

# Family Leave Policy

July 2024

## Contents

---

|   |    |
|---|----|
| Contents.....   | 2  |
| 1. Introduction .....   | 4  |
| 2. Scope.....   | 4  |
| 3. Key principles .....   | 5  |
| 4. Pension Implications.....  | 6  |
| 5. In-Vitro Fertilisation (IVF) .....                                     | 7  |
| 6. Pregnancy and Maternity.....   | 9  |
| 6.1 Introduction.....   | 9  |
| 6.2 Health and safety .....   | 9  |
| 6.3 Notification of pregnancy.....  | 9  |
| 6.4 Antenatal care .....  | 10 |
| 6.5 Sickness.....   | 10 |
| 6.6 Maternity leave .....   | 10 |
| 6.7 Maternity pay.....  | 10 |
| 6.8 Surrogacy .....   | 12 |
| 6.9 Salary sacrifice schemes .....  | 12 |
| 6.10 Birth .....  | 12 |
| 6.11 Early birth.....   | 13 |
| 6.12 Miscarriage.....   | 13 |
| 6.13 Stillbirth/Death of a baby after birth .....                         | 13 |
| 6.14 Keeping in touch (KIT) days .....                                    | 13 |
| 6.15 Returning from maternity leave .....                                 | 14 |
| 6.16 Breastfeeding .....  | 14 |
| 6.17 Holiday Entitlement .....  | 15 |
| 6.18 Employee support .....   | 15 |
| 7. Time off to accompany a pregnant woman to antenatal appointments ..... | 17 |
| 8. Maternity Support Leave.....   | 18 |
| 9. Statutory Paternity Leave .....  | 20 |
| 10. Shared Parental Leave .....   | 22 |
| 10.1 Introduction.....  | 22 |
| 10.2 Entitlement to ShPL .....  | 22 |
| 10.3 Amount and timing of ShPL .....                                      | 23 |
| 10.4 Entitlement to Shared Parental Pay.....                              | 23 |
| 10.5 Notification requirements .....                                      | 24 |

|       |  |    |
|-------|--|----|
| 10.6  | Confirmation of ShPL and ShPP.....               | 25 |
| 10.7  | Varying a period of leave.....                   | 26 |
| 10.8  | Shared Parental Leave in Touch Days (SPLiT)..... | 26 |
| 10.9  | Terms and conditions during ShPL.....            | 27 |
| 10.10 | Returning from ShPL.....                         | 27 |
| 11.   | Parental Leave.....                              | 29 |
| 12.   | Foster Care and Placement Leave.....             | 34 |
| 13.   | Adoption Leave.....                              | 37 |
| 14.   | Parental Bereavement Leave.....                  | 43 |
|       | Appendix 1: Pregnancy checklist.....             | 45 |

## 1. Introduction

---

- 1.1 This policy sets out the support available for employees who are new parents or who are expecting a child either by birth, adoption, surrogacy and/or foster care.
- 1.2 It explains the arrangements for family related pay and leave, and for compliance with health and safety requirements and legislative timescales.
- 1.3 Furthermore, it reflects the Council's commitment to equality, and together with our Flexible Working Policy offers support for an effective work-life balance.

## 2. Scope

---

- 2.1 This policy applies to all employees of Bury Council with the exception of those employed within Local Authority schools, agency and casual workers.
- 2.2 It is written in accordance with the following legislation:
  - Employment Rights Act 1996
  - Employment Relations Act 1999
  - Employment Act 2002
  - Work and Families Act 2006
  - Equality Act 2010
  - Children and Families Act 2014
  - The Shared Parental Leave Regulations 2014
  - The Shared Parental Pay (General) Regulations 2014
  - The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave Regulations 2014)
  - Neonatal Care (Leave and Pay) Act 2023
  - Paternity Leave (Amendment) Regulations 2024

### 3. Key principles

---

- 3.1 All Family Leave requests will be dealt with confidentially. Any documentation will be stored in accordance with GDPR and the Council's data retention policy.
- 3.1 Applications made under this policy must be treated consistently, fairly and sensitively for all employees.
- 3.2 It should be recognised that all individuals have different personal circumstances, and so consultation between employees and line managers is essential.
- 3.3 Line managers are encouraged to support requests for family leave wherever possible, but subject to service requirements.
- 3.4 It is the employee's responsibility to ensure that any information provided in relation to family friendly leave is accurate.
- 3.5 If the Council suspects that fraudulent information has been provided, or if the Council has been informed by HMRC that a fraudulent claim has been made, disciplinary action may be taken.

## 4. Pension Implications

---

4.1 The following information is important for members of the Greater Manchester Pension Fund.

4.2 Should you have any period of unpaid leave, there will be implications for your pension. This includes unpaid leave related to IVF, maternity, shared parental, parental and adoption leave, as well as time off to accompany pregnant women to appointments.

Under the LGPS 2014 Regulations you will not be paying pension contributions for any period of unpaid absence; so, this will reduce your pension benefits when you retire. Active members of the Scheme can recoup lost benefits by paying Additional Pension Contributions (APCs) by completing Greater Manchester Pension Fund Form P38(1). This form can be downloaded from [www.gmpf.org.uk](http://www.gmpf.org.uk) and should be returned to the Pensions Team, [pensions@bury.gov.uk](mailto:pensions@bury.gov.uk).

If the form is returned within 30 days of your last day of absence, your Employer will contribute 2/3rds of the cost; otherwise, the full cost of buying the lost pension is payable by you.

The Pensions Team can tell you how much pension you have lost as a result of the break and then you can get a rough idea of the cost by going on the APC online calculator at [www.gmpf.org.uk](http://www.gmpf.org.uk)

For further information contact the Pensions Team at [pensions@bury.gov.uk](mailto:pensions@bury.gov.uk)

4.3 In situations where you receive reduced pay (e.g. maternity pay, shared parental pay and adoption pay), in line with the Local Government Pension Scheme Regulations, you will be required to make pension contributions on that pay that you receive during your period of absence.

4.4 Whilst you remain in employment and a member of the Scheme, your pension rights will continue during your period of absence.

## **5. In-Vitro Fertilisation (IVF)**

---

### **5.1 Introduction**

Bury Council is committed to providing support to all employees who are undergoing IVF treatment and recognise that this may be an emotional and traumatic time. We will therefore not treat employees undergoing treatment less favourably.

This policy provides essential information for both employees and managers on the issues involved and any relevant time off arrangements.

### **5.2 Infertility**

Infertility is a medical condition that affects both men and women. There are many different treatments available ranging from medication to assisted conception. Although both men and women are affected, women will often receive the more prolonged treatment and this guidance particularly focuses on IVF treatment.

### **5.3 Legal considerations**

When dealing with requests for time off, it is important to act in accordance with our Equality Policy for Employment to avoid any form of discrimination linked to the Equality Act 2010.

### **5.4 Time Off Arrangements**

A flexible approach should be taken, and employees should discuss suitable options with their manager. Depending on the circumstances this might include any of the following:

- Use of the Extended Flexi Time Policy
- Use of annual leave
- Use of TOIL
- Flexible start and finish times
- Working from home
- Authorised absence under special leave provisions will apply for all hospital appointments, including scans
- Agreed additional paid/unpaid leave (agreement should be in consultation with the Head of Human Resources as per Local Conditions of Service). Periods of unpaid leave may have implications for members of the pension fund – see section 4.

### **5.5 Sickness**

During IVF treatment the employee may feel unwell, and this may lead to sickness absence. Sickness should be recorded as 'sickness – pregnancy related'. However, as with pregnancy related sickness, sickness due to side effects of IVF treatment should not be counted in the trigger point calculations.

Managers should, however, continue to carry out return to work meetings to discuss any issues and possible reasonable adjustments or alternative approaches to absences.

#### **5.6 Other Support**

IVF treatment can be a stressful time. Employees, should they feel they would benefit, can be referred through their manager to Occupational Health.

