

Human Resources
Policy & Procedures

Maternity Leave
& including
Paternity, Parental and Adoption Leave

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Purpose

This policy will clearly set out in an easily understood framework the current legislation, codes of practice and the council's procedures in relation to employee's who are the parent(s) of a new child, this includes maternity leave for new mothers, paternity leave for new fathers, parental leave provisions for parents and guardians alike and the provisions for adoption leave for employees who adopt a child.

Related Policies

- Annual Leave & Other Leave Provisions
- Equalities
- Flexible Working
- Sickness Absence

Who is governed by this policy

Those Newham employees who are expectant mothers, fathers, parents or legal guardians.

Executive Summary

The law entitles female members of staff to a period of maternity leave. In fact it is a statutory requirement that a minimum of 2 weeks leave is taken following childbirth and employees are entitled to up to 1 year's maternity leave no matter how long they have worked for the employer. Maternity pay will vary depending on length of service, national insurance contributions and the length of maternity leave taken. The law also entitles female staff to paid time off to attend ante-natal care. New parents of adoptive children will also qualify for a period of paid leave and other provisions similar to that of maternity leave. Also, legislation now provides for 10 days Paternity Leave as a right for the biological father/partner of the child's mother in order to care for a newborn child or a child newly placed for adoption. Parental Leave is a scheme whereby employees who have completed one year's service with their employer may apply for a period of parental leave, which is unpaid, in order to care for that child / spend more time with children and strike a better balance between work and family life.

As a Newham manager you are expected to:

- Ensure that employees fully understand their entitlements and responsibilities in regard to maternity / paternity / parental / adoption leave.
- To ensure pregnant employees, new mothers and parents returning to work following leave, are aware of the provisions available.
- Ensure employees are aware of their responsibility to provide the Council with the required documentation so that they may be paid and take leave in accordance with the procedures.
- Provide the required support as indicated within the procedure and in accordance to regulations such as health and safety.
- Make timely arrangements to provide cover for periods of leave, as appropriate.

The procedure will help you to:

- Sensitively discuss the needs of pregnant employees / expectant new parents at an early stage and thereafter throughout the pregnancy and subsequent period of leave.
- Ensure that Health and Safety issues i.e. risk assessments are completed
- Pro-actively plan for absence and discuss temporary cover with the HR Operations and/or Recruitment Team
- Maintain contact with employees during their leave and plan for their return to work.

1 Maternity Entitlements (in accordance with legislation)

1.0 The law entitles female employees to:

- A period of maternity leave
- Statutory maternity pay (SMP) or maternity allowance (MA), subject to qualifying criteria.
- Paid time off to attend antenatal care or relaxation/parental craft classes or medical examination.
- The right to return to work either to the same job with the same terms and conditions, or a similar job with the same terms and conditions (this will depend upon the length of the maternity leave taken).
- Health and Safety protection.
- The date they would like to commence maternity leave.

- 1.1 All pregnant employees are entitled to 52 weeks' maternity leave, or as much of that period as they wish to take, – no matter how long they have worked for their employer.
- 1.2 The law requires that a minimum of two weeks' leave must be taken following the birth of the child.
- 1.3 Dependent upon their service, employees will be entitled to statutory maternity pay (SMP), maternity allowance (MA) or Council Occupational maternity pay (OMP). In order to find out your personal entitlements, you should refer to the information below to see which you think applies to you. If you are not sure, please refer your query to the Operations team within Human Resources.

2 Entitlement based upon length of service

2.0 Compulsory Maternity Rights:

Compulsory Maternity Leave	Maternity Pay
It is a statutory requirement that a minimum of two weeks leave must be taken following childbirth.	Pay is dependent upon length of service and National Insurance contributions. This payment would be included in the statutory pay and the London Borough of Newham's maternity pay if you are due this. If you do not have the required level of service to statutory maternity pay, then you may be entitled to maternity allowance. Please contact your local Job Centre plus who will advise you about maternity allowance.

2.1 Statutory Maternity Rights: If you have less than one years service with the Council but 26 weeks service by your 25th week of pregnancy.

Statutory maternity leave	Statutory maternity pay (SMP)
Statutory maternity leave is a minimum level of entitlement which employers can not fall below. The period which can be taken is up to 52 weeks leave and is broken down as 26 weeks Ordinary Maternity leave and 26 weeks Additional Maternity leave	You will be entitled to 39 weeks statutory maternity pay broken down as follows: 6 weeks at 90% at SMP 33 weeks at the standard SMP flat rate – please ask your HR contact to advise you of the rate. Remaining 13 weeks leave at nil pay. If you are not entitled to SMP (i.e. if you have less than 26 weeks service with Newham), but meet qualifying conditions based on your recent

	employment and earnings record, you may claim 39 weeks maternity allowance from your local Job Centre plus, who will also advise you of the qualifying requirements.
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2.2 London Borough of Newham’s Occupational Maternity:

If you have over one year’s continuous service with the Council (or continuous service from another local authority) by your 29th week of pregnancy you will be entitled to:

Newham’s contractual Maternity Leave	London Borough of Newham’s Maternity Pay
You may take up to 52 weeks leave as per the statutory regulations. This is broken down to 26 weeks Ordinary Maternity leave and 26 weeks Additional Maternity leave	You will be entitled to 39 weeks pay as follows: 6 weeks at 90% of your salary 24 weeks at half pay plus statutory maternity pay. 9 weeks at statutory flat rate Remaining 13 weeks at nil pay which equals up to 52 weeks leave.

