

EMPLOYMENT POLICY

# Family Friendly

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## **1. Scope & Purpose**

- 1.1. Lothian is fully committed to helping working parents balance the needs of work and family life, and appreciates the importance of providing greater choice for parents in how they arrange parental care.
- 1.2. These policies outline the entitlement of employees in line with legislation made by the Work and Families Act 2006.
- 1.3. These policies provide a fair and consistent way of dealing with requests for leave.
- 1.4. These policies apply to all eligible employees across the Lothian Group.

## **2. Definitions**

**Expected Week of Childbirth (EWC)** – is the week in which childbirth is expected to occur.

**Ordinary Maternity Leave (OML)** – the first 26 weeks of Maternity Leave.

**Additional Maternity Leave (AML)** – the second 26 weeks of Maternity Leave.

**Statutory Maternity Pay (SMP)** – paid to eligible employees for up to 39 weeks.

**Occupational Maternity Pay (OMP)** – an additional benefit in addition to SMP, if eligible.

**Keeping in Touch (KIT) Days** – Employees can work up to 10 days during their maternity or adoption leave or up to 20 days during their shared parental leave and be paid for this.

**MATB1** – This is a certificate issued by the GP or midwife, verifying the pregnancy and confirming the expected week of childbirth (EWC) (or actual date of birth in cases where the child is born early), and is available from 20 weeks before the EWC.

**Statutory Paternity Leave (SPL)** – The leave an employee may take when their partner is having a baby, adopting a child or having a baby through a surrogacy arrangement.

**Overseas Adoption** – the adoption of a child who enters Great Britain from outside the UK in connection with or for the purposes of adoption (and which does not involve the placement of the child for adoption under UK law).

**Expected Placement Date** – the date the child is placed with the Employee.

**Ordinary Adoption Leave (OAL)** – the first 26 weeks of Adoption Leave.

**Additional Adoption Leave (AAL)** – the second 26 weeks of Adoption Leave.

**Statutory Adoption Pay (SAP)** – for eligible employees this can be paid for up to 39 weeks.

**Occupational Adoption Pay (OAP)** – an additional benefit in addition to SAP, if eligible.

**Parental Order** – to become a legal parent of a child, there must be a parental order.

**Curtailment Notice** - where the mother/adopter notifies the employer of the date they plan to cease their maternity/adoption leave and pay.

# Maternity Leave

# 1. Eligibility for Leave & Pay

1.1. Regardless of length of service or hours worked, employees have a right to up to 52 weeks' maternity leave. The first 26 weeks is known as Ordinary Maternity Leave (OML) and the second 26 weeks is referred to as Additional Maternity Leave (AML).

1.2. The eligibility conditions for Statutory Maternity Pay are as follows:

- Employees must have at least 26 weeks' service at the notification week (15th week before the Expected Week of Childbirth - EWC). If they do not meet the service criteria, they will qualify for maternity leave but not for any statutory or ordinary maternity pay, therefore it will be unpaid. If this is the case, the employee can apply for maternity allowance.
- A MATB1 certificate from the employee's doctor or midwife confirming the expected week of birth must be provided.
- At least 28 days' notice is given, in writing of the date the employee would like to commence maternity leave.

- 1.3. Lothian provides Occupational Maternity Pay (OMP) in addition to Statutory Maternity Pay (SMP) where the employee meets the eligibility criteria set out in Section 1.2. If an employee is eligible, entitlement is as follows:
- 6 weeks @ 90% average earnings;
  - Followed by 12 weeks SMP + OMP at a rate of 50% of average earnings;
  - Followed by 21 weeks SMP;
  - Followed by 13 weeks unpaid maternity leave.
- 1.4. Those not planning to return to work following their maternity leave, for at least a minimum period of 3 months, will be required to pay back the Occupational Maternity Pay element of their maternity pay.
- 1.5. Occupational Maternity Pay and Statutory Maternity Pay are paid in the same way as salary payments (for example monthly or weekly). Tax and National Insurance will be deducted. Monthly paid employees should note that maternity pay is calculated by the Government in weeks,

and months are calculated on a four or five week basis therefore payments may vary as a result.

1.6. The current rate of SMP can be found here- **Statutory Maternity Pay.**

1.7. If an employee does not qualify for Statutory Maternity Pay, Maternity allowance is usually paid. To check eligibility and to claim, a **MA1 claim form** should be completed.

## **2. Ordinary Maternity Leave (OML) – 26 weeks**

2.1. Employees may commence their maternity leave any time from the 11th week before the expected week of childbirth, unless their child is born prematurely before this point. If an employee has not commenced maternity leave but is absent through sickness which is pregnancy related at or after the 4th week prior to the EWC, their maternity leave will start automatically at that point.

2.2. During ordinary maternity leave, an employee's contract of employment continues and they are entitled to receive all contractual benefits, except for salary. This means, for

example, that their contractual holiday entitlement will continue to accrue.

- 2.3. The law requires all pregnant employees take a minimum of two weeks maternity leave immediately after the birth of their child. This is known as the compulsory maternity leave period.

### **3. Additional Maternity Leave (AML) - 26 Weeks**

- 3.1. Should an employee wish to take additional maternity leave, this leave starts immediately after the end of ordinary maternity leave and continues for a further 26 weeks, the first 13 weeks paid at the Statutory Maternity Pay rate, and the remaining 13 weeks unpaid.
- 3.2. The contract of employment continues during additional maternity leave, as with ordinary maternity leave, and an employee's contractual non-remuneration terms and conditions of employment will remain the same.

## **4. Notification**

- 4.1. Employees must inform their manager of their pregnancy by the 15th week before the expected week of childbirth, referred to as the 'qualifying week', and should advise the date they would like to start their maternity leave.
- 4.2. Employees must provide a MAT B1 certificate which they receive from their doctor/midwife and they should also complete the maternity notification form.
- 4.3. If an employee wishes to alter the date they commence maternity leave, they must give 28 days' written notice of their request.
- 4.4. Following receipt of the MATB1 and the maternity notification form, a letter will be sent acknowledging the notification and confirming the maternity leave arrangements as appropriate.

