



Arkengarthdale C of E Primary School

**Maternity, Adoption, Shared Parental and Paternity Policy & Procedure**

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## **Scope and Definitions**

The Maternity, Adoption, Shared Parental and Paternity Procedures apply to all employees of NYCC. There are some differences in entitlement depending on the conditions of service that apply, and these differences are detailed in the body of the scheme.

## **Types of Leave**

Maternity and Adoption Leave	Provided the employee complies with notification procedures she will be entitled to 26 weeks' Ordinary Maternity/Adoption Leave and 26 weeks' Additional Maternity/Adoption Leave, regardless of her length of service. The total of 52 weeks is the maternity leave period and must be taken consecutively.
<a href="#">Compulsory Maternity Leave</a>	The employee does not have to take her full entitlement to maternity leave. However, she must take a minimum of two weeks of leave from the date of childbirth and may be required to have up to 4 weeks compulsory on grounds of health and safety.
<a href="#">Paternity Leave</a>	This is a statutory benefit available to all NYCC employees. Paternity leave is either 1 week or 2 consecutive weeks' paid (SPP) leave to be taken within 8 weeks of the birth or adoption of a child.
<a href="#">Maternity Support Leave</a>	This is an occupational benefit and applies to all employees except teachers under teachers' (Burgundy Book) Conditions of Service. Maternity support leave is 1 week's paid leave, pro rata for part time workers, normally taken at or around the time of the birth or adoption of a child.
<a href="#">Shared Parental Leave</a>	Employees who meet the eligibility criteria will be able to share a 'pot' of leave to be taken in the first year following birth/adoption of a child.
Parental Leave – Unpaid	All employees with 26 weeks continuous service are entitled to up to 18 weeks unpaid parental leave. Entitlements vary depending on the child's circumstances.

## **Maternity Leave (ML)**

### **Confirming Pregnancy**

The employee should tell her manager that she is pregnant as early as possible, to protect her health and safety and to get paid leave for ante-natal appointments. (For further information on absence for ante-natal appointments see the [Leave procedure](#)).

She should put in writing to her manager the following:

- That she is pregnant
- The expected week of childbirth (EWC)
- The date she wants her maternity leave to start
- To qualify for occupational maternity pay she must also declare her intention to return to work at the end of her maternity leave
- A MAT B1 certificate must also be provided. This states the expected week of child birth and is issued by a Registered Medical Practitioner or Certified Midwife

This notification must be at least 28 days before her absence begins, but preferably by the 15th week before the expected week of childbirth.

The manager will reply to the employee within 28 days of receiving notification, to advise the expected date of return from maternity leave. This will be based on her full leave entitlement of 52 weeks maternity leave. If maternity leave has been triggered by childbirth or a pregnancy-related absence the manager will similarly write to confirm her expected date of return.

#### Starting maternity leave

Maternity Leave, at the earliest, can begin from the eleventh week before the expected week of childbirth. Maternity leave can start from any day of the week and the same is true for maternity pay where this is due.

If maternity leave has not already started, it will be triggered by the birth of the child, or pregnancy-related sickness, from the beginning of the 4th week before the EWC. If triggered by the birth of the child, maternity leave will begin on the day that follows the day on which childbirth occurs.

In either of these situations, the employee must notify her manager as soon as reasonably practicable, that she has given birth or that she is absent wholly or partly because of pregnancy related sickness. If she does not do so, she may lose her right to paid maternity leave. Initial notification can be by telephone but this should be followed up in writing as soon as possible.

#### Changing the Maternity Leave start date

If the employee wishes to change her leave start date she must give at least 28 days' notice. This is a requirement to receive SMP, and will enable her manager to make cover arrangements. Her manager will write to her within 28 days to confirm her new expected date of return.

#### Stopping Maternity Leave and converting to Shared Parental Leave

An eligible employee can opt into SPL at any point before their return, as long as there is some untaken maternity leave to share. Employees must give their line manager notification of their entitlement and intention to take SPL **at least** 8 weeks before the SPL can begin.

#### Returning from Maternity Leave

Employees who intend to return to work at the end of their full maternity leave entitlement do not have to give any further notification to their manager.

