

MATERNITY, ADOPTION & PATERNITY LEAVE POLICY

SCOPE

This Policy applies to all employees of Bridgend County Borough Council except;

- Those employed under the Conditions of Service for School Teachers in England and Wales

Date of Issue:

MATERNITY, ADOPTION AND PATERNITY LEAVE

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BRIDGEND COUNTY BOROUGH COUNCIL

MATERNITY, ADOPTION AND PATERNITY LEAVE

1 POLICY STATEMENT

The aim of this policy is to explain an employee's entitlements to maternity, adoption and paternity leave, statutory and occupational pay and to explain the steps that need to be taken by an employee and their line manager before and during maternity/adoption/paternity leave.

Bridgend County Borough Council aims to support new, adoptive and prospective parents enabling them to be retained within the workforce.

2 GENERAL PRINCIPLES

No employee should be treated less favourably or discriminated against because they are pregnant or absent on maternity, adoption or paternity leave.

Employees will retain all terms and conditions of employment, other than pay, during maternity, adoption and paternity leave.

An employee's entitlement to **occupational** maternity/adoption pay will be based on current earnings. As such, if contractual changes occur during the maternity/adoption leave period (i.e. honorarium/acting up arrangements end), maternity/adoption pay entitlement may be subject to change.

An employee's entitlement to **statutory** maternity/adoption pay will be based on National Insurance based earnings paid during the qualifying period. For maternity pay this is the 8 weeks prior to the 15th week before the due date. For adoption pay this is the 8 weeks prior to the matching date.

Paternity and adoption leave rights also apply to partnerships of the same sex. Any references in this policy to father should be taken as including women in same sex partnerships.

Governing Bodies in educational establishments with delegated responsibilities will be expected to comply with the Council's corporate policy.

3 MATERNITY LEAVE

3.1 Maternity Leave Entitlement

All employees, regardless of their length of service, or part time or full time status, qualify for statutory maternity leave; this consists of 26 weeks' ordinary maternity leave (OML), followed by 26 weeks' additional maternity leave (AML).

Maternity leave cannot start earlier than 11 weeks before the week before the baby is due (WBD). However, if the baby is born before the maternity leave was due to start, leave will commence the following day. Human Resources must be notified of the date of birth as soon as it is reasonably practicable.

3.2 Notification Procedure

No later than the 15th week before the baby is due (WBD), unless this is not practicable, the employee must notify her line manager and Human Resources, in writing of the following:

- That she is pregnant;
- The week the baby is due (WBD); providing a certificate of pregnancy from a registered medical practitioner or a registered midwife (Mat B1 Form) stating the due date.
- The date she intends to commence maternity leave (no earlier than 11 weeks before WBD).

Employees will be able to change their mind about the date on which they want their leave to start provided they give at least 28 days' notice, unless this is not practicable.

Human Resources will write to the employee within 28 days of receiving the notice of pregnancy, or notification of a changed start date, informing her of the latest expected date of return from maternity leave. This will be 52 weeks from the start of the leave.

3.3 Maternity Pay

Less than 26 weeks' Continuous Local Government Service

Employees who have less than 26 weeks' service at the 15th week before WBD will not be eligible for Statutory Maternity Pay (SMP) but may qualify for Maternity Allowance (MA) from the Department for Works and Pension or SMP from their previous employer.

Less Than One Year Continuous Local Government Service.

Employees who have less than 1 year of continuous local government service at the beginning of the 15th week before the WBD may be entitled to receive SMP (statutory maternity pay), subject to meeting statutory requirements. Where applicable SMP payments will be:

- Weeks 1-6 SMP based upon 90% of an average week's pay
- Weeks 7-39 SMP at the standard rate or 90% of an average week's pay if this is less.
- Weeks 40 - 52 Unpaid

If an employee is not entitled to SMP they will be provided with form SMP1 to enable them to claim Maternity Allowance (MA) from the Department for Work and Pensions (DWP)

More than One Year Continuous Local Government Service.

