

Public Document Pack

Date of meeting Monday, 21st March, 2016
Time 7.00 pm
Venue Committee Room 1, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Julia Cleary

Staffing Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest, from Members, on items contained within this agenda.
- 3 **MINUTES OF A PREVIOUS MEETING.** (Pages 3 - 4)
To agree as a correct record, the minutes of the meeting held on 30 November, 2015.
- 4 **Shared Parental Leave Policy and Procedure** (Pages 5 - 22)
- 5 **Policy on Time off for Dependants** (Pages 23 - 32)
- 6 **Any Other Business**

Members: Councillors Beech, Cooper, Dymond (Chair), Frankish, Holland, Kearon, Parker, Rout, Stringer, Williams and Woolley

PLEASE NOTE: The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

FIELD_TITLE

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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STAFFING COMMITTEE

Monday, 30th November, 2015

Present:- Councillor Ms Sylvia Dymond – in the Chair
Councillors Beech, Cooper, Frankish, Holland, Parker, Rout and Stringer

1. **APOLOGIES**

Apologies were received from Councillors Wallace, Mrs Williams and Woolley.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

3. **MINUTES OF THE EMPLOYEES CONSULTATIVE COMMITTEE**

Resolved: That the minutes of the Employees Consultative Committee, held on 27 October, 2015 be agreed as a correct record.

4. **SAVINGS IN STAFF ALLOWANCES**

Consideration was given to a report on the Savings in staff allowance payments. The report was to update Members on the outcome of a recent review.

Resolved: That the Collective Bargaining Agreement be noted.

5. **LOCAL GOVERNMENT PENSION SCHEME**

Consideration was given to a report, seeking Members' approval for the new format and additional statements in relation to Regulations 60 and 66 of the Local Government Pension Scheme Regulations 2008 and 2013.

The amendments had been requested by the County Council but there were no changes to the Policy itself.

Resolved: That the Local Government Pension Scheme Discretionary Powers (Statement of Policies of Newcastle-under-Lyme Borough Council), as attached to the Agenda report, be approved.

COUNCILLOR MS SYLVIA DYMOND
Chair

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

ITEM FOR STAFFING COMMITTEE

21 March 2016

1. SHARED PARENTAL LEAVE POLICY AND PROCEDURE

Submitted by: Executive Management Team

Portfolio: Policy, People and Partnerships

Purpose of the Report

To obtain the Committee's approval to adopt the Shared Parental Leave Policy.

Recommendation

That the policy detailed at Appendix A be approved.

1. Background

- 1.1 From 5 April 2015 the UK Government implemented a new statutory entitlement for Shared Parental Leave. The right to shared parental leave applies to babies with an expected week of childbirth starting on or after 5 April 2015. The Council has been operating the statutory provisions until a policy was approved.
- 1.2 The default position remains that a mother is entitled to 52 weeks' maternity leave and 39 weeks' maternity pay, two weeks is compulsory. This leave is available to both parents which enables mothers to commit to ending their maternity leave and pay at a future date and to share the untaken balance of leave and pay as shared parental leave (SPL) with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. The balance of the maternity leave and pay period becomes available for either parent to take as shared parental leave and pay.
- 1.3 A parent will only qualify to take shared parental leave if the other parent meets basic work and the earnings criteria and the parent taking the leave meets the individual eligibility criteria (such as having 26 weeks' continuous service at the 15th week before the Expected Week of Childbirth (EWC) and remaining in the same employment).
- 1.4 An employer must have at least eight weeks' notice of any period of shared parental leave and each parent can make up to three requests for periods of shared parental leave. Whether the employer can refuse a request depends on whether the employee has asked for a continuous or discontinuous period of leave.
- 1.5 Eligible partners will still be entitled to two weeks basic paternity pay and if the eligible parents take shared parental leave then the remaining weeks of maternity pay transfers to statutory parental pay.
- 1.6 Shared parental pay is paid at either the SMP fixed rate (currently £139.58 per week) or 90% of normal weekly earnings if less. However, the Occupational maternity pay does not transfer to the partner. The total period of paid leave will not exceed 39 weeks, whichever parent takes the leave.

- 1.7 A mother who enters into Shared Parental Leave during her period of Occupational Maternity Pay will reduce her entitlement to Statutory Maternity Pay.
- 1.8 Keeping in touch days will be replaced by Shared Parental Leave in Touch Days which will see an increase from 10 days to 20 days for the employee.

2. Aims of the Policy

- 2.1 The overall aim of the proposed policy is to provide guidance to both parents to consider the best way to care for their child during the child's first year by enabling them to share the caring responsibilities by sharing the leave and pay entitlement with their partner.

3. Issues

- 3.1 At its meeting on 26 February 2016, the Employees Consultative Committee recommended that the Policy and Procedure be adopted.

