

# Paternity Leave

## Policy and Procedure

### 1. Purpose

This policy sets out Lancashire County Council's paternity leave and pay provisions and the arrangements for requesting such leave and pay.

### 2. Scope

The policy applies to all employees of the Council excluding:

- Teachers, whose pay is determined by reference to the School Teachers Pay and Conditions Document.
- Non teaching employees in schools.
- Employees who have transferred to Lancashire County Council in accordance with TUPE regulations and who, therefore, retain different terms and conditions.

### 3. Paternity Leave

Employees who meet certain qualifying conditions have a statutory right to take two weeks' paternity leave on the birth or adoption of a child for which they have or expect to have responsibility. The pay arrangements are set out under the **Statutory Paternity Pay (SPP)** section below.

Note:

- The right to take paternity leave is in addition the statutory right to take Shared Parental Leave (SPL) to care for a child, which is subject to separate qualifying criteria.

#### Qualifying Conditions – After the Birth of a Child

In order to take paternity leave after the birth of a child, an employee must:

- have at least 26 weeks' continuous service with the Council by the end of the 15<sup>th</sup> week before the Expected Week of Childbirth (EWC);
- be the child's biological father and have, or expect to have, responsibility for the child's upbringing; or
- be the spouse or partner or civil partner of the mother and have, or expect to have, the main responsibility for the child's upbringing, apart from the responsibility of the mother (same-sex partners are eligible);
- have formally notified the Council of his or her intention to take paternity leave; and
- provide documentary evidence of his or her right to take paternity leave.

#### Qualifying Conditions – After the Adoption of a Child

In order for an adoptive parent (who is not taking Statutory Adoption Leave (SAL) or the partner of an adoptive parent) to be entitled to take paternity leave to care for a child adopted in the UK, he or she must:

- have at least 26 weeks' continuous service with the Council by the end of the week in which he or she is formally informed by an approved adoption agency that he or she (or his or her partner or civil partner) has been matched with a child for adoption;
- be the joint adopter of the child or be married to, or the partner or civil partner of, the adopter and have, or expect to have, the main responsibility for the child's upbringing, apart from the responsibility of the adopter;
- have formally informed the Council of his or her intention to take paternity leave; and
- have provided documentary evidence supporting his or her right to take paternity leave.

Slightly different rules apply if the child is being adopted from overseas. In this case, the adoptive parent must have at least 26 weeks' continuous service with the Council and this must:

- end with the week in which the adoptive parent receives notification from the relevant domestic authority; or
- commence with the week in which the adoptive parent's employment began.

The latter criteria take into account the fact that notification of the placement may have been obtained some time before the child enters the UK and the employee may have changed employers during that time.

Note:

- Adoptive parents in surrogacy arrangements and local authority foster parents who have adopted a child placed with them under the 'fostering to adopt' arrangements will be entitled to paternity leave if the qualifying criteria set out above is met.

### **Period of Leave**

The following rules apply for the period of paternity leave:

- Paternity leave is for a maximum of two weeks.
- Employees can choose to take either one week or two weeks of paternity leave. The two weeks of paternity leave do not need to be taken consecutively but must be booked in blocks of at least one week at a time. Leave cannot be taken in units of individual days.
- A week of paternity leave is the same duration as your normal working week.
- You can take only two weeks' paternity leave per pregnancy or adoption, even if more than one child is born as a result of the pregnancy or more than one child is placed under the same adoption arrangement.
- Paternity leave must be taken on any day from the child's birth, but it must end within 52 weeks of the birth (or the expected week of childbirth if the child is born early). In the case of an adopted child, the 52-week period runs from the date on which the child was placed for adoption with the adopter (or the child's entry into Great Britain for adoptions from overseas).
- Paternity leave should be taken after the baby is born. So where the baby is born after the date the employee notified the Council that he or she wanted the paternity leave to commence, the employee must delay the start of the leave until the baby is actually born.
- Paternity leave must be taken before any SPL is taken. An employee will lose their right to paternity leave if they have already taken a period of SPL in respect of a child.

An employee is still entitled to take paternity leave in instances where:

- a child is stillborn, provided that the mother had reached her 24<sup>th</sup> week of pregnancy; or
- a child has been placed for adoption and a disruption occurs to the placement (e.g. the child is returned to the adoption agency).

### **Notification Requirements – After the Birth of a Child**

In order to take paternity leave after the birth of a child, an employee must notify the Council of his or her intention to take paternity leave at least 28 days before each intended period of leave.

### **Notification Requirements – After the Adoption of a Child**

In order to take paternity leave after the adoption of a child in the UK, the employee must notify the Council of his or her intention to take paternity leave no later than seven days after the date on which notification was received from the adoption agency of the match with the child.

If the child is being placed from abroad, the employee must notify the Council of:

- the date the adoptive parent received official notification of the placement; and
- the date on which the child is expected to enter the UK.

This notification must be done within 28 days of the adoptive parent receiving the official notification of the placement, or within 28 days of the employee completing 26 weeks' continuous service with the Council (whichever is later). The employee must give at least 28 days' notice of the date on which paternity leave is to

start. They must also inform the Council of the date that the child entered the UK, within 28 days of the child's date of entry, and provide documentary evidence (e.g. a plane ticket) to confirm the child's arrival.

### **Commencement of Paternity Leave**

As long as the employee takes his or her entitlement to one or two weeks of paternity leave within 52 weeks of the birth or adoption of the child, he or she can choose when to start the leave. In general, paternity leave starts on the date specified in the employee's notice.

In the case of birth, an exception to this is when the employee chooses to start his or her paternity leave on the day the baby is born and he or she is at work on that date. In such a case, the leave would start the next day. It is not possible for prospective fathers or partners to take paternity leave before the birth of a baby.

### **Variation of Start Date**

If, having provided notification of his or her intention to take paternity leave on a specified date, the employee wishes to change the start date, he or she must give the Council at least 28 days' notice as to the revised start date unless this is not reasonably practicable. Notice of the variation should be given as soon as possible and must be in writing.

### **Further Notice**

In all cases, once the baby has been born or the child has been placed for adoption, the employee must inform the Council of the date of birth or placement. This must be in writing.

### **Statutory Paternity Pay (SPP)**

To be eligible for Statutory Paternity Pay (SPP), the employee's average weekly earnings over a certain eight-week period must not be less than the lower earnings limit for National Insurance contributions. Employees who earn less than this limit may still take paternity leave, but they are not entitled to receive SPP.

For those who qualify, SPP is paid at a flat rate (the standard rate of Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP), which is currently £184.03 – with effect from 7 April 2024) or 90% of the employee's average weekly earnings, whichever is the lesser amount.

Note:

- Where an employee is also entitled to [Maternity Support Leave](#) under national conditions of service, the employee will be entitled to two weeks' leave in total - maternity support leave of one week at full pay and one week's statutory paternity leave paid at the SPP rate stated above.

### **Rights During Paternity Leave**

An employee's contract of employment continues in full throughout the period of paternity leave with the exception of normal remuneration.

### **Right to Return After Paternity Leave**

An employee returning to work after either one or two weeks' paternity leave has the right to return to the job they held immediately before their leave began, on the same terms and conditions of employment.

After a period of one or two weeks of paternity leave there is no requirement for the employee to give notice of his or her return date.

## **Policy Version Control**

---

<b>Version</b>	<b>Date</b>	<b>Change</b>
1	06/04/24	○ Updated to reflect the Paternity leave (Amendment) Regulations 2024

---