## **5. Health & Safety**

- 5.1. Upon notification of a pregnancy, an employee is entitled to a risk assessment of their workplace, to ensure there are no hazards that could affect them or their baby. Their

manager should then complete a risk assessment every trimester.

- 5.2. Lothian will take all reasonable steps to avoid risks to the health and safety of a new or expectant mother. In some circumstances this may involve changing working conditions or hours of work, or offering suitable alternative work.

## **6. Time off for Antenatal Care**

- 6.1. During pregnancy, employees are granted reasonable time off work with pay to attend the antenatal clinic and other antenatal appointments made on the advice of a doctor or midwife. Antenatal care may include relaxation and parent craft classes, as well as medical examinations.
- 6.2. Except in the case of an employee's first appointment, a certificate from the doctor, midwife or health visitor confirming pregnancy and an appointment card may be required to confirm the appointment.
- 6.3. Employees must endeavour to give their manager as much advance notice as possible of antenatal

appointments and should try to arrange them as close to the start or the end of the working day as possible.

- 6.4. If an employee is part time, works shifts or has time off on weekdays, they should make every effort to arrange appointments during non-working time.

## **7. Sickness**

- 7.1. Periods of pregnancy-related sickness absence shall be paid in accordance with the employees' contract of employment in the same manner as any other sickness. However, periods of pregnancy-related sickness absence will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions.

- 7.2. If an employee is absent through sickness due to a pregnancy related reason at or after the 4th week prior to the EWC, their ordinary maternity leave will start automatically at that point (see ordinary maternity leave, section 4).

## **8. Annual Leave**

- 8.1. Employees should endeavour to take any outstanding annual leave that may be due to them before the commencement of their ordinary maternity leave, or as otherwise agreed.
- 8.2. Employees will be notified of their holiday balance prior to commencing their leave.
- 8.3. Annual leave (including public holidays) will continue to accrue whilst an employee is on ordinary maternity leave and additional maternity leave.
- 8.4. The holiday year runs from 1 January to 31 December. In many cases a period of maternity leave will last beyond the end of the holiday year. Any holiday entitlement for the year that cannot reasonably be taken before starting maternity leave can be carried over to the next holiday year and must be taken immediately before returning to work unless an employee's manager agrees otherwise. Maternity leave must officially end before annual leave can be taken.

## **9. Pensions**

- 9.1. During ordinary maternity leave and any further period of paid maternity leave, Lothian shall continue to make any employer contributions into a pension scheme based on what an employee's earnings would have been if they had not been on maternity leave.
  
- 9.2. During a period of unpaid maternity leave, (i.e. the last 13 weeks of a 52 week maternity leave) neither the employee nor Lothian is required to contribute. The employee may choose to pay contributions during this period but Lothian has no duty to contribute unless the contract of employment states otherwise.

## **10. Keeping in Touch (KIT) days**

- 10.1. Employees can choose to work for Lothian for up to 10 days during their maternity leave without bringing that period of maternity leave to an end and without loss of a week's statutory maternity pay as a result of carrying out that work. These days cannot be used during the period

of compulsory maternity leave i.e. the first two weeks following the baby's birth.

10.2. These KIT days may be used for any work related activity including training, conferences, meetings or performance reviews. Any such work undertaken must be agreed with the employee's manager. There is no right for Lothian to demand that employees undertake such work, nor is there a right for employees to do such work. This can be agreed with their manager in advance of going on maternity leave.

10.3. Any work completed as a KIT day, even as little as half an hour, counts as a whole day which will be paid at the employee's normal basic rate of pay inclusive of any statutory payment.

10.4. Once the 10 keeping in touch days are exhausted, employees will then lose a week's statutory maternity pay for any week in which they work for Lothian during the statutory maternity pay payment period.

10.5. KIT days cannot be used during annual leave taken at the start or end of maternity leave.

## **11. Contact during Leave**

- 11.1. The employee and their manager are encouraged to maintain reasonable contact during the maternity leave period. Shortly before an employee's maternity leave starts, the manager will discuss the arrangements for keeping in touch during the leave, including the type, frequency and method of contact. This should also include a discussion about KIT days.
- 11.2. Lothian has the right to maintain reasonable contact with the employee from time to time during the maternity leave. This for example may be to discuss: the employee's plans for return to work; any specific arrangements to be made or training to be given to ease their return to work or simply to provide an update on developments at work during the maternity leave period.

## **12. Returning to Work**

- 12.1. Once the employee has notified Lothian in writing of their intended maternity leave start date, they will be sent a letter within 28 days to inform them of their expected return date i.e. 52 weeks later unless specified otherwise

at the time. Employees are entitled to up to 52 weeks however may return before this in line with section 12.5.

12.2. If an employee's maternity leave start date changes for any reason, the employee shall be advised in writing within 28 days of the start of maternity leave with the revised expected return date.

12.3. Before an employee is due to return to work, their manager may invite the employee to have a discussion in person or by telephone about the arrangements for their return to work. This may include updating the employee on any changes, training or any changes to working arrangements following a flexible working request.

12.4. On resuming work after maternity leave, an employee has the right to return to their job if they only take 26 weeks of maternity leave (OML). However, if an employee takes more than 26 weeks leave, (AML) they will have the right to return to their job or a similar job (if it's not possible for them to return to their existing job). A similar job, means that the job has to be of the same level or better in terms of the employee's existing terms and conditions.

