



Family & Maternity Leave Policy

Including Adoption, Paternity, Fostering and Parental Leave

This policy applies to all Council Employees

September 2023

This is an East Lothian Council Policy which has been subject to consultation with the Joint Trades Unions. Any review of amendment by the council will be following consultation with the Trades Unions.

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1. Introduction

This Policy is designed to help answer questions you may have regarding your entitlement to Family leave and pay and explain some of the options open to you before and after the birth of your child. It also includes rights and entitlements in relation to fostering provisions. If you have any questions that the pack does not cover, you should telephone your HR Adviser contact within Human Resources.

Maternity Leave will apply to all pregnant employees regardless of service or the number of hours they work, however entitlement to the Council's maternity/paternity/shared parental/adoption leave and pay provisions will be governed by the length of your continuous Local Government service.

To qualify for maternity/paternity/shared parental/adoption leave and pay and the right to return to work it is important that you take certain steps at specific times as detailed throughout the policy and at 3.1 and 4.1 below in relation to notification timescales.

The Council recognises that some employees may not wish to announce their pregnancy or intention to adopt during the early stages, and therefore you can be assured that the details of your pregnancy/adoption process will be treated in confidence.

2. General Provisions for All Council Employees

2.1 Maternity Leave Entitlement

Employees, regardless of their length of service or hours worked, are statutorily entitled to a period of up to 52 weeks maternity leave. The length of maternity leave and entitlement to pay will vary dependant on length of Local Government service.

Where an employee has recently taken up employment with East Lothian Council and has previous service with other Local Authority employers as listed in the Redundancy Payment (Local Government) (Modification) Order 1999 (as amended), they may be eligible to seek Statutory Maternity Pay from the previous employing Authority where they have accrued 26 weeks continuous Local Government service by the 15th week before Expected Week of Childbirth and meet earnings thresholds with that employer. In this circumstance the employee would need to contact their previous employer to request payment.

Maternity Leave can begin from a date not earlier than the 11th week before the Expected Week of Childbirth (EWC), unless childbirth has taken place prior to this. You decide when you wish to start your maternity leave, unless childbirth has already taken place. Maternity leave can start on any day of the week.

During the Maternity Leave period all the employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

Compulsory Maternity Leave: All employees are required by law to take compulsory maternity leave of 2 weeks starting on the day on which your baby is born. However, if the baby is born early, before maternity leave has commenced, maternity leave and pay will commence the day after the birth.

2.2 Statutory Pay - Maternity, Adoption, Paternity & Shared Parental

Statutory pay for maternity, paternity, adoption and shared parental leave is paid at a specific weekly rate (this rate is set by the Government and reviewed annually each April).

Note: For employees without 26 weeks continuous Local Government service by 15th week before Expected Week of Childbirth EWC) may be entitled to Maternity Allowance and should submit their MatB1 Form via their line manager to HR. Where employees do not qualify for Maternity Allowance payments, Payroll will complete the SMP1 Form, submit this to Department of Work and Pension and return the original MatB1 to the employee.

2.3 Public Holidays

If one of East Lothian Council's designated fixed public holidays (e.g. currently Christmas, New Year, Easter, or September) falls when an employee is on maternity/paternity/shared parental/adoption leave, the employee is entitled to claim these days back on their return to work.

2.4 Ante-Natal Care

Throughout pregnancy, an employee is entitled to time off work with pay to attend ante-natal appointments and preparation for birth/parenthood classes. Requests for time off should be submitted to your line manager using a Special Leave Form at Appendix 8 and should be supported by an appointment card.

Partners are also entitled to special paid leave in order to accompany the pregnant partner to 3 ante-natal appointments.

2.5 Risk Assessment

On being advised of an employee's pregnancy, line managers should ensure that H&S risk assessments are conducted throughout the course of the employee's pregnancy and nursing period. For further information please refer to the New and Expectant Mothers' approved Health and Safety guidelines which are available on the Intranet: [New and Expectant Mothers](#)

2.6 Display Screen Equipment

The Health and Safety Executive states that employees can safely work with display screen equipment (DSE) if pregnant. Scientific studies to date have not shown any link between miscarriages or birth defects and working with DSE.

2.7 Night Working

Employees who are pregnant have the right to be transferred from night work to daytime work on medical grounds. If an employee considers this to be necessary, they should ask their GP to provide a medical certificate to this effect which should be shared with their line manager. The line manager should then contact HR to discuss the arrangements required.

Pregnant women who are unable to carry out their substantive roles due to a Health and Safety risk may be given other suitable duties or suspended from work on full pay.

2.8 Contact during Maternity, Paternity, Shared Parental or Adoption Leave

The Council reserves the right to maintain reasonable contact with employees during maternity/paternity/shared parental/adoption leave using the personal contact details provided and stored on the Council's HR systems. This can be to discuss relevant matters regarding their return to work or to update them on developments at work during their absence.

2.9 Keeping in Touch (KIT) Days

A KIT day is not a legal entitlement or requirement and neither the employee nor the employer can insist on KIT days being worked. Any such work must be by advance agreement between the parties.

However, during maternity or adoption leave an employee, subject to agreement from their manager, is allowed up to 10 days at work with normal pay, known as 'Keeping in Touch Days', without bringing the maternity or adoption leave period to an end. Normal pay will be inclusive of any Statutory Maternity/Adoption Pay or Maternity Allowance payable to the employee.

If an employee has opted to take Shared Parental Leave, subject to agreement from their manager, they may take up to 20 'Shared Parental Leave in Touch Days' (SPLIT) days. These days are equivalent to 'Keeping in Touch Days' days and will be paid at the same rate, i.e. normal pay.

These SPLIT days do not need to be consecutive and can be used for training or any other work activity that enables the employee to keep in touch with their workplace. Payroll should be notified of any 'Keeping in Touch' hours once worked via e-mail from the manager specifying the dates and number of hours worked.

Note: Where an employee works part of a KIT day, it counts as a full day.

2.10 Sickness Absence Prior to Maternity Leave

If maternity leave has not yet commenced and the employee is absent due to a pregnancy related illness, at any time during the four weeks before the start of the Expected Week of Childbirth (EWC), the maternity leave will automatically commence from that date.

If the employee is absent due to any other type of illness at any other time prior to the four weeks before the Expected Week of Childbirth, normal sick leave and sick pay entitlements will apply as detailed in the Council's Managing Attendance Policy up until the commencement date of maternity leave that the employee had originally notified the Council.

2.11 Early or Late Childbirth

Where the actual date of childbirth is earlier/later than the expected date of childbirth, maternity leave and maternity pay are unaffected, provided the baby is born after the maternity leave period has started.

Where the baby is born before the expected start date of the maternity leave, the maternity leave period and any maternity pay shall be triggered automatically from the day after the date of birth. In this event the employee must notify Human Resources, in writing of the date of birth, within 21 days of the birth (where reasonably practicable).

2.12 Miscarriage or Still Birth

If an employee has a miscarriage up to the 24th week of pregnancy they will not be entitled to maternity leave or maternity pay but will be entitled to sick leave and sick pay in accordance with normal notification and certification procedures.

In the event of a still birth after 24 weeks of pregnancy, an employee retains the right to maternity leave and pay.

If an employee has resigned from their job due to pregnancy or childbirth, but the child does not live i.e. is still born, subject to the provisions below, she shall be entitled to return to work but without the right to return to the same post at the same grade and pay/salary as applied immediately prior to resignation.

An employee shall not be entitled to return to employment with the Council in accordance with this paragraph unless:

- a suitable vacancy exists.
- she submits in writing a doctor's statement that she is medically fit to return, if such a statement is requested.
- she satisfies the normal return from maternity notice period i.e. 56 days (see 3.9)

2.13 Parental Bereavement Leave

The Parental Bereavement Leave Regulations 2020 introduced leave and pay entitlements for parents, for the loss of each child including a stillbirth after 24 weeks of pregnancy or loss of a child under the age of 18.

This leave can be taken any time within 56 weeks of the bereavement and could include, for example, the first anniversary of any such bereavement.

All employees, regardless of length of service will be entitled to 2 weeks leave at full normal pay for the loss of each child. Leave can be taken as two consecutive weeks or in one-week blocks but not individual days.

Definition of parents includes birth parents and adults with parental responsibility, for example adoptive parents, individuals who are fostering to adopt, legal guardians (including same sex couples).

Employees on maternity, paternity, adoption or shared parental leave also have the right to take parental bereavement leave.