2.3 Under the Council procedures, to be eligible for occupational maternity pay over and above the statutory maternity pay, you must return to work after maternity leave for a minimum of 3 calendar months based on your contracted hours.

2.4 In the event that you decide to leave the service of the Council shortly after returning to work from maternity leave and if you ordinarily worked full time hours but your return to work has been on part-time hours, your return period for retaining the full maternity pay will be extended.

2.5 If you choose not to return to work following maternity leave, please note points 16 and 17 of this procedure.

3

Notice Periods *(Notifying your Manager of your intention to take Maternity Leave)*

3.0 You choose when your maternity leave will start, as long as it is not before the 11th week before the week in which the baby is due (known as the EWC – expected week of childbirth).

There are two exceptions to this:

- Where the baby is born earlier than the EWC, then OML starts from the date of birth;
- If you are off work for a pregnancy-related reason during the four-week period prior to the EWC, in which case your absence will automatically trigger your OML.

3.1 To take maternity leave you should let your line manager and Human Resources know (in writing) no later than the end of the 25th week of pregnancy or as soon as is reasonably practicable. You must confirm:

- When the expected week of childbirth is;
- When you intend to commence maternity leave.

3.2 Your HR contact will inform you within 28 days of receiving notification when your entitlement to maternity leave may start and your maternity entitlements. At this point, you may agree an alternate date; however, if you change the date that you intend starting maternity leave after this confirmation, you must provide 28 days notice or as soon as is reasonably practicable i.e. if the birth of your child is earlier than the expected week of childbirth.

3.3 A MATB1 form will be provided by your G.P/midwife or hospital consultant between your 20th and 25th week of pregnancy. The original form must be forwarded to H.R as proof of your intention to take maternity leave and pay.

4

Paid Time Off for Ante-Natal Appointments

4.0 All pregnant employees are entitled to time off for antenatal care/parental craft classes or medical examination on the advice of a registered midwife, medical practitioner/registered health visitor; which is paid at your normal rate of pay. You should notify your manager of your ante natal appointments as soon as you are made aware of your appointment date and time, this will enable your manager to ensure that appropriate cover is arranged.

4.1 Managers may ask for a written confirmation from a registered medical practitioner, registered midwife or health visitor to confirm that the member of staff is pregnant and an appointment card or other evidence showing that an appointment has been made.

- 4.2 Where an appointment takes a full morning or a full afternoon or results in an absence of more than half of the normal working day, you should notify your manager as soon as you become aware. In these cases you must provide evidence of the appointment.

5 Health and Safety

- 5.0 Under the Council Health and Safety Policy, any work activity which could pose a risk when pregnant, must be assessed to determine if anything needs to be done. The manager, or person in charge of the work, is responsible for carrying out a risk assessment. It is the individual's responsibility to let their manager know as soon as they are pregnant in order for the assessment to be undertaken.

- 5.1 **Night Work:** If you are contracted to work nights, and you are finding it to continue working these hours because of your pregnancy, you should speak to your manager to see whether suitable alternative daytime work is available. Every effort will be made to find suitable alternative daytime work and you would be expected to co-operate with reasonable requests to transfer you to other duties as appropriate. However, you will need to provide a medical certificate which shows that your health and safety is at risk if you continue with night work. If no suitable alternative daytime work is available, consideration may have to be given to suspending you from your duties (on full pay) whilst alternative work is located.

- 5.2 **Breast Feeding:** If you are returning to work and still breast feeding your child, you must inform your manager so that a health and safety assessment may be carried out.

Guidance on assessments is available from the Health and Safety Unit or the Occupational Health Service.

The council will, where possible, make suitable provisions for staff who wishes to continue to breast feed upon return to work and who require facilities to express milk.

In order to enable this provision you must ensure you speak to your manager/supervisor about your requirements, where possible, prior to returning to work and to discuss the feasibility of this request. The Council will make every attempt to ensure they are able to accommodate your request, however, it must be recognised that this provision may not be practicable because of location of the work and facilities available.

Communicate your plans with your supervisor for expressing breast milk while at work – discuss how you propose to adapt your requirements with your work and how long you think you may need these facilities.

Put your plans in writing to your supervisor so they are then able to arrange a health and safety assessment and discuss the times when you will wish to express milk.