- 12.5. If an employee intends to return to work before their previously agreed return date, they must give their line manager at least eight weeks' notice of their revised date of return. If an employee fails to do so, Lothian may postpone their return to such a date as will give Lothian eight weeks' notice, provided that this is not later than the end of the 52 week maternity leave period.
- 12.6. If an employee intends to extend their maternity leave period, up to maximum of 52 weeks, they must notify Lothian in writing eight weeks in advance of their previously agreed return date.
- 12.7. If an employee does not intend to return to work at all after maternity leave, they are still required to give Lothian written notice of the termination of their employment as set out in their contract of employment. This does not affect an employee's right to receive statutory maternity pay. If an employee leaves and has taken more annual leave than they would have accrued prior to their leaving date, Lothian will recover any overpayment.
- 12.8. If an employee cannot return to work at the end of their maternity leave due to sickness, they should contact their

manager in line with the attendance at work policy. The employee's maternity leave will end as planned and the employee will transfer onto sick leave.

12.9. Where an employee proposes to return to work early, without using their full 52 weeks entitlement to maternity leave, they may be eligible to transfer 2 to 26 weeks of their outstanding maternity leave (and any outstanding statutory maternity pay (SMP)) to their spouse/partner (including same sex partners), or the father of their child (see the shared parental leave policy for more details).

## **13. Flexible Working**

13.1. Lothian recognises that employees returning to work following a period of maternity leave may benefit from some form of flexible working.

13.2. Lothian will consider any requests to change the employee's working patterns after maternity leave on a case by case basis. The procedure for dealing with such requests is set out in the Flexible Working policy. It would be helpful if an employee makes their request as far in advance as possible.

## **14. Maternity Rights – Stillbirth / Miscarriage**

- 14.1. If an employee miscarries earlier than the 24<sup>th</sup> week of their pregnancy, they will not qualify for maternity leave or pay. It may be considered as sickness from work and employees will receive sick pay in accordance with their contractual entitlement. Sickness due to miscarriage will be recorded in the same way as pregnancy-related sickness absence.
- 14.2. If an employee suffers a stillbirth from the 24<sup>th</sup> week of pregnancy and has notification from the attending midwife or doctor, or a certificate of stillbirth, their maternity leave will commence immediately and they will be paid in accordance with their entitlement. Employees will still be entitled to their full maternity leave and any maternity pay that they qualify for and this should be discussed with their line manager.
- 14.3. If a baby is born alive, but subsequently passes away, employees are still entitled to their full maternity leave and any maternity pay that they qualify for, to be discussed with their line manager.

14.4. Further support for employees who are affected by stillbirth or infant bereavement can be obtained from [Child Bereavement UK](#).

# Adoption Leave

# **1. Eligibility for Leave & Pay**

- 1.1. All employees who are notified that they have been newly matched (individually or jointly as a couple (including same sex couples) with a child for adoption, or employees who are intended parents subject to a parental order, are eligible for up to 52 weeks' adoption leave regardless of length of service. This will comprise of 26 weeks' ordinary adoption leave (OAL) and 26 weeks' additional adoption leave (AAL).
- 1.2. The right to adoption leave is available to one member only of a couple jointly adopting, or one of the intended parents subject to a surrogacy parental order. It is up to the adoptive/intended parents to decide which of them takes this leave.
- 1.3. Only one period of leave will be available irrespective of whether more than one child is placed for adoption or subject to a parental order as part of the same arrangement.
- 1.4. An adoption leave period cannot be broken by any other leave and must be a continuous period.

1.5. If an employee is adopting a child through a UK adoption agency they must meet the following conditions to be eligible for statutory adoption pay:

- have been continuously employed by Lothian for at least 26 weeks by the week they are matched with a child;
- be able to provide proof of the adoption;
- the adoption agency has given the employee written notice that it has matched them with a child and tells them the date the child is expected to be placed into their care (expected placement date) and the employee has notified the adoption agency that they agree with this date;
- declare that the employee's spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave);
- the employee provides the correct notice detailed in the 'requests and notice' section of this policy.

1.6. For overseas adoptions the employee must meet the conditions above to qualify for adoption pay, as well as the following conditions:

- sign a SC6 form if they are adopting a child with their partner (see the 'requests and notice' section of this policy).
- 1.7. This policy also applies to intended parents of a child, born through a surrogacy arrangement, who will be the subject of a Parental Order, though there is no statutory entitlement to either adoption leave or pay. In such circumstances, Lothian will provide the intended parent with the entitlements available under this procedure, including payments 'equivalent' to statutory adoption pay, whilst they remain employed by Lothian. This will be subject to: the provision of a copy of the birth mothers MATB1 certificate prior to the birth of the baby; a copy of the parental order within 6 months of the baby's birth; and the ability to fulfil the relevant eligibility/notification criteria.
- 1.8. Lothian provides Occupational Adoption Pay (OAP) in addition to Statutory Adoption Pay (SAP). If an employee is eligible, entitlement is:
- 6 weeks @ 90% average earnings

- Followed by 12 weeks SAP + OAP of 50% of average earnings
- Followed by 21 weeks SAP
- Followed by 13 weeks unpaid Adoption Leave.

1.9. To be eligible for occupational adoption pay, the employee must meet the criteria set out in 1.5, 1.6 or 1.7.

1.10. Those not planning to return to work following their period of adoption Leave, for at least a minimum period of 3 months, will be required to pay back the enhanced occupational adoption pay element of their adoption pay.

1.11. Occupational adoption pay and statutory adoption pay is paid in the same way as salary payments (for example monthly or weekly). Monthly paid employees should note that adoption pay is calculated by the Government in weeks and months are calculated on four or five weekly basis therefore payments may vary as a result.

1.12. The statutory rate changes yearly and can be viewed here **[Statutory Adoption Pay.](#)**

1.13. If an employee leaves employment for any reason (for example, if they resign or are made redundant) they shall still be eligible for statutory adoption pay if they have already been notified by Lothian that they have been matched with a child. In such cases, statutory adoption pay shall start:

- 14 days before the expected placement date; or
- the day after their employment ends, whichever is the later.

1.14. If the employee does not qualify for statutory adoption pay, Lothian will provide them with a **SAP1 form** within seven days of its decision and either:

- within 28 days of the employee's request or,
- the date they were matched with a child, whichever is earlier.

