

## Introduction

The Council's/School's family friendly policies recognise the commitment staff have to other members of their family and have established a number of policies for family situations.

## What is Covered

The policy considers maternity leave/pay, adoption leave/pay, maternity / adoption support (paternity) leave/pay, shared parental leave/pay, unpaid parental leave, unpaid time off for dependants and Carers' Leave.

## Aims of Policy

To provide a clear process for employees and managers which is in line with approved Council procedures and relevant legislation.

## Scope

This policy applies to all employees with the exception of those employees working in maintained schools under the direct control of a School Governing Body.

## School Based Employees

Newport City Council commend this policy to individual Governing Bodies for adoption. If adopted by a Governing Body, the policy will apply to all employees under the direct control of that Governing Body.

## To be read in conjunction with

Leave of Absence Policy

Work life Balance Policy

Carers' Policy

## MATERNITY LEAVE/PAY

### Entitlement

All employees are entitled to 26 weeks ordinary maternity leave and 26 weeks additional maternity leave, regardless of the length of local government service.

[Employees Quick Reference Guide](#)

### Procedure

1. An employee should notify their Manager / Head Teacher as soon as possible that they are pregnant. This is especially important for Health and Safety reasons and should they be taken ill at work. This will be kept confidential if the employee wishes.
2. An employee should try to indicate to their Manager / Head Teacher when they wish their maternity leave to start as soon as possible; however an employee must give written notice to their Manager / Head Teacher by the end of the 15th week before their Expected Week of Childbirth (EWC) detailing:
  - That they will be absent from work because of pregnancy,
  - When they are going to start their maternity leave and
  - The date of Expected Week of Childbirth.

An employee can do this by completing the [Maternity / Adoption Recording form](#) as soon as they receive their MAT B1 form (sometimes known as a Maternity Certificate) from their doctor or midwife. The employee will be informed of their expected date of return from their maternity leave within 28 days of their Maternity/Adoption Recording form being received.

If possible, an employee's Manager / Head Teacher would also appreciate an indication of whether the employee intends to return to work.

3. An employee should check their entitlement to maternity leave and pay. Entitlements will depend on their length of continuous local government service.

For further guidance on the procedure please follow the [Maternity Procedure Flow Chart](#)

### Eligibility for Statutory Maternity Pay (SMP)

In order to qualify for SMP an employee must fulfil the following criteria:

1. Have been continuously employed for at least 26 weeks (irrespective of the number of hours worked) into the 15<sup>th</sup> week before the EWC.
2. Have average weekly earnings equal of not less than the lower earnings limit for National Insurance Contributions which is in force during the qualifying week.
3. Still be pregnant at the 11<sup>th</sup> week before the EWC, or have already been through childbirth.
4. Have stopped working for their employer wholly or partly because of pregnancy or childbirth.
5. Provide their Manager / Head Teacher with notice of their maternity absence.
6. Provide their Manager / Head Teacher with evidence of their EWC.

If an employee is not eligible for SMP then they may be eligible for Maternity Allowance (MA).

### Eligibility for Maternity Allowance (MA)

In order to qualify for MA an employee must fulfil the following criteria:

1. Be pregnant, and have reached or been through childbirth before reaching the commencement of the 11<sup>th</sup> week before the EWC.
2. Have been an employed or self-employed earner for at least 26 weeks in the 66 weeks ending with the week before the EWC.
3. Not be entitled to statutory maternity pay for the same week in respect of the same pregnancy.

### Statutory Maternity Pay (SMP)

1. Where an employee has indicated that they do not intend to return to work, they will be entitled to 39 weeks Statutory Maternity Pay (SMP) / Maternity Allowance (MA).
2. The first 6 weeks is payable at 90% of the employee's average weekly earnings. The remaining 33 weeks is payable at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

### Occupational Maternity Pay (OMP)

1. An employee must have at least one year's continuous local government service to qualify for occupational maternity pay.
2. Length of continuous local government service is calculated at the beginning of the 11th week before an employee's Expected Week of Childbirth (EWC). Your service must be unbroken for 1 year prior to this date.
3. Occupational Maternity Pay (OMP) is paid on the understanding that the employee will return to local authority employment, therefore, an employee will be required to repay payments made in excess of Statutory Maternity Pay during the 12 weeks at 50% if they do not return to work.
4. Occupational Maternity Pay will also have to be repaid if the employee leaves local authority employment within 3 months after their return.
5. Occupational Maternity Pay will not have to be repaid in cases of compulsory redundancy where the right to return to work has been removed. There may be a requirement to repay Occupational Maternity Pay in cases of voluntary redundancy. Any repayment will form part of the voluntary redundancy settlement achieved through agreement.
6. **For all employees except Teachers** - an employee with over one year's continuous local government service at the 11<sup>th</sup> week before EWC will have their Occupational Maternity Pay (OMP) entitlement offset against any Statutory Maternity Pay (SMP) paid in the first 6 weeks. During the next 12 weeks, they will be paid 50% of

their pay plus SMP providing that combined it does not exceed their normal full pay. During the remaining 21 weeks, the employee shall receive SMP.

7. **For Teachers** - an employee with over one year's continuous local government service at the 11<sup>th</sup> week before EWC, they will receive full pay for the first 4 weeks. For the following 2 weeks their OMP entitlement will be offset against any SMP paid. During the next 12 weeks, they will be paid 50% of their pay plus SMP (providing that combined it does not exceed their normal full pay). During the remaining 21 weeks, the employee shall receive SMP.