#### Returning before the full leave entitlement

If the employee wants to return before the end of her full leave entitlement of 52 weeks she must tell her manager at least 21 days before her new intended return date (whether in the OML or AML period). These notice periods are the minimum required. To help managers plan cover employees should give as much notice as possible of any changes to their plans.

If the employee does not give the minimum notice, her manager may postpone her return until 21 days after the date she informed her manager that she would like to return early, but not to a date after her maternity leave would have ended.

If the employee does not intend to return at the end of her maternity leave she should give normal contractual notice.

#### Who Qualifies for Statutory Maternity Pay?

If an employee has completed 26 weeks continuous Local Government Service by the 15th week before the EWC (and average earnings are at least the lower limit for N.I. contributions), she will be entitled to SMP i.e. 6 weeks at 9/10ths (90%) of their normal pay and 33 weeks lower rate of SMP, paid at the lower of 90% of average weekly earnings or £138.18 (2014).

For employees who are on fixed term contracts who meet the above eligibility but whose contract ceases during the maternity period, SMP will be paid throughout the maternity period. If the option for Shared Parental Leave is taken up, SMP will cease and be replaced by SPL pay.

#### What if the employee does not qualify for SMP?

If the employee does not have 26 weeks continuous Local Government Service prior to the 15th week before the baby is due, they may be eligible for Maternity Allowance paid by the DWP.

If the employee is not entitled to SMP, they will be sent a form SMP1 by Employment Support Services. The form is to be sent to the DWP along with the MAT B1.

#### Who qualifies for Occupational Maternity Pay?

Occupational Maternity Pay is available to employees who have completed at least one year's continuous service at the 11th week before the EWC and who confirm in writing their intention to return to work after maternity leave. OMP is equivalent to an additional 6 weeks full pay. It is paid on the understanding that the employee will return to local authority employment for at least 3 months (excluding any period of unpaid parental leave).

It is generally paid between weeks 7 and 18 on top of SMP or MA, at the rate of half a week's pay, without any deduction of SMP or MA. However, half pay plus SMP (or MA and any dependant's allowances if not eligible for SMP) cannot exceed full pay.

Alternatively, the equivalent amount (6 weeks' pay) can be paid in any other mutually agreed distribution, such as 3/10ths pay per week for the remaining 20 weeks of OML, or the amount in full when the employee returns to work after maternity leave.

Therefore an employee who qualifies for OMP will be entitled to receive: -

For the first 6 weeks of absence, they will be entitled to 9/10ths (90%) of their week's pay

If the employee has declared their intention to return to work, they will be entitled to:

- 12 weeks of absence at half pay (or alternative equivalent arrangement – see above) plus the lower rate SMP, which is paid at the lower of 90% of average weekly earnings or £138.18 (2014) as long as the total maternity pay does not exceed full pay
- In addition to the above 21 weeks of absence at the lower rate SMP, which is paid at the lower of 90% of average weekly earnings or £138.18 (2014)
- If the employee does not intend to return to work, payments during the weeks of maternity leave following the first 6 weeks leave will be paid at the lower rate of SMP, which is paid at the lower of 90% of average weekly earnings of £138.18 (2014) up to a maximum of 33 weeks (i.e. 39 weeks in total)

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

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

This will be followed by 21 weeks Statutory Maternity Pay (SMP) currently £138.18 (2014) per week or 90% of average earnings if lower. The remaining 13 weeks leave are unpaid.

The statutory requirement is 8 weeks' notice but the agreement for NYCC staff coming under the NJC Local Government Services (Green Book) and Teachers (Burgundy Book) conditions is **21 days**.

Payments made by North Yorkshire County Council shall be made on the understanding that the employee will return to Local Government Service employment for a period of at least 3 months. If the employee does not return, they will be required to pay back the Occupational Maternity Pay.

### **Adoption Leave (AL)**

#### **Confirming Adoption**

The employee should tell their manager as soon as they have been approved as an adopter so that the manager can plan working arrangements. This may be before the employee has received or needs to submit their documentary evidence. The manager should respond with model letter A to acknowledge their initial notification. Employees can access adoption leave from the start of their employment with NYCC; there is no qualifying period for the leave element under the new legislation taking effect April 2015.

The employee must inform their manager in writing of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption. This is known as the notification period.