Should employees have to self-administer injections at work, managers should ensure there is a comfortable, private place available to do this.

#### **5.7 Frequency of IVF**

IVF often has to be repeated before it is successful; therefore, these guidelines apply to employees who may undergo multiple treatments.

#### **5.8 Partners Support**

Should the Partner (including same sex partner) of a woman undergoing IVF treatment be required to help and support during the process, they should either request time off under the normal special leave arrangements, take leave or flexitime or consider working more flexibly to accommodate their particular circumstances. The Flexible Working Policy may be useful to consider a range of different options available.

#### **5.9 Employees are asked to:**

- Communicate with their line manager at all stages of the process.
- Supply, if requested, copies of appointment cards/letters.
- Try to arrange appointments at time that will cause minimal amount of inconvenience to the service/team they work within.
- Give as much notice as possible of the days on which time off is required.

#### **5.10 Managers are asked to:**

- Treat the situation with sensitivity and keep information confidential
- Not make any assumptions about treatment or possible side effects.
- Ensure a risk assessment is carried out once the fertilized eggs have been implanted and the employee has notified them.



## 6. Pregnancy and Maternity

---

### 6.1 Introduction

This section details all employment related matters regarding pregnancy and maternity. A useful summary checklist is included as Appendix 1.

### 6.2 Health and safety

It is essential that particular attention is paid to the health and safety requirements of employees who are pregnant, who have given birth within the previous 6 months or who are breastfeeding.

To ensure this happens, it is important that your manager is made aware that you are pregnant as soon as possible. They should then carry out specific risk assessments and review them regularly using the [guidance and template](#) available on the Health and Safety pages of the intranet. Further information is available in the [Health and Safety Executive's guidance on protecting pregnant workers and new mothers](#). The legal protections also apply to transgender men, non-binary people, and people with variations in sex characteristics, or who are intersex.

If you receive medical advice that recommends adaptations to your working environment, or if you have concerns relating to your work, then you should inform your manager immediately. Your manager can contact HR for support and advice.

### 6.3 Notification of pregnancy

As your employer, it helps us to support you throughout your pregnancy if we are aware that you are expecting a baby as soon as possible. We would encourage you to speak to your line manager and/or HR, who will be able to provide advice and guidance regarding your entitlement to paid time off for antenatal care, calculate your benefits and arrange cover for your maternity leave.

Formal notification, normally no later than the 15th week before your expected due date, should be made by completing the maternity questionnaire on iTrent Self Service, which will include your expected week of childbirth, the dates in which your maternity leave will start and end and your intention to return to work.

You can change your expected end date provided you give 28 days' notice to your manager.

As soon as you receive your maternity certificate (MATB1) you should upload this on iTrent Self Service. You will then receive written confirmation, outlining the conditions of your maternity leave and your entitlement.

Guidance can be found in the [iTrent user information](#) pages of the intranet on how to find the maternity questionnaire and upload any documents, or alternatively speak to your manager for advice.

#### **6.4 Antenatal care**

You will be granted leave of absence as appropriate for antenatal appointments arranged on the advice of a registered medical practitioner, including scans. You must be able to provide evidence of any such appointments upon request.

#### **6.5 Sickness**

If you are off sick during pregnancy you are obliged to follow the normal sickness absence procedures. If your sickness is pregnancy related you should inform your manager. Sickness during pregnancy will be recorded; however, pregnancy related sickness will not be counted as set out in the Managing Attendance policy.

If you are absent from work partly or wholly due to pregnancy, in the 4 weeks before your baby is due, your maternity leave will be automatically triggered the day after your first day off.

#### **6.6 Maternity leave**

All employees irrespective of length of service are entitled 52 weeks continuous leave, this is made up of 26 weeks ordinary maternity leave (OML) and 26 weeks additional maternity leave (AML). If you are on a temporary contract your maternity leave will expire on the termination of your contract.

Your maternity leave can start from up to 11 weeks before your baby is due or the day you give birth. You must provide 28 days' notice of your intention to start maternity leave, where reasonably practicable. If your baby arrives earlier, contact your manager as soon as possible, and refer to the section on early birth.

It is compulsory to take at least 2 weeks leave.

#### **6.7 Maternity pay**

There are 3 ways in which your maternity pay is calculated depending on your service length and earnings. Payments will be subject to deductions for income tax, NI and pension. All pay rates can be found on the family friendly rates table on the [intranet](#).

##### Statutory Maternity Pay (SMP)

To qualify for SMP:

- You must have been employed by your employer without a break for at least 26 weeks before your 15th week that you are due

- You must earn at least £123 per week on average for 8 weeks before the 15th week that you are due

If you do not return to work, SMP is non-refundable to the Council.

Pay:

- 90% of your current pay for the first 6 weeks
- SMP rate for 33 weeks

If you take 52 weeks leave, the final 13 weeks will be unpaid.

If you have changed employer during your pregnancy, please seek advice on your entitlement from HR as you may not meet the continuous employment rule. Exceptions to this are if you worked for an employers signed up to the Greater Manchester Continuity of Service Protocol, or if you are a teacher in a school maintained by a local education authority and you move to another school maintained by the same authority; in these circumstances your continuous employment for SMP purposes is maintained.

#### Occupational Maternity Pay (OMP)

To qualify for OMP:

- You must have completed 1 year's continuous local government service, 11 weeks before your due date. Continuous service under the Greater Manchester Continuous Commitment is included
- You must confirm you intend to return to work for at least 3 months

OMP must be repaid if you do not return to work.

Pay:

- 90% of your current pay for the first 6 weeks
- Half of your current pay plus SMP for the next 12 weeks (subject to this not exceeding normal full pay)
- SMP for the next 21 weeks

If you take 52 weeks leave, the final 13 weeks will be unpaid.

If you meet the continuous service requirements for payment of OMP as detailed above, but do not qualify for SMP or MA you will be paid at nine-tenths of a week's pay for the first six weeks' of your maternity leave, but this will not be offset against SMP or MA.

#### Maternity Allowance (MA)

If you do qualify for statutory or occupational maternity pay, you may qualify for maternity allowance. This is based on your recent employment and earnings and is a state benefit.

To qualify for MA:

- You must be employed or have been employed for at least 26 weeks in the 66 weeks before the due date

- You must have been earning at least £30 a week on average in at least 13 weeks of your employment

You will need to complete a SMP1 form which can be obtained from HR Operations and take this to your local benefits agency office who can advise on your entitlement.

See section 4 for the implications for pension fund members.

## 6.8 **Surrogacy**

If you are acting as a surrogate mother, you are entitled to the same maternity leave and pay.

If someone is acting as surrogate for you, you are not entitled to maternity leave or pay, as entitlement is dependent on actual pregnancy and production of a MATB1 certificate.

## 6.9 **Salary sacrifice schemes**

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have maternity leave during the period of your agreement. This is because Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) are calculated on the amount of average weekly earnings during the 8-week period, fifteen weeks prior to the expected date of confinement (weeks 17 to 25 of pregnancy).

A salary-sacrifice arrangement will reduce the amount of salary that is liable to National Insurance Contributions; and consequentially will reduce the level of your SMP/OMP.

### Car lease scheme

If you have an agreement under the car lease scheme, to maintain the level of your SMP/OMP, the Council will make a payment to you based on the salary you would have received prior to salary-sacrifice.

From the start date of payment of your SMP you will pay for your car on a net deduction basis which is more expensive than the salary-sacrifice deductions. When you return to work you will automatically revert back to the salary sacrifice arrangement.

If you are pregnant and have a lease car, another option is for you to return the car, but you will be subject to early termination charges.

## 6.10 **Birth**

You (or someone on your behalf) should notify your manager as soon as possible after the birth.

### 6.11 Early birth

If your baby is born before the start of your planned maternity leave, your maternity leave and payment of your SMP will commence on the day following the day your baby was born.

