copy of the completed form PER/ML/5 (Appendix 8) and the letter sent in response.

9. **Reasonable Contact**

Throughout the adoption leave period, communication and information exchange between the Council and the employee are vital. During the leave period the employee should be kept informed of changing circumstances at work. It is therefore suggested that employees on adoption leave are sent information such as internal vacancy, training courses, relevant changes in employment legislation, employee newsletters, social events etc.

10. **Keeping in Touch days**

The Work and Families Act 2006 introduced the concept of Keeping in Touch days whereby the employee may, by agreement with his/her employing service, carry out up to 10 days' work under her contract his/her of employment during adoption leave. For this to happen, agreement must be reached between the employee and their line manager as to what work will be done. Employees will be paid at their normal hourly rate of pay inclusive of SAP, for any work undertaken.

The type of work may be anything which is included in his/her contract but can be useful for example for attending a training course, conference or team meetings. Keeping in Touch days can be carried out at any time during the adoption leave period. Any work done on any day will count as a whole Keeping in Touch day. For example if an employee comes in for a team meeting which last one hour, and does no other work that day, this will count as one of the 10 Keeping in touch days.

11. **What happens if the placement is disrupted?**

Where the placement ends during the adoption leave period, the adopter will be entitled to remain absent on adoption leave for up to eight weeks after the placement ended provided the end date would not be after the normal end date of the Additional Adoption Leave period. Otherwise, the leave period will end at the end of the Additional Adoption Leave period.

12. **What record keeping is required?**

Adoption leave will be recorded by Payroll for the purposes of paying Statutory Adoption Pay in the same way periods of maternity leave are recorded. The service should forward the completed application form PER/ML/5 (Appendix 8) to the payroll section together with the letter sent to the adopter under paragraph nine, in order for this to happen.

13. **What is the employment status of the employee when on adoption leave?**

Terms and conditions other than those relating to remuneration (pay) continue both during ordinary and additional maternity leave, for example, notice periods, redundancy rights, accrual of annual leave and public holiday.

A period of adoption leave counts towards a period of continuous employment for the purposes of statutory employment rights, including determining the length of service for calculating a redundancy payment.

14. **Effect of Adoption Leave on Pension Contributions**

Both occupational adoption pay and statutory adoption pay are subject to the deduction of pension contributions. An employee can choose to pay contributions for any period of unpaid adoption leave in order to maintain continuous service with the pension fund. Applications to do this should be made to Strathclyde Pension Fund, P.O. Box 27001, Glasgow, G2 9EW within 30 days of returning to work. The amount to be paid will be based on the percentage contribution normally paid by the employee applied to the last pay received immediately prior to the no pay situation.

The council will be expected to maintain the full contribution, as if the employee was continuing to be paid his/her normal rate of pay in respect of the period that the employee makes contributions.

15. **Effect of Adoption Leave on Annual Leave Entitlement**

Annual leave will accrue throughout the adoption leave period providing the employee returns to work, otherwise annual leave accrues for the period of ordinary adoption leave i.e. the first 26 weeks. In circumstances where the employee's return is in the following leave year, he/she will be entitled to the outstanding proportion of leave from the previous year. On return to work the adoption leave period will be taken into account when calculating the employee's period of continuous service for annual leave, sickness allowance, period of notice or further adoption leave.

**Note:** For operational reasons it is recommended that employees take the proportion of annual leave due to them up until the beginning of their adoption leave period prior to starting their adoption leave period, if possible. For operational reasons, managers may wish to encourage employees to use their accrued annual leave before they physically return to work.

16. **Public Holidays**

During ordinary and additional maternity leave, employees will accrue any public holidays that fall in this period. Any public holiday leave accrued will be pro-rata to contracted hours. This entitlement will not be lost if the employee's leave year ends during adoption leave but the time off should be taken at the end of the adoption leave period.

17. **Returning to Work - Notification Procedure**

**Notified Date of Return**

If an employee wishes to return to work earlier than the end of her entitlement to maternity leave, she is required to notify the council in writing at least 8 weeks prior to



her proposed date of return. This can be done by completing Form PER/ML/2 (Appendix 5) which should have been sent to the employee together with the letter issued confirming her latest date of return to work. This notice requirement applies during both ordinary and additional adoption leave.

If the employee fails to give 8 weeks' notice of an early return, the council is able to delay her return until the full 8 weeks' notice has been given, provided this is no later than the end of her adoption leave period.