They should tell their manager in writing:

- That they are adopting a child
- When the child is expected to be placed with them
- When they want their adoption leave to start

In addition they should:

- Give at least 28 days' notice of the date they expect any payments of SAP to start, if reasonably practicable
- Declare their intention to return to work at the end of the period of Adoption Leave, to qualify for occupational adoption pay; and
- Give their manager a 'matching certificate' from their adoption agency as proof of their entitlement to SAP and adoption leave. Employees should ask their adoption agency for this certificate, which will include basic information on matching and expected placement dates.

Managers will respond with model letter B within 28 days of receiving the above notification to advise the expected return date from adoption leave. This will be based on their full leave entitlement of 52 weeks unless notified otherwise.

#### Starting Adoption Leave

Employees can choose to start their leave on any day of the week, either:

- From the date of the child's placement; or
- From a fixed date which can be up to 14 days before the expected date of placement; or
- From a 'fixed point' to be agreed, where a child is being adopted from overseas

If the employee's placement is delayed for any reason and they have already started adoption leave they will not be able to stop it and start again at a later date, unless it becomes a disrupted placement. If the employee plans to start adoption leave before the actual date of placement they should check the placement is to start as planned.

If the employee has started adoption leave before the placement of the child and they are subsequently notified that the placement will not be made; or, if during the employee's adoption leave the child placed with them is returned to the adoption agency or dies; then, the manager will discuss with them sympathetically an appropriate date on which to return to work. Usually in this situation the employee's adoption leave finishes 8 weeks after the end of the week in which the disruption took place, or earlier if their adoption leave was due to finish before this time. The employee should still give 28 days' notice to return to work.

#### Changing the adoption leave start date

If the employee then wants to change the date on which their leave starts, they must give at least 28 days' notice if reasonably practicable. The manager will reply in writing within 28 days to confirm their new expected date of return.

#### Statutory Adoption Pay (SAP)

SAP is payable if the employee has been continuously employed by NYCC for 26 weeks by the week in which they are matched with a child for adoption, and has average weekly earnings equal to or above the lower earnings limit. Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP. Employees who are not entitled to these may be able to access other benefits, and should contact their local Jobcentre Plus, Benefits office, or adoption agency.

SAP ceases if the employee starts working for a new employer after the child has been placed, or if the placement is disrupted.

SAP is paid for up to 39 weeks, starting from any day of the week. The first 6 weeks of pay is made up of SAP offset against OAP (90% pay), followed by 33 weeks at the current SAP rate of £138.18.

#### Occupational Adoption Pay (OAP)

Occupational Adoption Pay is available to employees who have completed 1 year's continuous local government service at the 11th week before the expected week of the child's placement they are entitled to occupational adoption pay as follows:

- For the first six weeks nine-tenths of a week pay offset against SAP payments
- For employees who declare in writing that they intend to return to work will for the subsequent 12 weeks receive half a week's pay plus SAP, where eligible, to a limit of full pay. This is paid in the understanding that they return to local authority employment for at least 3 months (excluding any period of unpaid leave).
- Employees can alternatively have the equivalent amount of the 12 weeks' pay paid in any other mutually agreed distribution, for example as 3/10<sup>th</sup> pay per week for the remaining 20 weeks of OAL or the amount in full when they return to work after the maternity leave period. (This is an advisable option if they are undecided whether or not to return to work). The pay arrangements should be agreed before they begin their leave.
- For the remainder of the adoption leave period employees will receive their entitlement to SAP where eligible.

#### Summary of Adoption Payments

Employees with less than 26 weeks' continuous service with NYCC by the week of notification of a match:

Not entitled to Statutory Adoption Pay (SAP) or occupational adoption pay.

Employees with more than 26 weeks' but less than one year's continuous service by the week of notification of a match:

May be entitled to SAP for 39 weeks; and,

Those who return to work for at least 3 months after adoption leave:

Weeks 1 – 6 90% of average earnings (offset against SAP payments).

Employees with at least one year's continuous service by the week of notification of a match:

May be entitled to SAP for 39 weeks; and,

Those who return to work for at least 3 months after adoption leave:

Weeks 1 – 6 90% of average earnings (offset against SAP payments).

