

# Family Support Provisions

## Including

**Adoption Rights (and Long Term Fostering)**

**Family Emergency Leave**

**Flexible Working Provisions**

**Maternity Rights**

**Parental Support Leave**

**Paternity Leave**

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# Family Support Provisions

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## **Introduction**

The authority supports the entitlement of all members of staff to leave and, where appropriate, pay under the Family Support Provisions.

The Family Support Provisions encompass all support that can be given to a member of staff who is adopting a child, expecting a child, whose partner is expecting a child or who requires leave to look after a child. The Family Emergency Leave provisions also allow time off for staff to look after or make alternative arrangements for family members.

The Council actively supports and promotes equality and diversity in its application of these provisions for all staff.

As a result managers will ensure that all staff that apply for Family Provisions are treated fairly and equitably.

The 2004 Civil Partnership Act provides same sex couples who form a civil partnership, with parity of treatment in a wide range of legal matters with those opposite sex couples who enter into a civil marriage. This document recognises the Act and covers all Civil Partnerships.

## **ADOPTION RIGHTS**

The Central Operations Team will offer guidance and support to ensure that all prospective adoptive parents or long-term fosterers receive the appropriate entitlement to leave and pay under this provision.

Please contact the Central Operations Team at the Civic Centre, London Road, Morden, Surrey SM4 5DX, for guidance.

### **Statutory Rights to Leave and Pay**

#### Adoption Leave and Pay is Available to:

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

The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay (see Paternity Leave Section).

#### Start Dates

Paid adoption leave will be available to you when an approved adoption agency notifies you of a match with a child and you have agreed the date of placement.

#### Eligibility

To qualify for adoption leave, you must:

- be the child's adopter
- be \*newly matched with a child (up to age 18) for adoption by an approved adoption agency
- have worked continuously for the Authority for 26 weeks leading into the week in which you are notified of being matched with a child for adoption

\*Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children.

#### Length of Adoption Leave

You must have been continuously employed by the London Borough of Merton for at least 26 weeks to qualify for ordinary adoption leave of 26 weeks and additional adoption leave of a further 26 weeks making a maximum total absence of 52 weeks.

- Ordinary adoption leave will normally be paid leave,
- Additional adoption leave will usually be unpaid.

You can choose to start your 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 notified to Merton.

Leave can start on any day of the week.

### Keeping in Touch Days

Keeping in touch days have been introduced, during which you can agree to work without that work bringing the period of leave to an end, and without loss of a week's statutory adoption pay.

You can carry out up to 10 days' work during the adoption leave period. This applies to the entire period of adoption leave. **Working for part of a day will count as one day's work.**

Further advice should be sought from the Central Operations Team. The Council has agreed to re-instate any keeping in touch days as annual leave once you have returned to work.

The intention of keeping in touch days is to allow you, with the agreement of your employer, to return to work and be reimbursed for the KIT days/hours. This does not confer any right on your employer to require that any work be carried out during the statutory adoption leave, nor any right on you to work during the statutory adoption leave period.

### Teachers

Arrangements will be made for you to be reimbursed for any KIT days. Please contact the Central Operations Team for more information.

### Reasonable Contact

The purpose of the measure is to enable your employer to initiate contact with you on adoption leave in order, for example, to discuss whether or not your planned date of return to work has changed or is likely to do so, or to discuss any special arrangements to be made to ease your return to work. (for example, whether you wish to request the right to work flexibly). To enhance communication and contact between you and your employer during adoption leave periods. Reasonable contact from time to time between you and your employer during adoption leave does not bring the period of leave to an end.

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.

If the child's placement ends during the adoption leave period, you will be able to continue adoption leave for up to eight weeks after the end of the placement.

### Statutory Adoption Pay ("SAP")

During your adoption leave, you will be entitled to SAP unless your average weekly earnings are below the Lower Earnings Limit for National Insurance Contributions.

If you are in a low-income family you may be able to seek financial support from your Local Authority. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from the local Jobcentre Plus office or Social Security office.

SAP will be paid for up to 39 weeks. The rate of SAP will be the same as the standard rate of Statutory Maternity Pay – from 1st April 2011 this will be £128.73 a week or 90% of average weekly earnings if this is less than £128.73.

### Notice of Intention to take Adoption Leave

You will need to complete an Adoption Leave and Pay Application Form (at the back of this document) to inform your Head Teacher/Line Manager and the Central Operations Team, of your intention to take adoption leave, within 7 days of being notified by the adoption agency that you have been matched with a child for adoption, unless this is not reasonably practicable, in which case the notice must be given as soon as is reasonably possible.

The Adoption Leave and Pay Application Form includes your confirmation of the date:-

- when the child is expected to be placed with you and
- when you want the adoption leave to start.

You will be able to change your mind about the date on which you wish your leave to start providing you tell your Head Teacher/Line Manager and the Central Operations Team, at least 28 days in advance (unless this is not reasonably practicable), in which case your variation notice must be given as soon as is reasonably practicable.

You will have to tell your Head Teacher/Line Manager and the Central Operations Team, the date you expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

You are required to provide your Head Teacher/Line Manager and the Central Operations Team with the ‘matching certificate, which will be given to you by the adoption agency. Please attach it to the Adoption Leave and Pay Application Form and send it to the Central Operations Team as soon as possible.

The form will be returned to you to confirm the date on which you are expected to return to work if the full entitlement to adoption leave is taken.

## **Occupational Adoption and Long Term Fostering Leave and Pay**

The Council acknowledges that the need to care for a newly fostered or adopted child during its first year with the new carer is just as important as for a new born baby. Provision has therefore been made for employees to take adoption and long-term fostering leave in order to care for a child up to the age of 18.

This leave may be granted to the “principal carer” of the newly placed child, i.e. the person taking the more significant share of the initial day-to-day commitment for the care and well-being of the child during the early settling-in period. If however, both partners are employees of the Council, only one will be eligible to apply for the leave.

For the purposes of this provision, long term fostering is deemed to be that which is expected to last for six years or more.

## **Teachers Occupational Adoption and Long Term Fostering Leave and Pay**

The relevant post natal sections of the LB of Merton Teacher's Maternity Leave and Pay Scheme will be extended to the principal carer. All the provisions of that scheme, particularly the required length of continuous service, the dates of absence and right to return will apply to the Adoption and Long Term Fostering leave and pay entitlement.

Please use the Adoption Leave and Pay Application form. The form should be submitted via your Head Teacher/Manager to The Central Operations Team at least 21 days before the date of the child's placement, the form confirms:

- the intention to adopt or foster a child on a long term basis;
- the date of the placement;
- the intention to return to work after the period of leave;
- the proposed dates of the leave.

The Central Operations Team will return the form to accept the application and confirm the leave and payment entitlement.

### **General Issues**

#### Children of a Previous Relationship

There is no automatic right to leave and pay when adopting a partner's child from a previous relationship, or the adoption of a relative's child. However, where there is a genuine need to establish such a relationship or bonding with the child, requests should be made via your Head Teacher/Line Manager to the Central Operations Team.

#### Other Adoption/Fostering Related Absences

Where adoption or long term fostering involves pre-placement meetings or Court Proceedings, employees are entitled to take up to three days paid leave at the discretion of your Line Manager.

#### Procedure

Please use an Adoption Leave and Pay Application Form to apply. The form should be submitted via your Head Teacher/Line Manager to the Central Operations Team at least 21 days before the date of the child's placement.

The Central Operations Team will return the form to accept the application and confirm the leave and payment entitlement.

#### Return to work after adoption leave

You are entitled to return to the same job after ordinary Adoption Leave, as long as the leave was, an isolated period of leave, or the last of 2 or more consecutive period of statutory leave which did not include any additional adoption leave, parental leave or additional maternity leave, unless a redundancy situation has arisen. If a reason other

than redundancy has arisen, you are entitled to be offered suitable alternative work on terms and conditions which are no less favourable.

If you are to be made redundant during your adoption leave you have the right to be offered alternative employment under a new contract. This will commence immediately following the end of your existing contract if a suitable vacancy exists and the terms and conditions of the new contract, in particular capacity and place of employment are not substantially less favourable than your old contract.

If you intend to return to work at the end of your full adoption leave entitlement you will not have to give any further notification to your Head Teacher/Line Manager or the Central Operations Team. If you decide not to return to work at the end of adoption leave, you must give your manager at least the notice required under your contract.

If you have taken additional adoption leave you are entitled to return to the same job unless it is not reasonably practicable for the authority to permit is. The 'same job unless not reasonably practicable' rule applies to a return from ordinary adoption leave where no right to return to the same job applies.

However, if you want to return to work before the end of your additional adoption leave period, you must give your Head Teacher/Line Manager 8 weeks' notice of the date you intend to return.



## **FAMILY EMERGENCY LEAVE**

### **Your Right to Time Off**

In many cases you now have the right to take time off work to deal with an emergency involving someone who depends on you. You cannot be penalised by your Head Teacher\Line Manager for taking the time off, providing your reasons for taking it are genuine.

#### So who counts as depending on me?

Your husband, wife or partner, child or parent, or someone living with you as part of your family, unless that person is an employee, tenant, lodger or boarder of yours, can all be considered as depending on you. Others who reasonably rely solely on you for help in an emergency may also qualify.