## **2. Exceptions**

2.1. The employee does not qualify for statutory adoption pay or leave if they:

- arrange a private adoption e.g. without permission from a UK authority or adoption agency;
- become a special guardian or kinship carer;
- adopt a stepchild or family member.

### **3. Request & Notice**

- 3.1. It is important that an employee notifies their manager as soon as possible in relation to their plans to adopt or enter a formal surrogacy arrangement that will be subject to a parental order, so that the manager can begin planning for the anticipated absence.
- 3.2. The employee must give their manager notice in writing of how much leave they wish to take, the expected placement date, and their intended start date for adoption leave (intended start date). This information must be provided not less than seven days after the agency notifies an employee in writing that it has matched them with a child, or as soon as reasonably practical.
- 3.3. If the employee wishes to change their leave dates, they must give at least 28 days' notice before their original

start date or the new start date – whichever is earlier. Any changes will be confirmed in writing.

- 3.4. The employee must provide 28 days' notice before they wish to be paid statutory adoption pay, unless the time between the child being matched and placed is less than that. For overseas adoption, the employee must advise Lothian within 28 days of receiving their 'official notification', the date of notification and the expected date the child arrives in the UK.
- 3.5. The employee has a responsibility to provide a copy of the matching certificate from the adoption agency or a SC6 form if they are adopting from overseas. They must also provide proof of the adoption to qualify for statutory adoption pay which shows:
  - their name and address and that of the agency;
  - the date of placement (e.g. a letter from the agency);
  - the relevant UK authority's 'official notification' confirming they are allowed to adopt (overseas only);

- the date the child arrived in the UK (e.g. plane ticket for overseas only).

3.6. If the employee uses a surrogate to have a baby, they must advise their manager in writing of the due date and when they want to start their leave at least 15 weeks before the expected week of birth. The employee must also provide their manager with a written statement ('statutory declaration') to confirm they have applied or will apply for a parental order in the six months after the child's birth. The employee must sign this in the presence of a legal professional.

## **4. Leave**

4.1. One member of the adoptive couple is entitled to 52 weeks leave, consisting of ordinary adoption leave (26 weeks), followed by additional adoption leave (26 weeks). The employee's partner (regardless of gender) may be entitled to take paternity leave and receive paternity pay provided she/he meets the qualifying requirements (please see the paternity leave policy) or take shared parental leave (please see the shared parental leave policy).

- 4.2. If the employee is adopting individually, they are entitled to both Ordinary Adoption Leave (OAL) and Additional Adoption Leave (AAL).
- 4.3. The employee can start their adoption leave on any day of the week:
- from the date the child starts living with them;
  - on an earlier date up to 14 days before the date they expect the child to start living with them;
  - when they have been matched with a child;
  - when the child arrives in the UK or within 28 days of this date (which applies only to overseas adoptions); or
  - the day the child is born or the day after (if they have used a surrogate to have a child).
- 4.4. If the placement is notified earlier than anticipated, and prior to the planned adoption leave period, the employee should notify their manager of the revised commencement date of adoption leave as soon as possible.

- 4.5. If after an employee has begun their adoption leave this is disrupted, the employee's adoption leave period ends eight weeks after the end of the week in which the disruption takes place. Where the employee's adoption leave is due to end within this eight week period, their adoption leave will end on the scheduled end date. In such circumstance the employee must inform their manager as to this, as soon as is practicable; who will in turn need to inform the payroll team to ensure the revised end date is acknowledged. A member of the people team will be able to explain other potential support available.
- 4.6. During Ordinary Additional Leave and Additional Adoption Leave, the employee's contract of employment continues and they are entitled to receive all their contractual benefits, except for salary, similar to ordinary maternity leave and additional maternity leave as outlined in the maternity policy.

## **5. Appointments**

- 5.1. If an employee is eligible for adoption leave, they are also entitled to receive paid time off work to attend up to five adoption appointments after they have been matched with a child if they are the main adopter. If an employee

is a secondary adopter, they can attend up to two adoption appointments which are unpaid.

## **6. Annual Leave**

- 6.1. Employees should endeavour to take any outstanding annual leave that may be due to them before the commencement of their adoption leave, or as otherwise agreed.
- 6.2. Employees will be notified of their holiday balance prior to commencing their leave.
- 6.3. Annual leave will continue to accrue whilst an employee is on adoption leave.
- 6.4. The holiday year runs from 1 January to 31 December. In many cases a period of adoption leave will last beyond the end of the holiday year. Any holiday entitlement for the year that cannot reasonably be taken before starting adoption leave can be carried over to the next holiday year and must be taken immediately before returning to work unless the line manager agrees otherwise.

## **7. Pensions**

- 7.1. During ordinary adoption leave and any further period of paid adoption leave, Lothian shall continue to make any employer contributions into a pension scheme based on what the employee's earnings would have been if they had not been on adoption leave.
- 7.2. During a period of unpaid adoption Leave, (i.e. last 13 weeks of a 52 week adoption Leave) neither the employee nor Lothian is expected to contribute. The employee may choose to pay contributions during this period but Lothian has no duty to contribute unless the contract of employment states otherwise.

## **8. Keeping in Touch (KIT) days**

- 8.1. Employees can choose to work for Lothian for up to 10 days during the adoption Leave without bringing that period of leave to an end.
- 8.2. These KIT days may be used for any work related activity including training, conferences, meetings or performance reviews. Any such work undertaken must be agreed with the employee and their manager. There is no right for

Lothian to demand that the employee undertakes such work, nor is there a right for them to do such work. This can be agreed with their manager in advance of going on adoption leave or any time while on adoption leave.

- 8.3. Any work completed as a KIT day, even as little as half an hour, counts as a whole day for which will be paid at their normal basic rate of pay inclusive of any adoption pay entitlement.
- 8.4. KIT days cannot be used during annual leave taken at the start or end of adoption leave.