Employees who have more than 1 year of continuous local government service at the 15th week before the WBD are eligible to SMP and OMP (occupational maternity pay), subject to them meeting the required criteria, based upon:

- Weeks 1-6 SMP based upon 90% of an average week's pay
- Weeks 7-18 half pay (OMP) plus SMP at the standard rate or 90% of an average week's pay if this is less (subject to normal full pay not being exceeded)
- Weeks 19-39 standard rate SMP or average week's pay if this is less
- Weeks 40-52 unpaid

Employees not intending to return to work following their period of maternity leave will not be entitled to OMP payments during weeks 7-18. An employee who does not return to work or returns for less than a period of 3 months following their period of maternity leave will be required to refund the OMP paid.

If an employee is not entitled to SMP they will be provided with form SMP1 to enable them to claim Maternity Allowance (MA) from the DWP. Any Maternity Allowance paid will be offset against any OMP paid.

3.4 Sickness During Pregnancy and Paid Maternity Period

If an employee is sick, wholly or partly because of a pregnancy related illness, during the four-week period before the WBD, OML will start the day after reporting sick.

If the absence is not pregnancy related, the employee will receive normal sick pay until the prearranged maternity start date, when SMP will be paid.

If the employee becomes sick after the birth of her baby but during the SMP pay period, SMP will continue to be paid as normal. If the employee returns to work within the 39 week paid maternity period and then goes sick during that period, SMP is payable instead of SSP.

If the employee is not entitled to SMP or MA the employee could be reconsidered for entitlement to SSP; please contact Human Resources if this is the case.

3.5 Premature Birth

Where a baby is born prematurely maternity leave will commence on the day following the birth.

3.6 Miscarriage, Termination, Stillbirth or Death of a Baby

Where a baby dies or is stillborn after 24 weeks' of pregnancy, the maternity scheme applies. In this situation, where the employee has indicated that she had not intended returning to work following the birth of the baby, they will be given an opportunity to reconsider, circumstances permitting.

3.7 Fertility Treatment

An employee and her partner will be allowed reasonable paid time off, including appropriate travel time, where they are undergoing a course of fertility treatment.

3.8 Antenatal Care

A pregnant employee has the right to paid time off, during working hours, to receive antenatal care but must produce evidence of appointments if requested. The employee will also be allowed time to attend relevant classes linked to the pending birth on the advice of a registered midwife, doctor or health visitor.

Fathers-to-be, partners, or nominated carers will also be entitled to unpaid time off to attend up to 2 ante-natal appointments where appropriate and on production of evidence of appointment.

Time off for antenatal care will include reasonable travelling time.

3.9 Breast Feeding

Returning employees are required to provide notification to their line manager if they are still breastfeeding on their return to work following maternity. Upon receipt of this notification, a risk assessment would be undertaken and discussions held with the employee to ascertain any reasonable adjustments required, including any breaks or facilities required.

At the moment, employees are not entitled to be paid for these breaks.

4 ADOPTION LEAVE

4.1 Eligibility

Adoption leave will be available to employees where an approved adoption agency notifies the adopter of a match with a child or a child is placed for adoption with that employee.

The adopter is the employee who has been matched with the child for adoption or has elected to be the child's adopter for the purpose of taking statutory adoption leave.

Adoption leave will not apply in circumstances where a child is not newly matched for adoption, for example when a stepparent is adopting a partner's children.

The child must be under the age of 18 when placed with the adopter.

4.2 Notification Procedure

Adopters will be required to notify their line manager and Human Resources in writing, within seven days of being advised by their adoption agency of a match, of their intention to take adoption leave. They will need to confirm:

- When the child is expected to be placed with them, the matching week (MW);
- When they want their adoption leave to start. This can be no more than 14 days before the date on which the child is expected to be placed.

A matching certificate for the main adopter and form SC4 for the co-adopter must be provided to Human Resources. This should be obtained from the employee's adoption agency as evidence of their entitlement to Statutory Adoption Pay (SAP).

The employee may change the start date of OAL (ordinary adoption leave) provided they give notice of at least 28 days of the change, or as soon as reasonably practicable.

Within 28 days of receiving the notice of adoption, or notification of a changed start date, the Human Resources will write to the employee setting out the latest date on which the employee is expected to return to work from adoption leave. This will be 52 weeks from the start of the leave.