### 6.12 Miscarriage

If a miscarriage happens in the first 24 weeks of pregnancy, there is no entitlement to maternity leave. However, as many see this as a bereavement, employees should be supported in the same way. Any sickness absence should be categorised as 'pregnancy related' and not counted towards sickness triggers.

A miscarriage after 24 weeks is classed as a stillbirth.

### 6.13 Stillbirth/Death of a baby after birth

In the tragic event of you giving birth to a stillborn baby, you are still entitled to maternity leave if the birth happens after 24 weeks of pregnancy. As with an early birth, should this happen before the planned start date of the maternity leave your maternity leave and payment of SMP would commence the day following the stillbirth. If the stillbirth occurs before the end of the 24<sup>th</sup> week of pregnancy, you should take sick leave or special leave if appropriate.

If your baby is born alive but then later dies, you are entitled to maternity leave.

### 6.14 Keeping in touch (KIT) days

Keeping in Touch (KIT) days are designed to encourage a smooth return to work for you following your maternity leave and allow you to return to work for up to 10 days without bringing your maternity leave to an end. KIT days are not compulsory and must be arranged by mutual agreement between you and your manager. Even if you don't have any KIT days you may find it beneficial to keep in touch more informally during your maternity leave.

Any work done, whether it is a one-hour team meeting, a two-hour training session, or a full day, would be classed as one of your KIT days. Your manager must record when your KIT days have been taken and the number of hours you worked on iTrent (see [Bury Family Friendly Leave Guidance for Managers](#)). You will be paid at your current spine point or rate of pay for the hours you work so your manager must enter details of these hours into iTrent (see [iTrent Self Service Family Friendly Leave Guide for Managers](#)) in order for you to be paid correctly.

Your SMP will be offset against your earnings on a KIT day so, for example, if you earn £50.00 for a KIT day, the £50.00 will be offset against the SMP payment for the week and you will still receive the SMP payment. If you worked 3 KIT days in a week and received £150.00 for the 3 days, the SMP

payment will be offset, and you would receive £150.00 for the week.

### 6.15 **Returning from maternity leave**

You may return to work at any time during your maternity leave subject to you taking 2 weeks' compulsory maternity leave. Compulsory maternity leave will commence from the birth of the baby.

No notification is required if you intend to return to work at the end of the maternity leave (52 weeks). However, if you choose to return **before the end** of the 52 weeks you must give 21 days' notice in writing to your manager and HR. Where insufficient notice is given your department may postpone your return to ensure the required notice.

Providing you meet eligibility requirements you have the choice to transfer up to 6 months' leave to the child's father should you want to. The leave can be taken by the father once you have returned to work. [The term "father" refers to the person taking the additional paternity leave but is available to either sex and also applies to employees married to or the partner (including same sex partner) and civil partner of mothers]. Some of the leave may be paid if it is taken during what would have been your 39-week statutory pay period; in these cases, then you must bring your maternity leave to an end by giving notice to return early and must bring your SMP or maternity allowance to an end by actually returning to work.

If you have notified us of your date of return but cannot return to work because of sickness you are required to produce a doctor's certificate before the notified date of return. If you haven't yet informed us of your date of return you must produce a Doctor's certificate on the expiry of your maternity leave period. At this stage normal contractual sick pay arrangements apply.

You will be entitled to return to the post that you now occupy or a suitable alternative post where for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

If you wish to return to work on a job share or part time basis, it is important that you apply for this in line with the Flexible Working Policy at the earliest opportunity.

If your request is agreed, you will be entitled to retain the 12 weeks ½ pay that you received during your maternity leave, as long as you work for at least 3 months upon your return.

### 6.16 **Breastfeeding**

The Council is required to provide an appropriate area for mothers to rest and express milk. Toilets are not considered suitable for this.

A risk assessment should be completed in line with health and safety guidelines, as referred to above.

A suitable arrangement should be in place for mothers to store milk, should they choose to express during the working day

## 6.17 **Holiday Entitlement**

You are allowed to take your full holiday entitlement in the year in which your maternity leave falls on the understanding that you reimburse the Council as appropriate on a pro rata basis should you choose not to return to work. This applies if you are entitled to paid or unpaid maternity leave.

You will also be entitled to any fixed holidays such as Bank Holidays that fall during your paid or unpaid maternity leave. These fixed holidays will be treated as annual leave for this purpose and taking these days as leave, either before or after maternity leave, must be requested in the usual way. Your manager must mark any bank holidays on iTrent as not taken.

If your maternity leave straddles two leave years you will be permitted to carry over any untaken leave into the next leave year, should the need arise. Your manager will need to inform HR so iTrent can be updated.

If you work term time only your pay is calculated as 12 equal monthly installments across the year. Each installment includes a combination of your salary payment and payment for your annual leave and bank holidays; and you are required to take your leave during school closure periods. Annual leave accrued whilst on maternity leave will be offset by any period of school closure that occurs in the leave year in question, both before and after your maternity leave.

If you have salary deductions for 3 days' unpaid leave the deductions will cease altogether for the full period of the maternity leave and the deduction is pro-rated for the months that you commence and return from maternity leave. The 3 days' unpaid leave will also be pro-rated to reflect this.

Prior to your return to work following maternity leave HR will assess whether or not you are owed any annual leave entitlement. If you have outstanding leave you will be given the option to either take the leave: -

- During term-time, but only with the approval of your line manager. In these cases there will be no adjustment to your pay; or
- During school closure periods when your pay will be adjusted to reflect any shortfall in holiday pay received during your period of maternity leave.

You cannot insist on payment for untaken annual leave unless you are leaving the Council.

These arrangements will also apply to term time only employees taking adoption leave and additional paternity leave.

## 6.18 **Employee support**

The Council recognises that in some cases women can suffer mental or physical trauma as a result of giving birth. Our [Employee Assistance Programme](#) offers support with immediate access to counselling and a free confidential phone service.



## 7. Time off to accompany a pregnant woman to antenatal appointments

---

- 7.1 If you are an expectant father (biologically) or the partner (including same sex) of a pregnant woman, you are entitled to take unpaid time off work to accompany the woman on to up to 2 of her antenatal appointments. “Partner” includes the spouse or civil partner of the pregnant woman or a person in a long-term relationship with her.
- 7.2 The right applies whether the child has been conceived naturally or through donor insemination. It also extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.
- 7.3 There is no qualifying period for Council employees – it is a day one right. Agency workers must have been working for the Council for 12 weeks or more.
- 7.4 Employees accompanying the expectant mother to her ante-natal appointments are entitled to unpaid leave for 1 or 2 appointments. The time off is capped at six and a half hours for each appointment.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

- 7.5 The Council is not entitled to ask for any evidence of the antenatal appointments, such as an appointment card, as this is the property of the expectant mother attending the appointment.

However, the Council is entitled to ask you for a declaration stating the date and time of the appointment, that you qualify for the unpaid time off through your relationship with the mother or child, and that the time off is for the purpose of attending an antenatal appointment with the expectant mother that has been made on the advice of a registered medical practitioner, nurse or midwife.

- 7.6 Time off to accompany a pregnant woman for antenatal appointments must be recorded on iTrent via Employee Self Service (see [Other Leave – Unpaid Leave instructions](#)) which will notify HR.

## 8. Maternity Support Leave

---

**Maternity Support Leave should be considered alongside Statutory Paternity Leave and Pay, and advice sought from HR as to the option that best suits your circumstances. You cannot take both.**

8.1 The intention of Maternity Support Leave (MSL) is to give employees leave to care for the child or support the mother following childbirth. Male and female employees may be eligible, irrespective of marital status.

