

1. **PARENTAL LEAVE POLICY AND PROCEDURE**

Submitted by: Executive Management Team

Portfolio: Finance and Resources

Purpose of the Report

To obtain approval for a proposed Policy and Procedure regarding employees who are parents and who request unpaid time off work to look after a child and the process to be followed for such requests.

Recommendation

That the proposed Policy and Procedure attached at Appendix A be approved.

1. **Background**

1.1 Parental leave was introduced by the Maternity and Parental Leave Regulations 1999 to give parents of young and or disabled children the right to take a period of time off work to look after their child. Parents can use it to spend more time with children and strike a better balance between their work and family commitments. The leave is unpaid.

1.2 To be eligible for parental leave you must

- Be an employee
- Have or expect to have parental responsibility
- Have worked for your employer for at least one year

1.3 In addition, you child must either

- Be under 5 years old, or
- Have been adopted by you on or after 15 December 1999, or
- Be claiming Disability Living Allowance (DLA) and be under 18 years old

1.4 Parental leave can be taken at any time prior to your child's 5th birthday. In the case of adoption, you can take parental leave at any time prior to the 5th anniversary of the date when the placement for adoption began, or your child's 18th birthday if earlier. If your child is claiming DLA you can take the leave at any time up to your child's 18th birthday.

1.5 There are rules about how much parental leave you can take (up to 18 weeks per child), when it can be taken and there are certain minimum notification requirements that must be complied with.

2. **Issues**

2.1 To date, only one Newcastle Borough Council employee has applied for Parental Leave. However, it is good practice for employers to have a policy and procedure in place so that staff are made aware of their entitlements to and the conditions of taking parental leave and the process to be followed when applying.

2.2 The Head of HR and the previous Chair of the Employees Consultative Committee therefore met with the trade unions on 10 May 2013 to discuss a proposed Policy and Procedure (copy attached at Appendix A). The trade unions were in agreement that it should be implemented and did not suggest any revisions/additions to the content.

2.3 The proposed Policy and Procedure was subsequently discussed and endorsed at the ECC meeting on 17 June 2013.

3. **Legal and Statutory Implications**

Implementation of the proposed Policy and Procedure will ensure the council continues to comply with the Maternity and Parental Leave Regulations 1999 and that best practice is followed when dealing with future requests.

4. **Equality Impact Assessment**

4.1 The Policy and Procedure will ensure a consistent approach to processing requests from staff.

5. **Financial and Resource Implications**

5.1 Parental leave is unpaid and so there are no direct costs.

5.2 As Parental leave is 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 parental leave. It is anticipated that these costs would be met from within existing approved budgets.

6. **Major Risks**

6.1 None.

7. **List of Appendices**

Appendix A - Proposed Parental Leave Policy and Procedure

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PARENTAL LEAVE POLICY AND PROCEDURE

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Parental Leave Policy and Procedure

1. Introduction

The right to parental leave is a statutory right, introduced by the Employment Relations Act 1999 and the Maternity and Parental Leave Regulations 1999. The purpose of this policy is to provide both managers and employees with a general understanding of the main provisions of parental leave, and to provide a clear process for the approval and of parental leave.

2. What is Parental Leave?

- 2.1 Parental leave is planned, unpaid time off work for parents to look after a child or make arrangements for a child's welfare. Parents can use it to spend more time with their children and to balance work and family commitments.
- 2.2 Employees remain employed whilst on parental leave and terms such as contractual notice and redundancy terms will still apply. At the end of parental leave, an employee is guaranteed the right to return to the same job as before if the leave was for a period of four weeks or less. If it was for a longer period the employee is entitled to return to the same job, or, if that is not reasonably practicable, a similar job which has the same status, terms and conditions as the original job.
- 2.3 When parental leave follows maternity leave, the general rule is that a woman is entitled to return to the same job she had before the leave. If at the end of additional maternity leave, this would not have been reasonably practicable and it is still not reasonably practicable at the end of parental leave, she is entitled to return to a similar job which has the same status and terms and conditions as the original job.