If an employee becomes eligible for a pay rise between the start of the original calculation period and the end of their maternity leave (whether ordinary maternity leave or additional maternity leave), the higher or standard rate of statutory maternity pay will be recalculated to take account of the pay rise, regardless of whether statutory maternity pay has already been paid. This means that statutory maternity pay will be recalculated and increased retrospectively, or that an employee may qualify for statutory maternity pay where they did not previously. The employee will be paid a lump sum to make up any difference between statutory maternity pay already paid and the amount payable as a result of the pay rise.

### Maternity Pay Table

Length of local government continuous service	Pay entitlement
Continuously employed for at least 26 weeks into the 15 <sup>th</sup> week before the EWC	39 weeks SMP or MA
More than 1 year's continuous local government service at the 11 <sup>th</sup> week before the EWC	18 weeks OMP, i.e. 6 weeks at $\frac{9}{10}$ of pay, 12 weeks at 50% pay plus SMP and then 21 weeks at SMP
Teachers Continuously employed for at least 26 weeks into the 15 <sup>th</sup> week before the EWC	39 weeks SMP or MA
Teachers - More than 1 year's continuous local government service at the 11 <sup>th</sup> week before the EWC	18 weeks OMP, i.e. 4 weeks full pay, 2 weeks at $\frac{9}{10}$ pay, 12 weeks at 50% pay plus SMP and then 21 weeks at SMP

### Time Off for Antenatal Care

Once an employee has advised their Manager / Head Teacher that they are pregnant, they will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

In order to be entitled to take time off for antenatal care, an employee is required to produce a certificate from their doctor, registered midwife or registered health visitor, stating that they are pregnant. Except in the case of

the first appointment, an employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised them to attend, in addition to medical examinations. Paid time off for such appointments does not include travel time to and from the appointment.

Fathers and partners are able to take time off to attend up to two antenatal appointments. As above, evidence should be produced, unless it is the first appointment, if requested to do so. Paid time off will not include travel time to and from the appointment.

All employees should endeavour to give their Manager / Head Teacher as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day.

### Health and Safety

Use the link below for information in relation to risk assessments for new and expectant mothers:

<http://www.newport.gov.uk/documents/Policies/HS-New-and-Expectant-Mothers-Guidance-and-Risk-Assessment.pdf>

### Deciding When to Leave Work

1. An employee can start their maternity leave on any day of the week.
2. An employee cannot start their maternity leave prior to 11 weeks before their EWC, unless the baby is born prematurely before that date.
3. An employee can change their leave date as long as they notify their Manager / Head Teacher of the new start date by whichever is the earlier of:
  - 28 days before the date they originally intended to start their leave;
  - 28 days before the new date they want to start their leave.
4. If an employee is absent for a maternity related illness during the 4 weeks before the start of their EWC, their maternity leave automatically begins.
5. An employee should also decide whether they would like to receive all of their maternity pay as it falls due or whether they would prefer Employment Services to withhold the part of OMP that is repayable if the employee does not return to work.
6. If an employee wishes to resign from work under the SMP scheme, they can do so up to 14 weeks before their EWC, however, they will not receive SMP until the 11<sup>th</sup> week.

### Contact During Maternity Leave

Before the start of an employee's maternity leave their Manager / Head Teacher will discuss ways in which to keep in touch during their leave. This could involve keeping an employee updated on developments at work, information about job vacancies and discussing an employee's plans for returning to work.

If there are any major changes proposed to an employee's job or department whilst they are on maternity leave, they will be consulted on these changes in the same way as all other staff, and may attend consultation meetings whilst on maternity leave.

All current job vacancies are displayed on the website [www.newport.gov.uk/jobs](http://www.newport.gov.uk/jobs). However, if an employee wishes to have details of suitable vacancies sent to them whilst on maternity leave they should indicate this on the form and they should discuss the definition of suitable vacancies with their Manager / Head Teacher before beginning their leave.

### Keeping-in-touch Days

With the exception of the first 2 weeks of maternity leave, an employee may agree to "work" for up to 10 days without bringing their maternity leave to an end and without the loss of SMP / OMP. These 'keeping-in-touch' days can be taken during ordinary maternity leave and/or additional maternity leave.

'Work' is defined as any work done under an employee's contract of employment and may include attending training days or any other activity e.g. staff meetings undertaken for the purpose of keeping in touch with the workplace.

A Manager / Head Teacher has no right to require an employee to carry out any work during maternity leave and an employee has no obligation to undertake any work. Any work that is agreed will be paid for at the employee's normal rate (for teachers, this is based on one full day's work being 1/365<sup>th</sup> of full-time equivalent salary). The money earned is offset against the payment received in respect of SMP / OMP. If an employee does agree to undertake keeping-in-touch days this will not extend the maternity leave period by those days. If an employee goes over the 10 keeping-in-touch days, they will lose a week's SMP / OMP for any week in which a day is worked.

Once a keeping-in-touch day has been worked, the relevant sections of the [Maternity / Adoption Recording form](#) must be completed.

### Returning to Work After Maternity Leave

All employees who take maternity leave have the right to return to work at any time during either ordinary or additional leave, except during the first 2 weeks from the day of childbirth, subject to following the notification procedures set out below.