4. Legal and Statutory Requirements

- 4.1 It is important that the council's policy on Shared Parental Leave reflects current best practice and ensures the council fulfils its obligations in accordance with the statutory legislation.

5. Equality Impact Assessment

- 5.1 Implementation of the policy will help to ensure the Borough Council fulfil its responsibilities as an equal opportunities employer.

6. Financial and Resource Implications

- 6.1 None

7. Major Risks

- 7.1 None identified.

8. List of Appendices

Appendix A –Shared Parental Leave Policy and Procedure

9. Earlier Committee Resolutions

Employees Consultative Committee – 26 February 2016



SHARED PARENTAL LEAVE POLICY AND PROCEDURE

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1. Purpose of the Policy

This policy sets out the statutory entitlements to Shared Parental Leave and pay for employees of the Council. This policy should be followed if you/your partner are pregnant or adopt a child whilst you are employed by the Council and sits alongside the Councils Maternity and Paternity Policies.

In addition to the information contained in this policy, you are encouraged to discuss Shared Parental Leave arrangements with your line manager or a member of the Human Resources (Payroll) team to ensure that your own responsibilities and those of the authority are fully explained.

2. Scope of the Policy

This policy applies to parents, who are employees of the Council whether you are the mother/adopter or the partner, with babies due on or after 5th April 2015. This policy provides an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family.

Should entitlements to Shared Parental Leave and/or pay be amended, this policy and supporting documentation will be updated accordingly.

3. Aims of the Policy

This policy aims to:

- Enable mothers to commit to ending their Maternity Leave and pay at a future date and to share the untaken balance of leave and pay as Shared Parental Leave and Pay with their partner;
- Enable mothers to return to work early from Maternity Leave and opt into Shared Parental Leave and Pay at a later date;
- Ensure that the Shared Parental Leave Policy is not confused with the ordinary Parental Leave Policy which can be found on E Voice;
- Help eligible parents to decide whether the benefits of Shared Parental Leave will work for them and how it could be used alongside, or instead of, traditional Maternity or Adoption leave;
- Ensure contact is maintained with employees during Shared Parental Leave and to assist in their return to work;
- Retain employees after the birth of a child, encouraging equality in the workplace.

4. Definitions

Employee – An employee of the Newcastle under Lyme Borough Council.

Mother – The woman who gives birth to a child or the adopter (the adopter means the person who is eligible for adoption leave and/or pay. The adopter may be male or female).

Partner – The child's biological father or the partner of the mother/adopter. This includes someone, of either sex, who lives with the mother and the child in a long-term family

relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

(EWC) Expected Week of Childbirth – The week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.

SPL - Shared Parental Leave.

SAP – Statutory Adoption Pay

ShPP - Statutory Shared Parental Pay.

Continuous Leave - A period of leave that is taken in one block e.g. four weeks leave.

Discontinuous Leave - A period of leave that is arranged around weeks where the employee will return to work e.g. an arrangement where an employee will work every other week for a period of three months.

SPLIT Day - Shared Parental Leave in Touch Day.

Curtail - Where an eligible mother/adopter brings their maternity/adoption leave and, if appropriate, pay or allowance to an early end. This is sometimes referred to as reducing the maternity/adoption leave period or reducing the maternity/adoption pay or Maternity Allowance Period.

Revocation – Where the eligible mother or partner recalls or annuls the SPL request.

Further Notification - A non-binding statement of intent which may be changed up to a maximum of three occasions.

Statutory Maternity Pay (SMP) – An amount payable to women on maternity leave who meet conditions listed later in this policy. The amount paid is set by the Government but paid directly by the employer (on the same date that the employee would normally receive their salary), whether or not the employee intends to return to work. There are two different rates of SMP which are payable to eligible employees:

- During the first 6 weeks employees who qualify will receive 90% of their average earnings.
- After this employees who qualify will receive either the statutory rate for Maternity Pay (£139.58.18 per week) or 90% of average earnings, whichever is the lower for the next 33 weeks.

Local Government Maternity Pay – An amount payable to employees who meet qualifying conditions. The rates payable to eligible employees:

- During the first 6 weeks employees who qualify will receive 90% of their average earnings.
- During weeks 7-18 the employee will receive half pay plus SMP, except where half pay and SMP together exceed full pay, in this case the employee will receive full pay for this period.
- During weeks 19-39 the employee will receive SMP only.

Please see Maternity Policy for further information.

Maternity Allowance – A benefit which may be payable to employees who do not qualify for SMP. Maternity allowance is paid by the Department for Work and Pensions.

5. What is Shared Parental Leave (SPL)?

SPL is an entitlement for eligible parents of babies due, or children placed for adoption, on or after 5th April 2015. It provides both parents with the opportunity to consider the best arrangement to care for their child during the child's first year.