It would be useful if you could discuss how long you think it would take for you to express milk; furthermore, is there somewhere where you think you might be suitable for expressing, will there be a change to your working hours. Flexibility is required from you and your supervisor to make this work.

For example: You may use your breaks for expressing milk so that you won't take time from your work schedule i.e. you may wish to take 15-20 minutes in the morning and another 15 -20 minutes in the afternoon, this can be time which would normally be your 'lunch break'. You may wish to negotiate a further 15 – 30 minutes for the actual lunch break but still enabling you to complete your weekly hours.

When storing milk that has been expressed use an insulated bag with cold packs. Breast milk will stay fresh and safe for up to 10 hours at room temperature. Where refrigeration facilities are available, you may wish to refrigerate.

6 Absence for pregnancy related reasons before intended start date

6.0 If you are absent from work due to illness, you would normally be able to take sick leave until you start maternity leave.

6.1 If your illness is maternity related and continues to four weeks before the baby is due, the maternity leave period starts automatically at this time.

Please note: The Council's Sickness absence policy and procedure will apply.

7 Pregnancy Complications

7.1 **Childbirth:** For the purpose of this procedure, childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.

7.2 **Premature Births:** Your entitlement to Occupational Maternity Pay is not affected by premature birth as the expected date of childbirth is used to assess your entitlement to Occupational Maternity pay. However, premature birth may have an effect on the assessment of Statutory Maternity Payments. You must notify your Human Resources section or your line manager as soon as possible of the actual date of childbirth. If childbirth occurs before the date that you have notified H.R, the maternity leave period starts automatically on the day after the date of the birth. In these cases you must ensure H.R is kept informed

7.3 **Late Births:** If your baby is born after the expected week of childbirth, your maternity entitlement is not affected

7.4 **Miscarriage:** A miscarriage is a distressing experience and unfortunately is not uncommon. If it happens in early pregnancy, you may well not have informed anyone at work that you are pregnant.

Should you be unfortunate enough to experience miscarriage, you might want

to consider contacting a support group who have experience of helping others who have suffered a miscarriage. You should also advise your line manager or Human Resources as soon as possible, as they will be able to give you support and advise you of your entitlements to sick leave and pay.

- 7.5** **Still birth:** The experience of stillbirth can be extremely distressing and you may need a lot of support whilst grieving for your loss. You might want to consider contacting a support group who have experience of helping others who have had stillborn babies. You should also advise your line manager or Human Resources if you experience this tragedy as they will be in a position to advise you and offer support.

If the baby is stillborn or miscarried before the 24th week of childbirth, statutory maternity pay and Newham's maternity pay are not payable. However, in such cases, statutory and occupational sick pay would be payable.

If your baby is stillborn after the start of the 24th week of pregnancy and before the expected week of childbirth, you are entitled to receive the benefits you would otherwise have received, had you had a live birth. Also if your baby survives for an instant, it will be considered a live birth, not a stillbirth and you will be entitled to full maternity benefits.

8 **Absence for Pregnancy Related Reasons After the end of Maternity Leave**

- 8.0** If you are unable to return to work, owing to sickness, following your maternity leave, you must ensure you follow the Council's sickness absence procedure and your manager must be informed that:

- you have returned to work on the date agreed with your manager/or once the full 52 week entitlement has ended
- the reason for absence
- Follow the Council's sickness absence reporting procedure.

Please note: The Council's sickness absence policy and procedure will apply as soon as the reason for absence changes from maternity to sickness. Self/GP certificates must be provided in accordance with the requirements of the sickness absence procedure.

9 **Annual Leave**

- 9.0** Maternity leave will not affect your annual leave entitlement. You may wish to extend your maternity leave using your annual leave, but you must agree this with your manager in advance. Arrangements for carrying over of annual leave are as normal (i.e. you may carry no more than 5 days).

- 9.1** You are also entitled to time off in lieu for any public holidays and Christmas Closure days that fall within your period of maternity leave. Human Resources

will advise of your entitlement. This time must be taken at the end of your maternity leave before you return to work.