4.3 Adoption Leave Entitlement

All employees, regardless of their length of service, or part time or full time status, qualify for 26 weeks' ordinary adoption leave (OAL), followed by 26 weeks' additional adoption leave (AAL) for the purpose of caring for their newly adopted child if all eligibility criteria has been met and they have notified their Manager and Human Resources in line with the notification procedure. The adopter may choose to begin the leave on:

- The date the child is placed with them for adoption; or
- No more than 14 days before the date on which the child is expected to be placed.

In instances where the child is adopted from overseas an employee may choose to begin the leave on:

- The date the child enters Great Britain; or
- Up to 28 days after the date the child enters Great Britain.

An employee is only entitled to one period of adoption leave even if more than one child is placed for adoption as part of the same arrangement.

An employee who is the primary adopter will be able to take paid time off for up to five adoption appointments. A secondary adopter is entitled to take unpaid time off for up to two appointments.

4.4 Adoption Pay

All adoption pay entitlements will mirror Maternity Pay.

In all instances, leave of absence with pay will be granted for the introduction meetings prior to adoption and court proceedings. Time off for other relevant meetings connected to the adoption process need to be agreed with the employee's line manager.

4.5 Sickness During Adoption proceedings or Paid Adoption period

If the employee is sick and receiving SSP when the 39 weeks' paid adoption leave period is due to start, it must be delayed until the employee is well, but the adoption pay period cannot be extended.

If the employee falls sick during the 39 weeks' paid adoption leave period, SAP is not payable for any week in which the employee is entitled to SSP. However, if the employee is sick but not entitled to SSP, SAP may be paid.

4.6 Placement Disrupted

Disruption will include notification that the placement will not be made or if the placement ends for any reason.

If the child's placement has been disrupted the employee's adoption leave will finish at the end of the OAL if that period has started, will finish after AAL if that period has started, or eight weeks after the end of the week when the disruption occurred, whichever is the sooner.

5 CONTACT AND KEEPING IN TOUCH (KIT) DAYS

During the statutory maternity/adoption leave period a line manager can make reasonable contact with an employee as a way of keeping in touch with workplace developments.

Under normal circumstances the line manager would make contact with the employee via telephone or email. The amount of contact that is reasonable depends on whether the employee prefers to have frequent or minimal contact with the line manager.

In addition, employees may, in agreement with their Line Manager, undertake up to 10 days paid work, regardless of whether they are full-time or part-time. These days can be taken at any time, other than the first two weeks of leave. These days are referred to as "KIT Days". KIT Days are optional and can only take place by agreement between both parties.

The type of work undertaken is a matter for agreement between the employee and her Line Manager. Examples include attending a conference, undertaking a training activity or attending a team meeting.

KIT Days do not extend the statutory or occupational maternity/adoption pay period in any way. For instance, if a Keeping in Touch Day occurs during a period of full pay, no additional payment will be made. If a Keeping in Touch Day occurs during a period of half pay or SMP/SAP only, this will be effectively "topped-up" so that the individual receives full pay for the day in question. Payment for KIT Days will only be made after completion of the day's work.

Where an employee works for less than a full day, this will still count as one keeping-in-touch day for the purposes of the 10 days maximum, although payment will only be made for actual hours worked.

Employees wishing to undertake a Keeping in Touch Day should complete a [KIT Day form](#) and forward this to their line manager in the first instance.

6 RETURNING TO WORK

A woman cannot return to work for at least two weeks following the birth of her baby as this is a period of compulsory maternity leave (CML).

If an employee only takes advantage of OML/OAL (ordinary maternity/adoption leave) they have the right to return to their substantive post and suffer no detriment to their terms and conditions of service due to their absence.

Where an employee returns from AML/AAL (additional maternity/adoption leave) and it is not practical for them to return to their previous job, the employee should be offered alternative employment of a comparative nature. This will also apply in the following situations:

- a second consecutive period of maternity/adoption leave resulting in an absence of up to 18 months

- Because of redundancy / restructure, which would have occurred if the employee had not been absent

There will be an assumption, unless indicated otherwise, that an employee will be returning to work at the end of the full entitlement to maternity/adoption/paternity leave. If an employee wishes to return earlier they must give 8 weeks no apostrophe notice. Failure to give such notice could result in the return being postponed for 8 weeks but not beyond the latest return to work date.