SPL enables parents to share the caring responsibilities evenly or have one parent taking the main caring role, depending on their preferences and circumstances. Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit up to a maximum of three notices booking periods of leave. Parents will be able to take up to three blocks of leave, interspersed by periods back at work.

Mothers will be able to share up to a maximum of 50 weeks with the father / partner and could choose to take time off together.

The mother or adopter can only share their leave with one other person.

Parents will remain entitled to take the traditional maternity; paternity and adoption leave if they do not wish to opt into SPL.

6. Eligibility

You are responsible for informing the Council of your intention to opt into SPL, and any periods of leave 8 weeks prior to your first block of SPL. Human Resources will provide guidance and support to ensure that all policies and statutory guidelines are complied with.

For a mother/adopter to take SPL they must;

- Have a partner
- Be entitled to either maternity/adoption leave or to statutory maternity adoption pay or maternity allowance
- Have curtailed or given notice to reduce their maternity /adoption leave or their pay/allowance (if not eligible for maternity/adoption leave).

For a partner intending to take SPL he/she must;

- Be an employee (in this instance this does not mean only an employee of the Council)
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption
- Have properly notified their employer of their entitlement and have provided the necessary declarations and evidence.

In addition, a parent wanting to take SPL is required to satisfy the 'continuity of employment test' and their partner must meet the 'employment and earnings test.' Set out below;

Continuity of employment test	Employment of earnings test
The individual has worked for the same employer for at least 26 weeks at the end of the 15 th week before the child's expected due date/matching date and is still working for the employer at the start of each leave period	In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.

If both you and your partner are employees of the Council and both meet the qualifying requirements then there will be a joint entitlement and you will have to determine how to divide the leave entitlement once the mother/adopter has decided to curtail their maternity / adoption leave.

You should visit www.gov.uk/pay-leave-for-parents and complete the necessary questions including, both parents length of service, the due date/placement date, salary etc. Print the final calculation which details yours and your partner's entitlements. Please ask Human Resources should you require any support.

7. Statutory Shared Parental Leave Pay

Guidance for payment of ShPP is outlined below up to a maximum of 39 weeks:

	Mother	Main Adopter	Partner
Weeks 1 to 2	Statutory period of Maternity Leave, see SMP.	Adoption/SPL, see SAP or ShPP as below.	Optional 1 or 2 weeks Paternity, see SPP.
Weeks 3 to 39	A weekly rate which is set by the government at the start of each tax year (current rates can be found at www.gov.uk/smp or 90% of your average weekly earnings, whichever is lower.		
Weeks 40 to 52	Unpaid		

Note: If you choose to opt out of Maternity/Adoption Leave before week 6 you will not be entitled to 90% of your average weekly earnings if this is greater than the statutory rate of ShPP, as you would be if you remained on Maternity/Adoption Leave.

Further employees who are entitled to SMP/SAP and are opting out of Maternity/Adoption Leave before week 7 will not be entitled to Local Government Maternity. If you are not entitled to SAP and are opting out of Adoption Leave from week 1, you will not be entitled to Local Government Adoption Pay.

Below are some examples of how you may choose to split ShPP (39 weeks):

Example 1:

Weeks 1 to 2	Mother paid 2 weeks SMP (minimum requirement)	Partner paid up to 2 weeks SPP
Weeks 3 to 6	Mother paid 4 weeks SMP	Partner returns to work.
Weeks 7 to 28	Mother opts out of Maternity and into SPL and takes a period of leave = 22 weeks paid ShPP	Partner takes a period of leave = 9 weeks ShPP and 13 weeks unpaid
Weeks 29 to 30	Mother takes a period of leave = 2 weeks paid ShPP	Partner returns to work.
	Total 2 periods of SPL	Total 1 periods of SPL
	Total: 39 weeks SMP/ShPP and 52 weeks leave (+ 2 weeks Paternity Leave)	

Example 2:

Weeks 1 to 2	Main Adopter paid 2 weeks SAP	Partner paid up to 2 weeks SPP
Weeks 3 to 6	Main Adopter paid 4 weeks SAP	Partner returns to work.
Weeks 7 to 10	Main Adopter opts out of Adoption and into SPL and takes a period of leave = 4 weeks paid ShPP	
Weeks 11 to 17	Main Adopter returns to work.	Partner takes a period of leave = 7 weeks ShPP.
Weeks 18 to 30	Main Adopter takes a period of leave = 13 weeks paid ShPP	Partner returns to work.
Week 31 to 35	Main Adopter returns to work.	Partner takes a period of leave = 5 weeks ShPP.
Week 36 to 41	Main Adopter takes a period of leave = 4 weeks paid ShPP and 2 weeks unpaid.	Partner returns to work.
Week 42 to 44	Main Adopter returns to work.	Partner takes a period of leave = 3 weeks unpaid.
	Total 3 periods of SPL	Total 3 periods of SPL
	Total: 39 weeks SAP/ShPP and 44 weeks leave (+ 2 weeks paternity leave)	
	8 further weeks of unpaid leave could be taken, but these would need to be added to one of the existing periods as the maximum periods of leave have been reached by both parents.	