On receipt of a completed form PER/ML/2 (Appendix 5) the line manager or nominated officer should ensure that a copy is forwarded to Payroll, Finance & Resources in order that the employee is reinstated on the payroll from the correct date.

Where an employee does not return to work in accordance with the time limits set out above and remain at work for at least three months, she will be required to refund to the authority the amount of occupational adoption pay paid to her for the 12 week period at five tenths pay or the appropriate amount thereof depending on when, and for how long, she returns to work. If the employee is on sick leave, annual leave, or is taking accrued public holidays these days will be counted towards the three month period. Payments made by way of SAP are not refundable.

Sympathetic consideration can be given in special cases where it is felt that the application of this advice will cause undue hardship. In such cases a submission to waive the requirement to repay the 12 weeks at half pay should be made to the Director of Finance and Resources/Head of HR and Organisational Development for consideration in terms of the Scheme of Delegations.

**Note:** If it has been agreed that an employee may return to work on a job-share, part-time or other flexible working arrangement, the three month period will be based on the new contractual hours.

If the employee intends to return to work at the end of his/her full adoption leave entitlement (i.e. 52 weeks) as per the letter issued to them, there is no requirement for the employee to give any further notification of their intention to return.

However, should an employee wish to return to work earlier than the end of his/her adoption leave entitlement, he/she is required to notify the Council in writing at least 8 weeks prior to the proposed date of return. This can be done by completing Form PER/AL/2 (Appendix 10) which should have been sent to the employee together with the letter issued confirming his/her return to work date.

If the employee fails to give adequate notice, the employer is able to delay their return until the end of the leave period, but not beyond.

On receipt of a completed form PER/ML/2 the service should ensure that a copy is forwarded to Payroll, Finance & Resources in order that the employee is reinstated on the payroll from the correct date.

18. **Does the employee have the right to return to the same job?**

An employee returning from adoption leave is entitled to return to the job in which he/she was employed prior to commencement of adoption leave. Some changes in actual duties are permissible but no more than should be reasonable over this period of time.

Where it is not practicable by reason of redundancy for the council to permit the employee to return to work in her/his previous post, the employee is entitled to be offered a suitable alternative vacancy where one exists provided that the work to be done in that post is suitable and appropriate to the circumstances. The capacity, place of employment and terms and conditions of employment should not be substantially less favourable than if the employee had been able to return to the job in which he/she was employed prior to his/her absence.

However, suitable alternative employment may also be offered in exceptional circumstances other than redundancy (for example, a general reorganisation) which would have occurred if the employee had not been absent and necessitate a change in the job in which he/she was employed prior to her/his absence. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place of employment and the terms and conditions of employment should not be less favourable than if the employee had been able to return to the job in which they were employed prior to her/his absence.

19. **Change of Mind Regarding Return to Work**

If an employee changes his/her mind regarding returning to work after adoption leave he/she should notify her service as soon as possible by submitting a letter of resignation. The effective date of termination for continuous service purposes would be the date of receipt of the letter of resignation.

RENFREWSHIRE VALUATION JOINT BOARD

APPLICATION FOR ADOPTION LEAVE



This application should be completed by employees wishing to apply for adoption leave and pay and submitted to your line manager or nominated officer no later than 7 days after notification of matching / 28 days prior to commencement of adoption leave (if overseas adoption).

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*Notes*

- Employees will be entitled to 52 weeks Adoption Leave, (26 weeks' Ordinary Adoption Leave plus 26 weeks' Additional Adoption Leave.)
- Employees with 26 weeks or more continuous service prior to the week in which he/she is notified of being matched with a child for adoption will be as follows:
  - (i) For the first **6 weeks** of absence all employees will be entitled to nine-tenths of a week's pay which includes SAP where eligible.
  - (ii) For employees intending to return to work, the employee will be entitled to **12 weeks** at half pay plus SAP, except by the extent to which the combined pay and SAP (or any dependants' allowances if the employee is not eligible for SAP) exceeds full pay. For the subsequent **21 weeks** the employee will only be entitled to SAP. Thereafter the employee will be entitled to a further 13 weeks additional adoption leave which is unpaid.
  - (iii) For employees not intending to return to work, payments during the 33 weeks (12 weeks + 21 weeks under (ii) above), will be entitled to SAP if eligible.
  - (iv) Employees must return to work for a period of 3 months, otherwise they will have to repay the Council the 12 weeks half pay under (ii) above. Payments made to the employee by way of SAP are not refundable.
- Employees with less than 26 weeks' continuous service prior to the week in which he/she is notified of being matched with a child for adoption will be entitled to Statutory Adoption Pay (SAP) for the first 39 weeks. Thereafter the employee will be entitled to a further 13 weeks additional adoption leave which is unpaid.
- Employees should attach a copy of the matching certificate from an adoption agency or, in the case of overseas adoptions, a copy of official notification (usually issued by the Department of Health).