If an employee reports sick after their maternity/adoption/(additional)paternity pay has expired they must follow the absence management procedure.

Where the employee does not return to work their absence will not be viewed as an automatic termination of their employment. Their employment can only end if it is expressly terminated either by dismissal or resignation.

If the employee no longer wishes to return to work they must confirm this in writing to Human Resources. Discretion can be used to waive the right to notice in such circumstances. An employee who has received OMP and then decides not to return to work, or leaves employment within 3 months of returning to work, will be expected to refund the OMP paid.

7 PATERNITY LEAVE AND MATERNITY/ADOPTION SUPPORT LEAVE

7.1 Eligibility

An employee will have the right to take SPL (statutory paternity leave) in relation to a new-born or newly adopted child matched or placed for adoption with that employee, provided they:

- Have or expect to have responsibility for the child's upbringing;
- Are the biological father or are married to / the partner of the parent/adopter;
- Have worked continuously for 26 weeks:
 - a) For new-born children - by the 15th week before the WBD
 - b) For adopted children - ending with the week in which the child's adopter is notified of having been matched with the child.
- Provide a declaration, on form SC3, that he or she is in an enduring relationship with the parent/ adopter, will be responsible for the child's upbringing and will be taking time off to support the child's mother/father or care for the child.

7.2 Notification Procedure

For a Newborn Child

An employee must notify their line manager and Human Resources in writing on or before the 15th week before the week the baby is due (WBD), or as soon as it is reasonably practicable. The employee must provide the following information:

- The WBD and Mat B1 or, if the birth has already occurred, the date of the child's birth;
- The length of the leave requested;
- The date the leave is intended to start
- SC3 form

For a Newly Adopted Child

An employee must notify their line manager and Human Resources in writing no more than seven days after the date on which the adopter is notified of having been matched with the child for purposes of adoption, of:

- The date on which the adopter was notified of having been matched with the child and a copy of the matching certificate;
- The date on which the child is expected to be placed with the adopter;
- The length of the period of leave that they will take;
- The date on which they intend to begin their leave

7.3 Paternity Leave Entitlement

Employees can choose to take either one week or two consecutive weeks' paternity leave (SPL) (not odd days) for a newly born/adopted child. This also applies in cases of multiple births or more than one child being placed as part of the same arrangement.

Such leave cannot commence before the baby is born/matched and must be completed:

- within 56 days of the actual date of birth
- if the child is born early, within the period from the actual date of birth up to 56 days after the expected week of birth or the child's placement for adoption began.

An employee will still qualify for paternity leave in the unfortunate instance where the child was stillborn after 24 weeks of pregnancy or following the death of the child.

7.4 Maternity/ Adoption Support Leave Entitlement

Maternity/adoption support leave is a similar entitlement to paternity leave. The child's father / partner / nominated carer of an expectant mother will be entitled to one week's maternity support leave, regardless of service, on or around the time of the birth or adoption.

Note: An employee's entitlement to statutory paternity leave will be **inclusive** of maternity/ adoption support leave.

7.5 Paternity/ Maternity / Adoption Support Pay

Employees who only qualify for maternity/ adoption support leave will be paid one week at normal pay.

Employees who qualify for paternity leave will be paid for a maximum of 2 weeks based on:

- First week at maternity/ adoption support leave i.e. normal pay
- Second week at standard rate of SPP (statutory paternity pay); where qualifying conditions are met

7.6 Additional Paternity Leave Entitlement

Please Note – This provision will be replaced by the Shared Parental Leave scheme for babies due or adopted after 5th April 2015.

New fathers and partners are also entitled to take up to an additional 26 weeks' paternity leave (APL). This leave can only be taken when the mother has returned to

work before the end of AML/AAL, therefore the amount of time that remains will be dependent on when the 'mother' returns to work.