Payments are subject to tax and national insurance deductions.

You will continue to be paid on your normal pay day; however, ShPP will replace your usual pay.

8. Pension Contributions

If you are a member of the Local Government Pension Scheme, you will pay pension contributions on all ShPP received whilst on SPL and will also pay contributions on any SPLIT days worked. In addition, you have the option of paying pension contributions during any period of unpaid SPL. These contributions will be based on the pay you received immediately before the period of unpaid SPL and will be paid upon return to work at terms agreed with Human Resources (Payroll.)

9. Amount of Shared Parental Pay Available

ShPP is available for eligible parents to share between them while on SPL. The number of weeks' ShPP available to the parents will depend on how much statutory maternity pay or maternity allowance the mother/adopter has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother/adopter.

As there is a compulsory maternity leave period of two weeks this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' ShPP with her partner.

Any ShPP due during SPL will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

It is up to the parents as to who is paid the ShPP and how it is apportioned between them.

10. Notification and Commencement of Shared Parental Leave

You are requested to inform your line manager and the Head of Human Resources of your pregnancy at the earliest opportunity however this should be no later than 15 weeks before the beginning of the week the baby is due.

You are encouraged to discuss your pregnancy with a member of the Human Resources (Payroll) team as soon as you are able, to ensure you have a full understanding of your entitlements.

You must give the Council at least 8 weeks' notice of your intention to opt into SPL; this notice must be provided on the SPL request form. A copy should be provided to your line manager and Human Resources (Payroll). Notification can be given prior to the birth/placement of your child.

Mothers and/or partners who are not employees of the Council should submit any notifications of SPL to their own employer who may have its own SPL policy in place. Both mother and partner should ensure they are liaising with their own employer to ensure that SPL requests are handled as smoothly as possible.

All notices for continuous period of leave, from eligible employees will be accepted and that all requests for discontinuous leave will be considered. You should therefore submit your request for SPL, in particular discontinuous SPL at the earliest opportunity in order that the Council can have suitable notice to consider and accommodate your wishes in periods of discontinuous leave.

You will be required to provide Human Resources with a copy of the birth certificate upon the birth of your child.

You must provide Human Resources with the name of the mother and/or partner who are not employees of the Council and details of their employer.

11. Revocation or Variation of Maternity Leave Curtailment Notice

Situations may arise where you may need to vary or cancel a period of booked SPL. You should give written notice to vary/cancel your leave and make clear what change you are seeking. Any variation must be made at least eight weeks before the dates varied begin and must be a signed declaration by the mother and the partner that they agree to the variation.

A notice to vary booked SPL will count as a 'further notification'. Therefore if you had originally agreed the leave as part of your first notice to book SPL, cancelling or varying the leave would count as a second notification, meaning you would only have one more notification to use any remaining leave.

In circumstances where you have already used up all your notifications the Council is under no obligation to agree to vary/cancel the leave but where reasonable it will still consider the request and decide whether it is reasonably practicable to grant it.

Instances where the Council proposes a variation to leave, and you are agreeable, would not count as 'further notification' and will be confirmed in writing.

You will be able to withdraw notice curtailing maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be made in writing and will only be considered if the mother/adopter has not returned to work. The circumstances in which the mother/adopter can withdraw maternity leave curtailment notice are as follows:

- If it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- The maternity leave curtailment notice was given before birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- The partner has died

If a child is born more than 8 weeks before the EWC the requirements in relation to the notice of entitlement and intention and period of leave notice will be amended if they have not already been provided.

If leave is to be taken within 8 weeks of the child's birth these notices must be provided as soon as reasonably practicable after the child's birth.

12. Discontinuous periods of Shared Parental Leave

You may submit a period of leave notice requesting 'discontinuous' periods of leave. For example, the mother/adopter and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

On receipt of a period of leave notice requesting discontinuous periods of leave the Council, in the two weeks beginning with the date the period of leave notice was given, may:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

If agreement is reached within those two weeks, you will be entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, you will be entitled to take the leave as one continuous period of leave. In that event you must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given.

You must notify the Council of that date within five days of the end of the two-week discussion period. If you do not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if the Council has refused the request or no agreement has been reached during the two-week discussion period, you may withdraw a period of leave notice requesting discontinuous periods of leave. You can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

Discontinuous leave will be approved at the Councils discretion on a case by case basis.