#### So what counts as an emergency?

An emergency is when someone who depends on you:

- falls ill and needs your help
- is involved in an accident or assaulted
- needs you to arrange their care if they are ill or injured
- needs you to deal with an unexpected disruption or termination of care arrangements.
- goes into labour
- to deal with an unexpected incident arising during a time when an educational establishment which your child attends is responsible for them.

You can also take time off if a dependant dies and you need to make funeral arrangements or attend the funeral.

(Officers - See Special Leave Arrangements in the Human Resources Leave Procedure or on the HR Intranet page

Teachers/Support Staff - See Special Leave Arrangements in the Personnel Handbook for Schools or on the School's HR Intranet page)

#### What if I know in advance that the problem is going to arise?

The legal right only covers emergencies. If you know beforehand that you are going to need time off, you may be able to arrange this with your Head Teacher\Line Manager by taking another form of leave. If it's your child that's involved, you may be entitled to a period of parental leave.

#### How much time can I take off?

As long as it takes to deal with the immediate emergency. For example, if your child falls ill you can take enough time off to deal with their initial needs, such as taking them to the doctor and arranging for their care. But you will need to make other arrangements if you want to stay off work longer to care for them yourself.

Will I be paid?

It depends on the circumstances. In some cases you can apply for paid leave but there is no legal obligation for you to be paid during the time you take off.

(Officers - See Special Leave Arrangements in the Human Resources Leave Procedure or on the HR Intranet page

Teachers\Support Staff - See Special Leave Arrangements in the Personnel Handbook for Schools or on the School's HR Intranet page)

How much notice do I have to give my employer?

You must tell your Head Teacher/Line Manager as soon as possible why you are away from work and how long you expect to be off. If you return to work before you have had the chance to contact your Head Teacher/Line Manager, you must still tell them why you were absent.

How do I find out more?

For more detailed information contact the Central Operations Team.

Occupational Special Leave Provisions

The Authority offers Special Leave Arrangements for staff.

The information is available in:-

- the Personnel Handbook for Schools, Section 10 for staff I schools. Application should be made on a Leave of Absence Application Form and**
- the [Human Resources Procedure intranet page](#) - [Leave Policy](#) for central staff. Application should be made on a [Special Leave Form](#).**

## **FLEXIBLE WORKING PROVISIONS**

The right for working parents to request to work flexibly came into force on 6 April 2003.

Employers have a legal duty to consider applications for flexible working from employees. The right therefore enables eligible individuals to **request** to work flexibly, but not provide an automatic **right** to work flexibly.

The employee should think carefully about their desired working pattern when making an application, and the employer is required to follow a specific procedure to ensure requests are considered seriously.

It will be for the appropriate Head Teacher/Line Manager to follow the procedure for considering requests.

### **Legislation**

The right to flexible working is provided for in the Employment Act 2002 and the relevant provisions are incorporated by that Act in to the Employment Rights Act 1996. The two Regulations dealing with the flexible working and which came into force on 6 April 2003 are

- Flexible Working (Eligibility, Complaints and Remedies) Regulation 2002
- Flexible Working (Procedural Requirements) Regulations 2002

The right to request flexible working has been extended to parents of children aged 16 and under from 6<sup>th</sup> April 2009.

### **The Basic Facts**

- If you have 26 weeks' continuous service you have a right to request a variation to your terms and conditions of employment
- The variation can relate to hours, times or place of work (restricted to the employee's home or another of the employer's workplaces)
- You must either be the mother, father, adopter, guardian or foster parent of the child or be married to or be the partner of the mother, father, guardian or foster parent of the child
- You must have or expect to have responsibility for the upbringing of the child
- Only one application can be made by you in any 12-month period
- A successful application will mean a **permanent** change to your contract of employment

## Procedure

### Making an application

The application must:

- Be made in writing and be dated.
- Explain and demonstrate how you meet the relationship requirement with the child
- Specify the desired change and proposed commencement date
- Explain what effect you think the change would have on your employer and how it might be dealt with
- State whether a previous application has been made to your employer and if so when.
- State that it is an application to request a contract variation.

### Employer's obligations

Your Head Teacher/Line Manager must: -

- Meet with you within 28 days of receiving an application unless otherwise agreed between the parties (refer to the guidelines)
- Where your Head Teacher/Line Manager is unavailable due to annual leave or sick leave, when you have made your application, time runs from the date your Head Teacher/Line Manager returns or 28 days from the date when the application was made, unless otherwise agreed between the parties.
- Inform you of their decision in writing within 14 days of the meeting unless otherwise agreed between the parties.
- If the application is successful then the employer must specify the contract variation agreed to and state the date on which the variation will take effect.
- If an application is refused, give a sufficient explanation as to why (see below)
- Offer a right of appeal within 14 days of the decision and explain the appeal procedure. The time limit for appealing can be extended by agreement between the parties

### The Appeal

- The appeal will be to the Head of Service (HOS)/Head Teacher/Governors (if not previously involved with the application).
- The notice of appeal must be in writing, dated and setting out the grounds of appeal.

The HOS/Head Teacher/Governors must: -

- Meet with you within 14 days of receipt of the notice of appeal, unless otherwise agreed between the parties,
- Inform you in writing of the decision within 14 days of the appeal meeting, unless otherwise agreed between the parties,
- If the appeal is refused, give a sufficient explanation as to why
- If the appeal is upheld you will be notified in writing of the panel's decision specifying the contract variation agreed to and the date on which the contract variation takes effect.

#### The Right to be accompanied

- You have the right to be accompanied by a colleague at the appeal stage.
- The colleague can address the meeting and confer with you but cannot answer questions on your behalf.

#### Refusal of an Application

An employer may only refuse an application on one or more of the following business ground(s):

- Burden of additional costs
- Detrimental effect on ability to meet customer demand
- Inability to reorganise work among existing staff
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned organisational changes\*

\*This business ground can be used where the change in your employee's working pattern would be incompatible with planned structural changes.

#### Withdrawal of an Application

- Failure to attend the application meeting or the appeal meeting without reasonable cause will be deemed as a withdrawal of your application
- Refusing to provide the employer, without reasonable cause, with information to assess whether the contract variation should be agreed to or not will be deemed to be a withdrawal of the application.
- You can withdraw the application by giving notice (written or verbal) to that effect.

## General Guidelines

### Refusing an Application

Where your Head Teacher/Line Manager is minded to refuse an application for flexible working, your Line manager must contact the designated Departmental HR (DHR) Advisor in the first instance. Your Head Teacher/Line Manager must ensure that he/she gives sufficient information (in writing), supporting their decision, based on one of the business grounds.

### Extension Periods

The following periods referred to in the procedure can be extended by agreement between the employer and the employee:

- (i) Initial Application meeting
  - (ii) Decision following the application meeting
  - (iii) Notice of Appeal
  - (iv) Appeal meeting
  - (v) Decision following the appeal meeting
  - (vi) Time allowed to deal with the initial application where the line manager is absent.
- The employer must record any agreement in writing, specifying clearly the period the extension relates to and the date the extension ends.

### Absence of Line Manager

Where the Line manager who would normally deal with the application is absent on annual leave or sick leave on the day when the application is made, the 28 day period to arrange for the application meeting begins either on the day the Line manager returns to work or 28 days after the application was made.

### Right to be Accompanied

The colleague or Trade Union representative accompanying you must be employed by the same employer.

Where the person accompanying you is not available at the time chosen for the application meeting or the appeal meeting and you suggests an alternative time/date that is convenient to all the parties and is within 7 days of the proposed meeting, the employer must postpone the meeting to the time you have proposed.

**The Council has a \*Work/Life Balance Scheme in place that applies to all employees and also covers Flexible working. Details of this can be found on the intranet under :- [http://intranet/guidelines\\_worklifebalance.pdf](http://intranet/guidelines_worklifebalance.pdf)**

[\*This does not apply to staff based in schools.]

## MATERNITY RIGHTS

The Council's schemes apply to all employees regardless of the number of hours worked per week. However, there must be an employment contract in force at the time you start your maternity leave.

### Risk assessment and pregnancy

The Council must take account of risks to new and expectant mothers. Risks to be assessed include those to the unborn child or a child of a woman who is still breastfeeding.

You must be informed of risks identified by the assessment, and of control measures to be implemented to ensure that you are not exposed to risks that could cause you harm.

If it is considered necessary to avoid risk by adjusting your working conditions and/or hours of work, offering you suitable alternative work where appropriate, or suspending you, then this must be done, but only if it is not possible to avoid the risk by any other means. This applies if you have notified the Council in writing that you are pregnant, have given birth within the last six months, or are breastfeeding.

### Ante-natal care

You have the right to paid time off to attend ante-natal care, if such examinations take place during working hours, subject to production of evidence of appointments.

### Expected Week of Childbirth

The week in which the Doctor, Hospital or Midwife calculates the baby will be born. The week starts at midnight on Sunday. This is usually abbreviated to EWC and you will receive confirmation of this date any time from 20<sup>th</sup> week of the pregnancy when you are given your MatB1 certificate.