Certain information will be requested on receipt of the notification letter, including completion of an SC 7 (birth) or SC8 (adoption), written evidence of birth / adoption, the mother / co-adopter's place of work and business address, and confirmation that the mother, or co-adopter, has returned to work.

Employees can start their additional paternity leave (APL) any time from 20 weeks after the child is born. The leave should be requested 8 weeks before it is due to start and must have finished by the child's first birthday. A minimum of one week APL and a maximum of 26 continuous weeks' leave can be taken.

Eligibility for Additional Statutory Paternity Pay (ASPP) is based upon whether the 'mother' was eligible for AMP/AAP. If the mother was eligible for AMP/AAL but did not take that entitlement, ASPP will be paid at a rate per week or 90% of the employees average weekly salary, whichever is lower.

8 SHARED PARENTAL LEAVE AND PAY

Employees may be entitled to Shared Paternity Leave (ShPL) if their baby is due or they adopt a child on or after 5th April 2015.

8.1 Shared Parental Leave – General Principles

ShPL allows parents to consider the best arrangements to care for their child during the maternity period. An eligible mother or adopter can now choose to reduce their maternity and adoption leave to opt in to ShPL. It is possible to share the caring responsibilities evenly or have one parent taking the main caring role.

The maximum allowance available for ShPL is 50 weeks after the 2 weeks compulsory maternity leave. This allowance is automatically reduced by the amount of time the mother's maternity leave lasts.

ShPL can be taken in blocks, as long as the number of weeks taken does not exceed the maximum allowance available once the mother maternity leave is taken in to account. Parents can opt to take ShPL at the same time, or choose to stagger their leave arrangements. It is possible to book leave in 3 individual blocks (discontinuous blocks of leave), which allows parents to return to work between periods of leave.

Leave requests will be unconditionally accepted if an employee intends to take their ShPL entitlement as one continuous block of leave. If an employee intends to take their ShPL entitlement in stages (i.e. discontinuous blocks of leave), the line manager has the right to refuse the request if it cannot be accommodated. In such instances, efforts must be made to agree an alternative arrangement.

ShPL can start on any day of the week but can only be booked in complete weeks. As such, if ShPL lasts for one week and starts on a Wednesday, it will end on the following Tuesday.

A father/partner can take their ShPL entitlement whilst the mother is still on maternity /adoption leave, as long as the mother has agreed to reduce her maternity leave by the length of the father/partner's ShPL. The mother must have notified her employer of her intention to end her maternity leave before her partner can commence ShPL.

Where the mother and father/partner decide to take their ShPL entitlement at the same time, their entitlement is reduced by the number of weeks taken by each. As such, if a couple both decide to take 4 weeks ShPL, their ShPL allowance is reduced by 8 weeks.

The mother/main adopter can only share parental leave with one person. The parents/partners do not have to be working for the same employer to be eligible.

8.2 Shared Parental Leave – Eligibility

An employee will have the right to take ShPL provided:

- They are the mother, father or main adopter of the child, or the partner of the mother or main adopter. They must share main responsibility for the care of the child.
- they have worked for the Authority continuously for 26 weeks by the 15th week before the WBD/ matching date.

In addition the other parent must:

- have at least 26 weeks employment (employed or self employed) out of the 66 weeks prior to the relevant week of **confinement**
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week

If only one parent in the couple is eligible for ShPL, the leave cannot be shared.

8.3 Shared Parental Leave - Notification

ShPL can only be used once the mother has given notice of the date she intends to end her maternity/adoption leave by providing her employer with a 'maternity curtailment notice'.

Employees must notify their line manager of their entitlement to take ShPL at least 8 weeks before the employee intends to take a period of ShPL. The notification of entitlement to ShPL must include;

- confirmation of the number of weeks maternity/adoption leave the mother has taken/will take before the ShPL starts.
- how much leave both parents are entitled to take.
- how much leave each parent intends to take
- when they expect to take their leave
- the signature of both parents.

The notice must be accompanied by a declaration by the employees partner that;

- they share main responsibility for the care of the child
- meet the employment and earnings test
- consent to the employee taking the number of weeks of ShPL specified in the notice of entitlement.