8.2 There are 2 levels of leave:-

- For all employees irrespective of length of service:  
All employees will be entitled to 5 working days. Leave must be taken as a block within 3 months of the birth. Pay will be based on contractual pay.
- For employees with 26 weeks service when the baby is born:  
You will be entitled to an additional 5 days, which must be taken within 3 months of the birth. Pay will be based on contractual pay. This additional 5 days should also be taken as a block and can be either be taken consecutively or separately to the first block of 5 days.

Service as defined above includes all continuous service with an employer that is part of the Greater Manchester Continuity of Service Protocol.

8.3 To qualify employees need to satisfy the following criteria:-

- Be the biological father of the child, the mother's husband or partner (including same sex partner)

Or, if any of the above are unable to assist the mother (for example if the father/partner (including same sex partner) is in the armed forces); or, if the mother has no relationship(s) as defined above:

- Be a close family member or, in exceptional circumstances, a friend of the mother, whom the mother has nominated to assist in the care of herself and the child following the birth. That person should have or expect to have some ongoing involvement in the child's upbringing.

8.4 To be granted MSL the employee must produce a medical certificate which includes the name and address of the mother and expected date of birth); **and**, in the case of a designated nominated carer, a note from the mother confirming the relationship and her wish for the person to act as a designated nominated carer.

8.5 Only one period of MSL (up to 10 days, where eligible) will be granted in any 12-month period.

8.6 Leave can start:

- From the date of the child's birth (whether this is earlier or later than expected)
- From a chosen date, providing the date is within 3 months of the date of the birth

Only one period of leave will be available irrespective of the number of children born as a result of the same pregnancy.

- 8.7 Leave will be paid at full pay for the period chosen and payment will be automatically offset by Statutory Paternity pay (if SPP is applicable).

If your pay has been offset this means that for that birth your entitlement to Statutory Paternity Pay (SPP) has been exhausted as part of your full pay MSL and the Council has claimed this money back from the Government. It is not possible to double count, i.e. MSL plus SPP for the same birth.

If an employee leaves the service of Local Government within 3 months from the last day of maternity support leave, they will be required to reimburse the occupational element of pay. The statutory element is not refundable.

- 8.8 Employees will be required to inform HR of their intention to take leave. Leave will be granted by agreement with their manager.

## 9. Statutory Paternity Leave

---

**Statutory Paternity Leave and Pay should be considered alongside Maternity Support Leave, and advice sought from HR as to the option that best suits your circumstances. You cannot take both.**

9.1 This section provides a basic summary of rights to paternity leave and pay.

### 9.2 Eligibility

Following the birth of the child/placement of a child for adoption, eligible employees will have the right to request paid paternity leave to care for their new child or support the adopter.

To apply for paternity leave and pay you must make a written declaration that you are the biological father of the child, or the spouse, partner (including same sex partners) or civil partner of the mother/other adopter and: -

- have or expect to have responsibility for the child's upbringing;
- have worked continuously for the Council for 26 weeks ending with the 15th week before the baby is due or, in cases of adoption, the end of the week in which the child's adopter is notified of being matched with a child;
- will take time off work to support the mother/other adopter and/or the baby/adopted child

A partner is defined as someone who is not an immediate relative and lives with their partner in an enduring family relationship. It may include a female partner in a same sex couple.

To apply for paternity leave and/or pay you must complete a form SC3, or SC4 in cases of adoption, available on the gov.uk website.

### 9.3 Length of Paternity Leave

You can take either 1 or 2 weeks' leave. If you are taking 2 weeks they can either be taken consecutively or separately. The amount of time is the same even if you have more than one child (for example twins).

Leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- a specified number of days after the birth
- a set date which is after the date of birth

Leave must finish within 52 weeks of the birth (or due date, if the baby is early).

Or, if you are taking paternity leave because you are adopting, you can start your leave:

- on the date of placement

- an agreed number of days after the date of placement
- on the date the child arrives in the UK or an agreed number of days after this (overseas adoptions)

Leave must be taken within 52 weeks of the date of the placement or arrival.

#### 9.4 Pay

During paternity leave you will be able to apply for Statutory Paternity Pay (SPP) which is the same as the standard rate of Statutory Maternity Pay (All pay rates can be found on the financial provisions table - [Conditions of Service - Bury Council Intranet](#)). To qualify for SPP you must continue to work with Bury Council right up until the baby is born or the child is placed for adoption. Employees who have average weekly earnings below £123 per week (gross) do not qualify for SPP.

#### 9.5 Notice of intention to take Paternity Leave

You will be required to inform us of your intention to take paternity leave at least 15 weeks before the baby is expected/within seven days of the adopter being notified by their adoption agency that you have been matched with a child, unless this is not reasonably practicable. You will need to inform us:

- Of the baby's due date/the date when the child is expected to be placed;
- Whether you wish to take one or two weeks' leave;
- When you want your leave to start.

You should give at least 28 days' notice of the date that you expect any payments of Statutory Paternity Pay to start.

#### 9.6 Salary sacrifice schemes

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have paternity leave during the period of your agreement. This is because Paternity Pay (SPP) is calculated on the amount of average weekly earnings during the 8-week period, fifteen weeks prior to the expected date of confinement (weeks 17 to 25 of pregnancy).

A salary-sacrifice arrangement will reduce the amount of salary that is liable to National Insurance Contributions; and consequentially will reduce the level of your SPP.

## 10. Shared Parental Leave

---

**Shared Parental Leave (SPL) should not be confused with unpaid Parental Leave, which is unaffected by SPL. Unpaid parental leave is the entitlement to up to 18 weeks' unpaid leave for parents who have responsibility for a child aged up to 18. For more information see Section 11.**

### 10.1 Introduction

This section outlines the statutory right to take shared parental leave (ShPL) to care for a child due to be born or placed for adoption on or after 5<sup>th</sup> April 2015. It also outlines the arrangements and notification requirements before a period of ShPL and the entitlement to pay during ShPL.

ShPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks' leave should they wish to do so. Parents taking ShPL can take leave in separate blocks, returning to work in between blocks, and can be on leave at the same time. Eligible employees are entitled to submit up to three 'period of leave' notices. Requests for continuous periods of leave will be granted.

Employees and managers should, where possible, have an informal discussion prior to employees giving formal notification of intention to take ShPL so that entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

### 10.2 Entitlement to ShPL

To be entitled to ShPL you must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent);
- have (or share with the other parent) the main responsibility for the care of the child;
- have at least 26 weeks' continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the 'relevant week');
- still be in continuous employment until the week before any ShPL is taken.

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week

If the other parent meets those conditions, but does not qualify for ShPL, you may be entitled to the whole ShPL period – the main advantage being the

ability to request leave in different blocks and return to work in between those blocks.

If you want to calculate your entitlement to ShPL and ShPP you can do so at [Plan your Shared Parental Leave and Pay - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/plan-your-shared-parental-leave-and-pay)

To access your entitlement, you must also follow the statutory notification and information requirements detailed below.

### 10.3 Amount and timing of ShPL

ShPL must be taken in blocks of at least one week and within a one-year period beginning with the date of the baby's birth or the child's placement for adoption.

The maximum of 52 weeks' ShPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or main adopter (or the number of weeks' statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave).

After the birth of a child, it is compulsory to take two weeks' maternity leave, so in the majority of cases working parents will have the opportunity to split 50 weeks of ShPL.

ShPL is in addition to the statutory right to two weeks' paternity leave for fathers and partners. If you wish to take maternity support leave or paternity leave you must do so before you take any ShPL.

### 10.4 Entitlement to Shared Parental Pay

In addition to the requirements regarding entitlement to leave outlined above, if you wish to claim shared parental pay (ShPP) within the one year period following the baby's birth, you must have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week.

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks' statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. The statutory ShPP is a standard weekly rate (or 90% of the employee's normal weekly earnings if this is lower) which is set by government each tax year.