If an employee decides to return to work at the end of their additional maternity leave they are not required to give any notice of their return date. However, if an employee wishes to return early they must give at least 8 weeks' notice of their intended return date, preferably in writing. If they do not give the required notice period to return early, their Manager / Head Teacher can postpone an employee's return to work to such a date as will provide 8 weeks' notice or until the end of their maternity leave period if this occurs first.

If an employee has indicated the date that they wish to return to work and thereafter decides to postpone that date, they must give 8 weeks' notice that they intend to postpone their return to work.

An employee must inform their Manager / Head Teacher if they are unable to return to work after the end of their

maternity leave due to ill health by following their Section's/School's agreed procedure for reporting absence. An employee's absence, if they postpone their return to work because of ill health, will be covered by the occupational sickness scheme and the Council's/School's [Management of Attendance Policy](#) will apply.

Following maternity leave, the employee has a right to return to work in which they were employed under their original contract of employment unless it is not reasonably practicable, in which case the employee will be offered a suitable alternative on terms and conditions not less favourable than those that would have been applicable if they had not been absent.

The employee is entitled to be offered a suitable alternative vacancy if, because of redundancy, it is not possible or practical for them to return to their job. There may also be circumstances of general reorganisation (which would have occurred if they had not been absent) that would necessitate a change in their original job. In such cases the employee will be subject to the provision of the Council's [Job Security Policy](#).

The alternative post offered in both these circumstances should be suitable to the employee, appropriate to the circumstances and in the same capacity. The terms and conditions of employment should not be substantially less favourable to the employee than if they had been able to return to their original job.

Interruptions to work (due to industrial action or other reasons), where it is unreasonable to expect the employee to return on the notified day, may result in their return being postponed until work resumes or it is reasonably practical for them to return.

An employee must give the normal notice period required under their terms and conditions if they do not intend to return to work after their maternity leave period, unless they have already done so prior to commencing their maternity leave.

### **Breastfeeding Mothers**

There are a variety of health benefits to continuing breastfeeding and where an employee is returning to work this does not mean that they should feel that they must stop. If an employee wishes to express during work time a suitable venue and storage facility will be provided; the Civic Centre now hosts a breastfeeding room. If an employee wishes for this to occur, then they will need to contact their manager within 1 month of return to ensure the facilities are available. For more information on continuing to breastfeed while at work visit the NHS choices website ([breastfeeding and returning to work](#)).

### **Annual Leave/Bank Holidays**

#### **Arrangements for All Employees Except Teachers**

An employee will still receive their annual leave entitlement whilst they are on maternity leave and they may choose to use it to extend the time they have off after their paid maternity period ends or to take it before the start of their paid maternity leave. Employees are encouraged, where possible, to take any annual leave prior to commencing maternity leave. Should it not be possible to take all annual leave prior to commencing maternity

leave then any carried over leave would need to be taken before the employee returns to work, i.e. immediately following the end of their maternity leave. This question is not relevant if the employee is a member of school support staff, where annual leave entitlement is automatically taken during times of school closure.

An employee will be entitled to time off in lieu for any bank holidays that occur on the days that they are contracted to work whilst they are on maternity leave.

### Arrangements for Teachers

N.B. In this section, the term “teacher” means employees who are employed in accordance with the *School Teachers’ Pay and Conditions Document (the “Blue Book”)*.

Whilst teachers do not have a ‘contractual’ entitlement to annual leave, they do have a ‘statutory’ right under the Working Time Regulations (WTR). With effect 1 April 2009, this entitlement is 28 days (5.6 weeks). **(Please note that this is not an additional entitlement to annual leave on top of the current school closure arrangements).**

Under the requirements of the WTR, a teacher who takes maternity leave will be able to accommodate the 28 days statutory annual leave within school closure periods at a time outside of her maternity leave. The Council will not treat any part of the maternity leave period as statutory annual leave. The statutory annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question; i.e. both before and after the maternity leave period. For the purposes of managing statutory annual leave in relation to maternity leave, the leave year for teachers **only** is defined as 1 September in a given year to 31 August in the following year.

Teachers will be required to accommodate their statutory entitlement to annual leave, during school closure periods, either before or after the maternity leave period. Where there is sufficient time to accommodate the statutory leave in the current leave year during school closure periods, no carry over of outstanding leave will be permitted.

If there are insufficient school closure periods to accommodate statutory annual leave in that leave year, or the return from maternity leave is so close to the end of the leave year that there is not enough time to accommodate all the statutory annual leave entitlement, the teacher will be permitted to take any outstanding leave forward to the next leave year. This outstanding leave entitlement will then be offset during the remaining periods of school closure after the 28 days’ statutory annual leave for that leave year has been accommodated. Additional guidance can be found on [Accrual of Statutory Leave during Maternity Leave](#).

It will not be possible for a teacher to obtain payment in lieu of untaken statutory annual leave instead of taking leave during the leave year except where employment terminates.

### Transfer of Maternity Leave

Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. (See [Shared Parental Leave policy](#)).



## ADOPTION LEAVE/PAY

### Entitlement

*Adoption leave is available to all employees who adopt through a UK or overseas approved adoption agency.*  
[Overseas Adoption Guidance](#)

*Surrogate parents are also eligible for adoption leave. The leave will be available to employees who are, or expect to be, the parents of a child under a parental order, where the child's expected week of birth begins on or after 5 April 2015. Surrogate parents should discuss and notify their Manager / Head Teacher if they will take the primary role or secondary parental role. As part of this policy for adoption, please also read surrogacy.*

*All employees are entitled to 26 weeks ordinary adoption leave and 26 weeks' additional adoption leave, regardless of the length of local government service.*

### Procedure

An employee can start their adoption leave either:

1. From the date of the child's placement (whether this is earlier or later than expected).
2. From a fixed date which can be up to 14 days before the expected date of placement.