It is a requirement that you provide the HR Central Operations Team with the MatB1 as soon as possible in order to validate your claim and enable statutory payments to be made.

### Early/Late Births

You can continue to work up to the birth of the child however this must be no later than the Sunday preceding the expected week of childbirth unless the leave is triggered by a pregnancy related absence 4 weeks before the expected birth date. If an early birth occurs then the Maternity Leave will start immediately. **You must have a minimum of two weeks absence after the birth of the baby.**

### Sickness trigger

Your Maternity Leave will start automatically if you are absent from work for a pregnancy related illness during the four weeks before the start of the EWC, regardless of when you said you actually want your maternity leave to start.

## Statutory Maternity Leave and Pay

The Statutory Maternity Provisions give a minimum entitlement to Maternity Leave and Pay to all employees. Maternity Leave and Pay are separate entitlements. (See Maternity Pay and Allowance)

Statutory Maternity Leave and Pay are available as either part of, or, in certain circumstances, in addition to the occupational maternity pay scheme. It may also be payable when the occupational scheme is not available.

### Maternity Leave Entitlement

All pregnant employees are entitled to take up to one year's (52 weeks) maternity leave, regardless of their length of service with the employer. Maternity leave is a single continuous period and is made up of:

**26 weeks' Ordinary Maternity Leave** – during which the contract of employment continues, and during which you must continue to receive all your contractual benefits except (unless agreed otherwise) wages or salary

- and -

**26 Weeks' Additional Maternity Leave** – during which the contract of employment continues, but only certain terms of the contract apply.

Some of this leave (maximum of 11 weeks) can be taken before the baby is born, the remainder taken afterwards.

### Notice of Intention to take Maternity Leave

You will be required to notify your Head Teacher/Line Manager of your intention to take maternity leave by the 15th week before the EWC, unless this is not reasonably practicable, using the Application for Maternity Leave and Pay form. You should also notify the HR Central Operations Team, at least 15 weeks before the EWC.

The Application for Maternity Leave and Pay form allows you to fulfill your statutory obligations by informing your Head Teacher/Line Manager:

- that you are pregnant
- the week your baby is expected to be born
- when you want your maternity leave to start

You will be able to change your mind about when you want to start your leave providing you tell your Head Teacher/Line Manager at least 28 days in advance (unless this is not reasonably practicable).

Your completed Application for Maternity Leave and Pay form will be returned to you to confirm your entitlement and the date on which you are expected to return to work if you take your full entitlement to Maternity Leave. The return date should be confirmed in writing to HR Central Operations Team who will also notify payroll.



You may commence your Maternity Leave no earlier than the beginning of the 11th week before the baby is due.

### Returning to Work after Maternity Leave

If you intend to return to work before the end of, or after your maternity leave (52 weeks) you will need to give the Head Teacher/Line Manager 8 weeks' notice (in writing) of the date you want to return to work. You can choose to return at any time but no earlier than two weeks after your baby is born. Employees will be required to complete the "Return from Maternity Leave Notification Form".

### Resignation Date

If you choose to resign during your Maternity Leave period, your nominated resignation date will be your final date of employment with the Authority.

The period between the final day of worked employment and the resignation date will be recorded for service purposes as continuous employment. The paid period, either Statutory Maternity Pay or Occupational Pay, will be included for pension purposes.

If you do not return to duty by the end of the Maternity Leave period (either Ordinary Maternity Leave (OML) or Ordinary plus Additional Maternity Leave (AML)), then you will need to provide us with a month's notice, detailed in your resignation letter. **In addition, if you decide not to return you will be required to repay part of your occupational maternity pay.**

### Maternity Pay Entitlement

You will be entitled to one of the following benefits: -

#### Statutory Maternity Pay

If you have been employed continuously by this authority for 26 weeks by the qualifying week (the qualifying week is the 15<sup>th</sup> week before the EWC) and your average earnings are relevant for National Insurance purposes (£ £102.00 per week from 1<sup>st</sup> April 2011) you will be entitled to Statutory Maternity Pay (\*this amount is lower than the amount when you have to start paying National Insurance contributions.)

If your average earnings are above the lower earning level for National Insurance purposes, you will be entitled to Statutory Maternity Pay.

You will receive: -

- Six weeks at 90% of average weekly earnings
- Thirty-Three weeks at £128.73 (rates from April 2011) per week, or 90% of your average weekly earnings if this is less than £128.73 per week

### Maternity Allowance

If you are not entitled to Statutory Maternity Pay but are employed and your earnings are below the lower earnings level, you may be able to claim Maternity Allowance from your local Jobcentre Plus or Department for Work and Pensions (DWP). For this purpose form SMP1 will be sent to you with your completed copy of the Maternity Leave and Pay Application form and MAT B1.

If you cannot get Statutory Maternity Pay or Maternity Allowance but have paid National Insurance contributions, you may be able to get Incapacity Benefit. You should contact your Department of Working Pensions office for further information. For this purpose form SMP1 will be sent to you with your completed copy of the Maternity Leave and Pay Application together with your MAT B1.

There may be other benefits you may be entitled to e.g. Income Support.

### Special Rules

There are certain rules, which the Government require all employees to note.

If you:

- \* go outside the EEC or the European Free Trade Countries (the Isle of Man and the Channel Isles are not part of the EEC) at any time in the maternity pay period (or after the start of the sixth week before the expected week of confinement if working closer to the birth);

or

- \* if you work after the birth for another employer;

or

- \* if you are in legal custody at any time during the maternity pay period;

then you must inform your Head Teacher/Line Manager and Central Operations Team immediately, as there would not then be an eligibility for Statutory Maternity Leave or Pay.

- \* Additionally, if you come back to work at any time while receiving Statutory Maternity Pay, benefit for that period will be lost.

If you need clarification regarding the decisions on Statutory Maternity Pay you are advised to contact the Payroll Team.

If you disagree with any of the decisions on Statutory Maternity Leave or Pay you may apply to the Department of Working Pensions Office for adjudication.

## **Occupational Maternity Leave and Pay - Officers/Support Staff**

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 Merton.

If you have completed one year's continuous local government service at the 11th week before the EWC you will be entitled to:

### **Entitlement if you intend to return to work**

- 90% of a week's pay for the first six weeks of absence
- 12 weeks at half pay plus SMP
- 21 weeks flat rate SMP (£128.73 from April 2011)

### **Entitlement if you do not intend to return to work**

- 90% of a week's pay for the first six weeks of absence
- 33 weeks flat rate SMP (£128.73 from April 2011)

It is important to note that payments of occupational salary or wages made during the maternity leave period beyond the first six weeks are made on the basis that the employee gives an undertaking that she will return back to work within Merton Council, for a minimum period of three months.

In the event of you not returning to work within the London Borough of Merton, you will be required to refund payments received, or such part thereof as the Council may decide. Payments made to you by way of SMP do not have to be refunded.

### Pension

If you are a member of the Local Government Pension Scheme (LGPS) and receive Occupational Maternity Pay or Statutory Maternity Pay, contributions will be taken from the pay you receive. During the period of unpaid leave you can decide whether to pay contributions as if you were receiving maternity pay. If you do not pay these contributions, you will have 30 days from the date you return to work or the date you tell your Line Manager that you are leaving to decide whether you want to pay the extra contributions. If you do not pay contributions for the unpaid period, it will not count as membership of the LGPS. For further details on pension matters, you should contact the Pensions Section.

### Annual Leave

You will continue to accrue annual leave in the normal way during Maternity Leave.

## Maternity Rights

### Occupational Maternity Leave and Pay – Officers/Support Staff – Continued.

#### Bank Holidays

Full-time and part time staff will be paid at the appropriate rate of Maternity Pay e.g.90% during 90% period for Bank Holidays where they fall during a period of paid OMP/SMP. One days leave (pro rata for part time staff) will be accrued per Bank Holiday where they fall during an unpaid period of Maternity Leave but without pay. This can be taken at the end of the Maternity Leave period.

Term-time/Part year staff will continue to be paid for the Bank Holidays where they fall during a period of paid OMP/SMP e.g. as above 90% during 90% period. Where the Bank Holiday falls during a period of no pay they will not accrue any entitlement.

#### Keeping in Touch Days

Keeping in touch days have been introduced, during which you can agree to resume work without that work bringing the period of leave to an end, and without loss of a week's statutory maternity pay.

You can carry out up to 10 days' work during your maternity leave period. This applies to the period of maternity leave following the birth, except during the first two weeks from childbirth, which is a period of compulsory maternity leave during which an employee may not legally work. **Working for part of a day will count as one day's work.**

Further advice should be sought from the Central Operations Team. The Council has agreed to re-instate any keeping in touch days as annual leave once you have returned to work. Alternatively you can be paid for the KIT day(s) at the next available payroll. The intention of keeping in touch days is to allow you, with the agreement of your employer, to return to work and be reimbursed for the KIT days/hours. This does not confer any right on your employer to require that any work be carried out during the statutory leave, nor any right on you to work during the statutory leave period.