The employer does not have to justify its refusal, as there is no right of appeal in this process.

13. When can my Shared Parental Leave start?

Mothers are required by law to take a minimum of 2 weeks' Maternity Leave immediately following the birth.

Thereafter, a mother can choose to opt out of Maternity Leave and into SPL at any time during her Maternity Leave.

A Main Adopter can choose to opt out of Adoption Leave and into SPL at any time during their Adoption Leave.

The remaining weeks of Maternity/Adoption Leave can then be taken as SPL.

For examples see below table:

Example 1	Mother takes 2 weeks Maternity Leave (Partner take 2 weeks Paternity Leave) then opts out of Maternity Leave and into SPL.	Mother takes 26 weeks SPL.	Partner takes 24 weeks SPL simultaneously to the Mother.	Total 52 weeks taken, plus 2 weeks Paternity Leave.
Example 2	Mother takes 2 weeks Maternity Leave (Partner take 2 weeks Paternity Leave) then opts out of Maternity Leave and into SPL	Mother takes a further 26 weeks Maternity Leave then opts out of Maternity Leave and into SPL.	Partner then takes the remaining 24 weeks SPL in 1 block (while Mother returns to work).	Total 52 weeks leave taken, plus 2 weeks Paternity Leave.
Example 3	Main Adopter opts out of Adoption Leave and into SPL from week 1.	Main Adopter takes 4 x 4 week blocks of SPL.	Partner takes 2 x 8 week blocks and 2 x 9 weeks of SPL. (while Main Adopter returns to work).	Total 50 weeks leave taken.

14. Holiday entitlement

You are encouraged to take outstanding annual leave before the commencement of SPL to ensure continuity of service wherever possible. You are also reminded of the Councils procedure for carrying forward annual leave. You will normally be allowed to carry forward the equivalent of up to 1 week's annual leave to the next leave year.

You will continue to accrue annual leave and entitlement to the 8 statutory bank holidays, the 2 extra-statutory days, the 2 discretionary days and 1 conditional day during SPL.

You are encouraged to discuss how you intend to use your annual leave with your Line Manager on opting into SPL.

Holidays cannot be taken during SPL.

15. Shared Parental Leave in Touch Days

Whilst on SPL you will be offered the option of working up to 20 days without bringing your SPL to an end. This will allow you to keep up to date with developments in the workplace or to attend training or meetings as necessary.

A line manager can request you to work on a 'SPLIT' day and the date must be mutually agreed. Where you request to work on such a day you should contact your line manager who will confirm this with you. In either case, the manager must notify Human Resources (Payroll) of days/hours worked.

Working for any part of a day is classed as one full day for the purposes of SPLIT days. You cannot work during the two week compulsory Maternity Leave.

The Council will 'top up' the statutory payment to equal your basic pay for the hours worked on a 'SPLIT' day.

In addition, the council may also make reasonable contact with you during SPL, for example to discuss work arrangements or changes in the workplace which may affect you. You will also be provided with up to date information in relation to Council vacancies and any workplace changes as necessary unless otherwise requested by the employee.

16. Returning to work following Shared Parental Leave

On returning to work following a period of SPL you are entitled to return to the same job if your combined leave period (comprising of maternity/paternity/adoption and shared parent leave) totalled 26 weeks or less. This is unaffected by unpaid parental leave of up to four weeks being taken as well.

In the case where the number of weeks of maternity/paternity/adoption and SPL exceeds 26 weeks in aggregate, or the total number of unpaid parental weeks exceeds four weeks, the Council must allow you to return to the same job unless it is not reasonably practicable in which case the Council must offer a suitable and appropriate job on terms and conditions that are no less favourable.

If you intend to return to work at the end of your SPL, as outlined on the SPL request form, and have advised the Council of this you will not need to give any further notice of the date of your return to work.

If you intend to return to work before the end of your SPL a request must be provided at least 21 days in writing to the line manager and a copy to Human Resources (Payroll) of the date you intend to return.

If you are unable to return to work at the end of SPL due to sickness you should follow the normal sickness reporting procedure.

If you fail to return to work after your SPL without notice, this will be treated as unauthorised absence and the Council may decide to take appropriate disciplinary action. If this action results in dismissal, the Council will seek to reclaim any payments of Local Government Maternity Pay made to you.

If you decide not to return to work you must give the appropriate notice in writing as stated in your contract of employment.

If you leave Local Government service within three months of returning from Maternity Leave then the Council will seek to reclaim any payment of Local Government Maternity Pay made to you. A full list of organisations which fall within the remit of this requirement is enclosed in the Local Government Modifications Order 1983 (as amended.)

If you would like to request a change in your pattern of working when returning from SPL, you should do so in accordance with the Flexible Working Policy. Whilst the Council is obliged to consider this request, and will give the request due consideration there may be business reasons where we are unable to comply with your request.