- 9.2 During your maternity period, you will retain your entitlement to annual leave.
- 9.3 It is not possible for you to take annual leave at the same time as maternity leave. However, you may use any untaken annual leave either before you commence your maternity leave or once maternity leave has finished.
- 9.4 You should ensure that if your maternity leave spans two annual leave periods i.e. 2006/2007 and then 2007/2008, that any outstanding leave in the previous year has been exhausted, however, where this is not possible, you may if you wish, bank up to 5 days annual leave (under the 'holiday of life time scheme') or carry forward up to 5 days leave from one annual leave year to the next. If you wish to carry any more than 5 days this will be at the discretion of the Chief Officer for which valid written requests must be made in good time. Please refer to the Council's procedure for the 'carrying over' of leave.
- 9.5 In exceptional circumstances, where an employee commences their period of maternity leave at the end of February or during March in any year, **and** wishes to take the whole of their maternity leave entitlement of 52 weeks without converting some of their nil pay period to annual leave, they will not have had the opportunity to use the annual leave they accrued during their maternity leave. In these exceptional circumstances, staff will be permitted to carry forward their whole leave entitlement from one leave year to the next. However, in permitting that exception to normal annual leave arrangements the following rules will apply:
- **Leave must be taken in the same way that it was accrued i.e. if an employee is full time (36 hours per week) for the duration of their maternity leave they will accrue their leave on that basis. Immediately following their maternity period they will be required to take their accrued annual leave as a full timer.**
 - **Any request for flexible working arrangements or reduced hours cannot be agreed until an employee's leave entitlement during their maternity period has been taken.**

10 Keeping In Touch Days (KIT Days)

- 10.0 The Council may make contact with you (and vice-versa) while you are on maternity leave, this will be by mutual agreement, as long as the amount and type of contact is not unreasonable. Contact will be used to discuss a range of issues – e.g. to discuss your plans for returning to work, or to keep you informed of important developments at the workplace and to advise you of any relevant promotion opportunities or job vacancies that arise during maternity leave.

- 10.1** In accordance with the maternity /adoption and parental leave regulations 2006, you **may** also attend work for up to **10 days'** during your maternity leave, as long as both you and your manager have agreed for this to happen. It would therefore be useful to discuss and agree these days with your manager prior to commencement of your maternity leave. Your manager may however, be required to change some of the dates which you have agreed in advance.
- 10.2** Requests to work may be for a full day or an am or pm attendance. The full amount of 'keeping in touch' days may not always be needed.
- 10.3** Staff attending work for a KIT day will be paid as follows
- If you attend work during the first 30 weeks of the maternity leave, you will be paid for the full day inclusive of statutory/occupational maternity pay.
- If you attend work during the period covering week 31 to week 52 (during the period you are only receiving statutory maternity pay or you are on nil pay) you will be paid as follows:
- Attendance at work for less than half a day will be paid a half day's salary at your normal salary, inclusive of any statutory maternity pay you may be receiving.
 - Attendance at work for hours greater than half day, you will be paid your normal salary inclusive any statutory maternity pay you may be receiving for the hours of attendance.
- 10.4** The 'keeping in touch' (KIT) days will not affect your entitlement to maternity leave, nor will it entitle you to extend your maternity leave.

11 Fixed Term Contracts and Maternity Leave and Pay

- 11.1** Where a member of staff has a fixed term contract and qualifies for maternity leave, they will be accorded the same entitlements as comparable staff employed on permanent contracts. If there is funding available for the post to extend a fixed term contract, the extension will be offered regardless of the pregnancy or maternity leave.
- 11.2** A non-renewal of contract due to reasons related to pregnancy or maternity leave would constitute sex discrimination.
- 11.3** If the contract is to end within the period of maternity leave, dependent upon your maternity entitlement, any Council benefits due will continue up to the date of termination of the contract (i.e. Council's maternity leave is paid to the date of the end of the contract, following this statutory maternity pay will continue as per statutory regulations).

12 Salary

- 12.1 Your maternity pay is treated as income. Deductions for income tax, pension (if applicable) national insurance and any outstanding loans will be made, **as with normal pay**. During your reduced pay period your pension contributions will also reduce. You can make up for reduced pensions contributions on your return from maternity leave by paying additional contributions over a 6 month period, if you wish. This avoids a break in your pensionable service (contact your H.R service or payroll for further advice).
- 12.2 National pay increase and other forms of increase continue to apply when you are on maternity leave.

13 Right to Return to Work

- 13.1 When you return from maternity leave, you have a right to return to the same job, on the same terms and conditions as though you have not been absent unless a redundancy situation has arisen. (if this is the case, the Council's redundancy procedure would be applied) If, however, there is some reason other than redundancy why it is not reasonably practicable for you to return to your original job, you will be entitled to be offered suitable alternative work.
- 13.2 If you wish to discuss an alternate working pattern i.e. hours of work, please see the Council's policy on Flexible Working.

14 Returning to Work and notice of intention to return

- 14.1 If you choose to return to work at the end of your full 52 weeks of maternity leave and have not informed your manager of an earlier return date, you do not have to provide any notice to return. Your manager will expect you to return to work on the date previously advised.
- 14.2 You may change the dates of your return to work as long as you give **eight weeks'** notice to your manager. If you do not provide the notice, your manager may postpone your return by eight weeks.

NB: an employee whose return has been postponed under these circumstances is not entitled to receive wages or salary if she returns to work during the period of postponement.

15 Redundancy/Business Re-organisation

- 15.1 In the event that your post is identified as potentially redundant or subject to a Business Re-organisation during your period of maternity leave, you will be consulted in accordance with the appropriate Change Management Procedure either utilising 'keeping in touch days' or through alternative arrangements.