Parental Bereavement Leave Conditions:

- Employees should confirm start and end dates of leave and the date of bereavement.
- Leave dates requested should be accommodated; managers cannot ask employees to take parental bereavement leave at a different time.
- For leave within the first 56 days following bereavement, no notice period is required, however employees should confirm as soon as possible.
- After 56 days following bereavement, a minimum of one week's notice will be required in advance of taking the leave.
- Employees should give one week's notice if they wish to cancel the leave.
- In the case of still birth after 24 weeks of pregnancy parental bereavement leave can be added on to maternity, paternity and Shared Parental leave.
- The entitlement applies to each parent who do not have to take the leave at the same time.

2.14 Pregnant Workers and Breast Feeding

Pregnant workers and breastfeeding mothers are entitled to more frequent rest breaks. Employees and their line manager should discuss and agree timing and frequency.

At work, employees will be provided with a suitable area where they can rest and/or express milk. This should include:

- A comfortable chair or somewhere to lie down if necessary
- A hygienic and private space so they can express milk if they choose to – toilets are not a suitable place for this
- Somewhere to store their milk, for example a lockable fridge within their direct work area

All main council establishments should provide the above facilities and where this is not possible, arrangements should be made by the line manager, in

discussion with the council's H&S Adviser, for employees to access appropriate space or to express from another council building or home. The line manager should carry out individual risk assessments at suitable intervals throughout the pregnancy to establish the needs and support required by the employee. For more information on this and a Risk Assessment Form you should refer to your line manager in the first instance.

2.15 Childcare Voucher Scheme

The UK Government closed all Employer Child Care Voucher (CCV) schemes to new entrants in 2018, with the tax-free childcare scheme available as an alternative. Details can be found here Tax-Free Childcare: 10 things parents should know - GOV.UK (www.gov.uk)

Alternatively, contact employeebenefits@eastlothian.gov.uk for further information.

3. Maternity Provisions for Local Government Employees, Chief Officials and Craft Operatives

3.1 Initial Notification Procedures

All employees applying for maternity leave must submit a completed **Maternity Notification Form** (Appendix 1) and submit this to HR and their line manager by the first working day of the 15th week prior to the Expected Week of Childbirth, or as soon as is reasonably practicable. This form must include confirmation of:

- Pregnancy
- The week the baby is expected to be born Expected Week of Childbirth
- The date she wishes to start maternity leave
- Indication of intention to return to work following the maternity leave period

Employees must also submit a maternity certificate (**MatB1 Form**) to HR via their line manager *at least 28 days prior to starting maternity leave*. This document indicates the Expected Week of Childbirth and will be obtained from the GP or Midwife.

ML can begin from a date not earlier than the 11th week before the Expected Week of Childbirth (EWC), unless childbirth has taken place prior to this. The period of ML may commence on any day of the week. During the ML period all the employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

An employee is required to take compulsory maternity leave of 2 weeks starting the day on which childbirth occurs. However, if the baby is born early, before maternity leave has commenced, maternity leave and pay will commence the day after the birth.

Once the above paperwork is received, Human Resources will provide written confirmation of your entitlement to maternity leave and pay.

3.2 Employees with Less Than 26 Weeks Continuous Service

Employees who have less than 26 weeks continuous Local Government service by the 15th week before their Expected Week of Childbirth (ECW) will be entitled to take up to 52 weeks unpaid maternity leave (comprising 26 weeks ordinary maternity leave and 26 weeks additional maternity leave). Employees may also be entitled to Maternity Allowance payments (see 3.3 below).

3.3 Maternity Allowance

If you have less than 26 weeks continuous Local Government service and/or earn less than the National Insurance threshold (as set by the Government annually), you may be entitled to Maternity Allowance.

You can claim this allowance if you have paid National Insurance Contributions for 26 weeks out of 66 weeks ending with the week before the Expected Week of Childbirth. Employees should submit their **MatB1 Form** via their line manager to HR. Where employees do not qualify for Maternity Allowance payments, Payroll will complete the SMP1 Form, submit this to the Department of Work and Pension and return the original MatB1 Form to the employee.

Maternity Allowance is paid for up to 39 weeks.

3.4 Employees with at Least 26 Weeks Continuous Local Government Service

Employees who have at least 26 weeks continuous Local Government service at the beginning of the 15th week before their Expected Week of Childbirth and who satisfy the notification procedures at 3.1 above are entitled to **52 weeks maternity leave** as follows:

- 39 weeks **paid leave** (26 weeks ordinary and 13 weeks additional maternity leave) as follows:
 - 6 weeks at 9/10th normal pay (inclusive of payments made by way of Statutory Maternity Pay **or** Maternity Allowance where applicable)
 - 12 weeks half pay plus Statutory Maternity Pay or Maternity Allowance as applicable (the total payment will not exceed full pay) and
 - 21 weeks Statutory Maternity Pay or Maternity Allowance as applicable;
Plus unpaid leave of
 - 13 Weeks additional maternity leave

3.5 Employees with More Than 1 Years Continuous Local Government Service

Employees who have 1 years' continuous Local Government service at the beginning of the 15th week before their Expected Week of Childbirth and who satisfy the notification procedures at 3.1 are entitled to a maximum of 63

weeks maternity leave (***providing they start their maternity leave 11 weeks prior to the Expected Week of Childbirth***) as follows:

- 39 weeks ***paid leave*** (26 weeks ordinary and 13 weeks additional maternity leave) as follows:
 - 6 weeks at 9/10th normal pay (inclusive of payments made by way of Statutory Maternity Pay or Maternity Allowance (as applicable))
 - 12 weeks half pay plus Statutory Maternity Pay or Maternity Allowance as applicable (the total payment will not exceed full pay) and
 - 21 weeks Statutory Maternity Pay or Maternity Allowance (as applicable);
- Plus unpaid leave of***
- 24 Weeks additional maternity leave

3.6 Qualification for 12 Weeks Half Pay

In order to qualify for 12 weeks half pay the employee must provide written confirmation i.e. when completing the Maternity Notification Form (see Appendix 1) of their intention to return to work for a period of not less than 3 calendar months following maternity leave.

Employees, who indicate their intention to return to work for a period of at least 3 calendar months following maternity leave, and subsequently decide not to return, must confirm their decision to resign in writing by e-mail to their line manager copying HR@eastlothian.gov.uk . They will be required to repay the period of 12 weeks half pay.

Employees who are unsure if they will return to work may elect to postpone payment of half pay until their return by completing the relevant section of the Maternity Notification Form at Appendix 1.

3.7 Inform the Council of the Baby's Birth

Employees must inform the Council, in writing to their line manager and HR, of the actual date of their baby's birth within 28 days of the birth.

3.8 Right to Return to Work

An employee has a statutory right to return to the job in which they were employed under their original contract of employment and on terms and conditions no less favourable than those that would have applied to them had they not been absent. Temporary employees have the right to return to their temporary role up until the end date of the temporary contract.

However, where exceptional circumstances occur, i.e. where an organisational change necessitates an alteration to the employee's job and this change would have occurred irrespective of their absence on maternity leave, suitable alternative employment may be offered.

3.9 Return to Work Following Maternity Leave

Employees must notify HR and their line manager of their intended return to work date at least 56 days in advance of this date.

Where an employee attempts to return to work earlier than the end of the 52 week period or changes their intended return to work date without giving the appropriate notice, the Council may postpone their return by up to 7 days to a date no later than the end of the 52 week maternity leave period.

East Lothian Council recognises that traditional patterns of work may not always be compatible with family responsibilities. To increase the opportunities available to employees, a number of flexible working options are set in the Council's Worksmart Policy which is available on the Intranet.

3.10 Annual Leave Entitlement

Any annual leave that you have not used before the commencement of your maternity leave may be carried forward to be taken after your maternity leave, even where your leave year has ended whilst you are on maternity leave. This leave may be used at the end of your maternity leave prior to your return to work, or as soon as reasonably possible thereafter, with the approval of your Line Manager. Annual leave will accrue as normal during any period of maternity leave.

4.0 Maternity Provisions for Teaching Employees and Associated Professionals Covered by SNCT Provisions

4.1 Initial Notification Procedures

Teaching and SNCT Associated Professional employees applying for maternity leave must submit a completed **Maternity Notification Form** (Appendix 2) and submit this to HR and their line manager by the first working day of the 15th week prior to the Expected Week of Childbirth, or as soon as is reasonably practicable. This form must include confirmation of:

- Pregnancy
- The week the baby is expected to be born (Expected Week of Childbirth)
- The date she wishes to start Maternity Leave
- Indication of intention to return to work following Maternity Leave Period

Employees **must also submit** a maternity certificate (**MatB1 Form**) to HR via their line manager at least 28 days prior to starting maternity leave. This document indicates your Expected Week of Childbirth and will be given to you by your GP or Midwife.

