



LOCAL GOVERNMENT EMPLOYEES
MATERNITY, ADOPTION, PATERNITY, SURROGACY
AND SHARED PARENTAL LEAVE

Frequently Asked Questions
Accompanies the Board's Family Leave Policy

Title	FAQ – Maternity, Adoption, Paternity, Surrogacy and Shared Parental Leave
Who should use this	All Staff
Author	SAC/Adapted by AVJB
Approved by Management Team	20 February 2018
Approved by Joint Board	
Reviewer	Office Manager
Review Date	2024

Review History

REVIEW NO.	DETAILS	RELEASE DATE
	New	
1	Updates to terminology, format and process including surrogacy information	FEBRUARY 2018
2	Updated to reflect Premature Birth additional time off.	APRIL 2021
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4		
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INTRODUCTION

Congratulations on your news – this booklet has been designed to answer frequently asked questions in terms of your maternity / adoption, surrogacy or shared parental rights. It accompanies the [Family Leave Policy](#) which should be referred to for full guidance and information. All forms referred to can be found within the Policy. This document is not designed as a substitute for the full Policy.

The booklet also provides useful links and additional information regarding services and benefits that may be useful throughout your period of leave.

1. HOW LONG CAN I TAKE OFF WORK AND WHAT WILL I BE PAID WHILE I AM ON LEAVE?

All pregnant employees or adoptive parents of children up to 18 years of age are entitled to take up to 52 weeks maternity/adoption leave – regardless of length of service or hours worked. However, your actual length of service and /or earnings will determine what pay you will be entitled to and how this is calculated during your period of maternity or adoption leave. This is defined as '**Scheme A**' and '**Scheme B**'.

If you are a temporary employee you should seek further advice on which scheme conditions and entitlements apply to you by emailing any queries to the Boards Personnel Representatives.

SCHEME A – **Less than 26 weeks** continuous service by:

- the 15th week before your baby is due; or
- the week in which the employee is notified of being matched with a child for adoption by an approved adoption agency.

Pay: you may be entitled to Maternity Allowance or other related benefits payable from the Department for Work and Pensions.

Leave: you will be entitled to a period of maternity/adoption leave (unpaid) of up to 52 weeks

When can I start my leave?

- **Maternity** – no earlier than 11 weeks before the date the baby is due.
- **Adoption** – 14 days before the expected date of the child's placement.

Refer to Section 2.2.1 of the Policy.

SCHEME B – At least 26 weeks continuous service and meets earnings criteria by:

- The 15th week before your baby is due; or
- The week in which the employee is notified of being matched with a child for adoption by an approved adoption agency.

Pay: you will be entitled to occupational maternity / adoption pay and statutory maternity (SMP) / adoption pay (SAP) as follows:

- 6 weeks at 9/10ths inclusive of SMP/SAP;
- 12 weeks at 5/10ths plus SMP/SAP;
- 21 weeks at SMP/SAP rate or 90% of average weekly earnings if less than SMP/SAP rate;
- 13 weeks unpaid.

Leave: you will be entitled to a period of leave not exceeding 52 weeks in total.

When can I start my leave?

- **Maternity** – no earlier than 11 weeks before the date the baby is due.
- **Adoption** – 14 days before the expected date of the child's placement.

Refer to Section 2.2.3 of the Policy.

If you meet the 26 weeks service criteria but do not meet the minimum earnings level you may be entitled to Maternity Allowance or other related benefits payable from the Department for Work and Pensions.

To qualify for SMP, you need to have 26 weeks continuous service with Ayrshire Valuation Joint Board by the 15th week before your baby is due. If you don't meet this service criteria you will need to discuss eligibility for SMP with your previous employer. Please discuss with the Boards Personnel Representatives for further information.

2. HOW DO I APPLY FOR MATERNITY / ADOPTION LEAVE AND / OR PAY?

You are required to inform the Boards Personnel Representatives in writing using **MAL/FORM/1** which can be found in the Policy. You are required to attach your MATB1 certificate / Matching Certificate which confirms when your baby is due / to be matched for adoption.

- Mat Leave – 15th week before EWC
- Adoption Leave – 7 days before 'matching'.

You can change the start date of maternity or adoption leave giving a minimum of 28 days' notice. **Refer to Section 3.4 of the Policy.**

If you are not entitled to SMP / SAP the Board will complete an SMP/SAP Exclusion Form and return it to you with your MATB1/Matching Certificate, this should be sent to the Department for Work and Pensions as you may be eligible for maternity Allowance or other benefits.

3. WHAT IF I AM SICK BEFORE COMMENCING MATERNITY LEAVE?

If you are on sick leave for pregnancy related reasons and there are four weeks or less before your baby is due then your maternity leave will automatically start on the day after the first day of absence following the start of the fourth week. You must notify your manager if your absence is for this reason.