16 Decision not to return to work following maternity leave

16.1 Where a decision to return from maternity leave is changed and you decide not to return to work following your maternity leave, you will be expected to repay some or all, of any half pay you received but you will be able to keep all of your statutory maternity payments. For further information and advice contact Human Resources.

17 Notice Period

17.1 If you decide to terminate your employment with the Council at any time during or at the end of your maternity leave period, you will be required to comply with the notice period required by your contract of employment. In some circumstances your manager may agree to waive some or all of your notice period.

18 Part Time Employees

18.1 All the rights described in this guidance apply to both full-time and to part-time employees, no matter how many hours they work, provided that they satisfy any qualifying conditions, such as length of service.

19 Other Entitlements

19.1 There are other entitlements which enable a good work life balance including the Council's Work-Life Balance / Flexible Working policy, Home-Working policy, Parental Leave and Carers Leave policies.

Part B (i) – Paternity Leave

20 What is Paternity Leave?

20.1 Paternity leave is for the purpose of caring for a newborn child (or children) or supporting the mother or for caring for a child or children newly placed for adoption or for supporting the adopter.

21 Eligibility

21.1 Employees will need to satisfy the following conditions in order to qualify for paternity leave. They must:

- be the biological father, and have responsibility for the child's upbringing,
- be married to or is the partner of the child's mother or the adopter, and has the main responsibility (apart from the mother's or adopter's) for the child's upbringing (*partner, means a person whether of a different sex or the same sex, who lives with the mother and the child in an enduring family relationship but is not the parent, grandparent, sister, brother, aunt or uncle of the mother or adopter*),

- have worked continuously for their employer for 26 weeks leading into the 15th week before the baby is due or the week in which an approved adoption match is notified to the adoptive parents.

22 Length of Paternity Leave

22.1 Ten days paternity leave is available to employees who meet the above criteria. The employee can choose to start paternity leave:

- on the date of the child's birth or placement, or
- a specified number of days after the child's birth or placement, or
- as day or half day periods before or after the birth, e.g. to attend ante natal appointments
- any specific date later than: the first day of EWC, or the expected placement date.

22.2 The leave must be completed by 6 month's of the date of birth or placement. However, in the case of a child born before the first day of the EWC, the employee has up to 6 month's from the later date to take the leave.

22.3 Only one period of leave will be available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

23 Paternity Pay

23.1 All employees that have met the eligibility requirements will be paid 10 days full pay.

24 Notice of Intention to take Paternity Leave

24.1 For Birth Children:

Employee must give notice of his/her intention to take paternity leave in or before the 15th week before the baby is due. (Where it is not reasonably practicable to give notice by then, it must be given as soon as it is reasonably practicable). The notice must specify:

- the length of leave required
- and the date the employee wishes to start

24.2 For Adoptive Children:

Employee must normally give notice of his or her intention to take paternity leave within seven days of being notified of a 'match' with a child (or as soon as reasonably practicable). The notice must specify:

- the date of the 'match' notification
- the expected date of placement
- date the employee wishes leave to start.

- 24.3 Employees will be able to change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable).

25 Self Certification

- 25.1 Employees will need to complete a self -certification for the 2 weeks leave
- 25.2 By providing a completed self-certificate, employees will be able to satisfy both the notice and evidence conditions for paternity leave and pay. Employers will not be expected to carry out any further checks.

Part B (ii) Additional Paternity Leave

26 What is Additional Paternity Leave?

- 26.1 The new paternity right which came into force on 6 April 2011, is available to fathers and partners of mothers of children due on or after 3 April 2011, or adoptive parents who are notified of having been matched with a child (or in the case of overseas adoptions whose child enters Great Britain) on or after 3 April 2011.

27 Eligibility

- 27.1 Employees will need to satisfy the following conditions in order to qualify for additional paternity leave. They must:
- be the biological father, and have responsibility for the child's upbringing;
 - married to or the partner or civil partner of the child's mother or the adopter, and has or expects to have the main responsibility (apart from any responsibility of the mother or adopter) for the child's upbringing;
 - have worked continuously for their employer for 26 weeks leading into the 15th week before the baby is due, or the week in which an approved adoption match is notified to the adoptive parents.

28 Length of Paternity Leave

- 28.1 An employee that has met the above eligibility criteria can choose to start additional paternity leave as follows:
- up to 26 weeks' additional paternity leave within the first year of the child's life provided that the mother has returned to work, or

- for adoptive parents, up to 26 week's within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave has returned to work;
- the earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date.
- additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.

28.2 Some of the leave may be paid if taken during what would have been the mother's/adopter's 39 week statutory pay period. Employee's would receive the same rate of **statutory** maternity/adoption pay as the mother/adopter would have received.