The leave can begin on any day of the week.

Employees are required to inform their Manager / Head Teacher of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practical. Employees should do this by completing the [Maternity / Adoption Recording form](#). Employees should endeavour to keep their Manager / Head Teacher up to date with the adoption process to minimise operational disruption, as notice given to the adoptive parent is often very short.

Employees will be required to give the Council/School documentary evidence – a 'matching certificate' or a letter – from their adoption agency as evidence of their entitlement to Statutory Adoption Pay. The matching certificate or letter **must** include the following information:

1. The name and address of the adoption agency.
2. The name and address of the employee.
3. The date the child is expected to be placed for adoption or the date the child was placed for adoption.
4. The date the employee was told by the adoption agency that they had been matched with a child.

An employee will be notified within 28 days of receipt of the Maternity / Adoption recording form to confirm the date they would be required to return to work following adoption leave.

Adopters will be able to change their mind about the date on which they want their leave to start providing they tell their Manager / Head Teacher at least 28 days in advance (unless this is not reasonably practicable).

### [Adoption Procedure Flow Chart](#)

Where a couple jointly adopts a child, only one of them will be entitled to take adoption leave (the couple can choose which). The other adoptive parent may be entitled to take Maternity / Adoption Support (Paternity) Leave or Shared Parental Leave provided that he or she meets the relevant statutory criteria.

#### **If Adoption Leave is Disrupted**

A disruption to Adoption leave can occur if:

1. The employee is notified that the placement will not take place.
2. The child is returned to the adoption agency after placement.

Where disruption takes place the entitlement to adoption leave and pay (if applicable) will continue for a further 8 weeks from the end of the week in which disruption occurred, unless the entitlement to leave and/or pay would have ended earlier in the normal course of events.

#### **Eligibility for Statutory Adoption Pay (SAP)**

1. Employees are entitled to SAP if they have been continuously employed for at least 26 weeks at the end of their Qualifying Week; are still employed by the Council/School during that week and their average weekly earnings during the eight weeks ending with the Qualifying Week (the **Relevant Period**) are not less than the lower earnings limit set by the Government.
2. Statutory adoption pay (**SAP**) is payable for up to 39 weeks. It stops being payable if an employee returns to work sooner or if the placement is disrupted.
3. SAP accrues with each complete week of absence but payments shall be made on the next normal payroll date. Income Tax, National Insurance and pension contributions shall be deducted as appropriate.
4. If an employee leaves employment for any reason (for example, if they resign or are made redundant) they shall still be eligible for SAP if they have already been notified by an agency that they have been matched with a child. In such cases, SAP shall start 14 days before the Expected Placement Date, or the day after their employment ends, whichever is the later.

#### **Statutory Adoption Pay (SAP)**

1. Where an employee has indicated that they do not intend to return to work, they will be entitled to 39 weeks Statutory Maternity Pay (SAP).
2. The first 6 weeks is payable at 90% of the employee's average weekly earnings. The remaining 33 weeks is payable at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

#### **Occupational Adoption Pay (OAP)**

1. An employee must have at least one year's continuous local government service to qualify for occupational adoption pay.
2. Length of continuous local government service is calculated at the beginning of the 11th week before the date an employee is matched with a child. Your service must be unbroken for 1 year prior to this date

3. Occupational Adoption Pay (OAP) is paid on the understanding that the employee will return to local authority employment, therefore, an employee will be required to repay payments made in excess of Statutory Adoption Pay during the 12 weeks at 50% if they do not return to work.
4. Occupational Adoption Pay will also have to be repaid if the employee leaves local authority employment within 3 months after their return.
5. Occupational Adoption Pay will not have to be repaid in cases of compulsory redundancy where the right to return to work has been removed. There may be a requirement to repay Occupational Adoption Pay in cases of voluntary redundancy. Any repayment will form part of the voluntary redundancy settlement achieved through agreement
6. **For all employees except Teachers** - an employee with over one year's continuous local government service at the 11<sup>th</sup> week will have their Occupational Adoption Pay (OAP) entitlement offset against any Statutory Adoption Pay (SAP) paid in the first 6 weeks. During the next 12 weeks, they will be paid 50% of their pay plus SAP providing that combined it does not exceed their normal full pay. During the remaining 21 weeks, the employee shall receive SAP.
7. **For Teachers** - an employee with over one year's continuous local government service at the 11<sup>th</sup> week will receive full pay for the first 4 weeks. For the following 2 weeks their OAP entitlement will be offset against any SAP paid. During the next 12 weeks, they will be paid 50% of their pay plus SAP (providing that combined it does not exceed their normal full pay). During the remaining 21 weeks, the employee shall receive SAP.

If an employee becomes eligible for a pay rise between the start of the original calculation period and the end of their adoption leave (whether ordinary adoption leave or additional adoption leave), the higher or standard rate of statutory adoption pay will be recalculated to take account of the pay rise, regardless of whether statutory adoption pay has already been paid. This means that statutory adoption pay will be recalculated and increased retrospectively, or that an employee may qualify for statutory adoption pay where they did not previously. The employee will be paid a lump sum to make up any difference between statutory adoption pay already paid and the amount payable as a result of the pay rise.