Refer to Section 4.1.2 of the Policy

4. AM I ENTITLED TO TIME OFF FOR ANTE – NATAL APPOINTMENTS?

Yes. Pregnant employees are entitled to reasonable time off with pay to attend ante-natal appointments. Except for the first appointment employees must be prepared to show the Board evidence of their pregnancy and appointment cards where necessary. Ante-natal care also includes dental appointments, relaxation and parent craft classes.

Expectant Fathers and partners of pregnant employees can take reasonable unpaid time off to attend up to 2 ante-natal appointments.

Refer to Section 5 of the Policy.

5. AM I ENTITLED TO TIME OFF WHEN I AM ADOPTING A CHILD?

Yes, in the period between being notified of a match and the child being placed for adoption, the main adopter can take reasonable time off to attend up to five paid pre-adoption appointments and where it is a joint adoption, an adopter's partner can attend two unpaid pre-adoption appointments. The employee must be prepared to show evidence of appointments.

Refer to Section 5 of the Policy.

6. SHOULD A RISK ASSESSMENT BE CARRIED OUT NOW THAT I AM PREGNANT?

Information regarding risk assessments can be found in the Health & Safety Guidance for New and Expectant Mothers. Specific consideration must be given to the risks posed to new and expectant mothers. Employees also have a duty to be responsible for their own health and safety and should take care to avoid undue risk both at home and work. **Refer to Section 6 of the Policy.**

7. WHAT IF MY BABY IS BORN EARLY?

If your baby is born before you start your maternity leave then your leave and pay will start on the day after the birth. Your expected return to work date will require to be recalculated.

Time off for parents of babies who are born prematurely to cover the additional time their babies spend in hospital is available. Refer to Section 2.1.5 or the Policy.

If you have started your leave then your maternity leave and pay will continue as normal. You must notify your employer of the date of birth as soon as is reasonably practicable after the baby is born.

Refer to Section 4 of the Policy

8. WHO DO I NEED TO ADVISE OF THE BABY'S BIRTH DATE?

You need to inform the Boards Personnel Representatives within 28 days of the birth date.

9. WHAT IF THE ADOPTION ENDS OR DOES NOT GO AHEAD?

If a child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to 8 weeks after the end of the placement. Where an expected placement does not take place but adoption leave has already started further adoption leave and pay will be available for 8 weeks following the date of notification that the child will not be placed.

10. WHAT IS SURROGACY LEAVE?

Surrogacy leave is for intended parents who receive a child following a surrogacy agreement through a Parental or Adoption Order. Intended parents who are eligible and intend to apply for a parental order within 6 months of the baby's birth are entitled to **adoption leave**. The parents must decide who the adopter for adoption leave purposes is and the adopter will receive adoption pay if they meet the qualifying conditions.

11. ARE BOTH INTENDED PARENTS ENTITLED TO TIME OFF IN A SURROGACY ARRANGEMENT?

Only one parent is entitled to Adoption leave and pay. The other parent will be entitled to adoption support leave (1 week at normal pay rate) and may also qualify for an additional week's paternity support leave (paid at Statutory Adoption Pay rate) provided that normal conditions are met.

12. WHAT IS SHARED PARENTAL LEAVE AND PAY?

Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) have replaced entitlement to additional paternity leave and additional statutory paternity pay. SPL is triggered by the mother ending her maternity/adoption leave; eligible mothers, fathers, partners and adopters will be able to share time off work after their baby is born or placed with them for adoption during the child's first year.

13. AM I ELIGIBLE FOR SHARED PARENTAL LEAVE?

To qualify for shared parental leave and/or pay the child's mother must:

- be entitled to maternity/adoption leave or pay or maternity allowance and must share the main responsibility for caring for the child with her husband or partner;
- have curtailed her maternity/adoption leave by either returning to work or by giving notice to her employer to end her maternity leave on a specified date in the future.

The parent taking shared parental leave must have 26 weeks' continuous service at the relevant date and still be employed the week before the shared leave is due to start; The other parent must have worked 26 weeks in the 66 weeks leading up to the baby's due date/matching date.

14. HOW DO I KNOW HOW MUCH LEAVE I CAN TAKE?

The maximum period of shared parental leave is the number of weeks of untaken maternity/adoption leave. The Boards Personnel Representatives will confirm your available leave.

15. HOW DO I APPLY FOR SHARED PARENTAL LEAVE?

You must notify the Boards Personnel Representatives in writing **at least 8 weeks** before the requested start date of the Shared Parental Leave. You should complete MAL/FORM/7.