Maternity Leave (ML) can begin from a date not earlier than the 11th week before the Expected Week of Childbirth (EWC), unless childbirth has taken place prior to this. The period of ML may commence on any day of the week.

During the ML period all the employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

An employee is required to take compulsory maternity leave of 2 weeks starting the day on which childbirth occurs. However, if the baby is born early, before maternity leave has commenced, maternity leave and pay will commence the day after the birth.

Once the above paperwork is received Human Resources will provide written confirmation of your entitlement to Maternity Leave and pay.

4.2 Less than 26 week's Continuous Local Government Service

Teaching and SNCT Associated Professional employees who have less than 26 weeks continuous Local Government service at the beginning of the 15th week before the Expected Week of Childbirth and who satisfy the procedures at 4.1 are entitled to 52 weeks **unpaid leave**. Employees may also be entitled to Maternity Allowance payments (see 4.3 below).

4.3 Maternity Allowance

Teaching and SNCT Associated Professional employees with less than 26 weeks continuous Local Government service at the beginning of the 15th Week before the Expected Week of Childbirth and/or who earn less than the National Insurance threshold (as set by the Government annually), may be entitled to Maternity Allowance.

Teaching and SNCT Associated Professional employees can claim this allowance if they have paid National Insurance Contributions for 26 weeks out of 66 weeks ending with the week before the Expected Week of Childbirth. Employees should submit their **MatB1 Form** via their line manager to HR. Where employees do not qualify for Maternity Allowance payments, Payroll will complete the SMP1 Form, submit this to Department of Work and Pensions and return the original **MatB1 Form** to the employee. Maternity allowance is paid for up to 39 weeks.

4.4 At least 26 weeks continuous Local Government Service

Teaching and SNCT Associated Professional employees who have at least 26 weeks continuous Local Government service at the beginning of the 15th week before the Expected Week of Childbirth, and who satisfy the notification conditions procedures (see 4.1 above) are entitled to be paid:

(a) Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) at the appropriate rate for the first 13 weeks (**Note for employees on temporary contracts, OMP will last only for the duration of the employment contract with ELC**). Taken together, these payments will be equal to the employee's normal salary, and where eligible,

(b) Statutory Maternity Pay (SMP) for the remaining 26 week period will be paid, where the employee has at least 26 weeks service with East Lothian Council, (rather than Local Government service) and provided that the

employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.

4.5 Return to work following Maternity Leave

Teaching and SNCT Associated Professional employees are requested to confirm their return date to HR (as well as their Head Teacher). When an employee wishes to return to work prior to this date they must provide at least 28 days' notice of the date they propose to return. If the appropriate notice is not given the Council may postpone the return by up to 28 days provided this is not later than the expected return date.

4.6 Accrual of Annual Leave whilst on Maternity Leave

Teachers and SNCT Associated Professionals will continue to accrue annual leave while on maternity leave.

The annual leave entitlement for full time Teachers and Music Instructors is 40 days (pro-rata for part time employees). This entitlement is inclusive of the current statutory leave entitlement of 28 days and public holidays.

Educational Psychologists, Senior Educational Psychologists, Depute Principal Educational Psychologists and Principal Educational Psychologists and Education Support Officers, Quality Improvement Officers and Quality Improvement Managers accrue leave at 35 days per year for those with less than 5 years continuous service and 40 days per year for those with 5 years or more continuous service.

Once you have notified HR (and your Head Teacher) of the date that you wish to end your maternity leave period, you will be notified of the amount of annual leave that you will be able to take (i.e. the paid annual leave days missed while on Maternity Leave).

For Teachers and Music Instructors, statutory annual leave should normally be taken in the term in which the return to work takes place, or within the following term. The balance of annual leave in excess of statutory leave will be directed to be taken during periods of school closure (i.e. an additional payment will be made for these days/hours upon your return to work).

In the case of Education Support Officers, Quality Improvement Officers and Educational Psychologists, the balance of annual leave should normally be taken as soon as possible following the return to work.

In order to provide the best continuity in teaching and learning for pupils, the Council will require teachers to take any Statutory Leave entitlement immediately following the maternity leave period, giving you a later date for an actual return to work. You will be paid for all school holiday periods that fall after the end of your maternity leave period and accrued paid leave days will be offset only against normal term-time working days.

If your contract ends during your Maternity Leave period, you will be paid any accrued leave up to the end of your contract.

Teaching and SNCT Associated employees who give the Council written notice that they do NOT intend to return to work at the end of their maternity leave period will receive payment for leave accrued up until their date of resignation.

4.7 Accrual of Personal Incremental Credit

A teacher or SNCT Associated Professional's maternity leave shall count, in full, as credited service in the determination of scale placing in accordance with the salary placement regulations. If a teacher or SNCT Associated Professional returns to work under the provisions of the 'Additional Maternity Leave' section, the period from the end of paid maternity leave to the date of return to work, shall also be credited in full.

5. Paternity Leave & Maternity/Adoption Support Leave and Pay All Employees

5.1 To qualify for **Paternity Leave (statutory) or **Maternity/Adoption Support (occupational) Leave** you must be:**

- the biological father of the child **or**;
- the mother's husband or partner (including same-sex relationships) **or**;
- the child's adopter **or**;
- the husband or partner (including same-sex relationships) of the child's adopter **or**;
- have, or expect to have, responsibility for the child's upbringing

5.2 Paternity and/or Maternity/Adoption Support Pay Entitlements:

- (a) Employees **with more than 26 weeks service** with the council by the end of the 15th week before the start of the week when the baby is due **or**, at the end of the week you are notified you are matched with your child for adoption, **and** who meet the HMRC [earnings threshold](#) are **entitled to 2 weeks statutory paternity leave and statutory paternity pay which is paid at the Statutory rate £172.48 per week (as at 1 April 2023*) OR at 90% of your average weekly earnings; whichever is lower** *Statutory Paternity Pay is revised annually.
- (b) Employees, regardless of their length of service with the council, are entitled to 2 week's **Maternity/Adoption Support leave** (this is an occupational rather than Statutory entitlement), **with the first week's leave at full pay, and the second week unpaid.** Please note this is leave **is not** in addition to the statutory Paternity Leave entitlement above – the 2 weeks Maternity/Adoption Support leave and pay would be offset any statutory paternity leave and pay an employee would be eligible for.

5.3 Paternity Leave and/or Maternity/Adoption Support Leave must be taken in one go – employees can choose whether to take one or two consecutive full

weeks' leave but cannot take odd days or have the 2 weeks at different times with a gap between them. **Note:** *this leave entitlement remains the same if your partner has multiple births, such as twins.*

- (a) If employees **with more than 26 continuous weeks service** choose to take 2 consecutive weeks leave they will get:
 - 1 weeks leave at full pay (Maternity/Adoption Support pay)
 - 1 weeks leave paid at statutory paternity pay or 90% of their normal weekly pay (whichever is lower)
- (b) If employees **with less than 26 weeks continuous service** choose to take 2 consecutive weeks leave they will get:
 - 1 weeks leave at full pay (Maternity/Adoption Support pay)
 - 1 weeks leave unpaid

5.4 Paternity/Maternity Support/Adoption Support leave cannot be taken before the child is born/placed with you but can be taken either from the actual date of the child's birth/placement with you or from another date after the birth/placement. It can start on any day of the week and must be taken within 56 days of the actual birth/placement of the child. If the child is born early, the leave must be taken within the period from the actual date of the birth up to 56 days after the commencement of the expected week of birth.