### Adoption Pay Table

Length of local government continuous service	Pay entitlement
Continuously employed for at least 26 weeks into the 15 <sup>th</sup> week before the EWC	39 weeks SAP
More than 1 year's continuous local government service at the 11 <sup>th</sup> week before the EWC	18 weeks OAP, i.e. 6 weeks at $\frac{9}{10}$ of pay, 12 weeks at 50% pay plus SAP and then 21 weeks at SAP
Teachers Continuously employed for at least 26 weeks into the 15 <sup>th</sup> week before the EWC	39 weeks SAP

Teachers - More than 1 year's continuous local government service at the 11 <sup>th</sup> week before the EWC	18 weeks OAP, i.e. 4 weeks full pay, 2 weeks at $\frac{9}{10}$ pay, 12 weeks at 50% pay plus SAP and then 21 weeks at SAP
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### Time Off to Attend Adoption Appointments

Once an employee has advised their Manager / Head Teacher that they are adopting, they will be entitled not to be unreasonably refused paid time off work to attend adoption appointments. This will be up to 5 for the primary adopter.

In order to be entitled to take time off for adoption appointments, an employee is required to produce evidence of the appointment, e.g. a letter from the adoption agency. Paid time off for such appointments does not include travel time to and from the appointment.

Partners are able to take time off to attend up to two adoption appointments. As above, evidence should be produced if requested to do so and paid time off will not include travel time to and from the appointment.

All employees should endeavour to give their Manager / Head Teacher as much notice as possible of adoption appointments and, wherever possible, try to arrange them as near to the start or end of the working day.

### Contact During Adoption Leave

Before the start of an employee's adoption leave their Manager / Head Teacher will discuss ways in which to keep in touch during the period of leave. This could involve updates on developments at work, information about job vacancies and discussing an employee's plans for returning to work.

If there are any major changes proposed to an employee's job or department whilst they are on adoption leave, they will need to be consulted on these changes in the same way as all other staff, and may attend consultation meetings whilst on adoption leave.

All current job vacancies are displayed on the website [www.newport.gov.uk/jobs](http://www.newport.gov.uk/jobs). An employee should indicate on the [form](#) if they would like details of suitable vacancies during their adoption leave and should discuss the definition of suitable vacancies with their Manager / Head Teacher before beginning their leave.

### Keeping-in-touch Days

An employee may agree to "work" for up to 10 days without bringing their adoption leave to an end and without loss of their SAP / OAP. These 'keeping-in-touch' days can be taken during both ordinary adoption leave and additional adoption leave.

'Work' is defined as any work done under an employee's contract of employment and may include attending training days or any other activity e.g. staff meetings undertaken for the purpose of keeping in touch with the workplace.

A Manager / Head Teacher has no right to require an employee to carry out any work during their adoption leave and an employee has no obligation to undertake any work. Any work an employee agrees to do during their adoption leave will be paid for at their normal rate (for teachers, this is based on one full day's work being 1/365<sup>th</sup> of full-time equivalent salary), however the money earned is offset against the payment they receive in respect of SAP / OAP. If an employee does agree to undertake keeping-in-touch days this will not extend their adoption leave by those days. If an employee goes over their 10 keeping-in-touch days, they will lose a week's SAP / OAP for any week in which a day is worked.

Once a keeping-in-touch day has been worked, the relevant sections of the [Maternity / Adoption Recording form](#), must be completed.

### Returning to Work After Adoption Leave

If an employee intends to take the full adoption leave entitlement, they do not have to give notice of their intended return to work. However if they wish to return to work early, they must give 8 weeks notice of the intended early return date. Otherwise the Manager / Head Teacher can delay the employee's return to work for the length of the notice period or until the end of the adoption leave period if this occurs first.

Following adoption leave, the employee has a right to return to work in which he/she was employed under their original contract of employment unless it is not reasonably practicable, in which case the employee will be offered a suitable role on terms and conditions not less favourable than those that would have been applicable if he/she had not been absent.

The employee is entitled to be offered a suitable alternative vacancy if, because of redundancy, it is not possible or practical for them to return to their job. There may also be circumstances of general reorganisation (which would have occurred if they had not been absent) that would necessitate a change in their original job. In such cases the employee will be subject to the provision of the council's [Job Security Policy](#).

The alternative post offered in both these circumstances should be suitable to the employee, appropriate to the circumstances and in the same capacity. The terms and conditions of employment should not be substantially less favourable to the employee than if they had been able to return to their original job

Interruptions to work (due to industrial action or other reasons), where it is unreasonable to expect the employee to return on the notified day, may result in their return being postponed until work resumes or it is reasonably practical for them to return.

An employee must inform their Manager / Head Teacher if they are unable to return to work after the end of their maternity leave due to ill health by following their Section's/School's agreed procedure for reporting absence. An employee's absence, if they postpone their return to work because of ill health, will be covered by the occupational sickness scheme and the Council's/School's [Management of Attendance Policy](#) will apply.

### Annual Leave and Bank Holidays

### Arrangements for all employees except Teachers

An employee will still receive their annual leave entitlement whilst they are on adoption leave and may choose to use it to extend the time they have off after their paid adoption period ends or to take it before the start of paid adoption leave. Employees are encouraged, where possible, to take any annual leave prior to commencing adoption leave. Should it not be possible to take all annual leave prior to commencing adoption leave then any carried over leave would need to be taken before the employee returns to work, i.e. immediately following the end of their adoption leave. This question is not relevant if the employee is a member of school support staff, where annual leave entitlement is automatically taken during times of school closure.