## **Occupational Maternity Leave and Pay (Burgundy Book Conditions) – Teaching Staff**

For expectant mothers whose baby is due to be born on or after 1st September 2010 the provisions of the **Conditions of Service for Schoolteachers in England and Wales** ('The Burgundy Book') will apply. This applies to all pregnant teachers, regardless of the number of hours worked per week.

Teachers with **one year's continuous service** with one or more local authorities at the 11th week before the expected week of childbirth (EWC) will receive 18 weeks Occupational Maternity Pay (OMP), as follows:

4 weeks at full pay	(SMP offset)
2 weeks at 9/10ths of a week's pay	(SMP offset)
12 weeks at half pay*	(+ SMP)

This will be followed by 21 weeks Statutory Maternity Pay (SMP). The remaining 13 weeks leave are unpaid.

\*The 12 weeks of half occupational maternity pay is only payable on condition that the teacher returns to work for at least 13 weeks.

All payment will be made to you on a monthly basis. If you are not sure about returning to your post you may choose to have the payments made to you on your return to duty.

### **Maternity Leave**

All teachers are entitled to take up to 52 weeks maternity leave regardless of the length of qualifying service with the employer. Leave is composed of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML). **It can commence at any time** but no earlier than the 11<sup>th</sup> week before the Expected Week of Childbirth (EWC).

### **Statutory Maternity pay**

If you are not entitled to the provisions of the Teachers' Burgundy Book you may still be entitled to Statutory Maternity Leave and Pay, and a right of return to your existing post. Provided the qualifying criteria are met, teachers will be entitled to receive 39 weeks Statutory Maternity pay (SMP), made up of 6 weeks at 9/10ths of a week's pay plus 33 weeks at standard rate SMP (currently £128.73 from April 2011). The remaining 13 weeks leave are unpaid. The qualifying criteria are that the teacher must have **26 weeks continuous service** with the employing local authority at the 15<sup>th</sup> week before the EWC and be in employment during the qualifying week. In addition, earnings must be above the lower limit for the payment of NI Contributions.

### **Notification of return to work**

The notice an employee must give if she wants to return to work early from ordinary maternity leave or from additional maternity leave is a minimum of 21 days'. However, if employees are able to give longer notice this will help with the overall planning of the school.

## Maternity Rights

### Occupational Maternity Leave and Pay – Teachers – Continued

#### **Notice of intention to take maternity leave**

Teachers are required to notify their Headteacher or Line Manager and the HR COT team, of their intention to take maternity leave by the 15<sup>th</sup> week before the EWC, unless this is not reasonably practicable, using the Application for Maternity Leave and Pay form. They should also supply form MATB1.

#### **Date of Return**

If you return to work immediately following maternity leave and have complied with the Maternity Rights criteria you will return to the job in which you were employed under your current contract of employment and on terms and conditions not less favourable than those which would have been applicable to you had you not been absent.

Prior to your return to work you may wish to discuss with the Head Teacher/Manager the Council's flexible working arrangements, e.g. part-time and job share options under the Council's arrangements for these facilities.

Where it would be unreasonable to expect you to return on the notified day because of an interruption of work (whether due to industrial action or some other reason), you may instead return when work resumes, or as soon as reasonably practicable thereafter.

You will be advised and or consulted where there are implications for you arising out of re-organisations and/or business transfer(s) or any change on which the Teacher Trade Unions are being consulted.

If you are unable to return to work on the notified date and you submit a Doctor's certificate, the provisions of the Sick Pay Scheme will apply to your absence. Paid Maternity leave and authorised unpaid Maternity Leave shall be regarded as service for the purposes of the Council's Sickness Pay Scheme.

#### **Resignation Dates**

If you decide not to return to duty following a period of maternity leave you should inform your Head Teacher/Manager and the Central Operations Team as soon as you make your decision.

Your date of resignation will be as follows:

##### **Occupational and Statutory Maternity Leave and Pay**

The date of resignation will be the last day of Statutory Maternity pay.

##### **Occupational Maternity Leave and Pay only**

The date of resignation will be the day prior to the commencement of the leave as any payments made under the terms of the occupational maternity scheme will have been repaid.

### Statutory Maternity Leave and Pay only

The date of resignation will be the last day of Statutory Maternity pay.

If you do not return to work for at least 13 weeks after your Maternity Leave the Authority may request a repayment from you of any occupational maternity payments but there is no requirement to repay Statutory Maternity Pay.

### General

If you need clarification regarding the London Borough of Merton's decisions on the occupational maternity scheme you are advised to contact the staff of the HR Central Operations Team.

### Continuous Service

For teachers returning to duty the whole period of the absence will count as continuous service.

### Pension

Pension contributions will be deducted at the usual rate during all paid periods. You have the option to pay combined contributions for the unpaid period of maternity leave. Combined contributions mean that you will pay both your own and the employers contribution for the period.

### Application Form

To apply for maternity leave under the Teachers Maternity Scheme you should complete the Application for Maternity Leave and Pay. The form should be completed no later than 16 weeks prior to the EWC. Do not delay submitting the form whilst awaiting receipt of your MatB1. The MatB1 can follow as soon as it is received from the Doctor or Midwife.

### Keeping in Touch Days

Keeping in touch days have been introduced, during which you can agree to work without that work bringing the period of leave to an end, and without loss of a week's statutory maternity pay.

You can carry out up to 10 days' work during your maternity leave period. This applies to the period of maternity leave following the childbirth, except during the first two weeks from childbirth, which is a period of compulsory maternity leave during which an employee may not legally work. **Working for part of a day will count as one day's work.**

Arrangements will be made for you to be reimbursed for any KIT days. Please contact the Central Operations Team for more information.

### Reasonable Contact

The purpose of the measure is to enable your employer to initiate contact with you on maternity leave in order, for example, to discuss whether or not your planned date of return to work has changed or is likely to do so, or to discuss any special arrangements to be made to ease your return to work. (for example, whether you wish to request the right

to work flexibly). In addition this measure has been introduced to enhance communication and contact between you and your employer during maternity leave periods. Reasonable contact from time to time between you and your employer during maternity leave does not bring the period of leave to an end.

### Right to return to work

If you return to work immediately following maternity leave and have complied with the Maternity Rights criteria you will return to the job in which you were employed under your current contract of employment and on terms and conditions not less favourable than those which would have been applicable to you had you not been absent.

Prior to your return to work you may wish to discuss with your Line Manager the Council's flexible working arrangements, e.g. part-time and job share options under the Council's arrangements for these facilities. Where it would be unreasonable to expect you to return on the notified day because of an interruption of work (whether due to industrial action or some other reason), you may instead return when work resumes, or as soon as reasonably practicable thereafter. If you are unable to return because you are sick, the normal reporting procedures will apply.

You will be advised and/or consulted where there are implications for you arising out of reorganisations and/or business transfer(s) or any change, which has implications for your contract of employment with the Council.

If you are unable to return to work on the notified date and you submit a Doctor's certificate, the provisions of the Sick Pay Scheme will apply to your absence. Paid Maternity leave and authorised unpaid Maternity Leave shall be regarded as service for the purposes of the Council's Sickness Pay Scheme.

## **Employee Maternity Rights in the Event of a Stillbirth or Miscarriage**

### Stillbirth or miscarriage before the 25th week of pregnancy

If a woman miscarries her baby or has a stillbirth earlier than the 25th week of her pregnancy, she will not qualify for any Occupational Maternity Leave or Pay, Statutory Maternity Leave or Pay or Maternity Allowance. If she takes a period of sickness absence from work, she should be paid her contractual sick pay, or Statutory Sick Pay if there is no contractual sick pay scheme.

### Stillbirth or miscarriage from the 25th week of pregnancy onwards

If a woman has a stillbirth from the 25th week of pregnancy onwards, she would be eligible for Occupational Maternity Leave and Pay, Statutory Maternity Leave and Pay or Maternity Allowance in the usual way, providing she has the necessary qualifying period.

### Birth of a living child before the 25th week of pregnancy onwards

If a woman gives birth prematurely to a living child, even in cases where the baby later dies, at any point, she will be entitled to Occupational Maternity Leave and Pay, Statutory Maternity Leave and Pay or Maternity allowance in the usual way, providing you have the necessary qualifying period.



## **PARENTAL SUPPORT LEAVE**

Both mothers and fathers, whether they are natural or adoptive parents can take unpaid Parental Leave subject to meeting the qualifying criteria.

Leave, subject to the qualifying criteria, will also be granted to employees who have been nominated as next of kin or acquired parental responsibility for the purposes of adoption or long term fostering of a child (long term fostering is over six years).

### Eligibility

You will qualify for Parental Leave if you have continuous service of at least one year and you are:

- The mother of the child; or
- The partner (including Civil Partner) of an expectant mother; or
- You have parental responsibility to assist in the long term care of the child and to provide support to the mother; or
- You have been nominated as next of kin or parent for the purposes of adoption or long-term fostering of a child.

Parental Leave can be taken up to the child's fifth birthday or the fifth anniversary of the placement date for adoption (or the 18<sup>th</sup> birthday if that is sooner). Parental Leave for disabled children born on or after 15<sup>th</sup> December 1994 can be taken up to the 18<sup>th</sup> birthday.