Weeks 7 – 18 Half pay plus SAP (to a limit of full pay)

Weeks 19 – 39 SAP

#### **Shared Parental Leave (SPL)**

With effect from 1<sup>st</sup> December, shared parental leave and shared parental pay is available to employees who are expecting a baby or adoption placement from 5th April 2015, from the date of the baby's birth or the adoption of a child, subject to eligibility. The leave must be taken before the child's first birthday or one year from the adoption date. The mother/primary adopter can share the leave with their partner if they're also eligible for SPL, and choose how much of the leave each of them will take.

Employees are encouraged to discuss their potential plans regarding SPL at the earliest opportunity, to enable the organisation to support them effectively.

### Who is eligible for leave?

SPL can only be used by **two** people: -

- The mother/adopter **and**
- One of the following - the father of the child (in the case of birth) **or** the spouse, civil partner or partner of the child's mother/adopter.

Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

-

- Mother/adopter must be/have been entitled to statutory maternity/adoption leave **or** have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity /adoption allowances.
- The employee must still be working for the organisation at the start of each period of SPL.
- The employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks service at the end of the 15<sup>th</sup> week before the EWC/matching date.
- The employee's partner must meet the 'employment and earnings test' requiring them (in the 66 weeks leading up to the EWC/matching date) to have worked for at least 26 weeks and earned an average of at least £30 a week (this is correct as of 2015 but may change annually) in any 13 of those weeks.
- The employee must correctly notify their line manager of their entitlement and provide evidence as required.

### What is the entitlement?

The number of weeks available is calculated using the mother/adopter's entitlement to maternity/adoption leave, which allows up to 52 weeks leave. The mother/adopter can reduce this entitlement; they and/or their partner can opt in to the SPL system and take any remaining weeks as SPL.

If the mother/adopter is not entitled to maternity/adoption leave, but **is** entitled to SMP, SAP or MA they must reduce their entitlement to less than 39 weeks.

### When can SPL begin?

- The mother can take SPL after she has taken the legally required 2 weeks of maternity leave immediately following the birth of the child.
- The adopter can take SPL after taking at least 2 weeks of adoption leave.

- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements.

If a mother/adopter gives notice to curtail their maternity/adoption entitlement then the partner can take leave while the mother/adopter is still using their maternity/adoption allowance.

*Giving notice of the intention to take SPL*

Employees must give at least 8 weeks' notice to their employer of their intent to take SPL. This notice must be in writing, and include: -

- The name of the employee
- The name of the other parent
- The start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available
- The date on which the child is expected to be born, and the actual date of birth, or in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the adoption placement date
- The amount of SPL the employee and their partner each intend to take
- A non-binding indication of when the employee expects to take the leave

Variation is only permitted by mutual consent of both parents, and leave already booked can only be varied with 8 weeks' notice of the change.

*What information must be provided by the employee?*

Employees must provide the line manager with a signed declaration stating: -

- That they meet, or will meet the eligibility conditions and are entitled to take SPL.
- That the information they have given is accurate.
- If they are not the mother/adopter they must confirm that they are either the father of the child, or are the spouse, civil partner or partner of the mother/adopter.
- That should they cease to be eligible they will immediately inform the organisation.

NYCC may, within 14 days of the SPL entitlement notification being given, request: -

- The name and business address of the partner's employer (where the partner is no longer employer or is self-employed their contract details must be given instead).
- In the case of biological parents, a copy of the child's birth certificate (or where one has not been issued, a declaration as to the time and place of birth).
- In the case of an adopted child, documentary evidence of the name and the address of the adoption agency, the date of the matching notification and the date which the child is expected to be placed for adoption.

**NB:** The organisation reserves the right to investigate further where there is cause to believe that a fraudulent claim has been made. Any investigation would be carried out in

accordance with usual NYCC process and without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

### Booking SPL

In addition to notifying the employer of the intention to take SPL, the employee must also give notice to take the leave. In many cases, this will be done at the same time. The correct notification must be given at least 8 weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

Employees have the right to submit no more than three notifications specifying leave periods they are intending to take. Each notification may contain either: -

- A single period of weeks of leave **or**
- Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

**NB:** SPL can only be taken in complete weeks, but it may begin on any day of the week.

A response will be provided to the employee no later than the 14<sup>th</sup> day after the leave request was made and will be responded to in writing.

### Continuous leave notifications

A notification can be for a period of **continuous leave** which means a notification of a number of weeks taken in an unbroken period of leave e.g. 6 weeks in a row. Employees can take a continuous block of leave so long as it does not exceed the total number of weeks of SPL available to them and the correct notice period has been given.