17. Rights during Shared Parental Leave

During SPL, all terms and conditions of your contract except normal pay will continue. Wages will be replaced by ShPP under the Councils ShPP scheme if you are eligible for it. Whilst sums payable by way of wages will cease, all other benefits will remain in place.

Your contract will continue during your SPL. Both you and the Council will continue to be bound by any duties relating to it. Your SPL will count towards continuity of employment for statutory purposes.

If you choose to continue to make employee pension contributions during SPL, whilst on paid SPL the Council will continue to make employers pension contributions as if you were working normally.

If during SPL you choose to cease employee pension contributions, the Council will cease to make employers pension contributions until such time that employee contributions are reinstated.

APPENDIX A

Examples of how you may choose to split ShPP (39 weeks):

Example 1:

Weeks 1 to 2	Mother paid 2 weeks SMP (minimum requirement)	Partner paid up to 2 weeks SPP
Weeks 3 to 6	Mother paid 4 weeks SMP	Partner returns to work.
Weeks 7 to 28	Mother opts out of Maternity and into SPL and takes a period of leave = 22 weeks paid ShPP	Partner takes a period of leave = 9 weeks ShPP and 13 weeks unpaid
Weeks 29 to 30	Mother takes a period of leave = 2 weeks paid ShPP	Partner returns to work.
	Total 2 periods of SPL	Total 1 periods of SPL
	Total: 39 weeks SMP/ShPP and 52 weeks leave (+ 2 weeks Paternity Leave)	

Example 2:

Weeks 1 to 2	Main Adopter paid 2 weeks SAP	Partner paid up to 2 weeks SPP
Weeks 3 to 6	Main Adopter paid 4 weeks SAP	Partner returns to work.
Weeks 7 to 10	Main Adopter opts out of Adoption and into SPL and takes a period of leave = 4 weeks paid ShPP	
Weeks 11 to 17	Main Adopter returns to work.	Partner takes a period of leave = 7 weeks ShPP.
Weeks 18 to 30	Main Adopter takes a period of leave =13 weeks paid ShPP	Partner returns to work.
Week 31 to 35	Main Adopter returns to work.	Partner takes a period of leave = 5 weeks ShPP.
Week 36 to 41	Main Adopter takes a period of leave = 4 weeks paid ShPP and 2 weeks unpaid.	Partner returns to work.
Week 42 to 44	Main Adopter returns to work.	Partner takes a period of leave = 3 weeks unpaid.
	Total 3 periods of SPL	Total 3 periods of SPL
	Total: 39 weeks SAP/ShPP and 44 weeks leave (+ 2 weeks paternity leave)	
	8 further weeks of unpaid leave could be taken, but these would need to be added to one of the existing periods as the maximum periods of leave have been reached by both parents.	

Payments are subject to tax and national insurance deductions.

You will continue to be paid on your normal pay day; however, ShPP will replace your usual pay.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

SHARED PARENTAL LEAVE REQUEST FORM

Please complete the employee details and indicate your preference by ticking the appropriate box to ensure that the correct arrangements are made in relation to payment of your shared parental pay. Then return the completed form to Human Resources (Payroll) before your shared parental leave starts.

If you require clarification prior to completing this form, please contact Barbara Yates, HR Officer (Payroll) on (01782) 742152.

EMPLOYEE DETAILS

Name: _____ Payroll Number: _____
(PLEASE USE BLOCK CAPITALS)

Address: _____

Directorate: _____ Service: _____

Date of Commencement of Maternity Leave: _____

Date of Commencement of Continuous Shared Parental Leave (the date must be after the compulsory maternity leave): _____

Date of Commencement of Discontinuous Shared Parental Leave (the date must be after the compulsory maternity leave):

Signed _____ Date _____

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

ITEM FOR STAFFING COMMITTEE

21 March 2016

1. POLICY ON TIME OFF FOR DEPENDANTS

Submitted by: Executive Management Team

Portfolio: Policy, People and Partnerships

Purpose of the Report

For the Committee to consider the trade unions request to pay employees on the first occasion within a twelve month period. An employee would need to have arrived at work and gone home to deal with an emergency situation.

Recommendation

That the Committee considers the Trade Unions request.