5.5 Notification Timescales and Forms Required

- (a) **Employees who are eligible to claim Statutory Paternity Leave and Pay (i.e. with more than 26 weeks service with ELC)** should complete the relevant HMRC Form (Appendix 5) and the Maternity/Adoption Support Leave Form (Appendix 6) at least 15 weeks *before* the baby is due. Once you have completed these forms, you will need to download or print them and send copies to your manager and to payrollforms@eastlothian.gov.uk
- (b) **Employees who are not entitled to claim Statutory Paternity Leave or pay (i.e. have less than 26 weeks service with ELC)** should inform their manager of their intention to take Maternity/Adoption support leave (see Form at Appendix 6) at least 15 weeks *before* the baby is due. This notification should give details of the date the baby is due to be born/placed with you for adoption, when you plan to take the leave, and whether you plan to take one or two weeks leave.
- (c) **All employees (regardless of length of service) must also complete a Special Leave Form (Appendix 8)** as soon as possible *after* the baby is born/placed with you for adoption and must confirm the dates the Paternity and/or Maternity/Adoption support leave was taken. It must be authorised by your line manager and sent to payrollforms@eastlothian.gov.uk

5.6 If you lose your baby

You can still get Paternity Leave or Pay if your baby is:

- stillborn from 24 weeks of pregnancy
- born alive at any point during the pregnancy

6.0 Adoption and Surrogacy Provisions for Local Government Employees; Chief Officials and Craft Operatives

6.1 Adoption Notification Requirements

The adoption provisions will apply where an employee has:

- been newly matched with a child by an approved adoption agency; and
- has at least 26 weeks continuous Local Government service prior to the week in which they are notified of being matched with a child for adoption.

An employee adopting a child from overseas must have official notification. Official notification is written notification, issued by or on behalf of the relevant domestic authority (Scottish Government).

Requests for Adoption Leave and pay must be made in writing on the application for Adoption Leave and Pay Form attached (Appendix 3) and be submitted to the line manager within 7 days of the employee being notified by the adoption agency that they have been matched with a child for adoption, where this is reasonably practicable.

Requests for Adoption Leave must also be accompanied by a matching certificate or letter from the Adoption Agency detailing the following:

- name and address of the adopter(s);
- name and address of the Adoption Agency;
- the date the child is matched;
- the date the child is placed.

Adopters who, as a result of the date of the child's placement being altered, need to change the date on which their Adoption Leave starts, must give 28 days' written notice, if reasonably practicable.

6.2 Adoption Leave and Pay

Where a couple jointly adopt a child or children, they must decide which partner will take leave under these provisions (the Adopter) as Adoption Leave will only be granted to the Adopter. The partner, however, may be entitled to Adoption Support Leave or Paternity Leave and Additional Paternity Leave. Alternatively, a couple may also wish to consider taking Shared Parental Leave.

An eligible employee can take up to 52 weeks' adoption leave. This is made up of 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave.

In respect of children adopted from within the UK, Adoption Leave must commence either:

- from the date of the child's placement; or
- from a fixed date of up to 14 days before the expected date of placement

In respect of children adopted from outwith the UK, Adoption Leave must commence either:

- from the date the child enters Great Britain; or
- from a date no later than 28 days after the date the child enters Great Britain

The Council will grant a maximum of three days paid leave to enable prospective adoptive parent(s) to attend court hearings, case conferences and other formal meetings. This entitlement is subject to reasonable notice being given and on production of evidence of the meetings etc.

In respect of children adopted from overseas adoption leave will not be granted to cover the period employees spend travelling overseas to arrange the adoption or visiting the child.

Where more than one child is placed as part of the same adoption arrangement only one period of leave and pay will be granted.

Adoption leave will not be granted in circumstances where the child is already living as a family member e.g. where the spouse/partner of a natural parent adopts their partner's child (or children).

Under circumstances where the adoption placement ends during the Adoption Leave period the adopter will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement.

Entitlement to adoption leave and pay is determined by the employees' length of continuous Local Government service.

6.3 At Least 26 weeks Continuous Local Government Service

Employees who have at least 26 weeks continuous Local Government service prior to the week in which they are notified of being matched with a child for adoption will be entitled to:

- 6 weeks at 9/10th normal pay (inclusive of payments made by way of 39 weeks paid leave (26 weeks ordinary and 13 weeks Additional Adoption Leave) as follows:
- 12 weeks half pay plus Statutory Adoption Pay (the total payment will not exceed full pay) and
- 21 weeks Statutory Adoption Pay and

- 13 Weeks Additional Adoption Leave which is unpaid

6.4 One year's Continuous Service inclusive of at least 26 weeks Continuous Local Government Service

Employees who have at least 1 year's continuous service, inclusive of 26 weeks local government continuous service prior to the week in which they are notified of being matched with a child for adoption, will be entitled to:

- 26 weeks Ordinary Adoption Leave paid as follows:
 - 6 weeks at 9/10th normal pay (inclusive of payments made by way of SAP if applicable);
 - 12 weeks half pay (Occupational Adoption Pay) plus SAP or 90% of weekly wage, whichever is the lower (the total payment will not exceed full pay);
 - 8 weeks Statutory Adoption Pay or 90% of weekly wage, whichever is the lower; and
- 26 weeks Additional Adoption Leave paid as follows:
 - 13 weeks Statutory Adoption Pay or 90% of their weekly wage, whichever is the lower;
 - 13 weeks unpaid

Employees whose average earnings are below the Lower Earnings Limit for National Insurance Contributions will not qualify for Statutory Adoption Pay.

6.5 Qualification for 12 Weeks Half Pay

In order to qualify for 12 weeks half pay the employee must provide written confirmation of her intention to return to work for a period of not less than 3 calendar months following adoption leave. This is done by completing the Application for Adoption Leave and Pay Form at Appendix 3.

Employees, who have indicated their intention to return to work for a period of at least 3 calendar months following their adoption leave, and subsequently decide not to return, must confirm their decision in writing to their line manager. They will be required to repay the period of 12 weeks half pay as the council may decide.

6.6 Qualification for Statutory Adoption Pay (SAP)

In order to qualify for Statutory Adoption Pay the employee must meet all of the conditions listed below:

- have been continuously employed by the council or have previous continuous service with other Local Authority employers listed in the Redundancy Payment (Local Government) (Modification) Order 1999 (as amended) for 26 weeks prior to the week in which they are notified of being matched with a child for adoption;
- continue to be employed by the council during all or part of the week prior to being notified of being matched with a child for adoption;
- have average weekly earnings at or above the lower earnings limit for the payment of National Insurance contributions;

- have complied with the notification requirements outlined in this policy

Payment of SAP cannot start earlier than 14 days before the expected date of placement and is paid for a maximum of 39 weeks.

6.7 Right to Return to Work

An employee has a statutory right to return to the job in which they were employed under their original contract of employment and on terms and conditions no less favourable than those that would have applied if they had not been absent. Temporary employees have the right to return to their temporary role up until the end date of the temporary contract.

However, where exceptional circumstances occur, i.e. where an organisational change necessitates an alteration to the employee's job and this change would have occurred irrespective of their absence on adoption leave, suitable alternative employment may be offered.

Alternative employment should be suitable to the employee, appropriate to the circumstances, the capacity, and place of employment that applied prior to their absence on adoption leave. The terms and conditions of employment should not be less favourable than if the employee had been able to return to the job in which they were employed prior to their absence.

6.8 Notice to Return

Employees are asked to confirm their return date in writing to their line manager and HR. The employee will be expected to return on this date unless they advise the Council otherwise. When an employee wishes to return to work prior to this date they must provide at least 8 weeks' notice of the intended date of return. If the appropriate notice is not given the council may postpone their return to such a date as will give the council 8 weeks' notice provided this is not later than the maximum period of adoption leave.

6.9 Annual Leave Entitlement

Any annual leave that you have not used before the commencement of your adoption leave may be carried forward to be taken after your adoption leave, even where your annual leave year ends whilst you are on adoption leave. This leave may be used at the end of your adoption leave prior to your return to work, or as soon as reasonably possible thereafter, with the approval of your Line Manager. Annual leave will accrue as normal during any period of maternity leave.

6.10 Surrogacy Leave

The couple must choose one person to take the Family Leave. This person is entitled to 52 weeks Family Leave regardless of length of service. They must provide the Council with a copy of the Parental Order to confirm parenthood but this may not be obtained until the child is between 6 weeks and 6 months old so it is recognised that the Family Leave may have commenced before it is available. Prior to this the intended parent should provide the Council with a copy of the **MatB1** which the birth mother obtains and should

provide no less than 28 days' written notice that they will require to take family leave. This will provide the Council with notice of the impending birth and the date the Family Leave is to commence.

The leave may begin from the date of the child's placement, or from a fixed date up to 14 days before the expected date of placement.

An employee who has less than 26 weeks continuous Local Government service, prior to the week in which they received the child, is entitled to 52 weeks' Family Leave without pay.