### Discontinuous leave notifications

A single notification may contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks over a period, with breaks in between, e.g. employee takes 6 weeks of SPL, and then works every other week for a period of 3 months.

It is not a statutory right to have periods of discontinuous leave. All requests will be carefully considered, weighing up the potential benefits to the employee and to the organisation against any adverse effects to the service.

If a notification request for discontinuous leave is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block. If the option of a single continuous block is taken, the employee has until the 19<sup>th</sup> day from the original date of notification to choose when they want the leave period to begin. The leave cannot start sooner than 8 weeks from the date the original notification was submitted. If the employee does not choose a leave date the leave will begin on the date specified in the original notification.

### Commencing SPL

It will generally commence on the employee's chosen start date. However, if the baby arrives early the leave can start and notice be given as soon as practically possible. It must end no later than 1 year after the birth/placement of the child. Any SPL not taken by this point will be lost.

### Varying SPL

Employees are permitted to vary or cancel an agreed and booked period of SPL provided that they advise their line manager in writing at least 8 weeks before the start of any variation. Any new start date cannot be sooner than 8 weeks from the date of the variation request.

**NB:** Variation/cancellation notifications will usually count as a new notification, thus reducing the employee's right to book/vary leave by one. Exceptions to this will be changes due to early births, or as a result of the organisation requesting the change and it being agreed by the employee. Any variation will be confirmed in writing by the organisation.

### What are the arrangements for pay during SPL?

Eligible employees may be entitled to take up to 37 weeks Shared Parental Pay (ShPP) while taking SPL. The amount available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria: -

- Mother/adopter must be/have been entitled to statutory maternity/adoption pay/maternity allowance, and must have reduced their maternity/adoption pay/maternity allowance pay period.
- The employee must intend to care for the child during the week in which ShPP is payable.
- The employee must have an average weekly earnings for the period of 8 weeks leading up to and including the 15<sup>th</sup> week before the due date/matching date are not less than the lower earnings limit in force for national insurance contributions.
- The employee must remain in continuous employment until the first week of ShPP has begun.
- The employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least 8 weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP – if possible this should be included as part of the notice of entitlement to take SPL.

In addition, any notice that advises of entitlement for ShPP must include: -

- The start and end dates of any maternity/adoption pay or maternity allowance.
- The total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP.
- A signed declaration from the employee confirming that the information they have given is accurate, that they will meet or will meet, the criteria for ShPP and that they will immediately inform the organisation should they cease to be eligible.

ShPP is paid at is paid at the rate of £138.18 per week or 90% of an employee's average weekly earnings, whichever is lower (the rate of pay will be set by the Government for each relevant tax year).

#### What happens on return to work?

The organisation will have confirmed the return date in writing to the employee, and the employee will be expected to return to work on the next working day after this date, unless they notify the organisation otherwise.

- If the employee has been off for no more than 26 weeks they will be eligible to return to the same job.
- If the employee has been off for more than 26 weeks they will return to the same job unless this is not possible, then the employee will be entitled to return to a role which is suitable and has no less favourable terms and conditions.
- If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on their right to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.
- If the employee takes a period of unpaid parental leave of 5 weeks, even if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job unless this is not possible, then the employee will be entitled to return to a role which is suitable and has no less favourable terms and conditions.

#### SPL in touch days (SPLIT days)

Each parent will be entitled to up to 20 keep in touch days, plus the mother will also have her entitlement of 10 maternity leave keep in touch days.

#### **Paternity Leave (PL)**

If you are a father to be or will share the responsibility with a partner for bringing up a child, you may have the right to Statutory Paternity Leave and Pay. This includes those who are adopting a child.

You could get either 1 or 2 weeks. You'll get the same amount of leave if your partner has a multiple birth (e.g. twins).

You must take your leave in one go. A week is the same amount of days that you normally work in a week, e.g. if you only work on Mondays and Tuesdays a week is 2 days.