1. **Background/Issues**

- 1.1 Under the Employment Rights Acts 1996 and 1999, employees have a statutory right to take a reasonable amount of time off work to deal with unexpected and/or sudden emergencies and to make any necessary longer-term care arrangements for dependants.
- 1.2 The right does not include entitlement to pay.
- 1.3 To date, very few Newcastle Borough Council employees have taken time off under the Regulations.
- 1.4 This item has regularly appeared on the ECC agenda initially on 16 September 2013. The Committee recommended that instead of pay being suspended when employees take time off work to deal with unexpected and/or sudden emergencies and to make any necessary longer-term care arrangements for dependants, they should continue to receive pay (and contractual benefits) at the manager's discretion. It was also recommended that instances of employees taking time off under the policy should be monitored and reported back to the ECC after 6 months.
- 1.5 The Policy was approved by the Staffing Committee on 2 October 2013. The suggestion/recommendation for time taken off under the policy to be paid was not supported, either for the first day or for the whole period of 'dependants leave' due to:
 - The potential for additional costs (pay, and in some cases, pay for staff to cover absence) when there is currently an ongoing requirement for the council to make budget savings;

- The approach could compromise the objectives/use of approved flexible working arrangements which are designed to be mutually beneficial to the council and employees; and
- The potential for other, previously agreed arrangements to be compromised (see below).

The current Guidance for Managers and Staff in relation to situations affecting dependants during adverse weather conditions was issued in January 2010 following consultation with the trade unions and provides:

'Employees who are unable to get to work due to the weather conditions should use annual leave, flexi leave or compensatory leave in the first instance.

Requests for additional unpaid leave will be treated sympathetically but will be at the manager's discretion, taking into account the requirements of the service.

Employees who may be required to be at home to care for dependants (eg, to care for children in the event of school closures) are encouraged to use annual leave, flexi leave or compensatory leave in the first instance. However, employees have the statutory right under the Employment Rights Act 1996 to take a reasonable amount of unpaid time off to care for dependants in certain circumstances, provided they notify their employer as soon as is reasonably practicable.'

- 1.6 This item was discussed again on 27 October 2015 and it was resolved that a review meeting with the Chair of the Committee and the Trade Unions should be arranged. This meeting took place on 19 January 2016. The Trade Unions were informed that only one employee had requested leave which was taken as a day's annual leave.
- 1.7 The trade unions request remains the same and asks that the council consider paying employees on the first occasion within a 12 month period. For an employee to be eligible they would need to have arrived at work and subsequently had to leave during the day to deal with a family emergency.
- 1.8 EMT has considered and do not support the trade unions request, to pay staff on the first occasion, due to the reasons previously stated by the Staffing Committee. The Time off for Dependants policy is statutory and allows for reasonable unpaid time off to deal with a family emergency. This approach is in line with other local authorities.
- 1.9 The proposal to pay on the first occasions was subsequently discussed at the ECC meeting on 26 February 2016. The Members of the ECC supported this but agreed that safeguards should be put into place to ensure that there were no regular occurrences.
- 1.10 The ECC has also recommended that instances of employees taking time off under the policy should be monitored and reported back to the ECC after twelve months.

2. Legal and Statutory Implications

- 2.1 Implementation of the proposed Policy and Procedure will ensure the council continues to comply with the Employment Rights Acts 1996 and 1999 and that best practice is followed when dealing with future requests.

3. Equality Impact Assessment

- 3.1 The Policy and Procedure as proposed will ensure a consistent approach to processing requests from staff.

4. Financial and Resource Implications

- 4.1 Under the Employment Rights Acts, the right to take a reasonable amount of time off work to deal with unexpected and/or sudden emergencies and to make any necessary longer-term care arrangements for dependants does not include entitlement to pay.

- 4.2 If it is decided that such leave should be unpaid, few requests are likely. However, on occasions there may be an indirect cost when it is necessary to backfill a post of a person who is taking 'dependants leave'. It is anticipated that these costs would be met from within existing approved budgets.

- 4.3 It is difficult to estimate the potential demand for/cost of paid dependants leave and this would have to be monitored to determine whether the increased costs could be met from within existing approved salary budgets.

5. Major Risks

- 5.1 None.

6. List of Appendices

Appendix A –Time Off for Dependants Policy and Procedure.

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TIME OFF FOR DEPENDANTS POLICY AND PROCEDURE

*Originated: February 2013
Approved: October 2013*

Human Resources Shared Drive/Policies & Procedures/Time off for Dependants Policy

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

TIME OFF FOR DEPENDANTS POLICY AND PROCEDURE

1. What is time off for dependants?

This is a statutory right under Section 57A of the Employment Rights Act 1996, as amended by the Employment Rights Act 1999, which allows employees to take a reasonable amount of time off work to deal with unexpected and/or sudden emergencies and to make any necessary longer term care arrangements for dependants.

The right does not include an entitlement to pay.