An employee who has 26 weeks continuous Local Government service prior to the weeks in which they received the child will be entitled to be paid 13 weeks at normal salary and 26 weeks at a sum equivalent to Statutory Adoption Pay.

7.0 ADOPTION/ SURROGACY PROVISIONS for Teaching Employees and Associated Professionals Covered by SNCT Provisions

7.1 Adoption Notification Requirements

The terms of the adoption provisions will apply where a Teacher or SNCT Associated Professional has been newly matched with a child by an approved adoption agency.

A teaching/SNCT Associated Professional employee adopting a child from overseas must have official notification. Official notification is written notification, issued by or on behalf of the relevant domestic authority (Scottish Government).

Requests for Adoption or surrogacy Leave and pay must be made in writing on the application for Adoption Leave and Pay Form attached (Appendix4) and submitted to the Head Teacher/Line manager within 7 days of the Teacher or SNCT Associated Professional being notified by the adoption agency that they have been matched with a child for adoption, where this is reasonably practicable.

Requests for Adoption Leave must also be accompanied by a matching certificate from the Adoption Agency detailing the following:

- name and address of the adopter(s);
- name and address of the Adoption Agency;
- the date the child is matched;
- the date the child is placed.

Adopters who wish to change the date on which their leave starts must give the Council 28 days written notice, where this is reasonably practicable. The Council will respond within 28 days, stating the latest date on which the adopter is expected to return to work.

7.2 Adoption Leave and Pay

Where a couple jointly adopt a child or children, they must decide which partner will take leave under these provisions (the Adopter) as Adoption Leave will only be granted to the Adopter (see form at Appendix 4). The partner, however, may be entitled to Adoption Support Leave or Paternity Leave (see section 5 above). Alternatively, a couple may wish to consider taking Shared Parental Leave (see 9 below).

In respect of children adopted from within the UK, Adoption Leave must commence either:

- from the date of the child's placement; or
- from a fixed date **up to 14 days before** the expected date of placement

The Council will grant a maximum of three days paid leave to enable prospective adoptive parent(s) to attend court hearings, case conferences and other formal meetings. This entitlement is subject to reasonable notice being given and on production of evidence of the meetings etc.

In respect of children adopted from overseas, Adoption Leave will not be granted to cover the period teaching employees spend travelling overseas to arrange the adoption or visiting the child.

Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.

Adoption leave will not be granted in circumstances where the child is already living as a family member e.g. where the spouse/partner of a natural parent adopts their partner's child (or children).

Under circumstances where the adoption placement ends during the Adoption Leave period the adopter will be entitled to remain absent on Adoption Leave for up to 8 weeks after the end of the placement.

Teaching Employees and Associated Professionals Covered by SNCT Provisions are entitled to 52 weeks Adoption Leave (AL) regardless of length of service.

7.3 Less than 26 weeks continuous Local Government Service

Teaching Employees and Associated Professionals Covered by SNCT Provisions who have less than 26 weeks continuous Local Government service prior to the week in which they are notified of being matched with a child for adoption will be entitled to 52 weeks Adoption Leave without pay.

7.4 At least 26 weeks continuous Local Government Service

Teaching Employees and Associated Professionals Covered by SNCT Provisions who have at least 26 weeks continuous Local Government service prior to the week in which they are notified of being matched with a child for adoption will be entitled to:

- Occupational Adoption Pay (OAP) and Statutory Adoption Pay (SAP) for the first 13 weeks. Together, these payments will equal the employee's normal salary; and
- SAP for the next 26 weeks, provided that the employee's average weekly earnings are not less than the lower earnings are not less than the lower earnings limit for National Insurance contribution liability.
- Teaching employees whose average earnings are below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP.

The adopter must notify the Council if, for any reason, the adoption placement ends during the adoption leave. The Adopter will be entitled to remain absent on adoption leave for up to eight weeks after the placement ends, or the expiry of the particular adoption leave period for which they qualify, whichever is sooner.

7.5 Surrogacy Leave

Unless opting to take Shared Parental Leave, the couple must choose one person to take the Family Leave. This person is entitled to 52 weeks Family Leave regardless of length of service. They must provide the Council with a copy of the Parental Order to confirm parenthood but this may not be obtained until the child is between 6 weeks and 6 months old so it is recognised that the Family Leave may have commenced before it is available.

Prior to this the intended parent should provide the Council with a copy of the **MatB1** which the birth mother obtains and should provide no less than 28 days' written notice that they will require to take family leave. This will provide the Council with notice of the impending birth and the date the Family Leave is to commence.

The leave may begin from the date of the child's placement, or from a fixed date up to 14 days before the expected date of placement.

An employee who has less than 26 weeks continuous Local Government service, prior to the week in which he/she received the child, is entitled to 52 weeks' Family Leave without pay.

An employee who has 26 weeks continuous Local Government service prior to the weeks in which she/he received the child will be entitled to be paid 13 weeks at normal salary and 26 weeks at a sum equivalent to Statutory Adoption Pay.

Annual leave shall accrue in accordance with paragraphs 7.5.9 of the SNCT Handbook.

7.6 Right to return to Work

Permanent Teaching Employees and Associated Professionals Covered by SNCT Provisions have a statutory right to return to the job in which they were employed under their original contract of employment and on terms

and conditions no less favourable than those that would have applied to them if they had not been absent.

However, where exceptional circumstances occur, i.e. where an organisational change necessitates an alteration to the teacher's job and this change would have occurred irrespective of their absence on adoption or surrogacy leave, suitable alternative employment may be offered.

Temporary teaching employees and associated professionals covered by SNCT provisions have the right to return to their temporary role up until the end date of the temporary contract.

Teaching employees are asked to confirm their return date in writing to HR and their Head Teacher) and they will be expected to return on this date unless they advise the council otherwise. When a teacher or SNCT Associated Professional employee wishes to return to work prior to this date they must provide at least 56 days' notice of the intended date of return. If the appropriate notice is not given the council may postpone their return by up to 28 days, provided this is not later than the maximum period of adoption/surrogacy leave.

7.7 Accrual of Annual Leave

Teachers and SNCT Associated Professionals will continue to accrue annual leave while on adoption/surrogacy leave.

The annual leave entitlement for full time teachers and Music Instructors shall be 40 days (pro-rata for part time teachers). This is inclusive of the statutory leave entitlement of 28 days and public holidays. Please also refer to the Annual leave section at 4.6 above.

Educational Psychologists, Senior Educational Psychologists, Depute Principal Educational Psychologists and Principal Educational Psychologists and Education Support Officers, Quality Improvement Officers and Quality Improvement Managers accrue leave at 35 days per year for those with less than 5 years continuous service and 40 days per year for those with 5 years or more continuous service.

Once you have notified the HR (and your Head Teacher) of the date that you wish to end your adoption/surrogacy leave period, you will be notified of the amount of leave that you will be able take (i.e. the paid annual leave days missed while on adoption Leave).

For Teachers and Music Instructors, statutory annual Leave should normally be taken in the term in which the return to work takes place, or within the following term. The balance of annual leave in excess of statutory leave will be directed to be taken during periods of school closure (i.e. an additional payment will be made for these days/hours upon your return to work).

In the case of Education Support Officers, Quality Improvement Officers and Educational Psychologists, the balance of annual leave should normally be taken as soon as possible following the return to work.

In order to provide the best continuity in teaching and learning for pupils, the Council will require teachers and music instructors to take your statutory annual Leave entitlement immediately following your adoption/surrogacy leave period, giving you a later date for an actual return to work. You will be paid for all school holiday periods that fall after the end of your adoption/surrogacy leave period and accrued paid leave days will be offset only against normal term-time working days.

If your contract ends during your adoption/surrogacy Leave period, you will be paid the appropriate leave up to the end of your contract.

Teaching and SNCT Associated employees who give the Council written notice that they do NOT intend to return to work at the end of their adoption/surrogacy leave period will receive payment for leave accrued up until their resignation.

7.8 Accrual of Personal Incremental Credit

Periods of adoption leave count in full as credited service in the determination of placement on the Salary Scale in accordance with the salary placement regulations.

8. SHARED PARENTAL LEAVE for All Employees

Shared Parental Leave (SPL) allows maternity leave to be brought to an end and the remaining balance of leave to be used as Shared Parental Leave. Employees must meet the eligibility and notification requirements. Statutory Shared Parental Pay (SShPP) will be paid if the qualifying conditions are met.