### Entitlement

If you meet the qualifying criteria you may take up to 13 weeks (18 weeks for disabled children) unpaid leave (pro-rata basis for part-timers). In the case of multiple births or multiple adoptions the allowance is for each child.

Parental Leave may be taken in the following form at any time during the following periods:

- up to a maximum of four weeks in any leave year until the child is five years old, or in the case of adoptions or the child is disabled until the child is 18 years old.
- The 13 (18) week Parental Leave must be taken in multiples of weeks and part weeks will count as whole weeks.
- If you meet the qualifying criteria you should complete the Application for Parental Leave and Pay form and return it to your Head Teacher/Line Manager. The application should be received giving 21 days of notice of when leave is to begin. You may be asked for reasonable evidence e.g. Proof of the child's age and responsibility towards the child.
- Requests for Parental Leave will be approved having regard to the needs of the service. Parental leave may be postponed by management for up to six months, except where requests for leave coincide with childbirth or adoption placement.

## **ORDINARY PATERNITY/ADDITIONAL PATERNITY LEAVE**

There are 2 parts to this section:-

**Ordinary Paternity Leave** - allowance of up to 2 weeks paid leave

**Additional Paternity Leave** - allowance of up to 26 weeks leave

### **Ordinary Paternity Leave**

Eligible employees will be able to take up to two weeks' paid leave to care for their new baby and to support the mother.

#### **Eligibility**

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

- have or expect to have responsibility for the child's upbringing
- be the biological father of the child or the mother's husband or partner (this may be either sex)
- have worked continuously for your employer for 26 weeks by the beginning of the 15th week before the baby is due in order to be entitled to Statutory Paternity Leave and Pay
- have worked continuously for your employer for 1 year in order to be entitled to the 5 days paid Occupational leave.
- The entitlement to five days paid Occupational leave will not apply if you qualify for Maternity Leave, or if you are designated as Principal Carer and are entitled to leave under the Council's Adoption and Long-term Fostering schemes.

You should complete the Application for Paid Paternity Leave and Self Certificate form to provide evidence that you meet these eligibility conditions.

#### **Length of Paternity Leave**

If you are eligible for :-

##### **Statutory and Occupational Paternity Leave**

You will be entitled to take one week of Occupational Paternity Leave, which may be taken as either a whole week or as odd days, plus an additional week of Statutory Paternity Leave, which must be taken as five consecutive days Monday to Friday.

##### **Statutory Paternity Leave**

You will be entitled to take two weeks of Statutory Paternity Leave, which must be taken as two periods of five consecutive days Monday to Friday.

## **Paternity Leave**

### **Length of Paternity Leave – continued**

You can choose to start your leave: -

- from the date of the child's birth (whether this is earlier or later than expected), or
- from a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected), or
- from a chosen date.

Leave can start on any day of the week on or following the child's birth but must be completed:-

### **For Statutory Paternity Leave**

- within 56 days of the actual date of birth of the child, or
- If the child is born early, within the period from the actual date of birth up to 56 days after the expected week of birth.

### **For Occupational Paternity Leave**

- within 6 months of the actual date of birth of the child, or
- for adoption or long term fostering within 29 weeks following placement.

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.

### Statutory/Occupational Paternity Pay

#### **Statutory and Occupational Paternity Pay**

You will be paid full pay for one week of Occupational Paternity Pay, which may be taken as either a whole week or as odd days, plus a second week of Statutory Paternity Pay, which must be taken as five consecutive days Monday to Friday.

#### **Statutory Paternity Pay**

You will be entitled to take two weeks of Statutory Paternity Pay, which must be taken as two periods of five consecutive days Monday to Friday.

Statutory Paternity Pay is the same rate as flat rate Statutory Maternity Pay in accordance with the Statutory Maternity Pay Regulations (£128.73 per week from April 2011). If you do not qualify for SPP you may be able to get Income Support while on paternity leave. Additional financial support may be available through Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant. Further information is available from the local Jobcentre Plus office or Social Security office.

### Paternity Leave and Adoption

Those parents who are adopting a child are also entitled to take Ordinary Paternity Leave and Additional Paternity Leave

### What if you do not qualify for paid Paternity Leave?

If you earn less than the lower earnings limit for national insurance contributions you have the right to unpaid paternity leave. If you meet other conditions you may be able to get Income Support while on Paternity Leave.

### Notice of Intention to take Paternity Leave

You will be required to inform your manager of your intention to take paternity leave by the fifteenth week before the baby is expected, unless this is not reasonably practicable. You will need to complete the Application for Paid Paternity Leave and provide a copy of the MatB1 supplied by the Midwife at 20 weeks to the mother of the child.

- the week the baby is due
- whether you wish to take one or two weeks' leave
- when you want your leave to start.

You will be able to change your mind about the date on which you want your leave to start providing you tell your Head Teacher/Line Manager and the Central Operations Team, at least 28 days in advance (unless this is not reasonably practicable). Your Head Teacher/Line Manager will agree the date on which you wish to start your Paternity Leave and Pay at least 28 days in advance, unless this is not reasonably practicable.

### Return to Work after Paternity Leave

You will be entitled to return to the same job following paternity leave.

### **What happens if you lose your baby?**

Providing you meet all other conditions, you can still take paternity leave if your child is:

- stillborn after 24 weeks of pregnancy
- born alive at any point of the pregnancy but dies later

### **Additional Paternity Leave Policy**

#### **Introduction**

Legislation was implemented on 3 April 2011 permitting fathers to take up to 26 weeks' additional paternity leave before the child's first birthday where the mother of the child returns to work. This affects parents whose child is due on or after 3 April 2011.

The right also applies to employees who have been matched with a child for adoption and who are notified of having been matched with the child on or after 3 April 2011. In the case of a child adopted from overseas, employees can take additional paternity leave where the child enters Great Britain on or after 3 April 2011.

This period of additional paternity leave is in addition to the existing entitlements to

ordinary paternity leave.

Paternity leave should not be confused with parental leave. Employees who are parents and have at least one year's service have the right to take up to 13 weeks' unpaid parental leave before their child's fifth birthday (18 weeks before the child's 18<sup>th</sup> birthday where the child is disabled). Adoptive parents must take the leave by the fifth anniversary of the adoption, or the child's 18<sup>th</sup> birthday (where a child is disabled) - whichever occurs sooner. Parental leave is available to both parents in respect of each qualifying child

### **Eligibility for additional paternity leave**

Eligibility for additional paternity leave is largely the same as eligibility for ordinary paternity leave. In addition, an employee who requests additional paternity leave must still be in employment at the time the additional paternity leave begins.

An employee is eligible for additional paternity leave only where the mother of the child is entitled to statutory maternity leave, statutory maternity pay or maternity allowance, and has returned to work, so it is not permissible for the mother of the child to be on maternity leave while the father is on additional paternity leave. However, there may be a short gap between the mother returning to work and the father commencing additional paternity leave. In the case of an adopted child, the child's adopter must be entitled to statutory adoption leave or statutory adoption pay and must have returned to work.

The purpose of additional paternity leave must be to care for the child (not the mother). This means that an employee will not be eligible unless the employee genuinely intends to use the period of leave to care for the child.

### **Duration and scheduling of additional paternity leave**

Additional paternity leave is a period of between two weeks and 26 weeks leave, which must be taken in a single block between the time the child is 20 weeks old and the date of his or her first birthday.

In the case of an adopted child, the employee must take the leave between the period of 20 weeks and 12 months after the child has been placed for adoption. In the case of a child adopted from overseas, the employee must take the leave between the period of 20 weeks and 12 months after the child enters Great Britain.

### **Additional paternity pay**

Additional statutory paternity pay (SPP) is payable to natural and adoptive parents, including those adopting from overseas, where they fulfil the eligibility conditions for additional paternity leave and ordinary SPP.

In addition, at the time the mother or adopter returns to work, they must have at least two weeks statutory maternity pay (SMP), maternity allowance or statutory adoption pay remaining. The remaining pay period may be transferred to the father or partner (as additional SPP) at the same standard fixed weekly rate. Since SMP is payable for up to 39 weeks, fathers are eligible to receive SPP only during the remainder of this 39-week period and any additional paternity leave taken beyond that period will be unpaid.

### **Notification and documentary evidence of eligibility**

No later than eight weeks before the employee wishes the period of additional paternity leave to begin, they must give their written notice of:

- Their intention to take additional paternity leave;
- the dates on which they propose that the period of leave will start and end; and
- The child's expected week of birth and actual date of birth (or the date that was received as notification of being matched with the child and the date of placement of the child for adoption, or, for overseas adoptions, the date that he received official notification and the date that the child entered UK).

The employee must also give the employer a signed declaration confirming their eligibility in terms of their relationship with the child/mother (and that they has been matched with the child for adoption if they are adopting a child), and that the proposed period of leave is for the purpose of caring for the child.

Within the same time frame, the mother or adopter should provide a written and signed declaration providing:

- name and full address;
- national insurance number;
- the date on which they intend to return to work;
- confirmation of the fathers/partner's eligibility to paternity leave in respect of their relationship to the child/mother and that they will be responsible for the child's upbringing;
- confirmation that the employee applying for additional paternity leave is the only applicant; and
- Confirmation that the mother/adopter consents to the processing of this information.