29 Additional Statutory Paternity Pay

29.1 An employee who is eligible for additional paternity leave may then be entitled to Additional Statutory Paternity Pay (ASPP).

29.2 An employee will only be eligible for additional statutory paternity pay if:

- The child's mother was entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) or the child's adopter was entitled to Statutory Adoption Pay (SAP).
- The child's mother or adopter has returned to work with at least two weeks of her statutory pay remaining.

29.3 An employee will then qualify for ASPP, if their normal weekly earnings are above the lower earnings limit for National Insurance purposes for the eight weeks before the relevant week, (i.e. 15th week before the baby is due, or in the case of adoption the week the adopter is matched with the child for adoption).

29.4 If the employee qualifies, they will be eligible to receive ASPP only during the mother's maternity or adoption pay period, i.e. the remainder of the 39 weeks following the date she commenced her Statutory Maternity or Adoption Pay.

30 Notice of intention to take Additional Paternity Leave

30.1 For Birth Children

Employees wishing to exercise their right to additional paternity leave must provide their manager, with at least eight weeks notice prior to their chosen start date, with:

- written notification specifying the child's expected week of childbirth and actual date of birth, and the intended start and end date for the employee's additional paternity leave;
- a declaration signed by the employee stating that the purpose of the additional paternity leave is to care for the child, and that they satisfy the relationship eligibility conditions for additional paternity leave, please refer to self certification at appendix 9A; and
- a "mother declaration", please refer to Mothers declaration at Appendix 9B, which is a written declaration signed by the mother stating:
 - her name, address and national insurance number;
 - the date on which she intends to return to work;
 - that the employee satisfies the relationship eligibility conditions for additional paternity leave and has or expects to have the main responsibility (apart from any responsibility of the mother) for the child's upbringing;
 - that the employee is, to her knowledge, the only person exercising the entitlement to additional paternity leave in respect of the child; and
 - that she consents to the employer processing the information contained in the declaration.
 - details of her employer.

30.2 For Adoption children:

Employees wishing to exercise their right to additional paternity leave must provide their manager, at least eight weeks prior to their chosen start date, with:

- **adoption within UK** - a written notice specifying the date on which they were notified as having been matched with the child, the date on which the child was placed with them and the intended start and end dates for their additional paternity leave, or
- **adoption from overseas** - the date on which the adopter received official notification from, or on behalf of, the relevant domestic authority; the date on which the child entered Great Britain; and the intended start and end dates for the employee's additional paternity leave;
- a declaration signed by the employee stating that the purpose of the additional paternity leave is to care for the child, and that the employee satisfies the relationship eligibility conditions for additional paternity leave and has been matched with the child for adoption, please refer to self declaration at appendix 9A, and,
- an "adopter declaration", please refer to adopter's Declaration at appendix 9B, which is a written declaration signed by the adopter

stating:

- his or her name, address and national insurance number;
- the date on which he or she intends to return to work;
- that the employee satisfies the relationship eligibility conditions for additional paternity leave; and
- that he or she consents to the employer processing the information contained in the declaration
- name and address of adopter's employer

30.3 Employees may vary their additional paternity leave start/end date, provided that they advise their manager in writing at least six weeks before the new start/end date or, if that is not possible, as soon as reasonably practicable. The manager must confirm the dates in writing to the employee within 28 days of receiving the notice.

31 Additional Evidence

31.1 The manager may additionally request that the employee supply a copy of the child's birth certificate, or in the case of adoption, a document from the adoption agency showing the name and address of the agency, the date that the adopter was notified of matching and the expected date of placement can be requested.

32 Keeping In Touch Days (KIT Days)

32.1 The Council may contact employees (and vice-versa) whilst they are on Additional Paternity Leave. Employees may also attend work for up to 10 days' during their additional paternity leave period without bringing it to an end.

32.2 The purpose of this provision is to allow an employee to "keep in touch" with the workplace. Work includes any work done under the contract of employment and may include training or any activity aimed at keeping in touch. Any work carried out on a day constitutes one day's work.

32.3 An employee on additional paternity leave is not obliged to work keeping-in-touch days, nor is an employer obliged to provide them.

Part C – Parental Leave

33 Summary Guidance

33.1

Parental leave applies to employees who have completed **one year's service** with their employer. It allows parents with children to take parental leave to care for that child. The right applies to mothers and fathers and to a person who has obtained formal parental responsibility for a child under the Children Act or its Scottish equivalent. Parents are able to start taking parental leave when the child is born or placed for adoption or as soon as they have completed one year's service with their employer, whichever is later.

Special rules apply for parents of children born, or placed for adoption, before 14th December 1999; they will be eligible for parental leave from their current employer if they completed one year's service with another employer between 15th December 1998 and 9th January 2002.

In the case of children born or adopted between 15 December 1994 and 14 December 1999, the employee's rights last until **31 March 2005**, or in the case of adoption until the child's 18th birthday if that is sooner.