Employees can take Shared Parental Leave in 3 separate blocks, and it must be taken between the baby's birth and first birthday. Leave can be shared with a partner if eligible and can be taken at the same time or separately. The amount of leave available is calculated by subtracting the maternity leave taken from 52 weeks. As two weeks of maternity leave remain compulsory, in effect Shared Parental Leave is limited to 50 weeks maximum.

All employees are protected from suffering a detriment as a result of requesting Shared Parental Leave.

8.1 Eligibility

For the child's mother (or adoptive parent) to qualify for Shared Parental Leave, they must:

- Be eligible for either: maternity leave or pay; Maternity Allowance; adoption leave or pay.
- Have worked continuously for the Council for at least 26 weeks by the end of the 15th week before the due date/date matched with adopted child.
- Still be employed by the Council while taking Shared Parental Leave.

- Give the correct notice; including a declaration that their partner meets eligibility requirements.

For a father/partner to qualify for Statutory Parental Leave:

- Have worked continuously for the Council for at least 26 weeks by the end of the 15th week before the due date/date matched with adopted child.
- Still be employed by the Council while taking Shared Parental Leave.
- Give the correct notice; including a declaration that partner meets eligibility requirements.
- Child's mother must have curtailed statutory maternity leave, or if she is not entitled to statutory maternity leave, curtailed her statutory maternity pay or maternity allowance.

In all cases, the 'other' parent must:

- Have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth.
- Have average weekly earnings of at least £30 for any 13 of those 66 weeks.
- Have the main responsibility for the child at the date of birth (apart from responsibility of other partner).

Note: The Council may choose to check eligibility with a partner's employer. In such cases consent will be sought before contact is made.

8.2 Notification Procedures

It is in the interest of all parties to discuss intentions early so that entitlement can be confirmed, and arrangements finalised. Should an employee wish to take Shared Parental Leave, they must submit notice at least 8 weeks prior to the date they wish to start leave.

Employees should complete an 'Intention to take Shared Parental Leave Form' (see Appendix 9) and must include notice of entitlement and the dates wishing to take Shared Parental Leave. Employees are entitled to make 3 requests for leave per pregnancy and a new form and 8 weeks' notice should be completed prior to each.

If a parent's circumstances change after notice has been given, the Council must be informed as soon as possible. If this change is less than 8 weeks before a period of parental leave is due to start, then the Council may still require the employee to take that leave. It will be treated as shared parental leave and will end either on the same end date, or eight weeks from the date the change of circumstances is notified.

8.3 Statutory Shared Parental Leave & Pay

To qualify for Statutory Shared Parental Pay an employee must:

- Have worked continuously for the same employer i.e. the Council for at least 26 weeks by the end of the 15th week before the due date/date matched with adopted child.
- Earned an average salary of the lower earnings limit or more (for current rates refer to: <https://www.gov.uk/shared-parental-leave-and-pay-employer-guide/entitlement>) for the 8 weeks' prior to the 15th week before the Expected Week of Childbirth.

Up to 39 weeks (first 2 weeks is mandatory leave for the birth mother) of Statutory Shared Parental Pay is available if the above eligibility criteria is met and parents must decide how this is divided between them. The amount of Statutory Shared Parental Pay available is calculated by subtracting the amount of Statutory Maternity Pay or Maternity Allowance taken by the mother. As two weeks of maternity leave remains compulsory, in effect the maximum amount of Statutory Shared Parental Pay is 37 weeks.

Statutory Shared Parental Pay is paid at a rate set by Government or 90% of your average weekly earnings, whichever is lower. An employee must set out in the 'Intention to take Shared Parental Leave Form' the Statutory Shared Parental Pay they are entitled to and the dates they wish to be paid Statutory Shared Parental Pay.

The overall entitlement of 50 weeks can be shared as Statutory Shared Parental Leave.

Further information can be found in our Shared Parental Leave Guidance Notes here: [Shared Parental Leave Guidance Notes | East Lothian Intranet](#) which also outline examples of Shared Parental Leave requests. Your HR Adviser will also be able to provide further advice.

8.4 Revocation of Notice to End Maternity Leave

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal must be in writing and can only be given if the mother has not returned to work. One of the following conditions must also be met;

- It is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity curtailment notice within eight weeks of the date on which the notice was given.
- The maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- The partner has died.

9. FOSTER CARER'S LEAVE for All Employees

Foster Carer's leave covers the leave which can be granted to an employee who either wishes to be registered as a Foster Carer or who already acts as a Foster Carer (see Special Leave Form at Appendix 8).

An employee who is a prospective Foster Carer will be granted up to a maximum of three working days unpaid leave to cover the preparation and assessment process which applies to applicants wishing to be registered as Foster Carers. This leave will be subject to reasonable notice being given and on production of evidence of the meetings/appointments.

Where an employee is accepted as a Foster Carer up to four working days' unpaid leave may be granted in any 12-month period to enable them to attend urgent meetings convened in respect of the placement of a child or children. Where both Foster Carers work for the Council each one will have the entitlements specified above.

10. UNPAID STATUTORY PARENTAL LEAVE for All Employees

Unpaid Parental Leave is a statutory entitlement and is intended for the purpose of looking after a child's welfare and can include making arrangements for the good of a child. Parental leave is unpaid, and employees are entitled to 18 weeks' leave for each child and adopted child, up to their 18th birthday.

In order to qualify for the above you must have **completed one year's continuous Local Government service**. Examples of the way leave might be used:

- To spend more time with the child in the early years.
- To accompany a child during a stay at hospital.
- Visiting new schools.
- Settling a child into new childcare arrangements.
- To enable a family to spend more time together, for example, taking the child to stay with grandparents.

Unpaid parental leave can normally only be taken in blocks of full weeks rather than individual days (unless your child is disabled, in which case parental leave can be taken in days) and an employee can't take more than 4 weeks for any one child in a year.

Parental leave entitlement of 18 weeks applies to each child.

Requests should be made giving 21 days' notice and Managers can postpone the request due to business need for up to 6 months after the date the employee originally asks for, however, it must be taken before the child's 18th birthday (please seek HR advice if this is the case).

During times of parental leave, annual leave will normally be accrued at the statutory minimum rate.

Any such arrangements must be requested by completing the Unpaid Statutory Parental Leave Form at Appendix 7 and having this approved by your Business Unit manager.

11 FREQUENTLY ASKED QUESTIONS

Here are some of the most common questions asked in relation to this policy. If you have any further queries, please contact your HR Adviser.

Q1 What does Continuous Service mean?

A1 Continuous service is gained with the Council and any other Local Authority or appropriate employer as listed in the Redundancy Payments (Local Government (Modification) Order 1999 (as amended)). Any break between Employers listed in the Modification Order needs to be less than a week to be deemed continuous. Advice regarding your continuous service is available from your HR Adviser. To be entitled to Statutory Maternity Pay, Statutory Adoption Pay, Statutory Paternity Pay, Additional Statutory Paternity Pay and Additional Adoption Pay the service has to be continuous with the Council.

Q2 What if my baby is born early or late?

A2 For Local Government Employees; Chief Officials and Craft Operatives - This will not affect your rights to maternity pay / leave. The latest date you can return to work will depend on the actual week in which your baby is born. You should let the HR Adviser know the exact date of birth as soon as possible.

For Teaching Employees and Associated Professionals Covered by SNCT Provisions - Teachers are entitled to a maximum of 52 weeks maternity leave regardless of when the baby is born.

Q3 What happens if I am absent on sick leave immediately prior to taking maternity leave?

A3 You are eligible to receive sick pay up to the date you intend to commence maternity leave if not pregnancy related. Sick pay will only be paid after the 4th week before your Expected Week of Childbirth if the illness is not due to pregnancy or sick pay entitlement has not expired. If you are off with a pregnancy related illness from the 4th week before Expected Week of Childbirth then this will trigger commencement of your maternity leave.

Q4 What if sickness prevents me from returning to work at the end of my maternity leave?

A4 Provided you submit a doctor's certificate, you will be treated as being on sick leave.

Q5 What happens if I fail to return to work for the required period after maternity leave?

A5 If you receive twelve weeks at half pay you will be required to repay the 5/10ths you received for 12 weeks, plus any excess annual leave taken. The amount to be repaid will be notified to you in writing by the Council.

Q6 Will my maternity pay be taxed?

A6 Yes. Income tax and national insurance contributions will be deducted from your maternity pay as appropriate.

Q7 Will I lose my entitlement to maternity pay if I work beyond the 6th week before my Expected Week of Childbirth?

A7 No. You can work right up to the day before the baby is due, without losing any entitlement to maternity pay.