## APPENDIX 1 – PER/AL/1

<b>NAME:</b>		<b>SERVICE:</b>	
<b>DESIGNATION:</b>		<b>EMPLOYEE NUMBER:</b>	
<b>PLACE OF EMPLOYMENT:</b>			
<b>EXPECT DATE OF PLACEMENT:</b>			

**Administrative Note:**

*This completed form should be forwarded to Payroll along with a copy of the letter sent to the employee in response to this form.*

**SECTION 1 -**

Complete this section if you have less than 26 weeks continuous service prior to the week in which you are notified of being matched with a child for adoption and are applying for Adoption Leave and Pay.

I would like my Adoption Leave and Pay to start on: \_\_\_\_\_

\_\_\_\_\_

**SECTION 2 -**

Complete this section if you have 26 weeks or more continuous service prior to the week in which you are notified of being matched with a child for adoption and are applying for Adoption Leave and Pay.

I would like my Adoption Leave and Pay to start on: \_\_\_\_\_

\_\_\_\_\_

**Remember to attach a copy of the matching certificate issued to you from the adoption agency. In the case of overseas adoptions a copy of the official notification issued by or on behalf of the relevant domestic authority should be attached.**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## APPENDIX 2 – LETTER IN RESPONSE TO REQUEST FOR ADOPTION LEAVE

**For employees with more than 26 weeks continuous service prior to notification of adoption.**

Dear

Congratulations and thank you for telling me that you will be adopting a child. I am writing to you about your adoption leave and pay.

As we have discussed, you are eligible for 52 weeks' adoption leave, comprising 26 weeks ordinary adoption leave plus 26 weeks additional adoption leave.

Given your chosen start date of *[insert date]*, your adoption leave will end on *[insert date]*. If you want to change the date your leave starts you must give me the correct notice (28 days), if at all possible. Please contact me to discuss this.

If you decide to return to work before *[insert date leave ends]*, you must give me at least 8 weeks' notice. This can be done by completing the enclosed form PER/ML/2.

As we discussed, you are eligible for 39 weeks' Adoption Pay. The amount of pay which you will receive will be as follows:

First 6 weeks	Next 12 weeks	Next 21 weeks	Further 13 weeks
9/10ths pay	Half pay (+ Statutory Adoption Pay if eligible)	Statutory Adoption Pay	Without pay

The current rate of SAP is £139.58 per week as at 5 April 2015.

Adoption pay is treated as earnings and will be subject to deduction of income tax, national insurance contributions and pension contributions. You will receive adoption pay at your normal pay period.

As no pension contributions will be made during the period of unpaid additional adoption leave you can choose to pay contributions in respect of this period, for example the last 13 weeks in order to maintain continuous service with the pension fund. The contributions will be calculated on the rate of pay you were receiving immediately prior to the commencement of your additional adoption leave period. If you wish to do this you should contact Strathclyde Pension Fund, P.O. Box 27001, Glasgow, G2 9EW, telephone number 0845 213 0202.

If you decide not to return to work, you must still give me proper notice as per your contract of employment i.e. *[insert notice period e.g. 4 weeks notice]*. Your decision will

not affect your entitlement to statutory adoption pay, however you will be required to pay back the 12 weeks' half pay.

If you have any questions about any aspect of your adoption entitlements please do not hesitate to get in touch with me. Finally, may I take this opportunity to wish you well with the adoption.

Yours sincerely

**Line manager or nominated officer**

Enc: PER/AL/2

## APPENDIX 2 – LETTER IN RESPONSE TO REQUEST FOR ADOPTION LEAVE

**For employees with less than 26 weeks continuous service prior to notification of adoption.**

Dear

Congratulations and thank you for telling me that you will be adopting a child. I am writing to you about your adoption leave and pay.

As we have discussed, you are eligible for 52 weeks' adoption leave, comprising 26 weeks ordinary adoption leave plus 26 weeks additional adoption leave.