An employee will be entitled to bank holidays whilst on adoption leave. Time off in lieu (TOIL) will be given for these days on the employee's return to work (pro-rata where appropriate).

### Arrangements for Teachers

N.B. In this section, the term "teacher" means employees who are employed in accordance with the *School Teachers' Pay and Conditions Document* (the "Blue Book").

Whilst teachers do not have a 'contractual' entitlement to annual leave, they do have a 'statutory' right under the Working Time Regulations (WTR). With effect from 1 April 2009, this entitlement is 28 days (5.6 weeks). **(Please note that this is not an additional entitlement to annual leave on top of the current school closure arrangements).**

Under the requirements of the WTR, a teacher who takes adoption leave will be able to accommodate the 28 days statutory annual leave within school closure periods at a time outside of her maternity leave. The Council will not treat any part of the adoption leave period as statutory annual leave. The statutory annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question, i.e. both before and after the adoption leave period. For the purposes of managing statutory annual leave in relation to adoption leave, the leave year for teachers **only** is defined as 1 September in a given year to 31 August in the following year.

Teachers will be required to accommodate their statutory entitlement to annual leave, during school closure periods, either before or after the adoption leave period. Where there is sufficient time to accommodate the statutory leave in the current leave year during school closure periods, no carry over of outstanding leave will be permitted.

If there are insufficient school closure periods to accommodate statutory annual leave in that leave year, or the return from adoption leave is so close to the end of the leave year that there is not enough time to accommodate all the statutory annual leave entitlement, the teacher will be permitted to take any outstanding leave forward to the next leave year. This outstanding leave entitlement will then be offset during the remaining periods of school closure after the 28 days' statutory annual leave for that leave year has been accommodated.

It will not be possible for a teacher to obtain payment in lieu of untaken statutory annual leave instead of taking leave during the leave year except where employment terminates.

### Transfer of adoption leave

Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date. (See [Shared Parental Leave policy](#)).

## MATERNITY / ADOPTION SUPPORT (PATERNITY) LEAVE / PAY

### Introduction

Husbands and partners of new mothers have the right to leave and pay, following the birth of their child. The law refers to this as “Paternity” leave and pay, but as same sex partners are also eligible, this will subsequently be referred to as **Maternity / Adoption Support Leave**.

Where the child’s father or partner of the mother / adoptive parent is not available, a nominated carer may be entitled to leave and pay.

Support leave provided under this policy will be used for caring for a newborn child and supporting the mother, or caring for a child newly placed for adoption and supporting the parent.

### Ordinary Maternity/Adoption Support Leave/Pay

#### Entitlements

An employee satisfying the eligibility criteria is entitled to the following:

1. The child’s father, or partner of the mother / adoptive parent, may apply to take up to 2 weeks paid leave. This must be taken in one block of 1 week or 2 weeks. The pay for this leave will be one week at full pay\* and one week at Statutory Maternity/Adoption Support Pay.
2. A nominated carer is entitled to take up to one weeks paid leave and this must be taken in one block of a week. The pay for this leave is one week at full pay.
3. In the case of multiple births, the individual will be entitled to only one application for Support Leave under this policy.
4. If the child is stillborn after a pregnancy lasting 24 weeks, the individual will remain eligible for Support Leave.

*\* A week’s full pay is calculated as the normal weekly wage, i.e. the amount payable to the individual under the current contract of employment.*

#### Eligibility

All employees are entitled to one weeks paid maternity / adoption support leave irrespective of length of service.

To be entitled to the second week of statutory maternity/adoption support pay (for fathers or partners of the mother / adoptive parent only), employees must have at least 26 weeks local government continuous service before the end of the 15th week prior to the expected week of confinement / the date notification of adoption placement is received.

The leave must be taken within 56 days of the birth date / adoption placement date.

The individual must be the biological father or the partner of the child's mother / adoptive parent, and will be responsible for the upbringing of the child. They must be someone that lives with the mother / adoptive parent in an enduring family relationship, but is not an immediate relative, OR is a nominated carer, nominated by the mother (or adoptive parent) as their primary provider of support at this time.

### **Application for Maternity / Adoption Support Leave**

At least 15 weeks before the baby is due, an employee should tell their manager of their intention to take maternity/adoption support leave:

- The due date
- When the leave will start (e.g. the day of the birth or the week after the birth)
- The intention to take 1 or 2 weeks' leave

This will give the manager sufficient time to prepare for an employee's time off work (i.e. to cover shifts etc.). An employee can do this verbally in the first instance but should be followed up with an application form. An application for leave should be made via the relevant sections of the [Maternity / Adoption Recording form](#). This must be made on or before the 15<sup>th</sup> week prior to the expected week of confinement / as soon as notification of placement is received.

It is accepted that the precise dates may not usually be known in advance. Therefore, the anticipated dates should be noted on the application. The employee must then notify their Manager / Head Teacher once the actual dates are known.

### **Time Off for Antenatal Care**

Fathers and partners are able to take time off to attend up to two antenatal appointments. Evidence should be produced, unless it is the first appointment, if requested to do so. Paid time off will not include travel time to and from the appointment. All employees should endeavour to give their Manager / Head Teacher as much notice as possible of antenatal appointments and, wherever possible, these should be arranged as near to the start or end of the working day.