Key elements of parental leave which apply in every case

- 13 weeks' parental leave for each child;
- 18 weeks parental leave if the child is disabled
- the employee's rights to take the leave last until the child's fifth birthday or until five years have elapsed following placement in the case of adoption;
- parents of disabled children are able to use their leave over a longer period, up until the child's 18th birthday;
- the employee remains employed while on parental leave; some terms, such as contractual notice and redundancy terms still apply;
- at the end of parental leave an employee is guaranteed the right to return to the same job as before, or, if that is not practicable, a similar job which has the same or better status, terms and conditions as the old job; where the leave taken is for a period of 4 weeks or less, the employee is entitled to go back to the same job.

The fallback scheme

The fallback scheme in the Regulations provides for employees to take parental leave

- in blocks or multiples of one week
- after giving 21 days notice
- up to a maximum of four weeks leave in a year
- subject to postponement by employer for up to 6 months where business cannot cope
- but leave cannot be postponed when the employee gives notice to take it immediately after the time the child is born or is placed with the family for adoption

Parents of disabled children have the flexibility to take leave a day at a time or

longer if they wish. A disabled child is a child for whom disability living allowance is awarded.

34 What is Parental Leave?

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

34.2 Who can take parental leave?

Employees who have a baby or adopt a child on or after 15 December 1999 and who have completed one year's qualifying service with their employer by the time they want to take the leave.

Both mothers and fathers can take parental leave.

34.3 How long does parental leave last?

Employees get 13 weeks in total for each child, 18 weeks if the child is disabled.

Employees will be able to take parental leave in short or long blocks depending on what has been agreed where they work.

34.4 What happens if an employee has twins?

Parental leave is for each child, so if twins are born each parent will get 13 weeks leave for each child.

34.5 When does parental leave have to be taken by?

Employees can choose to take parental leave any time

- up until the child's fifth birthday
- in adoption cases, for five years after the child is first placed with the family for adoption (or until the child's 18th birthday if that comes sooner)
- in the case of a child with a disability, up until the child's 18th birthday (for the purposes of parental leave, a disabled child is one for whom disability living allowance has been awarded).

34.6 Will employees be able to return to the same job after parental leave?

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 4 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 or better

status, terms and conditions as the old job.

34.7 What happens under the fallback scheme?

Under the fallback scheme the following provisions will apply:

- * in most cases, leave must be taken in blocks or multiples of one week;
- * the exception to the above is that parents of disabled children can take leave in blocks or multiples of one day;
- * in all cases a maximum of 4 weeks' parental leave in a year can be taken in respect of any individual child;
- * 21 days' notice must be given;
- * the employer can postpone the leave for up to 6 months where the business would be particularly disrupted if the leave were taken at the time requested;
- * but leave cannot be postponed when the employee gives notice to take it immediately after the time the child is born or is placed with the family for adoption.

34.8 Do employers need to keep records?

Employers are not required to keep records of parental leave taken, although many will want to do so for their own purposes. When an employee changes jobs, employers will be free to make enquiries of a previous employer or seek a declaration from the employee about how much parental leave he or she has taken.

34.9 Can employers ask for evidence that the employee is entitled to parental leave?

An employer can ask to see evidence to confirm the employee is the parent or the person who is legally responsible for the child; evidence might take the form of information contained in the child's birth certificate, papers confirming a child's adoption or the date of placement in adoption cases, or in the case of a disabled child, the award of disability living allowance for the child.

Part D – Adoption Leave (UK & Overseas)

35 Eligibility for Adoption Leave

35.1 Adoption leave and pay will be available to:

- Individuals who adopt
- One member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave).

35.2 You will qualify for 52 weeks statutory adoption leave (SAL) when you adopt a

child in the UK or overseas if you:

- have been matched with a child to be placed by a UK adoption agency and agreed a placement date (UK) or received official notification from the relevant UK authority of your eligibility to adopt a child from abroad (overseas) – usually the Department of Health – and that the authority is prepared to issue a certificate to the overseas authority dealing with the adoption of the child or has issued the certificate and sent it to that authority.
- have worked continuously for at least 26 weeks by the week in which you are notified of having been matched with the child (UK) or by the time you have received your notification or by the time your SAL is due to begin – whichever is the later (overseas).
- are the child's adopter (see 28.2).

35.3 An adopter is a person who has been matched with the child for adoption, or, in the case where two persons have been matched jointly whichever of them has elected to be the child's adopter for the purpose of taking statutory adoption leave or statutory paternity leave. An employee can not benefit from both adoption and paternity leave.

35.4 A child is a person who is, or when placed with an adopter for adoption was, under the age of 18.

35.5 Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, e.g. when a step parent is adopting a partner's children.