16. CAN MY REQUEST FOR SHARED PARENTAL LEAVE BE REFUSED?

An application for a continuous period of shared parental leave cannot be refused.

17. CAN I CHANGE MY MIND ONCE I HAVE SUBMITTED A NOTICE TO END MY MATERNITY LEAVE?

Once a notice to end your maternity leave has been submitted you cannot change your mind. It is only in exceptional circumstances that a mother would be able to revoke the notice.

18. HOW MANY APPLICATIONS FOR SHARED PARENTAL LEAVE CAN I MAKE?

There is a statutory cap which allows an employee to submit 3 notices to book shared parental leave. If you require to make a change to previously agreed period of leave this counts as 1 of the 3.

Refer to section 8 of the Policy

19. KEEPING IN TOUCH DAYS (KIT and SPLIT)

Employees are entitled to return to work for up to 10 days during the statutory maternity or adoption leave period or up to 20 days during shared parental leave without bringing their leave to an end. Work means any work done under the contract of employment and may include training or any activity undertaken for the purpose of keeping in touch with the workplace. Any hours worked on a particular day for the purposes of keeping in touch (KIT) or (SPLIT) will amount to one whole KIT or SPLIT day and will be paid at the normal hourly rate for the exact number of hours worked.

Refer to Section 12.2.1 and 12.2.2 of the Policy

20. WHAT DO I NEED TO DO ABOUT RETURNING TO WORK?

You will be asked to declare your intention about returning to work on the expiry of your leave; this will be asked on **MAL/FORM/1**.

Full Maternity/Adoption Leave (52 weeks):

If you are returning at the end of your maternity/adoption leave there is no requirement to give any further notification (of course it would be beneficial to meet with your manager / colleagues prior returning – see Keeping in Touch days), also to discuss arrangements for taking accrued holidays. Any agreed holiday periods should be notified to the Boards Personnel Representatives to ensure your pay is not affected.

Returning to work early:

If you are returning prior to the end of your maternity/adoption leave you must inform the Boards Personnel Representatives in writing, at least 8 weeks, before the date on which you intend to return. You should complete **MAL/FORM/2** which is in the Policy, refer to section 10. Any agreed holiday periods should be notified to the Boards Personnel Representatives to ensure your pay is not affected.

Please note however that you are not allowed to return to work in the 2 weeks after the birth of your child and in the case of adoption, you must take at least 2 weeks of adoption leave, this is known as compulsory leave.

Refer to section 10 of the Policy.

Returning after Shared Parental Leave:

If you are returning at the end of your shared parental leave, you should report for work the first work day following the end of your leave.

If, due to a change in your circumstances, you require to return to work prior to the end of your Shared Parental Leave, you must complete MAL/FORM/10 and submit it to the Boards Personnel Representatives at least 8 weeks before the amended return to work date.

Refer to section 8 of the Policy.

21. WHAT IF I AM SICK FOLLOWING MATERNITY, ADOPTION OR SHARED PARENTAL LEAVE?

If you have terminated your maternity or adoption leave by giving notice that you intend to return to work and later submit a medical certificate, you will be deemed to be on sickness absence and the normal procedures, as outlined in the Framework for Maximising Attendance at Work, will apply, refer to section 11 of the policy.

22. WHAT RIGHTS DO I HAVE UPON MY RETURN TO WORK?

At the end of the leave period you have the right to return to your job if you take: Ordinary Maternity or Ordinary Adoption Leave; Ordinary Paternity Leave; Additional Paternity Leave; 4 weeks or less of parental leave.

If you take: Additional Maternity or Additional Adoption Leave; or a consecutive period of additional paternity leave and parental leave of more than 4 weeks, you have the right to your job or a suitable alternative job (if it's not possible to give you the job you had prior to maternity, adoption or parental leave). Suitable alternative means the job has the same terms and conditions. If you unreasonably refuse to take the suitable alternative job the Board can take this as your resignation.

23. WHAT IF I WISH TO RETURN TO WORK ON DIFFERENT HOURS?

Should you wish to apply to return to work flexibly the options available and process to be followed is outlined in the [Flexible Working Policy](#).

24. WHAT IF I DO NOT WISH TO RETURN TO WORK?

If, when making your notification of maternity/adoption leave, you wish to resign from your post due to reasons connected with pregnancy, childbirth or adoption you should inform the Boards Personnel Representatives of this when notifying of your maternity / adoption leave (MAL/FORM/1 refers).

If you wish to resign from your post following your period of maternity/adoption/shared parental leave you must officially tender your resignation, in writing, providing the required notice as per your Contract of Employment. If you resign from your post **within 3 months** of your return to work date and have been paid occupational maternity / adoption pay then you should note that you will be required to repay the 12 weeks at 5/10ths pay.