## **9. Contact during Leave**

- 9.1. The employee and their manager are encouraged to maintain reasonable contact during the adoption leave period. Shortly before the employee's adoption leave starts, the manager will discuss the arrangements for keeping in touch during the leave, including the type, frequency and method of contact. This should also include a discussion about KIT days.
- 9.2. Lothian has the right to maintain reasonable contact with the employee from time to time during the adoption

leave. This for example may be to discuss: the employees' plans for return to work; any special arrangements to be made or training to be given to ease their return to work or simply to provide an update on developments at work during the adoption Leave period.

## **10. Returning to Work**

10.1. If an employee intends to return to work before the end of their previously agreed return date, they must give their line manager at least eight weeks' notice of their revised date of return. If they fail to do so, their line manager may postpone their return to such a date that will give Lothian eight weeks' notice.

10.2. Before the employee is due to return to work, their line manager may invite them to have a discussion in person or by telephone about the arrangements for their return. This may include updating them on any changes, training or any changes to working arrangements following a flexible working request.

10.3. On resuming work after adoption leave, the employee is entitled to return to the same job on the same terms and conditions as if they had not been absent. If, however, the

employee has taken any period of additional adoption leave or more than four weeks' parental leave, and it is not reasonably practicable for Lothian to give them their original job, they will be offered suitable alternative work of equivalent status and responsibility.

10.4. If the employee wishes to return later than the expected return date, they should either:

- request unpaid parental leave in accordance with Lothian's parental leave policy, giving Lothian as much notice as possible but not less than 21 days; or
- request paid annual leave in accordance with their contract, which will be at Lothian's discretion.

10.5. If the employee does not intend to return to work at all after their adoption leave, they are still required to give their manager written notice of the termination of their employment as set out in their contract of employment. This does not affect the employee's right to receive SAP.

## **11. Flexible Working**

11.1. Lothian recognises that employees returning to work following a period of adoption leave may benefit from some form of flexible working.

Lothian will deal with any requests to change the employee's working patterns after adoption leave on a case-by-case basis. The procedure for dealing with such requests is set out in the flexible working policy. It would be helpful if an employee makes their request as far in advance as possible.

# Paternity Leave

# **1. Eligibility for Leave & Pay**

- 1.1. Statutory Paternity Leave (SPL) may be taken either in a single block of one or two weeks, or in two separate blocks of one week of leave. Paternity Leave may be taken anytime immediately from the birth until 52 weeks after the birth, and is available to all employees as detailed below.
- 1.2. Paternity leave can commence on any day of the week.
- 1.3. The right to statutory paternity leave is available to one member only of a couple who have had a child placed with them for adoption, or subject to parental order, that has not/is not applying for either maternity or adoption leave.
- 1.4. Only one period of SPL will be available to eligible members of staff, irrespective of whether more than one child is born or placed as a result of the same pregnancy or adoption arrangement. This period can be taken as two separate one week blocks as stated above.
- 1.5. The employee's contract of employment continues during SPL and their contractual non-remuneration terms and conditions of employment will remain. The employee will

be protected from detriment and unfair dismissal in connection with taking paternity leave.

1.6. To be eligible for statutory paternity leave and pay an employee must meet the following conditions:

- they are an employee up to the date the child is born;
- they have at least 26 weeks' continuous service with Lothian by the 15th week before the expected week of childbirth (known as the qualifying week);
- they must have or expect to have responsibility for the child's upbringing and either be the biological father of the child, the mother's husband, civil partner or partner, or intended parent as part of a couple (if through surrogacy);
- they must provide the correct notice and evidence outlined in the requests and notice section of this policy.

1.7. Lothian provides enhanced Occupational Paternity Pay (OPP) in addition to Statutory Paternity Pay (SPP). If an employee is eligible, entitlement is as follows:

- 1 week @ 100% average earnings

- followed by 1 week @ SPP
- 1.8. To be eligible for ordinary paternity pay, the employee must meet the criteria set out in 1.6.
  - 1.9. Statutory paternity leave must be taken as either two consecutive weeks of leave or two separate blocks of one week of leave in agreement with the line manager.
  - 1.10. The current rate of statutory paternity pay can be found here - [Statutory Paternity Leave](#)
  - 1.11. If an employee does not qualify for statutory paternity pay, payroll will send them **Form SPP1** within 28 days of their pay request and will provide them with an explanation within 7 working days of the decision.

## **2. Requests & Notice**

- 2.1. The employee must notify their manager in writing by the 15th week before the expected week of childbirth of their entitlement to Paternity leave. Notice of the actual dates of leave must be given 28 days in advance of the intended leave dates. If the employee is using a surrogate to have a baby, their manager may ask them for a written statement

to confirm they intend to apply for a **parental order** in the six months after the child's birth. The employee must sign this in the presence of a legal professional.

- 2.2. The paternity notification form should be used to confirm the intention to take paternity leave, confirm the EWC, the length and blocks of paternity leave (i.e. one or two weeks), and the date(s) the employee intends to take their paternity leave, if known.
- 2.3. Once an employee has notified their manager of their paternity leave plans, they will be written to within 28 days, setting out the dates on which Lothian expects the employee to return to work if they take their statutory paternity leave. If an employee wishes to vary the dates of their planned leave, they must give their manager at least 28 days' written notice of the change. This may be flexible in the instances of premature/overdue births.
- 2.4. If the baby is stillborn after the 24<sup>th</sup> week of pregnancy, or later passes away, the employee will still qualify for leave and pay.

### **3. Leave for Antenatal Appointments**

3.1. An employee is entitled to take unpaid leave to accompany a pregnant mother to two antenatal appointments if they are:

- the baby's father;
- the partner of the pregnant woman (whether male or female) and who lives with the pregnant woman in an enduring family relationship, but is not her parent, grandparent, sister, brother, aunt or uncle;
- one of a same-sex couple who is to be treated as the child's other parent under assisted reproduction legislation; or
- the intended parent (through surrogacy).