To qualify for paternity leave and pay employees must:

- Have or expect to have responsibility for a newly born or adopted child's upbringing. The employee may be the biological father of the child, the mother's husband, the father, partner or the adoptive parent who is not the primary carer
- Have worked continuously for 26 weeks by the 15<sup>th</sup> week before the baby is born, or by the week the child's adopter is notified of having been matched with a child

- Have average weekly earnings at or above the lower earnings limit

Employees can start their leave from:

- The date of the child's birth or date of placement for adoption; or
- A chosen number of days or weeks after the date of the child's birth or date of placement for adoption; or
- Another chosen date

Paternity leave can start on any day of the week but must be completed:

- Within 56 days of the actual birth date of the child; or
- Within 56 days of the child's placement for adoption; or
- If the child arrives early, between the actual birth date and 56 days after the EWC.

Only one period of leave can be taken however many children are born or placed for adoption at the same time.

Employees choose to be paid SPP for either one or two consecutive weeks, but not odd days. Employees need to complete a SPP self-certificate form.

Statutory Paternity Pay (SPP) is the same as SMP, or 90% of average weekly earnings, whichever is less.

### **Maternity Support Leave (MSL)**

Maternity support leave is 1 week's paid leave, pro rata for part time workers, normally taken together, at or around the time of the birth or adoption of a child. This is an occupational benefit and applies to all employees except teachers under teachers' (Burgundy Book) Conditions of Service.

MSL payment is based on normal weekly contractual hours (or an average weeks' pay, where varied hours are regularly worked).

To qualify for maternity support leave and pay NYCC employees must:

- Be the person nominated by an expectant mother or a soon-to-be adoptive parent (where that adoptive parent will be the primary carer to the child), to be the primary provider of support and care to her at or around the time of the arrival of her child
- The nominated carer may be the biological father of the child, the mother's or primary carer's husband or partner, or the adoptive parent who is not the primary carer
- Someone else with a caring relationship to the mother/ primary carer and/or the child may be eligible for MSL, but will need to demonstrate their relationship and why they are taking on this role
- Have completed 26 weeks' continuous service with NYCC or a related employer at the time they make the request

MSL should be refused only in exceptional circumstances, to meet service needs.

### **Combining paternity and maternity support leave**

An employee eligible for Paternity Leave may also be eligible for MSL. An employee entitled to one week of MSL can take only one week of Statutory Paternity Leave with Statutory Paternity Pay (where eligible for SPP).

Employees are entitled to either MSL, Paternity Leave or a combination as follows:

	<b>MSL</b>	<b>Paternity</b>	<b>Payment</b>
Biological father	Yes	Yes	1 week pay, 1 week SPP*
Husband or Partner of primary carer	Yes	Yes	1 week pay, 1 week SPP*
Secondary adoptive parent	Yes	Yes	1 week pay, 1 week SPP*
A relative with close caring relationship (e.g. parent)	Yes	No	1 week pay
Someone else with a caring relationship to the primary carer and/or child**	Yes	No	1 week pay
Teachers (who also meet 1, 2 or 3 above)	No	Yes	2 weeks SPP*

\* Where eligible for SPP.

\*\* Need to demonstrate nature of relationship and why they are taking on this role.

### **Parental Leave – Unpaid**

Eligibility

<b>Child</b>	<b>Entitlement</b>
Each child	18 weeks up to the child's 5 <sup>th</sup> birthday.
Each adopted child	18 weeks up to the child's 18 <sup>th</sup> birthday or 5 <sup>th</sup> anniversary of adoption, whichever comes soonest.
Each child in receipt of disability living allowance	18 weeks up to the child's 18 <sup>th</sup> birthday.

Leave should be taken in blocks or multiples of one week (except for parents of children in receipt of disability living allowance, where leave can be taken in periods of 1 day or more), with a maximum 4 weeks leave in any year. A year is based on the birth date of the child. Employees should give 21 days' notice of their request to take leave.

Managers can postpone when this leave is taken up to a maximum 6 months for business reasons, except for requests to take leave immediately after a child is born or placed for adoption.

Where qualifying employees wish to take leave to begin on the date on which the child is born or adopted, a minimum of 28 days' notice is required before the beginning of the expected week of childbirth and should specify the duration of the period of leave to be taken.

If the leave is not to be taken immediately after the birth or adoption of a child then the employer may postpone it if they consider that the 'operation of its business would be unduly disrupted' if the employee took leave during that period. The employer must

agree with the employee to allow the same length of leave to begin no later than 6 months after the commencement of the postponed period.