3. How does an employee qualify for Parental Leave?

3.1 To qualify for Parental Leave an employee must:

- Have a contract of employment with the Council;
 - parents who take part of their parental leave with one employer and then change employer may not take the balance of the parental leave due to them until they have worked for the Council for at least one year (in which event, the Council may well ask for evidence of the amount of parental leave with one or more previous employers).
- Have at least one year's continuous service with the Council;
- Have, or expect to have parental responsibility for the child, which includes employees that are/have:
 - the parent (named on the birth certificate) of a child under five years old; (or a disabled child under the age of eighteen); or
 - adopted a child under the age of eighteen (the right lasts for five years from the date on which the child is placed for adoption; or until the child's 18th birthday, whichever is the sooner); or
 - acquired formal parental responsibility under the Children Act 1989, for a child under five years old (or a disabled child under the age of eighteen).

This includes for example, same or mixed sex parents, an appointed guardian or grandparents taking on the parenting role.

- acquired formal responsibilities under the Children Act 1989 for fostering a child. Part 9 of the Act is about private arrangements for fostering children. The definition of a privately fostered child is set out in section 66 of the Act. Essentially, a privately fostered child is one who is under the age of 16 (under if the child is disabled) and who is cared for and accommodated for 28 consecutive days or more by someone other than a parent, other person with parental responsibility or a close relative (such as grandparent, brother, sister, uncle or aunt (whether of full blood or half blood or by affinity) or step-parent).
- In the case of multiple births or the adoption of more than one child as part of the same placement, the employee has the right to take parental leave in respect of each child. Therefore, in the event of twins being born, each parent would be entitled to take a total of 36 weeks' parental leave during the period up to the twins fifth birthday.

4. **Duration of Parental Leave**

- 4.1 An employee is entitled to up to 18 weeks' unpaid parental leave for each child (prior to 8 March 2013, entitlement was to 13 weeks' Parental Leave). Parental Leave stops when a child reaches the age of five years old. If an employee has, for example, two children under the age of five, he or she may take 18 weeks' unpaid parental leave in respect of each of those children.
- 4.2 Parents of adopted children may take up to 18 weeks' parental leave up until the fifth anniversary of the date on which the child was placed for adoption, or the child's 18th birthday if that comes sooner.
- 4.3 An employee who is the parent or adoptive parent of a child who has been awarded Disability Living Allowance is entitled to up to 18 weeks' unpaid parental leave, which can be taken up to the child's 18th birthday.
- 4.4 An employee's parental leave entitlement is an overall entitlement. It does not start again with a new employer. It is per child, not per job. For example, if a new employee joins the Council and has already exhausted their full entitlement to parental leave with a previous employer, they would have no entitlement left.
- 4.5 Generally, employees will only be able to take a maximum of 4 weeks parental leave in any one year. Leave is usually taken in blocks of one week (except where the child is disabled, in which case it may be taken one day at a time. These individual days will be added together to make up completed weeks). One week's parental leave is equivalent to the length of time that an employee is normally required to work in a week. For example, if an employee works full-time, Monday to Friday, they are entitled to five days, while for an employee who works part-time, Monday Tuesday and Friday, they will be entitled to three days leave on a pro-rata basis.
- 4.6 In cases where parental leave is taken in blocks of less than one week, a week is deducted from an employees overall entitlement of 18 weeks. However, employees taking parental leave in respect of a child who is disabled or adopted can take the leave in days or periods shorter than a week.

5. **Conditions of Parental Leave**

- 5.1 An employee is required to give their line manager at least 21 days' notice, specifying when they would like their parental leave to begin and end and to complete the "Application for Parental Leave" form (Appendix 'A'). If an employee wishes to take parental leave immediately after the birth of a child/placement of an adopted child, they should give 21 days' notice before the expected week of childbirth/placement and must specify the expected week of childbirth/placement and the amount of parental leave taken.
- 5.2 On applying for parental leave for the first time for a child, the employee will be asked to produce a copy of the child's birth certificate and entitlement to disability living allowance, where applicable. If this does not show proof of parental responsibility, the employee will be required to produce further evidence, for example, adoption papers.
- 5.3 During any period of unpaid parental leave employees will not make any Local Government Pension Scheme Contributions. However, if employees prefer this unpaid period to count as pensionable service, they will need to indicate this on the "Application for Parental Leave" form (Appendix A).