There is no obligation on the father/partner's employer to check the information with the mother's employer, although line managers may seek to do this if they wish. In that case, the manager may ask the employee to provide:

- the name and address of the mother/adopter's employer; and
- the child's birth certificate, or, in cases of adoption, the name and address of the adoption agency, evidence of the date on which the employee was notified that he was matched with the child and evidence of the date that the child was expected to be placed for adoption (or, in the case of overseas adoption, a copy of the official notification of adoption and evidence of the date on which the child entered Great Britain).

On receiving notice of a proposed period of additional paternity leave, the employer must write to the employee within 28 days, confirming the start date and end date of the period of leave.

If, having given notice of a period of additional paternity leave, the employee changes their mind about the timing of the leave, they may write to their Manager to give notice that they wish to change the start and/or finish date of the period of leave. Such notice must be given at least six weeks before either the original start/finish date or the new date, whichever falls first.

There are also notification requirements if the employee claims entitlement to additional statutory paternity pay (SPP). No later than eight weeks before the employee wishes the period of additional SPP to begin, they must give written notice that they require additional SPP and written notification of:

- name;
- the child's expected week of birth and actual date of birth (or the date that he received notification of being matched with the child and the date of placement of the child if for adoption, or, if they are adopting from overseas, the date that they received official notification of adoption and the date that the child entered UK); and
- The date that additional SPP should start and end.

The employee must also provide a signed written declaration that the above information is correct, that they intend to care for the child during the additional SPP period and that they fulfil the relationship eligibility requirements for SPP.

Within the same time frame, the mother or adopter should provide a written and signed declaration. The signed statement should provide:

- her name and full address;
- her national insurance number;
- confirmation that she has given notice to her employer that she is returning to work;
- the date that she intends to return to work;
- confirmation that she is entitled to statutory maternity pay, maternity allowance or statutory adoption pay and the start date of her maternity or adoption pay period;
- confirmation that the employee applying for additional SPP is the only applicant; and
- Confirmation that she consents to the processing of this information.

### **Rights during additional paternity leave**

While on additional paternity leave, the employee has a range of rights. These include:

- the right to the continuation of all terms and conditions of employment, except pay;
- the right to return to either the same job or to a suitable alternative position on terms no less favourable;
- protection from detriment for any reason connected with the fact he has requested or taken additional paternity leave; and
- Protection from dismissal if the fact that he has requested or taken additional paternity leave was the reason, or principal reason, for dismissal (including selection for redundancy).

**If the child dies**

If the employee's child dies during additional paternity leave (or during the period of notice that the employee has given with respect to taking additional paternity leave), the period of additional paternity leave will terminate at the end of the week that falls eight weeks after the death of the child. If the notified return date occurs less than eight weeks after the death of the child, the notified date will prevail.

Similar rules apply where the child is returned to the adoption agency.

**Keeping-in-touch days**

During additional paternity leave, employees may, by agreement, work for up to 10 days (either separately or in a block) without losing entitlement to additional statutory paternity pay or triggering the end of the period of additional paternity leave. This mirrors the provisions available to employees on maternity leave and adoption leave.

**Redundancy during additional paternity leave**

If an employee's job becomes redundant during their additional paternity leave, they will be consulted with and treated as all employees who are under threat of redundancy. For further details please see Redundancy policy



## Protection from Detriment and Dismissal

You are protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take, adoption leave, fostering leave, maternity leave, parental support leave or paternity leave. If you believe you have been treated unfairly you will be able to complain to an employment tribunal.

## Sources

[www.cipd.co.uk/infosource](http://www.cipd.co.uk/infosource)

[www.eoc.org.uk](http://www.eoc.org.uk)

[www.acas.org.uk](http://www.acas.org.uk)

[www.dti.gov.uk](http://www.dti.gov.uk)

[www.lg-employers.gov.uk](http://www.lg-employers.gov.uk)

LB Merton Corporate Policy

Original word version of document held in: Ce\_users on 'Ntserver\_it1' (H:)

H:\Central Operations Team\Policies & Procedures\Family Support Provisions – April 2011

**APPLICATION FOR ADOPTION LEAVE AND PAY – April 2008**

\* = Delete where appropriate. Please complete form in BLOCK CAPITALS, thank you.

SURNAME

FIRST NAMES

SCHOOL/  
SECTION

EMPLOYEE NO.

The expected date of the child's placement is

I would like any Statutory Adoption Leave and Pay and Occupational Adoption Leave and Pay to which I am entitled to start on: \_\_\_\_\_

*For details of entitlement please see Family Support Provisions document.*

**YOUR DECLARATION**

You must be able to answer yes to these questions

- I am the principal carer for the child \*Yes/No
- the child is newly matched for adoption \*Yes/No

You must be able to answer yes to one of these questions

- I am not adopting jointly \*Yes/No
- I am adopting jointly but my partner is not an employee of LB Merton \*Yes/No
- I am adopting jointly but I am the nominated carer for the child \*Yes/No

I enclose the matching certificate.

\*I intend/do not intend to return to duty at the end of my Adoption leave period. (delete as appropriate)

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

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

**For official use only**

Adoption Leave and Pay Entitlement

Your application for Adoption Leave and Pay is accepted and the details of your entitlement are as follows:-

Statutory Leave Entitlement	
Statutory Pay Entitlement	
Occupational Leave Entitlement	
Occupational Pay Entitlement	

HR Signature: \_\_\_\_\_ Date \_\_\_\_\_

**Original to:** Payroll  **Copies to:** Employee  \*Line Manager / Head Teacher  **PaHRIS:** File  AMS Updated

**APPLICATION FOR FOSTERING LEAVE AND PAY - April 2008**

\* = Delete where appropriate. Please complete form in BLOCK CAPITALS, thank you.

SURNAME

FIRST NAMES

SCHOOL/  
SECTION

EMPLOYEE NO.

The expected date of the child's placement is

I would like any Fostering Pay and Leave to which I am entitled to start on : \_\_\_\_\_

*For details of entitlement please see Family Support Provisions document.*

**YOUR DECLARATION**

You must be able to answer yes to these questions

- I am the principal carer for the child \*Yes/No
- the child is newly matched for fostering \*Yes/No

You must be able to answer yes to one of these questions

- I am not fostering jointly \*Yes/No
- I am fostering jointly but my partner is not an employee of LB Merton \*Yes/No
- I am fostering jointly but I am the nominated carer for the child \*Yes/No

I enclose the matching certificate.

\*I intend/do not intend to return to duty at the end of my Fostering leave period. (delete as appropriate)

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

**For official use only**

Fostering Leave and Pay Entitlement

Your application for Adoption Leave and Pay is accepted and the details of your entitlement are as follows:-

Occupational Leave Entitlement	
Occupational Pay Entitlement	

HR Signature: \_\_\_\_\_ Date \_\_\_\_\_

**Original to:**

**Copies to:**

**PaHRIS:**

Payroll

Employee

\*Line Manager / Head Teacher

File

AMS Updated

**APPLICATION FOR MATERNITY LEAVE AND PAY – APRIL 2010**

\* = Delete where appropriate. Please complete form in BLOCK CAPITALS, thank you

NAME:

EMPLOYEE  
NUMBER:

DEPARTMENT/SECTION/  
SCHOOL \*

Are you a teacher? \*Yes or No

The baby is due to be born/has already been born on\*

London Borough of Merton start date or a date for continuous service e.g. other authority: \_\_/\_\_/\_\_.

I am currently on a \*permanent/fixed term/temporary contract finishing on \_\_/\_\_/\_\_.

**For details of entitlement please refer to the Family Support Provisions document.**

**YOUR DECLARATION**

I enclose form MatB1 \*Yes/No

I will send form MatB1 as soon as I receive it: \*Yes/No

**I would like the Leave and Pay to which I am entitled to start on:**

- \*I intend /do not intend to return to duty at the end of my Statutory Maternity Leave (SMP) and or Occupational Maternity Leave.
- I wish to receive payment of my Occupational Maternity Pay on: \*monthly basis / return to work  
**Please note: In the event of you not returning for the mandatory minimum period in line with the Family Support Provisions document, you will be required to refund payments received.**

For entitlement to SMP you must be employed by the London Borough of Merton continuously for at least 26 weeks by the 15<sup>th</sup> week before the baby is due [41 weeks in total]. For SMP only you must continue to work for Merton up to and including the 11<sup>th</sup> week before your baby is due.