### **Transfer of Maternity or Adoption Leave**

If an employee proposes to return to work by giving proper notification, their spouse, civil partner or partner may be eligible to take shared parental leave (and shared parental pay) once they have returned to work.

### **Special Guardianship**



The [Special Guardianship \(Wales\) \(Amendment\) Regulations 2018](#) allows courts to consider applications for special guardianship and to issue special guardianship orders. A special guardianship order made by a court that places a child or a young person to live with someone permanently and gives care for that child or young person in a long term secure placement. In many cases, this will be a family member or friend, avoiding the need to place a child in foster care or for adoption.

It may be necessary for an employee who becomes a special guardian to take time off work when the child is first placed with them in order to settle the child or to ensure appropriate child care arrangements can be put in place to allow the employee to continue to work.

Although there is no statutory entitlement to **additional** paid leave, special guardians have parental responsibility for their child once the special guardianship order has been granted and any leave taken following the order should, therefore, be considered under the Council's Leave Policy and the Family Friendly Policy.

Managers/Headteachers should be mindful of the exceptional nature of a special guardianship and support any reasonable requests for unpaid leave to allow an employee to fulfil their parental responsibilities.

## UNPAID PARENTAL LEAVE

### Entitlement

The entitlement allows those employees with parental responsibilities to take a maximum of 18 weeks unpaid leave after the birth or adoption of a child.

This leave can be taken:

- at any time up until the child's eighteenth birthday; or
- for 8 years following the placement for adoption or up to the age of 18, whichever is the sooner if an employee is an adoptive parent.

The entitlement to leave is per child, therefore multiple births or multiple adoptions allows for an additional entitlement to be taken.

The leave is pro-rata for part-time employees, and if an employee has a working week that varies, the hours/weeks that an employee is normally required to work are used for calculation purposes.

Time taken as parental leave shall be treated as continuous service.

Employees who fall sick during a period of parental leave and who can provide the Council/School with a medical certificate to cover this period of sickness shall be entitled to pay under the sickness scheme, and this period shall not count towards their parental leave entitlement.

### Eligibility

Eligible employees are those with parental responsibilities that have one year's continuous Local Government service; a parent of a child who is named on the child's birth certificate or someone who has acquired formal

parental responsibility (i.e. via a court order). Also included are foster parents; adoptive parents prior to placement; grandparents with a significant parenting role and step parents.

Parental Leave may be taken:

1. As a single block of up to 18 weeks.
2. As a number of shorter periods of a minimum of half a day.
3. In patterns which provide a part time working arrangement for a period of time equivalent to taking 18 weeks leave as a single block.

### Notice and When to Take Leave

When intending to take less than one week's leave, a minimum of 7 days notice in writing has to be given of the intention to take leave. If an employee is an expectant partner and is intending to take less than one week's parental leave at the time of the birth of their child they should give 7 days notice in writing, where reasonably practical, prior to the Expected Week of Childbirth of the mother of the child. If an employee is to be an adoptive parent and they are intending to take less than one week's leave at the time of the adoption they should give 7 days notice in writing, where reasonably practical, prior to the date of adoption.

In all other cases a minimum of 21 days notice in writing has to be given of the intention to take leave. If an employee is an expectant partner and is intending to take parental leave at the time of the birth of their child they should give 21 days notice in writing, where reasonably practical, prior to the Expected Week of Childbirth of the mother of the child. If an employee is to be an adoptive parent and they are intending to take leave at the time of the adoption they should give 21 days notice in writing, where reasonably practical, prior to the date of adoption.

Parental Leave may be granted to employees who have not given the required notice in special circumstances at the discretion of the Head of Service / Head Teacher.

Parental leave must be taken to help with the child's welfare. The employee cannot use parental leave entitlement to take an extended holiday, and an employee is precluded from undertaking work for another employer whilst taking parental leave.

Evidence of parental responsibility and the age of the child should be supplied prior to leave being taken wherever possible i.e. original birth certificate, court order, adoption certificate etc. If an employee is unable to prove parental responsibility then the Council will consider the request for parental leave, however will reserve the right to refuse such a request.

The employee has a right to return to their existing job under the same terms and conditions. In exceptional circumstances (e.g. general re-organisation), it may not be possible for the employee to return to their present job. In such cases the employee will be subject to the provision of the council's [Job Security Policy](#).

Parental leave can be postponed where the operation of a business would be unduly disrupted if the leave is taken, however, leave cannot be postponed for more than six months from the date of the original request.

An exception to this is if an employee wishes to take parental leave at the time of the birth or adoption of a child then they cannot be asked to postpone their leave.

If leave has to be postponed, managers must discuss this with their employee, and confirm in writing no later than 7 days after the original request the reasons for the postponements of the leave and confirm the dates when the leave may be taken. The leave must be granted for the same length of time as the employee's original request.

## **Pension Provision**

### **Members of the LGPS**

Unpaid leave of more than half day will result in a break in your pensionable service. If you wish to buy back any period of half day or more then please visit the following link for information on 'Buy Lost Pension'.

<https://lgpsmember.org/more/apc/index.php>

In order to get a quote on the cost of the buy back you will need to enter the amount of 'Lost Pensionable Pay (take this from your payslip containing the unpaid leave deduction) and enter the date you're completing the quote as the 'Last day of absence'. If you decide to purchase the lost pension then you'll need to 'Print quote' and scan to [Payroll@newport.gov.uk](mailto:Payroll@newport.gov.uk).