6. **Postponement of Parental Leave**

- 6.1 The Council may postpone a period of parental leave where the Council considers that the employee's absence would be detrimental to service continuity. For example:
- Where more time is required to make arrangements for covering the employee's work.
 - Where there is a particular employee's skills are needed at a particular time and the work cannot be easily covered.
- 6.2 If postponement is necessary, then this should be discussed with the employee and the revised arrangements and reasons for the postponement confirmed in writing within 7 days of the request. Leave should be postponed for no longer than necessary and in any event no more than 6 months from the requested start date.

7. **Multiple Contracts**

- 7.1 Where an employee works in more than one Service Area/Directorate of the Council, this will not affect the total leave entitlement. If the line manager of one of the jobs wishes to postpone leave, this will have the effect of postponing leave for both of the jobs. It is up to the line managers and the employee concerned to agree a convenient time for parental leave to be taken, so long as this is within six months of the original request.

8. **Misuse of the Parental Leave Scheme**

- 8.1 Any misuse of the Scheme will be dealt with under the Council's Disciplinary Procedure. The following are examples of misuse:
- Taking parental leave for the purposes other than for caring for a child. This will generally be in circumstances where someone other than the employee is taking primary responsibility for the child.

- Making a false statement as to entitlement to parental leave, for example, the age of the child, the relationship with the child or the amount of parental leave taken with a previous employer.

9. **Employment References**

- 9.1 The Council, when obtaining employment references, as part of its standard recruitment process, asks previous employers to provide the details of any parental leave their former employee has taken whilst employed with them.
- 9.2 As this information forms part of an employment reference, it is retained on the employee's personnel file.

10. **Review of this Policy and Procedure**

- 10.1 This policy and procedure will be reviewed annually by Human Resources.

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APPLICATION FOR PARENTAL LEAVE

Please complete the employee details and indicate your preferences by ticking the appropriate box to ensure that the correct arrangements are made in relation to payment of your Local Government Pension Scheme contributions during your parental leave.

You should return the completed form to your line manager at least 21 days prior to the date on which your requested period of parental leave is due to commence.

If you require clarification of any matter prior to completing the form, please contact Human Resources.

Name: _____

Directorate: _____ Service: _____

Job Title: _____ Payroll Number: _____

Date of commencement of employment:

1. I would like to apply for () week(s)/day(s) unpaid parental leave from _____ to _____
2. I have _____ child/ _____ children (please complete the relevant number) who is/are under the age of five years and will be age _____ at the time parental leave is to be taken. I understand that if asked I will provide proof of this. Name of child and date of birth of child for which leave is requested.

Name: _____ Date of Birth: _____

3. If you are not named on the birth certificate please confirm which of the categories set out below you fall into:

Category	Please tick if applicable
A father who was married to the mother at the time of birth	
A parent who has acquired parental responsibility under the Children Act 1989	
A grandparent with a significant parenting role	
A guardian appointed under section 5 of the Children Act 1989	
An adoptive parent (or prospective adoptive parent)	
A spouse or partner of any of the above who is living with the child	
A foster parent	

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4. I have taken _____ days/weeks parental leave with previous employers.
(insert)
5. I am/am not employed by any other Directorate/Service of the Council (please delete as applicable).

If you are employed by another Directorate/Service please give details of your post below:-

Job Title: _____

Directorate/Service: _____

Line Manager: _____

6. Local Government Pension Scheme Contributions

- I wish to pay contributions to the Local Government Pension Scheme in respect of my period of unpaid absence.
- I do not wish to pay contributions to the Local Government Pension Scheme for my period of unpaid absence. I understand that the period not covered by contributions will not count as service towards my pension benefits.
- I am not a member of the Local Government Pension Scheme.

7. I certify that the information provided is correct and understand that any misuse of the scheme may be dealt with under the Council's Disciplinary procedure.

Signed: _____

Date: _____



PARENTAL LEAVE RECORD

Name of employee:

Name of child:

Entitlement:

Start of parental leave year:
(Child's date of birth)

Leave entitlement expires on:
(5 years from date of child's birth, 18 if disabled or 5 years from date of adoption or until child reaches age 18 (which ever is sooner))

Request for leave		No. weeks absent	Balance due	Approved
From	To			

The entitlement is 18 weeks for parents and for parents of a disabled child, unpaid leave minus any weeks taken with a previous Employer.

- 1 record for each child should be completed.