**I understand that my entitlement to Statutory and or Occupational Maternity Pay will be paid according to my request.**

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

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

**For Official use only**

Maternity Leave and Pay Entitlement:

\*Pay During Absence/Pay on Return to Duty

Details of your entitlement to Maternity Leave and Pay are as follows:

Statutory Leave Entitlement	From _____ to _____ (52 weeks)	
Occupational Leave Entitlement	From _____ to _____ (52 weeks)	
Pay Entitlement	Application disallowed, SMP1 to be sent by payrolls department.	All Staff
	SMP only 6 weeks at 90%, 33 weeks at flat rate SMP	All Staff
	6 weeks at 90%, 12 weeks 1/2 pay plus flat rate SMP and 21 weeks at flat rate SMP	Officers Only
	4 weeks full pay, 2 weeks at 90% of a week's pay, 12 weeks at 1/2 pay plus SMP and 21 weeks at flat rate SMP	Teachers Only
HR Signature: _____	Date: _____	
Original to Payroll: <input type="checkbox"/> Copy to Employee: <input type="checkbox"/> Copy to *Line Manager/Head Teacher: <input type="checkbox"/> File Copy: <input type="checkbox"/> AMS Updated: <input type="checkbox"/>		

# RETURN FROM MATERNITY LEAVE NOTIFICATION



## Employee (to complete)

**Please complete the Employee section of this form in BLOCK CAPITALS and Forward your completed form to your Line Manager**

Name:

Employee No:

#Dept.\Team\Location\School: \_\_\_\_\_  
# Delete where appropriate

Proposed Return to Work Date\*: \_\_\_\_\_

\*A minimum of 8 weeks notice in writing to your line manager is required.

Employee Name (print): \_\_\_\_\_

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

## Manager (to complete)

**Please complete the Manager section of this form in BLOCK CAPITALS and Forward this completed form to the HR Central Operations Team**

❖ Has a meeting taken place to agree return date with your staff member? Yes  No

❖ Enter meeting date if applicable: \_\_\_\_\_

❖ Are you able to agree this return date? : Yes  Enter agreed return date: \_\_\_\_\_

No  Reason for non-agreement \_\_\_\_\_

❖ Has there been a change in hours? Yes  No

If yes, please complete the on-line Movers notification Form found in 'do it online' on the Intranet homepage (non-schools). <http://eforms/af3int/au/default.aspx/RenderForm/?F.Name=dcpetuDabFS>  
School based staff to complete either form **ED13N** (Non-teaching) or **ED 13A** (teaching) contractual variation form.

Manager's Name (print): \_\_\_\_\_

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

Date Signed and Sent to the HR Central Operations Team: \_\_\_\_\_

### For official use only

AMS Updated

Payroll notified

Filing

**APPLICATION FOR PARENTAL LEAVE – April 2008**

\* = Delete where appropriate. Please complete form in BLOCK CAPITALS, thank you.

SURNAME

FIRST NAMES

SCHOOL/DEPT./ SECTION

EMPLOYEE NO.

Name of child

Date of birth of child

The child is fostered or adopted \*Yes/No

The child is disabled \*Yes/No

I would like to apply for unpaid Parental Leave from: \_\_\_\_\_ to \_\_\_\_\_

*For details of entitlement please see Family Support Provisions document.*

**YOUR DECLARATION**

You must be able to answer yes to one of these questions

I am the mother of the child;	*YES / NO
I am the partner of an expectant mother;	*YES / NO
I have parental responsibility to assist in the long term care of the child and to provide support to the mother;	*YES / NO
I have been nominated as next of kin or parent for the purposes of adoption or long-term fostering of a child	*YES / NO

***I understand all absences will be unpaid. I have already taken \_\_\_\_\_ weeks Parental Leave***

I enclose the child's \* birth certificate/matching certificate/proof of responsibility

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

Approved by \*Head Teacher/Line Manger

\*Yes/No

Signed \_\_\_\_\_

Date \_\_\_\_\_

\*Head Teacher/Line Manager

**For official use only:**

Parental Leave

Your application for Parental Leave is accepted and the details of your entitlement are as follows:-

Unpaid Leave Entitlement	From _____ to _____
Total weeks take	

HR Signature: \_\_\_\_\_ Date \_\_\_\_\_

Original to:

Copies to:

PaHRIS:

Payroll

Employee

\*Line Manager / Head Teacher

File

AMS Updated

**APPLICATION FOR ORDINARY PAID PATERNITY LEAVE AND SELF CERTIFICATE – April 2011**

\* = Delete where appropriate. Please complete form in BLOCK CAPITALS, thank you.

SURNAME

FIRST NAMES

SCHOOL/DEPT./ SECTION

EMPLOYEE NO.

\*The baby is due to be born on/has already been born:

 /  / 20

Start date with London Borough of Merton:

 /  / 

*For details of entitlement please see Family Support Provisions document.*

**YOUR DECLARATION**

**You must be able to tick all of the boxes below to get both statutory & occupational paternity pay**

- ❖ Have or expect to have responsibility for the child's upbringing
- ❖ Be the biological father of the child or the mother's husband or partner (this may be either sex)
- ❖ Have worked continuously for your employer for 26 weeks by the beginning of the 15th week before the baby is due in order to be entitled to Statutory Paternity Leave and Pay [41 weeks in total].
- ❖ Have worked continuously for your employer for 1 year in order to be entitled to the 5 days paid Occupational leave.
- ❖ The entitlement to five days paid Occupational leave will not apply if you qualify for Maternity Leave, if you are designated as Principal Carer and are entitled to leave under the Council's Adoption and Long-term Fostering schemes.  or

I would like to apply for \*one/two weeks Statutory Paternity Leave and Pay From \_\_\_\_\_ to \_\_\_\_\_  
**(This must be periods of 5 consecutive days Monday to Friday)**

Occupational Paternity Leave for the period: From \_\_\_\_\_ to \_\_\_\_\_ or for the following dates  
 \_\_\_\_\_

I am applying for Additional Paternity Leave from \_\_\_\_\_ to \_\_\_\_\_

I lost my baby and am applying for Paternity Leave: \_\_\_\_\_ to \_\_\_\_\_

If these dates change due I confirm I will notify my Head teacher/line manager and the central Operations team immediately.

Employees Signature \_\_\_\_\_

Date \_\_\_\_\_

Approved by \*Head Teacher/Line Manger

\*Yes/No

Signed \_\_\_\_\_  
 \*Head Teacher/Line Manager

Date \_\_\_\_\_

**For official use only:** You will be paid for

Statutory Paternity Leave and Pay	From	to
Occupational Paternity Leave and Pay	From	to

HR Signature: \_\_\_\_\_ Date \_\_\_\_\_

Original to:  Payroll  Employee  \*Line Manager / Head Teacher  File  PaHRIS:  AMS Updated

**ADDITIONAL PATERNITY LEAVE APPLICATION Part 1 - April 2011**

<b>Name:</b>	
<b>Employee Number:</b>	
<b>Job title:</b>	
<b>Date of commencement of employment:</b>	

**(please tick one box):**

I am the child's father	<input type="checkbox"/>
I am not the child's father, but am married to, the partner* or the civil partner of the child's mother	<input type="checkbox"/>

**In addition, I confirm that (please tick each box):**

I have, or expect to have, the main responsibility (apart from the mother's responsibility) for the upbringing of the child	<input type="checkbox"/>
The purpose of the period of my additional paternity leave will be to care for the child, and I intend to care for the child during the additional statutory paternity pay period	<input type="checkbox"/>

**I wish to apply for Additional Statutory Paternity Pay**

<b>Child's date of birth/adoptive date (or date when entered into UK if adopting from abroad)</b>	
<b>Date to commence Additional Paternity Leave</b>	
<b>Date to cease Additional Paternity Leave</b>	
<b>Date to commence Additional Paternity Pay</b>	
<b>Date to cease Additional Paternity Pay</b>	
<b>Name of Child's Mother</b>	
<b>Date Child's Mother intends to return to work</b>	
<b>Signed:</b>	
<b>Dated:</b>	

**Notes**

To qualify for additional paternity leave and pay, the employee must return this form to their Group HR Team not less than eight weeks before the start date chosen by him/her for additional paternity leave and pay.

\*A partner is 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 a relative of the mother. A "relative" for these purposes includes the mother's parents, grandparents, sisters, brothers, aunts and uncles.

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

**Original to:**      **Copies to:**      **PaHRIS:**  
 Payroll     Employee     \*Line Manager / Head Teacher     File     AMS Updated



**ADDITIONAL PATERNITY LEAVE APPLICATION Part 2 – April 2011**

*This form needs to be completed by the mother of the employees child and the employee who is requesting the Additional Statutory Paternity Leave and Pay needs to ensure that this form is sent to their own HR Team.*

<b>Name of employee:</b>	
<b>Employee Number:</b>	
<b>Job title:</b>	
<b>Name of child's mother:</b>	
<b>Address of mother:</b>	
<b>Mother's national insurance number:</b>	

I have given notice to my employer that I am returning to work from my maternity leave and the relevant details are as follows:

<b>I became entitled, by reference to becoming pregnant with my child, to either statutory maternity pay or a maternity allowance.</b>	
<b>The start date of my statutory maternity pay period, or my maternity allowance period, in respect of my child was:</b>	
<b>I intend to return to work from my maternity leave on:</b>	
<b>I confirm that the employee named above is (please tick one box):</b>	
My child's father	<input type="checkbox"/>
Not my child's father, but my spouse, partner or civil partner	<input type="checkbox"/>

**In addition, I confirm that (please tick each box):**

He/she has, or expects to have, the main responsibility (apart from my responsibility) for the upbringing of my child	<input type="checkbox"/>
The employee is, to my knowledge, the only person exercising the entitlement to additional paternity leave, and is the sole applicant for additional statutory paternity pay, in respect of my child	<input type="checkbox"/>

**I consent to London Borough of Merton processing such of my information as is contained in this form.**

<b>Signed:</b>	
<b>Dated:</b>	

**Notes**

To qualify for additional paternity leave and pay, the employee must return this form to your Group HR Team not less than eight weeks before the start date chosen for additional paternity leave and pay.