(All pay rates can be found in the family friendly rates table on the [intranet](#))

The payment will be enhanced to include 12 weeks at half pay plus ShPP (subject to normal full pay not being exceeded) if the following conditions are met:

- ShPL to be taken as one continuous block;

- the occupational element must be repaid if you do not return to work for 3 months following your ShPL;
- in the event that both parents/adopters are employed by Bury Council the occupational element of 12 weeks half pay must be shared

To access your entitlement to ShPP you must follow the statutory notification and information requirements detailed below.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have shared parental leave during the period of your agreement. This is because Shared Parental Pay (ShPP) is often calculated based on average weekly earnings. A salary-sacrifice arrangement will reduce the amount of salary and consequentially will reduce the level of your ShPP.

## 10.5 Notification requirements

The notification requirements for ShPL and ShPP are very specific and detailed.

### Notice of entitlement and intention to take ShPL and ShPP

You must notify Bury Council in writing at least **eight weeks** before the start date of the first period of ShPL, but preferably sooner. You should do this by completing the form on iTrent – see [Bury Family Friendly Leave Application guidance](#).

The form will require the following information:

- Your name and the other parent's name
- The start and end dates of the mother's or main adopter's maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave)
- The expected date of birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement
- The amount of ShPL and ShPP available and an indication of how much each parent intends to take (this may be varied by a subsequent written notice signed by both parents)
- An indication of the start and end dates of the periods of ShPL and ShPP that you intend to take. This indication is not binding and can be amended at a later date.
- A declaration that you meet the conditions for entitlement to ShPL, the information provided is accurate and that you will notify Bury Council immediately if you cease to meet the conditions for entitlement.
- A declaration from the other parent containing his or her name, address and National Insurance number, confirmation that s/he meets the employment and earnings conditions, consents to the amount of leave the



employee intends to take and will immediately inform you if s/he ceases to satisfy the employment and earnings conditions.

You will be sent an email acknowledging receipt of your Notice of entitlement to take ShPL and ShPP.

**Note:** this email confirms your intention to take ShPL/ShPP but in order to book leave you must do this via iTrent self-service – see [ESS Guide to Family Friendly Leave](#).

When giving notice of entitlement this will include a Maternity/Adoption Leave Curtailment Notice which you, as the mother/main adopter must sign to give your employer 8 weeks' notice of the date on which maternity/adoption leave is to end (or the date on which maternity/adoption pay is to end if you are not entitled to maternity/adoption leave).

If you are not entitled to ShPL but want to curtail you maternity/adoption leave and/or pay to free up the entitlement to ShPL for the other parent/adopter you must also submit a curtailment notice. Your maternity allowance cannot be reinstated, so you are in effect giving consent for your partner to take the whole of any ShPP entitlement.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

- it becomes apparent that neither parent is entitled to ShPL or ShPP;
- if the curtailment notice was given before the birth and is revoked within six weeks of the birth (in this case another curtailment notice can be submitted);
- if the other parent dies.

In practice, at least the first period of ShPL will usually be identified in the initial notice of entitlement and intention to take ShPL. You are entitled to submit a maximum of a further two 'period of leave' notices – to do this email [HROperations@bury.gov.uk](mailto:HROperations@bury.gov.uk). Each notice must be given at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

The Council reserves the right to ask for further information to support this request.

## 10.6 Confirmation of ShPL and ShPP

If a continuous period of leave is requested in each period of leave notice, you will be entitled to take that period of leave and this will be confirmed in writing.

If more than one period of leave is requested in a period of leave notice, your manager will seek to accommodate the request but this cannot be guaranteed. Your manager will discuss the request with you to determine if it can be accommodated. If it cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The manager's decision will be confirmed in writing.

If no agreement is reached within two weeks of the period of leave notice being submitted you can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date
- take the continuous block starting on a new date, as long as the new date is later than the original start date, and you notify Bury Council of the new date within five days of the two week period referred to above
- withdraw the request at any time up to the 15th day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of your three requests

### 10.7 Varying a period of leave

You are entitled to submit a request to vary a period of leave in the following ways:

- vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date;
- vary or cancel the amount of leave requested at least eight weeks before the original start date;
- request that a single period of leave become a discontinuous period of leave, or vice versa.

A variation will count as one of your three period of leave notices unless:

- it is made as a result of the child being born earlier or later than the expected week of childbirth;
- Bury Council has requested the variation
- Bury Council has agreed to accept more than three period of leave notices.

To cancel or vary a period of ShPL please email [HROperations@bury.gov.uk](mailto:HROperations@bury.gov.uk).

The usual eight-week notice requirement may be modified if your child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child.

### 10.8 Shared Parental Leave in Touch Days (SPLiT)

You may be asked to attend work on occasional days during your ShPL period. These days could be for training, to attend department meetings, or just for keeping in touch (SPLiT). You may work for up to 20 days without

bringing the ShPL to an end, but work during ShPL will not have the effect of extending your ShPL period. If you do work, you will be paid your normal rate of pay inclusive of any ShPP entitlement. You are under no obligation to work during ShPL, and Bury Council is under no obligation to offer work.

Any work done, whether it is a one hour team meeting, a two hour training session, or a full day, would be classed as one SPLiT day. You must record when SPLiT days have been taken and the number of hours worked. Payment will be at current spine point or rate of pay for the hours worked so your manager must enter details of these hours into iTrent (see [iTrent Self Service Family Friendly Leave Guide for Managers](#)) in order for you to be paid correctly.

The 20 SPLIT days available during ShPL are in addition to the 10 KIT days available during maternity and adoption leave.

### 10.9 Terms and conditions during ShPL

Contractual benefits (apart from remuneration) will continue to be accrued during periods ShPL period.

Employees taking ShPL will continue to accrue contractual holiday entitlement.

#### Holiday entitlement accrued before ShPL

Entitlement to accrue holidays is not affected by ShPL and employees are entitled to accrue statutory and contractual holiday during the entire ShPL period.

Employees will be advised, prior to ShPL, of any holiday they are entitled to take before ShPL is due to start.

#### Holiday entitlement accrued during ShPL

Holiday entitlement continues to accrue during ShPL. Employees on ShPL will also be entitled to any fixed holidays such as Bank Holidays that fall during a period of ShPL. These fixed holidays will be treated as annual leave for this purpose and taking these days as leave must be requested in the usual way.

There may be discussions between managers and employees around the various options regarding holiday entitlement before a return to work.

Requests to take annual leave should be made in compliance with Bury Council procedures for requesting annual leave.

### 10.10 Returning from ShPL

If you wish to return early from ShPL, or extend the period of your ShPL, you must notify Bury Council at least eight weeks' before both the original end date and the new end date.

If you return to work immediately after a period of ShPL which (together with any statutory maternity/adoption leave you may have taken to care for the same child) was 26 weeks or less, you will return to work in the same job that you left.

If you return to work from a period of ShPL which (together with any maternity/adoption leave you may have taken to care for the same child) was 26 weeks or more you will be entitled to return to the post that you now occupy or a suitable alternative post if, for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

Your right to return means that you return on terms and conditions no less favourable than those that would have been applied if you had not been absent and with the same level of seniority, pension rights and other similar rights.

## 11. Parental Leave

---

11.1 An employee who is entitled to apply for parental leave is defined by the regulations as having 'responsibility for a child'. i.e.

- The mother of the child(ren)
- Adoptive parent
- The father of the child(ren) if he was married to the mother at the time of the birth or he is registered as the child's father
- If not covered by the above, the father if he has acquired parental responsibility under the Children Act 1989
- A legal guardian appointed under Section 5 of the Children Act 1989
- Nominated Carer (as defined in Appendix H of Local Conditions of Service), subject to production of documentary evidence of 'responsibility for a child' as defined in section 10.8 below.

Agreements reached under the NJC for Local Government Services state that parental leave should also be extended to employees with parental responsibilities but who do not fall under the legal definition. This might include foster parents; adoptive parents prior to placement; grandparents with a significant parenting role and step-parents.