Any period of unpaid parental leave not exceeding 4 weeks that is taken within a period of shared parental leave will not count towards the 26-week period, which is the time at which employees are entitled to return to the same job that they left.

### **Keeping in Touch Days**

The maternity regulations now allow an employee to do up to 10 days work during maternity leave without bringing their maternity leave to an end. This is not a statutory right and may only take place by agreement between the employer and the employee. Where a request is made it should not be unreasonably refused. Working for part of a day will count as one day. The employee will not lose any SMP/OMP/MA for working up to 10 days. Work is defined as any work that is done under their contract of employment and this may include training or any activity undertaken for the purposes of keeping in touch with their workplace.

However, NYCC cannot insist that an employee carries out work and equally the employee cannot insist that they are given work to do during this period under the KIT arrangements.

Where work is done during their maternity period they will continue to receive their SMP/OMP/MA where it is due and they should also be paid for any work that they do under their contract of employment. This work will be paid at the employee's hourly contractual rate and will be offset against any maternity benefits due.

However, they will not be able to carry out any work during the first two weeks following the birth of their child. This period is known as compulsory maternity leave that must be taken at this point.

Where work is done during the adoption leave period they will continue to receive their SAP where it is due and should also be paid for any work that they do under their contract of employment. This work will be paid at the employee's hourly contractual rate and will be offset against the SAP/OAP due.

A form for [recording keeping in touch days](#) and a [claims form](#) for payment for Keeping in Touch Days are available

👉 It is important to note that once an employee has used up the 10 keeping in Touch Days/sessions if they then work again they will not receive their Maternity or Adoption benefits for that week. Therefore, records must be kept to avoid this

### **Processes**

Please see appendices or click on the links below for flowcharts detailing each process.

[Maternity process](#)

[Adoption process](#)

[Paternity and maternity support leave process](#)

## APPENDICES

### Maternity Process including process for taking SPL.

Employee informs manager that she is expecting a baby	
↓	
<a href="#">Manager starts completing the maternity checklist</a>	
↓	
<a href="#">Manager completes risk assessment</a>	
↓	
Employee informs manager of her intention to take maternity leave	
↓	
<a href="#">Managers informs Employment Support Services of maternity leave details</a>	
↓	
<a href="#">Manager writes to employee to acknowledge notification of pregnancy</a>	
↓	
<a href="#">Once manager receives employee's MAT B1 certificate, a letter should be sent to formally acknowledge maternity leave</a>	
↓	
Employee starts maternity leave and can request Keeping in Touch (KIT) days	
↓	
Employee returns from maternity leave, ending both her leave and maternity pay arrangements.	Employee gives notice (8 weeks minimum) of their intention to take SPL
	↓
	Employee gives notice (8 weeks minimum) of taking SPL
	↓
	If employee wishes to vary the leave, 8 weeks' notice must again be given.
	↓
Employee returns from shared parental leave, ending both her leave and shared parental pay arrangements	

**Adoption Process including process for taking SPL.**

Employee informs manager when they have been approved as an adopter	
↓	
Employee informs manager of her intention to take adoption leave	
↓	
<a href="#"><u>Manager writes to employee to acknowledge initial notification of adoption.</u></a>	
↓	
<a href="#"><u>Employee gives manager the 'matching certificate' from the adoption agency.</u></a>	
↓	
<a href="#"><u>Manager writes to employee to formally acknowledge the adoption</u></a>	
↓	
Employee starts adoption leave and can request Keeping in Touch (KIT) days	
↓	
Employee returns from adoption leave, ending both her leave and maternity pay arrangements.	Employee gives notice (8 weeks minimum) of their intention to take SPL
	↓
	Employee gives notice (8 weeks minimum) of taking SPL
	↓
	If employee wishes to vary the leave, 8 weeks' notice must again be given.
	↓
Employee returns from shared parental leave, ending both her leave and shared parental pay arrangements	

### Paternity and Maternity Support Leave Process

The employee should send a written request for MSL/Paternity leave to their manager usually within 28 days before they would like their leave to start. They should also include a copy of either the MAT B1 form or the adoption matching certificate.



Where the employee is eligible for statutory paternity pay, the manager will provide a self-certificate for the employee to complete. Copy correspondence should be sent to Employment Support Services.



The manager will write back as soon as possible with written reasons for any refusal.