If they are a member of the Teachers Pensions Scheme, pension contributions cannot be made during a period of unpaid leave.

## **How to Apply**

An employee must complete the [Parental Leave Application Form](#) and forward it to their Manager / Head Teacher. The Manager / Head Teacher must receive this application at least 7 or 21 days prior to the date the employee wishes to commence their parental leave, dependent upon the amount of leave requested. The employee must complete all sections of the application form, and must ensure that proof of parental responsibility, i.e. birth or adoption certificate is attached to their application on their first request of leave.

On receipt of an application for parental leave the Manager / Head Teacher should take a photocopy of the document that provides proof of the employee's entitlement to parental leave. The photocopy should be forwarded to Employment Services and the original returned to the employee.

Employment Services will be responsible for recording and processing the salary deduction on the iTrent System. The calculation for the deduction of hours lost will be in line with any unpaid leave.

## **UNPAID TIME OFF FOR DEPENDANTS**

Time off for dependants allows employees to take a reasonable amount of time off work without pay to deal with certain unforeseen emergencies involving the employee's dependants and to make any necessary longer term arrangements.

The right to time off applies to all employees regardless of their length of service or whether their appointment is fixed term, temporary, casual or permanent

### The Circumstances under Which an Employee Can Take Time Off (Not Exhaustive)

1. If a dependant falls ill, has been injured or has been assaulted - the illness or injury of the dependant needn't be serious or life threatening. As well as for an unforeseen illness or injury, the employee is permitted to take time off where an existing illness, injury or condition deteriorates.
2. When a dependant is having a baby.
3. To make long term care arrangements for a dependant who is ill or injured, i.e. arranging a carer.
4. To deal with the death of a dependant including time off to attend a funeral or make funeral arrangements. The Council has also made provision for paid time off in certain circumstances; please see the [Leave of Absence Policy](#) document for further information.
5. To deal with the unforeseen breakdown of care arrangements for a dependant. This may be where the usual carer of the dependant fails to turn up as arranged.
6. To deal with an unexpected incident involving an employee's child during school hours.

### Circumstances When the Leave Cannot be Taken

The leave should not be used in circumstances where the need to take leave could have been foreseen, in these circumstances annual leave should be used in the normal way.

This leave is for the purpose of making immediate arrangements only. It is not in the spirit of the leave that it should be used for an extended period. It is expected that an employee will only need a maximum of 2-3 days leave as time off for dependants in order to make any necessary longer term arrangements. For additional periods, annual leave should be taken.

### Procedure for Applying

Employees are expected to follow the normal procedures that are in place within their Service Area/Section/School for the reporting of sickness absence to report to their manager that it is their intention to take Unpaid Time Off for Dependants.

On return to work the employee should complete the relevant [Unpaid Time Off for Dependants form](#) detailing their time off. A copy of the form should be forwarded to Employment Services to ensure that the absence is recorded and the necessary payroll adjustment is made.

### Misuse of the Entitlement

Any misuse of these policies may be dealt with under the Council's/School's [Disciplinary Policy](#). The following are examples of misuse:

1. Taking parental leave for purposes other than for caring for a child.
2. Making a false statement as to entitlement to parental leave, for example the age of the child, the relationship with the child or the amount of parental leave taken with a previous employer.
3. Knowingly giving information to obtain leave that is subsequently found to be false.

## Carers' Leave

Carers' leave allows employees the opportunity to take time off work when they are caring for a loved one and the responsibility for providing that care means that the carer needs reasonable time off work. Time off may be paid (up to 22 hours pro rata) or unpaid.

The right to time off applies to all employees regardless of their length of service or whether their appointment is fixed term, temporary, casual or permanent.

Full details can be found in the [Carers' Policy](#). As with any entitlement to time off, any misuse of this policy may be dealt with under the Council's/School's [Disciplinary Policy](#).

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## Document Control

Version	Date	Author	Notes/Changes
V1	08/04/2011	Human Resources	Corporate Review and New Template
V1.1	04/05/2011	Human Resources	Inserted linked forms
V2.0	23/05/2012	Human Resources	Inclusion of extended paternity leave and full review
V2.1	22/01/2013	Human Resources	Slight amendment due to statutory change. Service Area to People & Transformation, schools reference included and Template change
V2.2	01/03/2013	Human Resources	Re-establishment of links
V2.3	03/07/2013	Human Resources	Clarification of breastfeeding support

V3.0	05/06/2015	Human Resources	Legislation changes - right to attend adoption appointments, parental leave extended, qualifying period for adoption leave removed, statutory adoption pay increased, surrogate parents also able to take adoption/shared parental leave. Some minor re-wording of policy.
V3.1	16/12/2016	Human Resources	Changes to OMP eligibility
V3.2	19/05/2015	Human Resources	Changes to OMP eligibility
V3.3	22/09/2017	Human Resources	Version Control Added
V3.4	09/04/2018	Human Resources	Amendments of OMP/OAP
V3.5	07/08/2018	Human Resources	Leave for Unpaid Parental Leave
V3.6		Human Resources	Human Resources
V3.7	02/07/2019	Human Resources	Carers' Leave added, new policy template and changes to notice to return early from maternity leave/postpone returning from maternity leave
V3.8	25/07/2019	Human Resources	Change of wording for pension provisions for Non-Teaching staff/LGPS members.