11.2 A total of 18 weeks unpaid parental leave is available for eligible employees, per parent, per child, up to their 18th birthday. The aim of the leave is to support their child's welfare, for example to:

- Spend more time with their children
- Look at new schools
- Settle children into new childcare arrangements
- Spend more time with family, such as visiting grandparent

11.3 A week is normally defined as an employee's contracted working week where this does not vary.

Where the working pattern normally varies from week to week or over a longer period, or if the employee is normally required to work in some weeks and not others, a week is the total of all periods in which they work, divided by 52.

### 11.4 Entitlement

To qualify to apply for parental leave an employee must:

- Have completed 1 year's continuous service with Bury Council (previous relevant continuous service does not qualify)
- Have, or expect to have, responsibility for a child (see 10.1 above)

An employee who qualifies to apply for parental leave is entitled to 18 weeks unpaid leave, in addition to leave granted under any other terms or conditions of service (except Maternity Support Leave), to be taken as follows:

- As block of a week or multiples of a week for a maximum of 4 weeks per year (per child), unless the child is disabled in which case it may be taken as individual days.
- The maximum of 4 weeks per year (per child) is the statutory guidance but can be varied with agreement.
- In patterns which provide a part time or reduced hours working arrangement for a period of time equivalent to taking 18 weeks leave.

#### Example

If an employee works 3 days a week, one 'week' of parental leave equals 3 days. If an employee works irregular weeks the number of days in a 'week' is the total number of days they work a year divided by 52.

Parental leave is an individual entitlement for each employee. It is the employee who attracts the statutory entitlement, not each individual contract of employment. In circumstances where both parents, as defined in paragraph 3.1. of this policy, are employees, they may both apply to take parental leave, together or separately, in respect of the same child.

An employee is entitled to apply for parental leave separately for each child for whom they have responsibility that meets the qualifying criteria.

### 11.5 **Application process**

Every attempt should be made by an employee to give as much notice as possible with a minimum of 21 days' notice in writing required before the day on which they propose to take the leave. Employees should apply HR specifying when the requested leave is to begin and end. In the case of multiple employments, such employees will be required to give notice to all relevant parties. Employees may apply to take parental leave immediately prior to or after annual leave, maternity leave, adoption leave, shared parental leave or maternity support leave.

If the parental leave is to be taken by a partner immediately after a child is born the notice must specify the expected week of childbirth, the amount of parental leave to be taken and be given at least 21 days before the beginning of the expected week of childbirth. Fathers who wish to apply for paid maternity support leave or paternity leave and pay may continue to do.

If parental leave is to be taken immediately after a child is placed for adoption, the notice must specify the expected week of placement, the amount of parental leave to be taken and be given at least 21 calendar days before the expected week of placement, or as soon as it is reasonably practicable.

Parental leave may be granted to employees who have not given the required notice in special circumstances at the discretion of the Head of Service. Such discretion shall not be unreasonably withheld.

It is the responsibility of both employees and relevant Supervisors/Managers to keep accurate records in order to facilitate the granting of parental leave (to be processed in accordance with the Data Protection Act 1998).

#### **11.6 Production of evidence of responsibility for a child**

The Council has the right to request to see reasonable evidence of the following:

- the child(ren)'s date of birth e.g. birth certificate
- an employee's responsibility or expected responsibility for the child(ren) e.g. Adoption papers

Evidence must be requested and produced prior to the granting of the initial period of parental leave for each child. Re-production of such evidence in respect of further requests for parental leave in respect of the same child may be necessary where the employing department changes or where an employee may have ceased to satisfy the qualifying criteria set down in the Regulations.

#### **11.7 Postponement of the timing of parental leave**

##### By the Council

If an employee meets the qualifying conditions and gives the required notice the employee is entitled to take the leave and the request cannot be refused. In the case of multiple employments agreement to take the leave will be subject to consultation between all relevant departments. Every attempt will be made to avoid postponement. In any event, leave shall not be postponed for more than three months except in exceptional circumstances.

However, in accordance with the Regulations, the Council may postpone the timing of parental leave if the operation of the business would be unduly disrupted.

The Council may not postpone the parental leave in the following circumstances:

- Following maternity support leave
- Following maternity leave
- At the time of adoption, at times prior to adoption where the parent is required to be at home by the adoption process, or following adoption leave

In circumstances where the Council wishes to postpone a period of parental leave an employee must be notified in writing within 7 calendar days of receipt of the request for leave and the reason for the postponement.

The Council must consult with the employee with a view to coming to agreement over alternatives. These might include:

- A different pattern of leave – e.g. part time rather than full time
- A shorter or longer period of leave
- Alternative dates within a three month period.

Where there is no agreement, the Council must as a minimum, permit the employee to take a period of leave of the same duration and beginning on a date determined in consultation with the employee no later than three months after the originally notified start date.

An employee may be accompanied by a Trade Union representative or work colleague during consultations with the Council.

#### By an Employee

An employee may postpone the timing or cancel a period of agreed parental leave where the Council considers that there are justifiable circumstances, for example:

- they no longer have responsibility for the child(ren) as defined by the regulations;
- if the leave was requested to cover a specific purpose (for example, absence of normal childcare arrangements, hospitalisation of child, absence of partner) and this need or purpose no longer exists.

In such circumstances an employee should, in the first instance, discuss the matter with their manager. Where it is then agreed that the cancellation or postponement of an agreed period of parental leave is justifiable, an employee must request the postponement or cancellation in writing, stating the dates of the agreed period of parental leave they wish to cancel/postpone and their reasons for doing so.

In normal circumstances, an employee must allow a minimum of 7 calendar days to elapse before rebooking the leave.

In exceptional circumstances, consideration may be given to a request to extend the agreed period of parental leave, where the maximum parental leave has not yet been taken.

Upon receipt of the written notification of postponement/cancellation or extension, the manager must notify HR immediately, to ensure that the appropriate amendment to pay may be made without delay.

### **11.8 Protection during parental leave**

Although an employee's contract will continue during the period(s) of parental leave, only the following terms are binding:

#### Terms binding the Council

The Council's implied obligation to an employee of trust and confidence;  
Any term relating to notice of termination, compensation for redundancy, or disciplinary or grievance procedures

#### Terms binding the Employee

An employee's implied obligation to the employer of good faith  
Any term relating to notice of termination, the disclosure of



confidential information, the acceptance of gifts or other benefits or an employee's participation in any competing business.

### **11.9 Right to return**

An employee has the right to return to the same job or, if that is not reasonably practicable, to another one that is suitable and appropriate for them to do in the circumstances unless the leave is for 4 weeks or less and does not immediately follow additional maternity leave when an employee has the right to return to the same job.

Upon return to the workplace, an employee's terms and conditions must be no less favourable than they would have been had they not been absent from work. Periods of unpaid parental leave may have some effect on certain employee rights (e.g. pension fund) but will not affect continuous service.

### **11.10 Protection from detriment/unfair dismissal/redundancy**

An employee is protected from detriment (i.e. an act, or failure to act) and dismissal or selection for redundancy on the grounds that they:

- took, or sought to take, parental leave
- declined to sign a workforce agreement, or
- performed functions or activities (or proposed to do so) as a workforce representative, or a candidate for election to representative, under the Regulations.

### **11.11 Deduction of pay**

Corresponding deductions will be made from an employee's remuneration in the next available pay period after notification. Wherever possible this will be in the same pay period as the leave is taken.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

## 12. Foster Care and Placement Leave

---

### 12.1 Introduction

Bury Council recognises and values the contribution that foster carers make to society and especially the lives of children in care. We understand that foster carers who do other work in addition to fostering need some flexibility in their working arrangements in order to meet the needs of their fostered child.

The Council is committed to supporting staff members who are a main or linked foster carer and those who are applying to be a foster carer with a local authority or independent fostering service.