A partner is 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 a relative of the mother. A "relative" for these purposes includes the mother's parents, grandparents, sisters, brothers, aunts and uncles.

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

**Original to:**      **Copies to:**      **PaHRIS:**

**Payroll**  **Employee**  **\*Line Manager / Head Teacher**  **File**  **AMS Updated**

## EXPECTANT/NURSING MOTHER RISK ASSESSMENT - – April 2008

\* = Delete where appropriate. Please complete form in BLOCK CAPITALS, thank you.

<b>ESTABLISHMENT:</b>	<b>*ACTIVITY/SITUATION:</b>	<b>NAME:</b>
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HAZARDS IDENTIFIED		POPULATION WHICH MAY BE AFFECTED				POPULATION PARTICULARLY AT RISK			
		EMP	C/S	CON	V/P	CRN	YPS	NEM	DIS
a)	Mental & physical fatigue: postural problems: stress								
b)	Standing/Sitting Activities: Welfare: Biological agents:								
c)	Physical agents: Noise: Driving: Chemical agents: client contact								
d)	Working conditions: Manual handling:								
e)	Movement & Posture: Work equipment & PPE								

EMP=Employee C/S = Client / Student CON = Contractor V/P = Visitor / Public  
CRN = Children YPS = Young Persons NEM = New & Expectant Mothers DIS = Disabled

	EXISTING CONTROL MEASURES (e.g. training in Health and Safety procedures, supervision, training, PPE, safety signs etc.)
a)	
b)	
c)	
d)	
e)	

	POTENTIAL SEVERITY				LIKELIHOOD <small>(taking existing control measures into consideration)</small>				RISK RATING <small>(*Sev. x ^ L'hd)</small>	ADDITIONAL CONTROL MEASURES TO BE IMPLEMENTED (if required)
	1	2	3	4	1	2	3	4		
a)										e.g. Only ongoing monitoring
b)										e.g. Only ongoing monitoring
c)										e.g. Only ongoing monitoring
d)										e.g. Only ongoing monitoring
e)										e.g. Only ongoing monitoring

COMPLETED BY:	Name:	Signature:	Date:
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\*SEVERITY: 1=Trivial 2=Minor Injury 3= Serious injury 4= Major Injury or Death ^LIKELIHOOD: 1=Remote 2=Possible 3=Probable 4=Likely

**EXPECTANT/NURSING MOTHER RISK ASSESSMENT – continued**  
**RE ASSESSMENT (Following implementation of control measures) OR REVIEW**

	POTENTIAL SEVERITY (✓)				LIKELIHOOD (✓) (taking existing control measures into consideration)				RISK RATING (*Sev. x ^ L^hd)	ADDITIONAL CONTROL MEASURES TO BE IMPLEMENTED (if required)
	1	2	3	4	1	2	3	4		
a)										
b)										
c)										
d)										
e)										
<b>COMPLETED BY:</b>		Name:				Signature:				Date:
*SEVERITY: 1=Trivial 2=Minor Injury 3= Serious injury 4= Major Injury or Death ^LIKELIHOOD: 1=Remote 2=Possible 3=Probable 4=Likely										

Signed \_\_\_\_\_ Date \_\_\_\_\_  
 \*Head Teacher/Line Manager

<b>HAZARDS &amp; SITUATIONS</b>	<b>ASSOCIATED RISKS</b>	<b>CONTROL &amp; PREVENTATIVE MEASURES</b>
Mental & Physical fatigue and working hours	<p>Both mental &amp; physical fatigue increases during pregnancy and in the postnatal period due to the various physiological and other changes taking place.</p> <p>Tiredness</p> <p>Stress &amp; Stress related ill health</p> <p>Changes in blood pressure</p>	Flexible arrangements for working hours are in place, including provisions of rest breaks and their frequency & timing.
Postural problems connected with the activities	Fatigue from standing & other physical work has long been associated with miscarriage, premature birth and low birth weight. Strain & Sprain injuries could occur, in restricted workspaces, due to the increased abdominal size. Dexterity, agility, co-ordination, speed of movement, reach and balance may also be impaired.	<p>Hours, volume and pacing of work are not excessive, and staff has some control over how their work is organised.</p> <p>Seating is available where appropriate and systems are in place for longer break periods</p>
Occupational Stress	<p>New &amp; expectant mothers can be particularly affected by occupational stresses, for various reasons: Hormonal, physiological and psychological changes occur and sometimes change rapidly, affecting susceptibility to stress, or to anxiety or depression.</p> <p>Financial, emotional and job security may also have an affect.</p>	<p>Measures have been put in place to take into account known stress factors: (Job security, workloads etc and the particular medical and psychosocial factors affecting the individual)</p> <p>Working conditions/hours are flexible and adjustable and the necessary support is available, whilst respecting privacy.</p>

Expectant/nursing mother risk assessment - continued.

<b>HAZARDS &amp; SITUATIONS</b>	<b>ASSOCIATED RISKS</b>	<b>CONTROL &amp; PREVENTATIVE MEASURES</b>
Standing Activities	Continuous standing and/or walking for long periods, during the working day, could contribute to an increased risk of premature childbirth	Seating is available and staff are advised to take regular breaks.
Sitting Activities	Pregnancy-specific changes in the coagulation factors and mechanical compression of the pelvic veins by the uterus pose a relatively high risk of thrombosis or embolism for pregnant women Sitting still for long periods may cause aching and oedema in the legs, and muscular pains in the lumber region	Advice is given to affected staff that standing and sitting for long periods is not advisable, and work patterns are in place to alternate between both, whilst taking regular breaks.
Welfare Facilities	Rest is important to new & expectant mothers. The need for rest is both mental & physical	Pregnant staff have access to the occupational health suite, where they can sit & lie down comfortably in privacy, and without disturbance, at appropriate intervals. There are suitable washroom and toilet facilities in place

<b>BIOLOGICAL AGENTS</b>	<b>ASSOCIATED RISKS</b>	<b>CONTROL &amp; PREVENTATIVE MEASURES</b>
Biological Agents	Many biological agents can affect the unborn child if the mother is infected during pregnancy. Other staff members could bring them in: i.e. Rubella (German Measles), HIV, Hepatitis, Herpes, TB Chicken Pox, Typhoid etc.	There are no manufactured biological agents within the workplace.  Other staff members should inform the Manager immediately, if they have any health issues.

Expectant/nursing mother risk assessment - continued.

<b>PHYSICAL AGENTS</b>	<b>ASSOCIATED RISKS</b>	<b>CONTROL &amp; PREVENTATIVE MEASURES</b>
Shocks, Vibration or Movement (Driving etc)	<p>Regular exposure to shocks, i.e. sudden severe blow to the body or lower frequency vibration, (for example driving or riding in off road vehicles, or excessive movement) may increase the risk of miscarriage. Long-term exposure to whole body vibration may increase the risk of premature birth or low birth weight.</p> <p>Travelling in the course of work, and to and from the workplace, can be problematic for pregnant women, including fatigue, vibration, stress, static posture, discomfort and accidents. These risks can have a significant effect on the health of new and expectant mothers.</p>	<p>All work is organised in such a way that pregnant women and those who have recently given birth are not exposed to tasks entailing risk arising from unpleasant vibration of the body.</p> <p>Only short driving trips are undertaken in an 'on road vehicle' and only if the person feels fit &amp; well enough to do so, this is monitored constantly.</p> <p>Another staff member accompanies Pregnant drivers.</p>
Noise	<p>Prolonged exposure to loud noise may lead to increased blood pressure and tiredness.</p> <p>Experimental evidence suggests that prolonged exposure of the unborn child during pregnancy may have an effect on later hearing and that low frequencies have a greater potential for causing harm.</p>	<p>Noise levels within the work place do not exceed the national exposure limits.</p> <p>There is no low frequency noise equipment in use.</p>

<b>CHEMICAL AGENTS</b>	<b>ASSOCIATED RISKS</b>	<b>CONTROL &amp; PREVENTATIVE MEASURES</b>
Chemicals	Some chemicals can endanger the health of pregnant women and the unborn child	There are no dangerous percutaneous chemical agents used.



<p>Work Equipment &amp; Personal Protective equipment (PPE)</p>	<p>Work equipment and PPE is not generally designed for use by pregnant women. Pregnancy (and breastfeeding) involves physiological changes, which make some work and protective equipment not only uncomfortable but also unsafe for use in some cases.</p> <p>E.g. where equipment does not fit properly or comfortably, or where the Operational mobility, dexterity or co-ordination of the woman concerned is temporarily impeded by her pregnancy or recent childbirth.</p>	<p>The job content has been redesigned and adapted to allow regular movement/exercise</p> <p>The work equipment and PPE in use does not interfere with mobility, dexterity, co-ordination etc at this time. However, ongoing monitoring is in place.</p>
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