3.2. The employee can take up to six and a half hours unpaid leave per appointment.

3.3. The employee should give their line manager as much notice as possible of the date and time of appointments. If the employee work part-time, on shifts, or has time off on weekdays, they should attempt, where possible to arrange appointments during non-work time. Otherwise,

appointments should be scheduled at the start or end of the working day wherever possible to minimise time away from work. Lothian may refuse time off if this is reasonable in the circumstances.

## **4. Adoption**

4.1. If an employee is adopting a child, they may be eligible for paternity leave and pay. Leave must be taken within 52 weeks of the date of placement or the child's arrival in the UK (for overseas adoption). The employee may take one or two weeks (consecutively or in two separate one week blocks) statutory paternity leave and pay provided:

- they are an employee up to the date the child is placed with the adopter;
- they have at least 26 weeks' continuous service with Lothian by the end of the week they are matched with a child (UK adoptions);
- they have at least 26 weeks' continuous service with Lothian by either the date the child arrives in the UK or when they want their leave to start (overseas adoptions);

- they must have or expect to have responsibility for the child's upbringing and be the adopter's spouse, civil partner or partner of the child's adopter;
- they have elected to receive statutory paternity pay (rather than statutory adoption pay);
- they must provide the correct notice as detailed below.

## 5. Adoption & Surrogacy Notice

- 5.1. The employee must notify their manager no later than seven days of their co-adopter or partner being matched with a child to request leave and complete the SC4 form from gov.uk website. For statutory paternity pay, the employee must provide their SC4 form no later than 28 days before they want their paternity pay to start. The employee must also provide proof of adoption which can be either a letter from the adoption agency or their matching certificate.
- 5.2. The form and notice period for overseas adoption is different and is explained in the SC5 form the employee will need to complete.

### 5.3. An employee can start their leave:

- on the date of the placement;
- on 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 adoption);
- on the day the child is born or the day after if they are working that day (for surrogacy).

**Paternity Leave cannot start before the child is placed with the employee.**

5.4. Once the employee has notified Lothian of their paternity leave plans, they will be advised in writing within 28 days, setting out the dates on which Lothian expect the employee to return to work if they take their statutory paternity leave. If the employee wishes to change the dates of their planned leave, they must give their manager at least 28 days' written notice of the change.

## 6. Return to Work

6.1. An employee's employment rights (such as the right to pay, holidays and returning to a job) are protected during paternity leave. The employee is normally entitled to return to work in the same position as they held before commencing leave. If it is not reasonably practicable for the employee to return to the same job, Lothian will endeavour to offer them a suitable and appropriate alternative position.

## **7. Flexible Working**

Lothian will deal with any requests to change the employee's working patterns after paternity leave on a case-by-case basis. The procedure for dealing with such requests is set out in the flexible working policy. It would be helpful if an employee makes their request as far in advance as possible.

## **8. Paternity Rights – Stillbirth / Miscarriage**

Employees still have the right to paternity leave and pay if the baby is stillborn after the 24th week of pregnancy, or if the baby only lives for a short time after birth. If the

baby is miscarried or stillborn before 24 weeks, the employee is not entitled to paternity leave and pay.

It's a good idea for the employee to inform the employer if they feel able to, as the employer could offer support such as a counselling service or look at the return to work process. Formal evidence does not have to be provided, but we request the employee lets us know as soon as they are able to do so.

Further support can be found from Child Bereavement UK

# Shared Parental Leave (ShPL)

# 1. Eligibility for Leave & Pay

- 1.1. All eligible employees are entitled to share up to a maximum of 50 weeks Shared Parental Leave (ShPL), combining both paid and unpaid leave, regardless of the number of hours they work.
- 1.2. To qualify for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), employees must share care of the child with either:
  - their husband, wife, civil partner or joint adopter;
  - the child's other parent;
  - their partner (if they live with the employee and the child).
- 1.3. The employee or their partner must be eligible for maternity pay or leave; or maternity allowance; or adoption pay or leave. If eligible, the employee will be able to choose how to split the available leave between themselves, and can decide to be off work at the same time or at different times. The employee may be able to take leave in up to 3 separate blocks or split each block into shorter periods of work and leave.

1.4. An employee will only be entitled to shared parental leave if they meet all of the conditions in the relevant appendix to this policy and they give Lothian the notice as explained within these:

- Mother / Expectant Mother (births) – Appendix 1
- Father / Partner (births) – Appendix 2
- Primary Adopter – Appendix 3
- Adopter’s partner – Appendix 4

## **2. Statutory Shared Parental Pay (ShPP)**

2.1. ShPP is currently paid at the statutory rate a week or 90% of the employee’s average weekly earnings, whichever is lower, for the duration. This is the same as Statutory Maternity Pay (SMP) and Statutory Adoption Pay (SAP) except that it is only the first 6 weeks paid at 90% of whatever the employee earns.

2.2. ShPP is paid at a rate set by the government each year and can be viewed here **[Statutory Shared Parental Pay.](#)**

2.3. An employee can qualify for shared parental leave but they are only entitled to shared paternity pay if they meet the conditions in the relevant appendices to this policy and give Lothian the notices as explained within these:

- Mother / Expectant Mother (births) – Appendix 1
- Father / Partner (births) – Appendix 2
- Primary Adopter – Appendix 3
- Adopter's partner – Appendix 4

### **3. Shared Parental Leave in Touch (SPLIT)**

3.1. Lothian may make reasonable contact with the employee from time to time during their SPL although this will be kept to a minimum. This may include contacting them to discuss arrangements for their return to work.

3.2. An employee may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (SPLIT days) during their SPL. This is in addition to any KIT days that they may have taken during maternity or adoption leave. Both SPLIT and KIT days are not

compulsory and must be discussed and agreed with their manager.

- 3.3. Employees will be paid at their normal basic rate of pay for time spent working on a SPLIT or KIT day and this will be inclusive of any shared parental pay entitlement.