Q8 What happens in the event of a stillbirth or the death of the child?

A8 If the baby is born after 24 weeks of pregnancy, your entitlement to maternity leave and pay and the right to return to work is unaffected. Equally the right to Shared Parental Leave remains.

If the baby dies before 24 weeks of pregnancy, you would be entitled to sick leave/pay in accordance with the Council's Sick Pay Scheme.

If you resign from work to have a baby, but the child does not live, you will be entitled to return to work, but not necessarily to your previous post. In these circumstances, if you have less than 1 years' service, any return to work must be within the 26 week period allowed for maternity leave. If you have more than 1 years' service, then you will be entitled to return to work within the 26 week paid maternity leave or your additional unpaid maternity leave of 26 weeks.

Q9 Will my entitlement to incremental progression or any pay awards be affected by my maternity leave?

A9 No Maternity leave does not affect your entitlement to any incremental progression or pay award you may be due.

Q10 Will my period of maternity leave count towards my service for increased annual leave?

A10 Yes. The whole period of your maternity leave shall be taken into account when calculating your period of continuous council and Local Government service.

Q11 Is my service pensionable when I am on maternity leave?

A11 Yes. Whilst you are on paid maternity leave you will pay pension contributions and if you have any unpaid period of maternity leave payroll will contact you on your return to give you the option to repay the unpaid pension contributions

COMPLETE E-FORM which can be found on the Intranet page [here](#) **Appendix 1**
(ONLY USE THIS FORM IF NO ACCESS TO E-FORM)
MATERNITY NOTIFICATION FORM
For Local Government Employees; Chief Officials and Craft Operatives

(Please complete in BLOCK capitals)

Name:	Employee No:												
Designation:													
Place of Employment:													
<p>This section is for ALL employees</p> <p>I wish to inform you that I am pregnant and that I intend taking a period of maternity leave</p> <p>Date maternity leave to start:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>D</td><td>D</td><td>M</td><td>M</td><td>Y</td><td>Y</td> </tr> <tr> <td> </td><td> </td><td> </td><td> </td><td> </td><td> </td> </tr> </table>		D	D	M	M	Y	Y						
D	D	M	M	Y	Y								
Please select ONE of the options outlined in each of the two sections below by placing a ✓ in the appropriate box)													
I will definitely be returning to work and wish to take the 12 weeks half pay scheme.	<input type="checkbox"/>												
I wish to keep my options open and will defer the half pay scheme until I return to work.	<input type="checkbox"/>												
I will not be returning to work (employees must also provide written notice to their line manager).	<input type="checkbox"/>												
<p>This section does NOT apply to part-year employees.</p> <p>I have a balance of _____ hours/days annual leave due to me up to my period of maternity leave.</p> <p>I will use this leave immediately before my maternity leave, therefore my last working day will be:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td>D</td><td>D</td><td>M</td><td>M</td><td>Y</td><td>Y</td> </tr> <tr> <td> </td><td> </td><td> </td><td> </td><td> </td><td> </td> </tr> </table> <p>Enter date:</p>		D	D	M	M	Y	Y						
D	D	M	M	Y	Y								

Employee's signature:	Date:
<p>You should complete and submit this form to your Line Manager by the 15th week before the Expected Week of Childbirth.</p> <p>Your 'MATB1' certificate should be submitted to your line manager not less than 21 days before you start your maternity leave.</p> <p>You should also indicate to your line manager the length of maternity leave you intend to take.</p>	

Line Manager to return completed application and MATB1 as soon as possible to Human Resources.

**COMPLETE E-FORM which can be found on the Intranet page [here](#) Appendix 2
(ONLY USE THIS FORM IF NO ACCESS TO E-FORM)**

**MATERNITY NOTIFICATION FORM for Teaching Employees and
Associated Professionals Covered by SNCT Provisions**

(Please complete in BLOCK capitals)

Name:	Employee No:										
Designation:											
Place of Employment:											

I wish to inform you that I am pregnant and that I intend taking a period of maternity leave

Date maternity leave to start:

D	D	M	M	Y	Y

Pension

If you are taking a period of unpaid Additional Maternity Leave and you wish to continue making pension contributions during this period, you must contact the Scottish Public Pensions Agency direct to make the necessary arrangements:

The Scottish Public Pensions Agency
7 Tweedside Park, Galashiels, TD1 3TE

☎: (01896) 893071

Employee's signature:

Date:

You should complete and submit this form to your Head Teacher, **together with your 'MATB1' certificate**, not less than 3 weeks before you start your maternity leave.

Head Teacher to return completed application and MATB1 as soon as possible to Human Resources

Appendix 3

APPLICATION FOR ADOPTION LEAVE AND PAY For Local Government Employees; Chief Officials and Craft Operatives

I confirm that I am the named adopter of a child and I wish to apply for Adoption Leave. I also confirm that I have worked for the council or other Local Authority for a continuous period of 26 weeks prior to the week in which I was notified of being matched with the child.

Name:	Employee No:								
Address:									
Post Code:									
Place of Employment:									
Service Area:									
Designation:									

ADOPTION DETAILS FOR CHILDREN ADOPTED FROM WITHIN U.K.

	D	D	M	M	Y	Y
Date of Child's Placement:						
Date Adoption Leave to commence: <i>(no earlier than 14 days prior to expected date of Placement)</i>						
Date Adoption Leave expected to end:						

ADOPTION DETAILS FOR CHILDREN ADOPTED FROM OUTWITH U.K.

Date Child entered U.K.:						
Date Adoption Leave to commence: <i>(no earlier than the date the child enters U.K. or no later than 28 days after this date)</i>						
Date Adoption Leave expected to end:						

This section is only for employees with at least one year's continuous service.
(Inclusive of 26 weeks continuous local authority service).

(Please select ONE of the options below by placing a ✓ in the appropriate box)

I confirm I intend to return to work for a period of no less than 3 calendar months following the end of my Adoption Leave period. However, in the event that I do not return, I shall refund the money paid to me in respect of the 12 weeks period at 5/10ths pay.

I wish to keep my options open and will defer the half pay scheme until I return to work.

I will not be returning to work.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Employee's Signature:

Date:

Completed form, **together with Matching Certificate from Adoption Agency**, to be submitted to Line Manager no later than 7 days of being notified by adoption agency of being matched with a child.

Line Manager to forward completed application and supporting documents **as soon as possible** to Human Resources

Appendix 4

APPLICATION FOR ADOPTION LEAVE AND PAY For Teaching Employees and Associated Professionals Covered by the SNCT Provisions

I confirm that I am the named adopter of a child and I wish to apply for Adoption Leave.						
Name:	Employee No					
Address:						
						Post Code:
Place of Employment:						
Designation:						
ADOPTION DETAILS FOR CHILDREN ADOPTED FROM WITHIN U.K.						
						Y
						Y
Date of Child's Placement:						D
						D
						M
						M
						Y
Date Adoption Leave to commence:						D
<i>(No earlier than 14 days prior to expected date of Placement):</i>						D
						M
						M
						Y
Date Adoption Leave expected to end:						D
						D
						M
						M
						Y
ADOPTION DETAILS FOR CHILDREN ADOPTED FROM OUTWITH U.K.						
Date Child entered U.K.:						D
						D
						M
						M
						Y
Date Adoption Leave to commence: <i>(no earlier than the date the child enters U.K. or no later than 28 days after this date)</i>						D
						D
						M
						M
						Y
Date Adoption Leave expected to end:						D
						D
						M
						M
						Y
Employee's Signature:						Date:

Pension

If you are taking a period of unpaid Ordinary or Additional Adoption Leave and you wish to continue making pension contributions during this period, you must contact the Scottish Public Pensions Agency direct to make the necessary arrangements:

The Scottish Public Pensions Agency, 7 Tweedside Park, Galashiels TD1 3TE
☎: (01896) 893071

Employee: Completed form, **together with Matching Certificate from Adoption Agency**, to be submitted to Head Teacher no later than 7 days of being notified by adoption agency of being matched with a child.