Given your chosen start date of *[insert date]*, your adoption leave will end on *[insert date]*. If you want to change the date your leave starts you must give me the correct notice (28 days), if at all possible. Please contact me to discuss this.

As we discussed, you are eligible for 39 weeks' Statutory Adoption Pay. The current rate of SAP is £139.58 per week with effect from 5 April 2015. Thereafter you will be entitled to a further 13 weeks additional adoption leave which is unpaid.

If you decide to return to work before *[insert date leave ends]*, you must give me at least 8 weeks' notice. This can be done by completing the enclosed Form PER/AL/2.

Adoption pay is treated as earnings and will be subject to deduction of income tax, national insurance contributions and pension contributions. You will receive adoption pay at your normal pay period.

As no pension contributions will be made during the period of unpaid additional adoption leave you can choose to pay contributions in respect of this period, for example the last 13 weeks in order to maintain continuous service with the pension fund. If you wish to do this you should contact Strathclyde Pension Fund, P.O. Box 27001, Glasgow, G2 9EW, telephone number 0845 213 0202.

If you decide not to return to work, you must still give me proper notice as per your contract of employment i.e. *[insert notice period e.g. 4 weeks notice]*. Your decision will not affect your entitlement to SAP.

If you have any questions about any aspect of your adoption entitlements please do not hesitate to get in touch with me. Finally, may I take this opportunity to wish you well with the adoption.

Yours sincerely

**Line manager or nominated officer**Enc: form PER/AL/2

**RENFREWSHIRE VALUATION JOINT BOARD  
NOTIFICATION OF ALTERATION TO RETURN  
TO WORK DATE**



You should complete Section 1 of this form and return the form to your manager or personnel practitioner if you wish to alter your return to work date at the end of your maternity/adoption leave period. You are required to give a minimum of 8 week's notice of an altered date of return. Your manager will complete and return Section 2 of this form to you.

**SECTION 1** *(to be completed by employee)*

<b>NAME:</b>		<b>SERVICE:</b>	
<b>DESIGNATION:</b>		<b>EMPLOYEE NUMBER:</b>	
<b>PLACE OF EMPLOYMENT:</b>			
<b>HOME ADDRESS:</b>			
<b>DATE FORM COMPLETED:</b>			

My period of Ordinary / Additional \* Maternity/Adoption\* Leave is due to end on \_\_\_\_\_  
*(insert date as advised by your manager).*

\* **delete as appropriate**

However, I wish my maternity/adoption leave period to end on \_\_\_\_\_  
*(insert date you wish your maternity/adoption leave to end).*

**SECTION 2** *(manager should complete either Statement A or B and return the form to the employee, keeping a file copy)*

A. I acknowledge receipt of your request to alter your date of return from maternity/adoption leave. I confirm that your request is acceptable and your maternity/adoption leave period will now end on \_\_\_\_\_ *(insert revised date of return)* and I look forward to your return to the office on \_\_\_\_\_ *(insert date of first working day).*

B. I acknowledge receipt of your request to alter your date of return from maternity/adoption leave. However I am unable to agree your request as the required notification of 8 weeks was not received. I therefore confirm that your maternity/adoption leave period will end on \_\_\_\_\_ *(insert date which gives 8 week's notice period, or original date of return)*

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Manager's signature

cc: Payroll Section, Finance & Resources



# **PARENTAL LEAVE**

## PARENTAL LEAVE

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1. **What is parental leave?**

Parental leave is a right to take time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children and to strike up a better balance between their work and family commitments.

2. **Who can take parental leave?**

The parents must either be named on the child's birth certificate or they must have parental responsibility under law for the child. Parental leave will also apply to individuals with responsibility for looking after a child, such as grandparents or step-parents.

The parents of a child do not have to be living with the child in order to qualify for parental leave.

Parental leave will apply to both mothers and fathers and a person who has obtained parental responsibility for a child under the Children (Scotland) Act 1995.

Employees will be able to start taking parental leave when the child is born or placed for adoption or as soon as they have completed one year's service, whichever is later.

3. **How much service should the employee have?**

Employees who want to take parental leave must have one year's continuous service in terms of the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) (Amendment) Order 2001.

4. **How much parental leave should be granted?**

The Maternity and Parental Leave Regulations 1999 (and Maternity and Parental Leave Amendment Regulations 2001), give employees the right to take unpaid time off work to look after a child or make arrangements for the child's welfare.