## **4. Returning to Work**

- 4.1. If an employee wants to end a period of SPL early, they must give Lothian eight weeks' written notice of the new return date. If the employee has already given Lothian three period of leave notices they will not be able to end their SPL early without Lothian's agreement.
- 4.2. If the employee wants to extend their SPL, assuming they still have unused SPL entitlement remaining, they must give Lothian a written period of leave notice at least eight weeks before the date they were due to return to work. If they have already given Lothian three period of leave notices they will not be able to extend their SPL without the agreement of Lothian. The employee may be able to request annual leave or ordinary parental leave (see the parental leave section of this policy) instead, subject to the needs of Lothian.

4.3. Employees are normally entitled to return to work in the position they held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for Lothian to allow the employee to return to the same position, Lothian may give them another suitable and appropriate position on terms and conditions that are not less favourable, but only in the following circumstances:

- if their SPL and any maternity, adoption or paternity leave they have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
- if they took SPL consecutively with more than four weeks of ordinary parental leave.

4.4. If the employee wants to change their hours or other working arrangements on return from SPL they should make a request under Lothian's flexible working policy. It is helpful if such requests are made as early as possible. If they decide they do not want to return to work the employee should give notice of resignation in accordance with their contract.

# Parental Leave

# 1. Eligibility

1.1. To be eligible for this type of leave the employee must:

- have more than 12 months' continuous service with Lothian;
- have or expect to have parental responsibility for the child;
- be named on the child's birth or adoption certificate;
- the child is under 18;
- be taking the leave to spend time with or otherwise care for the child;
- provide the correct notification (as set out below).

1.2. The employee has parental responsibility for a child if they:

- are the child's biological mother or father (whether or not they are living with the child);
- are the child's adoptive parent; or

- otherwise have legal parental responsibility for the child, for example, if they are the child's guardian, or a step-parent who has a parental responsibility agreement or parental responsibility order. In many cases, step-parents and foster parents will not qualify for parental leave as they will not have legal parental responsibilities.

## **2. Entitlement**

- 2.1. Parental leave is unpaid.
- 2.2. Employees are entitled to 18 weeks' leave for each child and adopted child, from the child's birth date up to their 18th birthday.
- 2.3. Parental leave is in addition to statutory maternity, paternity, adoption and shared parental leave.
- 2.4. Unless the leave is to be taken in respect of a child entitled to disability living allowance, an employee can only take parental leave in multiple blocks of whole weeks, up to a maximum of four weeks at one time each year in relation to each child.

2.5. Employees cannot take more than four weeks' leave in any year in respect of any individual child. So an employee with two children would be able to take four weeks' leave in respect of each of those two children in the course of any year. This four-week limit applies to all employees, including parents of disabled children.

2.6. A year is the period of 12 months beginning either:

- on the date on which the employee first became entitled to take parental leave in respect of the child; or
- where the employee's entitlement has been interrupted at the end of a period of continuous employment, on the date on which the employee most recently became entitled to take parental leave in respect of the child.

**Each successive period of 12 months begins on the anniversary of that date. So each employee's 'year' for parental leave purposes will be different and is unlikely to match the calendar or holiday year.**

2.7. Any parental leave taken while working for another employer counts towards the 18 week entitlement. If the employee has taken parental leave during previous or

concurrent employment, they should provide details to their manager.

### **3. Notification Requirements**

- 3.1. The employee must give their line manager notice of their intention to take parental leave. This notice should be given in writing by completing the parental leave application form. The employee must give 21 days' notice before they intend the leave to start and specify the dates on which the period of leave is to begin and end.
- 3.2. If the employee wishes to take parental leave commencing immediately on the birth of a child, they must give 21 days' notice before the start of the expected week of childbirth (EWC) specifying the EWC and the duration of the period of leave required.
- 3.3. If the employee wishes to take parental leave commencing immediately on the adoption of a child, they must give 21 days' notice before the start of the expected week of placement (EWP). If this is not possible, they must give as much notice as they can, again providing the duration of the period of leave required.

3.4. If the employee wishes to take a period of parental leave immediately after a period of paternity leave, it would be helpful if they could give their manager notice of that intention at least 21 days before the start of the EWC (or EWP, if applicable). If this is not possible, they must give as much notice as they can. If they do not give notice at least seven days before their period of paternity leave starts, Lothian might not allow them to take the period of parental leave requested. Lothian shall consider each case on its merits.

## **4. Evidence of Entitlement**

4.1. Before an employee takes a period of parental leave, their line manager may ask to see evidence of their responsibility for the child, such as a birth certificate, adoption or matching certificate, parental responsibility agreement or court order, or, if applicable, the child's entitlement to a disability living allowance. For details of what is required in their particular circumstances, or if they have difficulties obtaining the evidence, the employee should contact their manager.

## 5. The Right to postpone Parental Leave

5.1. Although Lothian will always try to accommodate an employee's request for parental leave, a requested period of parental leave cannot be refused however it may be postponed for up to six months where the requested leave would unduly disrupt the business, for example, where:

- they wish to take parental leave during a peak period;
- a number of employees wish to take leave at the same time;
- their work at that time is of importance to a time-critical project; or
- cover for their work cannot be found before the date on which their parental leave is due to start.

5.2. If Lothian requires the employee to postpone their request for parental leave, they will be consulted about an alternative start date, within 6 months of the requested start date. The employee will be notified in writing of the reason for postponement and the new start for their

parental leave, no more than seven days after receipt of their request for leave. It will not be postponed if:

- they have requested parental leave to start immediately on the birth or adoption of a child; or
- in the case of an adopted or disabled child, the postponement would result in the leave being taken after the child's 18th birthday.

## **6. Terms & Conditions**

6.1. The employee's contractual terms and conditions are protected during their parental Leave and their holidays will continue to accrue. During a period of unpaid parental leave neither the employee nor Lothian are expected to contribute to their pension. The employee may choose to pay contributions during this period but Lothian has no duty to do so.