Head Teacher to forward completed application and supporting documents **as soon as possible** to Human Resources

COMPLETE E-FORM which can be found on the Intranet page [here](#) **Appendix 5**
(ONLY USE THIS FORM IF NO ACCESS TO E-FORM)

Application for Statutory Paternity Pay & Leave (all employees)

(All employees with 26 weeks or more continuous employment with East Lothian Council)



Statutory Paternity Pay/Paternity Leave

- The partner of an expectant mother is entitled to apply for Paternity Leave.
- The partner of an adopting parent is entitled to apply for Paternity Leave or Adoption Leave

To apply for Paternity Leave and Pay, you are required to complete 3 forms as follows:

To notify intention to take leave:

- One of the 'SC' HM Revenue & Customs Forms listed in the box below. Please click on the appropriate link to access and download the form.
- The Council's Maternity and Adoption Support Form (Appendix 6)

To confirm the actual dates that leave was taken:

- The council's Special Leave Form to apply for Paternity Leave & Pay (see Appendix 8).

All fully completed forms should be returned to your line manager.

Form SC3

Becoming a Parent

<http://www.hmrc.gov.uk/forms/sc3.pdf>

Form SC4

Becoming an Adoptive Parent

<http://www.hmrc.gov.uk/forms/sc4.pdf>

Form SC5

Becoming an Adoptive Parent (adopting from abroad)

<http://www.hmrc.gov.uk/forms/sc5.pdf>

YOU SHOULD BE AWARE THAT STATUTORY PATERNITY PAY CANNOT BE PAID WITHOUT A SIGNED DECLARATION

Appendix 6

APPLICATION FOR MATERNITY/ADOPTION SUPPORT LEAVE (All Employees)

This is to notify intention to take leave. Once taken, complete Appendix 8 Special Leave form to confirm dates.

Note: Employees, regardless of their length of service with the council, are entitled to 2 week's occupational Maternity/Adoption Support Leave, with the first week at full pay and second week unpaid. This is **not in addition** to the 2 weeks statutory paternity leave entitlement for employees with over 26 weeks ELC service.

(Please complete in BLOCK capitals)

The partner of an expectant mother/ primary parent/adopting parent is entitled to apply for Paternity Leave and/or Maternity/ Adoption Support leave.																		
Name:					Employee No:													
Address:																		
Service Area:					Place of Employment:													
Designation:																		
I confirm I am applying for leave as detailed below (✓ appropriate boxes):																		
I wish to apply for one week's leave <input type="checkbox"/> I wish to apply for two week's leave <input type="checkbox"/>					Commencing on:		D		D		M		M		Y		Y	
1. MATERNITY/ADOPTION SUPPORT LEAVE AND PAY																		
I confirm I have parental responsibility as the following: <ul style="list-style-type: none"> • the biological father of the child or; • the mother's husband or partner (including same-sex relationships) or; • the child's adopter or; • the husband or partner (including same-sex relationships) of the child's adopter or; • I have, or expect to have, responsibility for the child's upbringing. 					<input type="checkbox"/> Commencing:		D		D		M		M		Y		Y	
I wish to apply for 5 days paid leave <input type="checkbox"/>					Commencing on:		D		D		M		M		Y		Y	
Employee's Signature:					Date:													
Manager's Signature:					Date:													
Completed form must be submitted to the Line Manager then forwarded to Human Resources																		

Appendix 7

APPLICATION FOR STATUTORY UNPAID PARENTAL LEAVE (All Employees)

Note: Employees are entitled to 18 weeks' unpaid leave for each child and adopted child, up to their 18th birthday. *Parental leave is unpaid.*

Either parent can apply for statutory unpaid parental leave as long as they meet the criteria set out in the policy (see section 10 above) and providing 21 days' notice. Note unpaid parental leave can normally only be taken in blocks of full weeks rather than individual days (unless your child is disabled, in which case parental leave can be taken in days) and an employee can't take more than 4 weeks for any one child in any year.

Name: Employee No

Address:

Service Area:

Place of employment:

Designation:

I confirm I am applying for leave as detailed below (✓ appropriate boxes):

1. UNPAID PARENTAL LEAVE

Applicants must have at least 52 weeks continuous council or Local Government service. I confirm I have parental responsibility and am one of the following:

- the biological father of the child **or**;
- the mother's husband or partner (including same-sex relationships) **or**;
- the child's adopter **or**;
- the husband or partner (including same-sex relationships) of the child's adopter **or**;
- have, or expect to have, responsibility for the child's upbringing

I wish to apply for week's leave.

D	D	M	M	Y	Y	

Commencing on:

Employee's Signature: Date:

Manager's Signature: Date:

Completed form must be submitted to the Line Manager and then forwarded to Human Resources

APPLICATION FOR SPECIAL LEAVE

Appendix 8

(1) Employees **WITHOUT myHR access** can use this form for all requests
 (2) Employees **WITH myHR access** should request special leave via MyHR;
BUT use this form for JURY DUTY and Special Leave requests not explicitly covered by the Special Leave Policy.

PLEASE RETURN COMPLETED FORM TO PAYROLL (payrollforms@eastlothian.gov.uk)

Employee Details			
Employee Name			
Employee No.		Job Title	
Department		Division	
Dates of Requested Leave:	From:	No. of Hours of Special Leave Requested:	
	To:		
Employee – Please ✓ appropriate boxes & Provide Relevant Information Below			
Ante-natal Appointment:			
Paternity Leave			
Adoption Leave:	Attend Meetings (pre-adoption)		
	Placement of Child		
Foster Carers Leave:	Preparation & Assessment Process <i>or</i>		
	Attend Meetings		
Parental Leave (up to child's 18th Birthday):			
Planned Health Care of a Young Child/Illness of a Dependant:			
Leave to Care a Terminally ill Dependant:			
Breakdown in Normal Care Arrangements:			
Hospital/Non-Routine Health Related Appointment (please specify):			
Compassionate Leave			
Leave to make Funeral Arrangements/attend Funeral - please specify Relationship to Deceased:			
Parental Bereavement Leave:			
Other (please specify): Including Elective Surgery, Fertility Treatment, Domestic Emergency, Jury Service, Special Forces, etc.			
Employee Signature:	Date:		
To be Completed by Manager - I approve this application for Special Leave.			
Number of Hours:	<i>Paid:</i>		<i>Unpaid:</i>
Manager Signature:	Print Name:		
Designation:	Date:		
To Be Completed by Head of Service (Only where 5+ days leave requested)			
Head of Service Signature:	Print Name		
Designation:	Date:		

INTENTION TO TAKE SHARED PARENTAL LEAVE FORM

All employees

This form must be submitted to your manager at least 8 weeks prior to the leave being due to commence. Leave must be taken in periods of weeks and Part 2 must be completed by your partner. Falsification of information on this form is a disciplinary offence. This signed declaration serves as both a 'notification and intention' form and a 'period of leave notice' form.

Name:	Employee No:								
Job title:									
Place of Employment:									

Part 1

What is the expected/actual date of birth of the baby?	
Please confirm the date maternity leave started	
Please confirm the date on which maternity leave is to end	
In total, how much Shared Parental Leave is available? (52 weeks – minus maternity leave taken)	
How many weeks of leave do you intend to take?	
How much leave does your partner intend to take?	
What dates do you intend to take the leave?	
Are you entitled to be paid Statutory Shared Parental Pay for this leave?	
What dates do you wish to be paid Statutory Shared Parental Pay?	

Do you share the main childcare responsibilities with your partner named on part 2 of this form?	
Signature:	Date:

Part 2 - This signed declaration must be completed by your partner who shares childcare responsibilities.

Name:	
Address:	
NI Number:	
Name and address of employer:	
Do you satisfy the requirements for Shared Parental Leave and Shared Parental Pay?	
Do you agree to your partner taking Shared Parental Leave & Pay on the dates set out in part 1?	
What dates do you intend to take Shared Parental Leave?	
What dates do you intend to take Shared Parental Pay?	
Do you consent to this information being processed for the purpose of arranging Shared Parental Leave?	
Do you consent to East Lothian Council contacting your employer to confirm the details of your entitlement?	
Signature:	Date:

Following this notice, the Council will write to you to confirm the details of your Shared Parental Leave and may request a copy of your child's birth certificate.

If any of the information provided in this form changes, you must inform the Council immediately.

NB Council employees must satisfy the following:

- 26 weeks' continuous Local Government service up to the 15th week before the Expected Week of Childbirth and remain employed with the council until the week before any SPL.
- Have main responsibility, apart from the partner, for the care of the child from the date of birth.
- Provide at least 8 weeks' notice of intention to take SPL.

Please contact your HR Adviser if you have any questions.

Manager agreement: Subject to confirmation from HR, I confirm in principle to Shared Parental Leave being taken on the basis set out above	Name:
Signature:	Date:

Please forward on to HR: hr@eastlothian.gov.uk