Parental leave is unpaid time off work, up to 18 weeks' per child to their 5<sup>th</sup> birthday, 18<sup>th</sup> birthday if the child is adopted or the 5<sup>th</sup> anniversary of their adoption, whichever comes first, or 18 weeks up to 18<sup>th</sup> birthday for a child with a disability to look after or make arrangements for their care.

**Note: From 5 April 2015, the right to take up to 18 weeks' unpaid parental leave will be extended to parents of children under 18.**

5. **Is parental leave in addition to existing family friendly policies such as maternity support/adoption support leave?**

Parental leave is granted in addition to maternity, adoption, paternity leave and maternity support/adoption support leave.

6. **How can the leave be taken?**

Up to a maximum of 4 weeks parental leave per annum in respect of any individual child can be granted. Requests in excess of this amount must be approved by the appropriate Service Director. Leave may be taken in single days.

7. **Age of the child after which parental leave is no longer applicable**

Employees with children born after 15 December 1999, will have the right to take parental leave until the children reach their fifth birthday; or, following placement in the case of adoption, until five years have elapsed, or until the child's eighteenth birthday, whichever is the earlier.

Parents of disabled children will be able to use their leave up until the child's eighteenth birthday. A disabled child is a child who receives disability living allowance or a personal independence payment.

8. **How much notice is required?**

An employee must provide 21 calendar days notice when requesting any period of parental leave up to 4 weeks.

If, in exceptional circumstances, a Service Director has granted additional leave the notice period may be increased by 7 calendar days for each complete week of additional parental leave required.

In rare cases where it is not possible to provide the notice period(s) as detailed above the Director/Head of Service/Line Manager with the delegated authority may grant the leave after giving due consideration to the reasons provided by the employee. In these circumstances an employee should give the notice as soon as is reasonably practicable.

9. **Response to an employee's request for parental leave**

The employee should receive a response to the request for leave in as short a timescale as possible. Parental leave may be postponed for up to 6 months for service delivery

reasons except at the time of the birth or adoption of a child. If the leave is postponed until the child is older than the qualifying age, the leave would still be allowed.

10. **What record keeping is required?**

Parental leave granted will be recorded on the special leave section of the annual leave card and the attendance record card.

A record should be kept of these dates as future employer's may request details of the total amount of parental leave an employee has taken.

11. **Evidence to support a request for parental leave**

An employee will require to provide evidence that the employee is the parent of a child or has parental responsibility for the child; evidence might take the form of information contained in the child's birth certificate, papers confirming a child's adoption or the date of placement in adoption cases, or in the case of a disabled child, the award of disability living allowance for the child. Normally, the employee will only require to produce this evidence when making the first request for parental leave.

12. **What happens if an employee tries to claim leave dishonestly?**

The purpose of parental leave is to care for a child. This means looking after the welfare of a child and can include making arrangements for the good of a child. If the employee uses the leave for some other purpose then he or she would be acting dishonestly and the normal disciplinary provisions would apply.

13. **What is the employment status of the employee when on parental leave?**

The employment contract continues whilst the employee is on parental leave unless it is terminated by either the employer or employee. (The normal notice periods from either party will continue to apply). An employee continues to benefit from his/her statutory employment rights during parental leave.

The continuation of other contractual terms and conditions will not be affected by breaks for parental leave. With regard to the occupational pension rights that have accrued prior to going on unpaid parental leave the rules and regulations as laid down by Local Government Pension Scheme will apply.

Continuous service will not be broken by periods of parental leave. A period of parental leave counts towards a period of continuous employment for the

purposes of statutory employment rights, including determining the length of service for calculating a redundancy payment.

14. **Does the employee have the right to return to the same job?**

An employee who takes parental leave, regardless of the length of the leave, is entitled to return to the post held by him/her prior to the leave being granted. It should be noted that this provision will **not** apply in cases where, for example, appointment is to a temporary post and the requirement for this post has ceased. In such cases, reference will be made to redeployment rights detailed in the temporary contract of employment.

15. **Part time and job sharing employees**

Parental leave will be granted on a pro-rata basis determined by the contracted hours worked per week.

A week's leave will be a period of absence from work that is equal in duration to the period for which the employee is normally required to work under the contract of employment. If he or she works three days a week, the three-day week is counted as a week and the employee is entitled to take up to 18 of these weeks as parental leave.

16. **Employees who have working patterns which vary**

These employees will require to have an average working week calculated.