Where an employee is planning on taking ShPL in discontinuous blocks, at least the first period of leave must be identified in the initial notice. If the employee does not identify the dates for each of the separate blocks of leave in their initial notification of entitlement, they must provide at least 8 weeks notice before starting any subsequent periods of leave.

Employees can choose to opt in to ShPL at any time during the maternity/adoption period as long as they can give 8 weeks' notice before commencing ShPL.

8.4 Shared Parental Pay – General Principles

Shared Parental Pay (ShPP) is a standard weekly rate (or 90% of the employees normal weekly earnings, whichever is lowest) which is set by the government each tax year.

In line with maternity/adoption pay, ShPP is only payable for 39 weeks from the start of the maternity period, and is reduced by the number of weeks maternity/adoption leave already taken by the mother/main adopter. No payment will be made from the 40th week onwards.

There is no provision for employees to be paid 90% of their earnings for the first 6 weeks of the ShPL period as is the case for maternity/adoption pay.

Example 1 – A mother's maternity leave lasts for 30 weeks. The father/partner then takes 22 weeks as ShPL. ShPP is only paid for 9 weeks of the 22 weeks that the father/partner is off.

Example 2 – A mother's maternity leave last for 30 weeks. The couple then decide to take the remaining allowance together. They are both have 11 weeks leave each, but will only receive the equivalent of 9 weeks ShPP between them, which can be paid to either person.

8.5 Shared Parental Pay - Entitlement

Where eligibility criteria are met and the required notification has been received, Shared Parental Pay (ShPP) will be paid at the agreed rate as set out in legislation (£138.18 per month 2014/15).

If both parents qualify for ShPP, they must decide how this will be divided and inform their respective employers.

8.6 Shared Parental Pay - Notification

Employees must notify their line manager of their entitlement to claim ShPP. This notification is separate to the ShPL notification. It must include;

- how much ShPP both parents are entitled to take
- how much ShPP each parent intends to claim
- when they expect to take their ShPL
- a declaration for the employees partner confirming that they agree to the employee claiming the specified amount of ShPP.

It is advised that the notice to claim ShPP accompanies the notification of entitlement to ShPL.

8.7 Shared Parental Leave – Keeping in Touch Days

Shared Parental Leave Keeping in Touch days (SPLIT Days) follow the same principles as KIT days for maternity/adoption leave.

There are 20 SPLIT days available during ShPL. These are in addition to the 10 KIT days available during maternity/adoption leave.

9 ANNUAL LEAVE AND BANK HOLIDAYS

Annual leave entitlement and bank holidays will continue to accrue during ordinary and additional maternity or adoption leave.

Such leave must be able to be taken either before or after maternity or adoption leave during the leave year for which it is awarded and it cannot be replaced by a

payment in lieu. Alternatively they may carry over annual leave in certain extenuating circumstances such as premature birth, illness during the 4 weeks prior to due date or other situations that are allowed by the policy.

10 FLEXIBLE WORKING

All employees have the right to apply to work flexibly in order to achieve a better work life balance. These requests are considered on merit based on the requirements of the service.

If an employee wishes to return to work following maternity/ adoption leave on conditions that are different to their original contract they have to seek agreement as there is no automatic right to do so.

For further information refer to the Council's Flexible working policy.

11 HEALTH AND SAFETY

As soon as a notification of pregnancy is received, the line manager will make arrangements to undertake a specific risk assessment of the expectant mother's work area, consulting health and safety in all cases.

In the best interests of the expectant mother, action will be taken in instances of Rubella (German Measles), which could include transferring the employee to another work location.

Where risks are identified employees will not be obliged to continue that work. Every effort will be made to alter the women's working conditions where possible. If risks cannot be avoided then women will be given suitable alternative employment wherever possible.

If there is no alternative work available the employee shall be suspended from work on medical grounds for as long as the risk exists to protect her safety or health or that of her child. During the period of suspension the employee will be given paid leave. Where suspension continues to the start of the 4th week before the WBD, maternity leave will be automatically triggered.

The same procedure will apply to a new or expectant mother who performs night work where she produces a medical certificate, which states that for health and safety reasons she should not work at any time specified on the certificate.