Some examples of issues which may require an employee to take time off are as follows:

- **If a dependant falls ill, or has been injured or assaulted** – The illness or injury may not necessarily be serious and may be mental or physical. It can be a result of an ongoing condition which is deteriorating and may therefore require occasional care. The right to time off is also available where a dependant has been assaulted and requires care, this may not necessarily be a physical injury, but could be to provide comfort or help to the individual.
- **When a dependant is having a baby** – Where necessary an employee can take time off to assist a dependant when she is having a baby. This does not include taking time off after the birth of the child (See also Parental Leave Policy and procedure).
- **To make longer term care arrangements** – Where a dependant needs to be cared for because of an illness or injury, the employee can take time off work to make longer term care arrangements. This could mean making arrangements to employ a carer or taking a sick child to stay with a child minder or relative.
- **To deal with the death of a dependant** – When a dependant dies, an employee can take time off to make funeral arrangements, as well as attend the funeral. If the funeral is overseas then the employer and employee will need to agree a reasonable length of absence acceptable in such circumstances. (See also arrangements for Bereavement Leave.)
- **To deal with an unexpected disruption or cancellation of care arrangements for a dependant** – Time off can be taken where the normal carer for the dependant is unexpectedly unavailable; for example a child minder/carers may fail to arrive as arranged or the nursery/care home may be closed unexpectedly.
- **To deal with an unexpected incident involving the employee's child during school hours** – An employee can take time off to deal with a serious incident involving his/her child during the school day. For example if the child has been injured or is being suspended from school.

2. **Who can take time off for dependants?**

The right to time off is available to all employees whether they work full-time or part-time. There is no qualifying period in order to be able to take time off in an emergency; this entitlement exists from an employee's first day of employment. In the event that both parents are employed by the authority it is recognised that there will be occasions that both parents may need to take time off to care for the dependant(s). In the event of such an emergency employees are requested to discuss the arrangements with their respective line manager and Human Resources if necessary.

3. **Who is a dependant?**

A dependant is the husband, wife, partner (if living together), child or parent of the employee. It also includes someone who lives in the same household, for example an elderly grandparent. The entitlement does not however include tenants or employees, such as live-in house keepers etc.

In the case of illness or injury a dependant may also be someone who relies on the employee for assistance. Some examples might be an elderly relative whom the employee ordinarily looks after outside of work or a neighbour living alone. In these cases time off would be allowed if the employee was the closest on hand at the time of the emergency.

4. **How much time off can an employee take?**

The legislation does not state a specific allowance of time off in an emergency, as this is likely to vary depending on individual circumstances. In the majority of cases one or two days should be sufficient to deal with the problem and if necessary make longer term care arrangements. Entitlements do not extend, for example up to a period of two weeks in order to care for a sick child. The legislation is designed to provide for unseen emergencies. If an employee knows in advance that time off will be required then they are advised to book annual leave or other leave for which they are eligible. Employees are advised to speak with their line manager and if necessary Human Resources if a dispute arises regarding the amount of time off permitted. In the event that an informal resolution cannot be achieved, employees should refer to the authority's formal Grievance Procedure.

5. **Conditions of time off for dependants**

Due to the nature of the requirement to take time off for dependants, employees are not required to give notice in writing of the requirement. Employees are, however required to inform their line manager in person, wherever possible of the requirement to take time off and the expected time that they will be away from work. Where it is not practical to inform the line manager in person, employees are asked to email, leave written notification or confirm via a message, the reason for the absence.

In the event of a change to circumstances which require an extension to the period of time off or which allow the employee to return to work earlier than expected, the employee should discuss the extension/return in advance with their line manager, wherever possible.

6. **Rights during time off for dependants**

During a period of time off to care for dependants, the employee will remain employed, although most pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will however remain in place. During time off for dependants employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:

- Notice of termination;
- Redundancy compensation; and
- Disciplinary and grievance procedures.

During any period of time off to care for dependants employees will not make any contributions to the Local Government Pension Scheme. However, if employees want this unpaid period to count as pensionable service they are advised to contact Payroll to arrange payment.

Employees taking time off for dependants are bound by the implied obligation of good faith and any terms and conditions of employment relating to:

- Notice of termination;
- Disclosure of confidential information;
- The acceptance of gifts or other benefits; and
- Participation in any other business/outside interests.

7. **Misuse of the entitlement**

Any misuse of the entitlement will be dealt with under the Council's disciplinary procedure. The following are examples of misuse:

- Taking time off to care for dependants for purposes other than caring for a dependant as defined in section 3.
- Making a false statement as to the requirement to take time off to care for a dependant as defined in section 1.

8. **Multiple contracts**

Where an employee works in more than one Service Area/Directorate of the Council this will not affect the total entitlement to time off. It is suggested that the employee and the relevant line managers in addition with Human Resources, if necessary, agree a suitable period of time off at the earliest opportunity. (It is recognised that this may not be reasonably practicable in the event of a serious emergency).

9. **Review of policy and procedure**

The policy will be reviewed every three years by Human Resources or sooner if necessary in the light of experience gained from its operation and emerging best practice.

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