36 Length of adoption leave

36.1 Adopters will be entitled to up to 26 weeks ordinary adoption leave followed immediately by up to 26 weeks additional adoption leave – **A Total of up to 52 weeks** which is the same as the Maternity Scheme (providing service requirements are met).

36.2 They may choose to start their leave

- From the date of the child's placement (whether this is earlier or later than expected), or
- From a fixed date which can be up to 14 days before the expected date of placement (UK).
- From the date that the child enters the UK or fixed a date no later than 28 days after the child enters the UK (overseas). Note - Adoption leave is not meant to cover the period you may take travelling overseas to arrange the adoption or visiting the child, you must take annual leave for these purposes.

36.3 Leave can start on any day of the week. If you choose to work on the day the

child is placed with you, the period of adoption leave and pay can start on the next day. In any event you should discuss the timing of your request as soon as possible with your line manager.

- 36.4 Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 36.5 If the child's placement is ended during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

37 Adoption Leave Pay

- 37.1 An employee will be entitled to Statutory Adoption Pay (SAP) in respect of a child who is matched with that employee on or after 6 April 2003 or who is placed for adoption on or after that date, providing they meet the necessary requirements.
- 37.2 Employees will also have the right to the same level of benefit and leave as set out in the Newham's Maternity Leave Scheme, providing the necessary service requirements are met.

Summary of Adoption Leave Provisions

Continuous Service	Leave
Less than 26 weeks service with Newham	No Entitlement
26 weeks service with Newham ending with the week in which they are notified of having been matched with a child	39 weeks Statutory Adoption Pay as follows: 6 weeks at 90% of your salary 33 weeks at the standard rate SAP flat rate. Remaining 13 weeks at nil pay.
1 year or more with Newham / Local Government service ending with the week in which they are notified of having been matched with a child	6 weeks at 90% of pay (SAP included) 24 weeks at half pay (plus SAP) 9 weeks at SAP flat rate and remaining 13 weeks at nil pay.

- 37.3 To benefit from Newham's 24 week's half pay you will need to confirm in writing that you are intending on returning to work. Once you have confirmed your intention to return in writing, the payments will be arranged. To keep the full 24 week's half pay, you will be required to return to work after adoption leave for 3 calendar month's. Should an employee decide not to return, they would be expected to repay some, or all, of any half pay they have received.

37.4 SAP will be paid to the employee whether they want to return from adoption leave or not. Please refer to Newham Maternity Scheme for more information.

38 Notice of Intention to take adoption leave

38.1 UK

Adopters will be required to inform their manager of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, (unless this is not reasonably practicable).

38.2 They will need to inform their manager

- When the child is expected to be placed with them and
- When they want their adoption leave to start.

38.3 Adopters will be able to change their mind about the date on which they want their leave to start providing they tell their manager at least 28 days in advance (unless this is not reasonably practicable). They will have to inform their manager the date they expect any payments to start at least 28 days in advance.

38.4 Managers will pass the letter to Human Resources who will have 28 days to respond to their employee's notification of their leave plans. Human Resources will confirm in writing the arrangements setting out the date on which they expect the employee to return to work if the full entitlement to adoption leave is taken. There is no provision for Human Resources to write to employees before the end of their adoption leave. It will be assumed that they will return to work on the date set out in the letter.

38.5 Overseas

If you are adopting a child from overseas you must give notice in three stages that you intend to take SAL:

First Stage – inform your line manager when you receive official notification.

Second Stage – you must give at least 28 days notice of the actual date you want SAL/SAP to start. You can provide this at the first notification stage if you know it at the time.

Third Stage – After the child has entered the UK you must tell your line manager within 28 days of the child's date of entry into the UK, providing appropriate evidence (plane tickets / entry clearance).

39 Evidence of Entitlement to Adoption Leave and Pay

39.1 Adopters will have to give their HR section documentary evidence- ‘a matching certificate’ or official notification – from their adoption agency as evidence of their entitlement to Adoption Pay and Leave. Employers can ask for this certificate / notification as proof of entitlement to adoption leave. Matching Certificates are available from their adoption agency and will provide the following basic information on matching and expected placement dates;

- The name and address of the agency / authority
- The date on which the employee was notified that they had been matched with a child
- The date on which the agency expects to place the child with the employee.

39.2 The employee would also need to provide the name and date of birth of the child and a declaration that they have elected to receive SAP and not Statutory Paternity Pay for the newly adopted child.

40 Contractual Benefits

40.1 Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary.

41 Return to work after adoption leave

41.1 Adopters who intend to return to work at the end of their full adoption leave entitlement will not have to give any further notification to their employers

41.2 Adopters that want to return to work before the end of their adoption leave period, must give their employers at least 28 days notice of the date they intend to return. If they fail to do this, the employer will have the right to postpone their return to work by up to 28 days.

42 Protection from detriment and dismissal

42.1 Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking or seeking to take adoption leave. Employees who believe they have been treated unfairly will be able to complain to an employment tribunal.