## **7. Returning to Work**

7.1. The employee is entitled to return to work following parental leave to the same position they held before commencing leave. However, where their period of

parental leave has been longer than four weeks, or has been combined with a period of additional maternity or adoption leave, it might not be possible in some cases for the employee to return to the same job for example where there has been a business re-organisation or restructure. In such circumstances, Lothian will offer them a suitable and appropriate alternative position on no less favourable terms.

# Neonatal Care Leave

## **1. What Is Neonatal Care Leave?**

1.1 For babies born after 6<sup>th</sup> April 2025, neonatal leave (and pay according to eligibility) is available for parents whose baby is receiving, or has received, neonatal care.

1.2 This is in addition to any maternity, paternity or shared parental leave entitlement.

1.3 Neonatal leave is available from day one of employment. For the avoidance of doubt, whilst neonatal leave is available from day one, statutory neonatal care pay requires 26 weeks of service and earnings on average of at least £123 a week.

## **2. Eligibility**

2.1 To be eligible for neonatal care leave, at the birth of the baby, the employee must be one of the following:

- The baby's parents
- The baby's intended parents (applicable to surrogacy)

- Partner to the baby's mother (who are unrelated and living with them in an enduring family relationship) with the expectation they will have responsibility for raising the child

2.2 To qualify for neonatal care leave, the neonatal care must have taken place or begun within the first 28 days of a baby's birth (counting from the day after the baby is born) and care must continue for a period of at least 7 continuous days (counting from the day after neonatal care starts). In other words, the baby must have been receiving uninterrupted care on 8 consecutive days (including the day the care started) for a parent to be entitled to one week of Neonatal Care Leave. The earliest Neonatal Care Leave can start is the ninth day following the start of the baby's uninterrupted care.

2.3 Neonatal care is defined as:

- Any medical care received in a hospital; or
- Medical care received elsewhere following discharge from a hospital which must be under the direction of a consultant and includes

ongoing monitoring and visits to the baby by healthcare professionals; or

- Palliative or end of life care

2.4 Lothian recognises that people other than those listed above in relation to whom the statutory right applies may want time off in these circumstances. Requests for time off in relation to these circumstances should be made to the line manager but these will be considered separately to time off for statutory neonatal care leave.

### **3. Entitlement**

3.1 The amount of neonatal care leave an employee is entitled to will be dependant on how long their baby receives neonatal care but it is capped at 12 weeks.

3.2 Eligible parents can take one week of leave in respect of each week the baby received neonatal care without interruption. An uninterrupted week of care begins on the day after care started and leave must be taken in blocks of one week.

3.3 Neonatal care leave must be taken to provide care for the baby.

3.4 For multiple births, neonatal care leave cannot be claimed for babies receiving care at the same time, e.g. if twins are both receiving neonatal care for 6 weeks then only 6 weeks leave can be claimed. This is still capped at a maximum of 12 weeks.

3.5 All leave must be taken within 68 weeks of the baby's birth or placement.

## **4. Neonatal Care Leave Tiers and Notice**

4.1 There are two categories of neonatal care leave depending on when the leave is taken: Tier 1 Period Leave and Tier 2 Period Leave.

4.2 Tier 1 period leave applies to leave taken whilst your baby is still receiving care and up to a week post discharge. Tier 1 period leave ends on the 7<sup>th</sup> day after the day your baby stops receiving neonatal care and can be taken in non-continuous blocks of one week at a time.

4.3 Tier 2 period leave applies to all other leave and must be taken in one continuous block – there is no option to take more than one period of neonatal care leave in the tier 2 period.

4.4 The length of notice required for neonatal care leave differs depending on when the leave is taken.

4.5 For each week of Tier 1 period leave, notice must be given before you are due to start work on your first day of absence, ideally no later than one hour before you are due to start your shift. Notice during a Tier 1 period does not need to be in writing.

4.6 For a single week of Tier 2 period leave, notice must be received no later than 15 days before the first day of the neonatal care leave. For two or more consecutive weeks of leave, notice must be received no later than 28 days before the first day of the neonatal care leave. Employees can give notice for Tier 2 period leave via the Notice of Neonatal Care Leave Form. Depending on circumstances, the line manager may use their discretion to reduce the notice requirements.

4.7 If an employee changes their mind about taking neonatal care leave, they can withdraw their notice by following the same notice periods as above.

## **5. Neonatal Care Pay**

5.1 To be eligible for statutory neonatal care pay (SNCP), parents must:

- be eligible for statutory neonatal care leave
- have 26 weeks' service by the week immediately preceding the one in which neonatal care starts,
- meet a minimum earnings threshold calculated over the period of eight weeks ending with the week before neonatal care starts,
- be in employment in the week before neonatal care starts.

5.2 SNCP is paid at a rate set by the government each year.

5.3 Employees can choose for SNCP to be paid in a single week or for a number of weeks (which must be consecutive if within the Tier 2 period).

5.4 To receive SNCP in a Tier 1 period, employees must provide 28 days' notice where reasonably practicable.

5.5 To receive SNCP in a Tier 2 period, employees must provide 15 days' notice for a single week of

statutory pay and 28 days' notice for two or more consecutive weeks of statutory pay.

5.6 Employees can give notice using the Notice of Neonatal Care Leave Form.

## 8. Linked Policies

- Flexible Work Policy
- Other Leave Policy
- Diversity & Inclusion Policy
- Attendance at Work Policy

## 9. Version Control

Version No.	Date of Change	Change made by:	Key Amendments
V1.0	29/11/2021	S Murphy	Published
V2.0	20/12/2023	P Butler	Changes to 8.4, 14.2 and 14.3
V3.0	06/04/2024	P Jardine	Changes to Paternity Leave, sections 1.1, 1.9, 2.1, 2.2, 2.3, 4.1 and 5.4

			in accordance with legislative requirements
V4.0	April 2025	P Butler	Addition of Neonatal Care Leave section 8

**These family friendly policies do not form part of employees' terms and conditions of employment and may be varied from time to time in accordance with business and legislative requirements.**