25. CAN I APPLY FOR VACANCIES WHILE ON LEAVE?

Yes you can apply, as normal, for vacancies advertised on South Ayrshire Councils Re-wired. You can access Re-Wired from home by logging into: www.south-ayrshire.gov.uk/sacvacancies. It may also be useful, if you do not have Re-Wire access, to arrange for a colleague or your line manager to send you suitable vacancies or contact the Boards Personnel Representatives.

26. WHAT HAPPENS WITH MY ANNUAL LEAVE AND PUBLIC HOLIDAY ENTITLEMENT?

You will continue to accrue your entitlement during periods of leave covered by the Policy. You should arrange to take the proportion of annual leave due to you before you start your maternity / adoption leave. You will be entitled to the remainder of leave upon your return to work. Some employees find it useful to use this leave to facilitate a phased return to work following the end of their maternity/adoption leave period. Annual leave should be requested and approved in the normal way prior to it being taken. You will be entitled to a day in lieu for each public holiday that occurs during your entire maternity / adoption/shared parental leave period. **Once leave has been approved please ensure you notify the Boards Personnel Representatives of the agreed arrangements for taking your accrued holiday so as your pay can be adjusted accordingly.**

27. DO I CONTINUE TO PAY PENSION CONTRIBUTIONS WHILE ON LEAVE?

Yes, pension contributions during maternity / adoption/shared parental leave will continue to be deducted whilst you are still in pay. With effect from 1 April 2015 you have the option to buy 'lost' pension for the period of leave where you are in no pay by using an Additional Pension Contribution

(APC) contract. If you elect to buy an APC contract within 30 days of returning to work your employer will contribute towards the cost.

If pension contributions are not maintained during your period of leave it will be treated as a break in service for pension purposes.

28. WHAT ARE CHILDCARE VOUCHERS?

The Board supports Childcare Vouchers as an efficient way of helping parents to pay for childcare. The scheme applies to employees who have at least a 12 month contract from the date of joining the scheme and are over 18. Further information can be found the [Childcare Voucher Guide](#) , on the supplier website www.childcarevouchers.co.uk or by contacting 0800 247 1277. The vouchers are exempt from tax and NI contributions allowing employees to make savings on the cost of registered or approved childcare through a reduction in their salary.

29. IF I PARTICIPATE IN THE CHILDCARE VOUCHER SCHEME – HOW WILL THIS AFFECT ME?

Participation in the Childcare Voucher Scheme will have an impact on your entitlement to statutory maternity / adoption/shared parental pay as this is calculated on your reduced salary. You should seek further advice from South Ayrshire Council's Employee Services on 01292 612202 or EmployeeServices@south-ayrshire.gov.uk on how it will affect you.

30. WILL I CONTINUE TO RECEIVE CHILDCARE VOUCHERS DURING MY PERIOD OF MATERNITY /ADOPTION LEAVE?

No, your membership to the Childcare Voucher Scheme will be suspended for the whole period of your maternity/adoption leave and you will not receive any vouchers during this time. The Scheme will recommence on your return to work.

31. WHAT IS PARENTAL LEAVE?

This is a right for parents to take unpaid time off work for up to 18 weeks to look after a child or make arrangements for the child's welfare. Entitlement will be available for employees who have at least one year's continuous service with the Board or other Local Authority, at the date of the requested leave, and they're named on the child's birth or adoption certificate and they have or expect to have "parental responsibility" in terms of caring arrangements for the child. Eligible parents can choose to take parental leave up until the child's or adopted child's 18th birthday and must be taken in multiples of one week except where the child has a disability where leave can be taken a day at a time. However where a part of an employee's working week is taken as Parental Leave it will count as a full week of her/his entitlement.

A maximum of 4 weeks' parental leave can be taken in any one calendar year.

Refer to section 9 of the Policy.

MATERNITY / ADOPTION LEAVE

CHECKLIST

- Notify your Nominated Senior Officer/Boards Personnel Representative as soon as you know you are pregnant or have been matched for adoption.
- Complete form MAL/FORM/1 attaching your MATB1/Matching Certificate when available.
- Notify your Nominated Senior Officer/Boards Personnel Representative of the actual date your baby is born, within 28 days of the birth.
- Make arrangements for Keeping in Touch days (MAL/FORM7) and/or Split days (MAL/FORM8) if required.
- If you wish to change your return to work date notify your Head of Service/ Line Manager at least 8 weeks prior to your desired return date using MAL/FORM/2.
- If you wish to apply for shared parental leave notify your Nominated Senior Officer/Boards Personnel Representative at least 8 weeks before your requested start date using MAL/FORM/7.
- Refer to Flexible Working Policy if you wish to apply to return to work on different hours.