We will, wherever possible, create a fostering friendly organisation that offers flexible working arrangements which respond to the needs of employees who are foster carers.

This policy sets out the additional time off that we will offer foster carers and those going through the approval process.

It recognises that the process of seeking approval to become a foster carer can be lengthy and places a number of reasonable but demanding expectations upon prospective carers, particularly in relation to the training, assessment and approval process.

It also recognises the circumstances when employees who are foster carers are taking on a placement/child under a short or long-term fostering arrangement.

### 12.2 Foster care leave

Foster care leave is available to staff who:

- are applying to become foster carers
  - are approved foster carers and have a child in placement (or have had a child in placement for 75% of the previous 12 months), and
  - have three months or more employment service with Bury Council
- School staff, casual staff and contractors are not eligible for foster care leave.

Bury Council values and will support foster carers by giving paid time off in any 12-month period as follows:

- assessment and initial training prior to approval as a foster carer - up to three days
- attendance at panel for approval – half a day
- looked after child statutory review meetings, child review meetings, annual foster carer review meeting and training – up to five days.

The employee's line manager will approve the leave on a discretionary basis taking into account individual circumstances of each case and operational requirements of the business. The leave will be considered and approved on

a pro rata basis. The employee will provide necessary evidence to support their request for leave if requested.

Foster care leave should be requested via the iTrent Employee Self Service system.

### 12.3 Foster placement leave

To qualify for leave when taking on a placement/child under a short or long-term fostering arrangement, staff members must:

- have continuous service of 3 months or more with Bury Council
- provide a notice of acceptance for a placement
- have not taken child placement leave in the last 12 months
- be the primary carer of the child

In exceptional circumstances, when the needs of the child requires both carers' full time involvement, leave may be granted when the staff member is not the primary carer.

Staff employed in schools, casual staff and contractors are not eligible for foster placement leave.

Qualifying staff are eligible for up to six weeks paid leave of absence following the placement being made.

If the Council employs both foster carers, then they are only entitled to receive a single allocation of leave, however it may be split between both carers with agreement from the appropriate Heads of Service.

Where only one foster carer works for the Council, there shall be entitlement, provided that their partner is working but not entitled to claim equivalent leave. There shall be no entitlement where the partner is not working; unless there are exceptional circumstances, when the needs of the child require both carer's full-time involvement.

There is only one period of leave and or pay available irrespective of the number of children being fostered.

Where the child placed is under five years of age on the day of placement:

- weeks 1–3 inclusive will be paid at 90 per cent of pay
- weeks 4–6 inclusive will be paid at half pay. Staff not returning to work by the first day of the seventh week shall repay the three weeks at half pay.

Where the child placed is over five years of age on the day of placement one week's leave with pay shall be available to the primary carer in consultation with the line manager.

In exceptional circumstances, when the needs of the child require the carer's full-time involvement for a longer period of time, the leave entitlement for a

child under five years of age may apply at the discretion of the Head of Service.

Foster placement leave should be requested via the iTrent Employee Self Service system.

## 13. Adoption Leave

---

13.1 The Work and Families Act 2006 introduced provisions for employees who are adopting a child to have an entitlement to statutory adoption leave and pay. These provisions have been extended by the Children and Families Act 2014, which provides additional rights and entitlements to eligible adopters; to surrogate parents who intend to apply for a parental order and to foster parents where they intend to adopt (known as dual approved prospective adopters).

13.2 Adoption leave and pay is available to a qualifying employee who is a sole adopter, or to one member of a couple where a couple jointly adopts (including same sex partners and civil partners) where both qualify and are employed by the Council. A couple who jointly adopt must choose which partner will take adoption leave. The other partner may choose to take paternity leave. If the adopter wants to share the equivalent of the adoption leave period, they can end the adoption leave and enter into shared parental leave arrangements.

### 13.3 Eligibility for adoption leave

To qualify for adoption leave, the employee must:

- be newly matched with a child for adoption by an approved adoption agency recognised in the UK;
- have notified the adoption agency that they agree the child will be placed with them and have an agreed date of placement;
- given the correct notice to the Council (see 12.8 below);
- produce documentary evidence confirming the adoption is taking place – usually a ‘matching certificate’ from their adoption agency

Although adoption leave is a “day one” entitlement, adoption pay is subject to the qualification requirements as detailed below.

### 13.4 Adoption pay

Statutory adoption pay is the statutory minimum adoption pay set by the government that employers must pay employees. In order to qualify for statutory adoption pay, the employee:

- must have worked continuously for the Council for 26 weeks or more by the end of the ‘qualifying week’.
- The qualifying week is the week the employee was notified that they were matched for adoption. The week begins on the Sunday before the match took place and ends on the Saturday after that date.
- must have earned, on average, at least the lower earnings level for national insurance contributions in the 8 weeks leading up to the date they were notified of a match with a child by the adoption agency.
- Details of the lower earning level for national insurance contributions can be found at: [www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions](http://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions)

In order to qualify for occupational adoption pay, the employee must have continuous local government service of at least one year or more by the end of the 'qualifying week'. Continuous service with an employer that is part of the Greater Manchester Continuous Service Commitment is included.

OAP will only be paid if you make a written declaration that you intend to return to work for a period of at least 3 months following your adoption leave; if you do not return you will have to repay the OAP paid to you.

Adopters will not qualify for adoption leave and statutory/occupational pay in the following circumstances:

- Private adoption i.e. not by an approved adoption agency recognised in the UK
- Becoming a special guardian or kinship carer
- Adopting a stepchild
- Adopting a family member

You are advised to think very carefully as to whether you join any salary-sacrifice schemes if you are likely to have adoption leave during the period of your agreement. This is because Occupational Adoption Pay (OAP) is calculated based on average weekly earnings in an 8 week period before the matching week. A salary-sacrifice arrangement will reduce the amount of salary and consequentially will reduce the level of your OAP.

### 13.5 **Surrogate parents**

Parents in a surrogacy arrangement who are entitled to and intend to apply for a Parental Order under section 54 of the Human Embryology and Fertilisation Act 2008 will be able to take adoption leave and pay, if they meet the qualifying conditions. A parental order transfers the legal rights from the birth mother to the intended parents when a surrogate has been used to have a child.

In order to apply for a Parental Order you must be genetically related to the child; ie the egg or sperm donor; and in a relationship where you and your partner are either:

married

- civil partners
- living as partners

In order to qualify for adoption leave and/or pay, the conditions are that:

- the intended parent gains a parental order in respect of the child; or
  - they intend to apply for such an order within 6 months of the child's birth and they expect the order will be made
- AND
- Sign form SC6 (available on the gov.uk website) if they are adopting a child from overseas with their partner. This official notification is permission from a UK authority that you can adopt from abroad. Form SC6 confirms you're not taking paternity leave or pay.

Where parents in a surrogacy arrangement are adopting a child through a registered adoption agency, they will be entitled to take adoption leave and pay, providing each parent meets the normal qualifying conditions set out above.

### 13.6 **Fostering for adoption**

Dual Approved Prospective Adopters are foster parents who foster a child in the expectation that they will adopt that child in accordance with section 22C of the Children's Act 1989.

To be eligible for adoption leave and/or pay, the dual prospective adopter must:

- be a local authority foster parent who has been approved as suitable to adopt the child that they will initially foster;
- have been notified by the local authority of its decision to place a child with him/her; and
- have notified the local authority that they have agreed to the placement (initially for fostering) and the date that it will take place.

A dual approved prospective adopter is entitled to take adoption leave and pay from up to 2 weeks before the child is placed with the family in accordance with section 22C of the Children Act 1989 (i.e. from up to 2 weeks before the child joins the family, initially for fostering).

The dual approved prospective adopter will only be eligible for statutory adoption pay if they meet all of the conditions for adoption leave and also have:

- 26 weeks continuous employment with the same employer at the 'qualifying week';
- Earned, on average, at least the lower earnings level in the 8 weeks leading up to the date they were notified of a match with a child;
- Notified their employer that they are entitled to statutory adoption pay and when this is to begin;
- Stopped working for the employer;
- Elected to receive statutory adoption pay.

Adoption leave and pay is not available to other types of foster carers.

### 13.7 **Notification**

Employees should always aim to have early conversations with their managers about their proposed adoption plans, so that forward planning can take place. Formal notice to take adoption leave must be given by the employee within 7 days of being informed that they have been matched for adoption by the adoption agency (unless there is a reason that makes this impossible). In rare cases where an employee is unable to give 7 days' notice, managers do have the discretion to delay the start date of the adoption leave and pay, but not after the start of the placement date.

To give formal notice, the employee must make an application via iTrent – see [Family Friendly Leave Application Guidance](#).

As soon as you receive your matching certificate you should upload this on iTrent Self Service. You will then receive written confirmation, outlining the conditions of your maternity leave and your entitlement.

Surrogate Parents will also need to confirm in writing the expected week of child's birth and will also need to confirm the date the child was born (after the child's birth). This should be given as soon as reasonably practicable.

#### Changing the start date

Employees may bring forward or postpone the adoption leave start date, by providing written notification at least 28 days before the new start date.

### **13.8 Time off to attend adoption appointments**

Employees intending to adopt a child have the right to paid time off to attend up to five appointments for any purpose connected with the adoption. There is no qualifying period of service, meaning the right can be exercised from the first day of employment.

Employees adopting a child or children on their own (i.e. without a partner) will be entitled to paid time off to attend up to five appointments. This will also apply to joint adopters where there is only one qualifying employee.

Joint adopters (i.e. adopting with a partner) where both are qualifying employees of the Council, will need to choose which member of the couple will take paid time off to attend up to five appointments, while their partner may take unpaid time off to attend up to two appointments. Please note, the adopter employee who takes paid time off for appointments cannot claim paternity leave and pay. This means that the parent who intends to take adoption leave and pay should take the paid time off for pre-adoption leave.

The time off available for each appointment (whether paid or unpaid) is a maximum of six and a half hours. Time off cannot be taken on or after the date of the child's placement.

Only those officially adopting the child are entitled to time off to attend adoption appointments.

Intended parents of a child in a surrogacy arrangement will also be eligible for unpaid time off to accompany a pregnant woman with whom they are having a child of up to two antenatal appointments (of up to six and a half hours for each appointment).

Employees wishing to make a request for time off for pre-adoption leave should put their request in writing to their manager.

### **13.9 Adoption leave**



Adoption leave is for a period of up to 52 weeks, consisting of 26 weeks ordinary adoption leave followed by 26 weeks additional adoption leave.

Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. For overseas adoptions, the adoption leave may start from the date the child arrives in the UK or within 28 days of this date.

To ensure service delivery is not disrupted, the employee should discuss the timing of his or her adoption leave with his or her manager as early as possible.

Employees wishing to return to work before the end of the 52 week adoption leave period will need to give 8 weeks' notice. If the child's placement ends during the adoption leave period, the employee will be able to continue adoption leave for up to eight weeks after the end of the placement.

Periods of unpaid leave may have implications for members of the pension fund – see section 4.

### **13.10 Keeping in touch**

Keeping in Touch (KIT) days are optional and intended to help employees keep in touch with the workplace and ease an eventual return to work. Employees may do up to ten KIT days during the adoption leave period. These are paid at the employee's normal pay rate and do not affect their adoption leave/pay.

There is no legal requirement for KIT days and both the manager and employee must agree to these days. KIT days can be used to attend a conference, undertake training, attend a team meeting or carry out any activity that would be classed as work under the employees' contract.

Working for part of a day will count as one day i.e. if an employee works for 2 hours, they will receive payment for these hours, but this will count as one full 'KIT' day.

Your manager must enter details of these hours into iTrent (see [iTrent Self Service Family Friendly Leave Guide for Managers](#)) in order for you to be paid correctly.

### **13.11 Contact during adoption leave**

The Council reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss the employee's plans to return to work, discuss any training to ease the employee back into work, or to provide an update on developments at work during their absence.

### **13.12 Returning to work**

You will be entitled to return to the post that you now occupy or a suitable alternative post where for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

### 13.13 **Shared parental leave**

Shared parental leave is available to the main adopter and their partner, allowing both adoptive parents to share their leave and pay. If the parents meet the qualifying requirements and wish to take shared parental leave and/or pay the main adopter must formally end their adoption leave and pay.

## 14. Parental Bereavement Leave

---

### 14.1 Introduction

The Parental Bereavement Leave and Pay Regulations (known as Jack's Law) came into effect on the 6<sup>th</sup> April 2020. The Regulations give parents who suffer the devastating loss of a child 2 week's statutory leave. This leave gives parents the opportunity to take leave at a time that feels right for them up until the first anniversary of the child's death.

### 14.2 Qualification

To be eligible for this leave, employees will have:

- Lost a child under the age of 18 or
- Suffered a still birth from 24 weeks of pregnancy

The leave entitlement is from 'day one' of the loss therefore no qualifying service is required.

### 14.3 Entitlement

Eligible employees will be able to take 2 weeks statutory leave.

Leave can be taken as either a block of 2 weeks, or as 2 separate blocks of one week each taken at different times up until the first anniversary of the child's death.

This leave is in addition to existing parental leave and special leave entitlements.

### 14.4 Payment

The Council has agreed that, regardless of service, staff will be paid full pay for the duration of the 2 weeks Parental Bereavement Leave, exceeding the statutory provision which is included below for information:

*Statutory provisions provide that for staff with less than 26 week's service the leave will be unpaid. Where staff have been employed for 26 weeks or more and their weekly average earnings are over the lower earnings limit they will be entitled to Statutory Parental Bereavement Pay (SPBP) which will be paid and administered in line with other family related statutory payments like SPP and SMP. Payment will be based on the current statutory payment (or 90% of average weekly earnings where this is lower).*

### 14.5 Support

Losing a child is every parent's worst fear, but no-one could ever fully understand the utter devastation of such a loss. Managers should reflect the Council's intent and demonstrate compassion and empathy towards staff

throughout this difficult time and as far as possible offer any support they might need.

The Council has a range of options in place to help support staff at these difficult times including:

- [Employee Assistance Programme](#)
- [Occupational Health Service](#)
- [Flexible Working Policy](#) to help staff during significant life events
- [Workforce wellbeing guidance](#) which includes links to local and national organisations who offer emotional wellbeing support

#### 14.6 **Process**

Employees requesting Parental Bereavement Leave should do so in writing (including by email) to their Manager confirming the date(s) of the leave requested. If unable to do so employees should do this verbally with their Manager.

Managers should approve and forward details to payroll [Payroll@bury.gov.uk](mailto:Payroll@bury.gov.uk) who will make the necessary pay arrangements.

Managers should record the absence on iTrent seeking advice on how to do this if needed.

## Appendix 1: Pregnancy checklist

---

1. Notify your manager and complete a Maternity Questionnaire on iTrent Self Service:
  - Of your pregnancy
  - Of your expected week of childbirth
  - When you wish to commence maternity leave (you must give at least 28 days' notice)
  - If you are intending to return to work and if so when
2. Your manager will carry out risk assessment.
3. Upload your MATB1 to iTrent Self Service upon receipt
4. Human Resources (HR) will notify you in writing of the conditions of your maternity leave.
5. Notify your manager of antenatal appointments
6. Give 28 days' notice of your intention to start your maternity leave. You can choose to start your maternity leave any time 11 weeks before your due date
7. Notify HR when your baby is born
8. Arrange any required KIT days
9. Notify your manager of the date you are returning to work (you must give at least 21 days' notice if you are returning before the end of your maternity leave (52 weeks))

**Bury**  
Council