

Toolkit guidance

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Part 1 - Maternity leave

This document provides a summary of employees' entitlements to maternity leave. It's not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, conditions of service handbooks and in local LCC agreements will take precedence. Further information and advice on these is available from local HR.

As soon as reasonably practical, you should notify your manager that you're pregnant, so a risk assessment can be carried out. In the interests of health and safety it's very important to assess if any of the duties you're undertaking may put the baby's or your health at risk. You will normally be allowed to continue in your existing job unless any risks are identified. If you have any concerns or worries yourself, it's important that you discuss these with your manager or local HR.

Entitlement to maternity leave and pay

You are expected to notify your employer of your pregnancy no later than the 15th week before the Expected Week of Confinement (EWC). You will be entitled to 52 weeks maternity leave. Employees who have a minimum of 26 weeks service with LCC at the 11th week before the EWC can take up to 63 weeks maternity leave (11 weeks before the birth and 52 weeks after).

Your entitlement to maternity pay and the amount you will receive will depend on:

- a) Your decision on whether you intend to return to work
- b) Your continuous length of service. National conditions of service give extra maternity leave benefits to those with 26 weeks **local government continuous service**. Slightly higher entitlements are given by the council to those employees with 26 weeks continuous service **working for LCC**.
- c) Whether your earnings have been high enough to attract national insurance contributions

What entitlements will I receive?

In this section we will look at what entitlements you may be eligible for.

Statutory Maternity Pay (SMP)

SMP is a weekly payment for which you may be eligible. The weekly rate is set by the Government and is taxable. National insurance may also be payable. If you are eligible it is payable for a maximum of 39 weeks from the start of your maternity leave. It cannot be paid before the 11th week before the expected week of birth (unless your baby is born early) and is paid as shown below:

- first six weeks 90% of your average weekly earnings with no upper limit
- remaining 33 standard rate or a rate equivalent to 90% of your average weekly weeks earnings, **whichever rate is the lower**

To qualify for SMP you must have had 26 weeks continuous service by the 15th week before your expected week of childbirth, and your gross average earnings need to be above the lower earnings limit for the payment of national insurance contributions

If you are not eligible for SMP a form SMP1 will be issued by your employer which will also explain the reasons why you do not qualify for this allowance.

You may still be eligible to receive maternity allowance from the Department of Work and Pensions (DWP). Claim forms (MA1) are available from ante-natal clinics and the DWP.

Please note that if you have been on long term sickness prior to your maternity leave it may under certain circumstances affect your entitlements.

Please discuss this with your line manager who will contact HR for further advice.

Occupational Maternity Pay (OMP)

If you have 26 weeks continuous service with LCC at the 11th week before the expected week of childbirth, you will be eligible to receive OMP as follows:

- six weeks at 9/10 pay (includes SMP where payable)
- four weeks at 9/10 pay (includes SMP where payable)
- 20 weeks half pay (plus SMP where payable)
- nine weeks standard rate SMP or 9/10 pay whichever is lower.

We've included [three flowcharts](#) later in this document (pages 8-10) to show how entitlements may change depending on your decision to return to work following your period of maternity leave.

This table is an overview to help you determine your entitlements.

At least 26 weeks continuous service with current employer at the 11 th week before EWC	Less than 26 weeks continuous service with current employer at the 11 th week before EWC but at least one years' continuous service with one or more local authority at the 11 th week before EWC	Less than 26 weeks continuous service with current employer at the 11 th week before EWC and less than 1 year continuous service with one or more local authority at the 11 th week before EWC
Leave entitlement: Max leave entitlement: 63 weeks if you take the leave between 11 weeks before and 52 weeks after the EWC	Leave entitlement: Max leave entitlement: 52 weeks	Leave entitlement: Max leave entitlement: 52 weeks
Pay: <ul style="list-style-type: none"> • six weeks at 9/10 pay (includes SMP or MA*) • four weeks at 9/10 pay (includes SMP or MA*) • 20 weeks half pay plus SMP or MA*, capped at normal rate of pay • nine weeks standard rate SMP or MA* or 9/10 pay whichever is lower • 13 weeks unpaid leave 	Pay: <ul style="list-style-type: none"> • six weeks at 9/10 pay (offset by MA*) • 12 weeks half pay plus MA*, capped at normal rate of pay • 21 weeks MA* • 13 weeks unpaid leave 	Pay: May be eligible for Maternity Allowance (MA)*

* Entitlement to SMP is dependent on your level of earnings at the qualifying week (the 15th week before the EWC) and your length of service. If your average earnings on this date are lower than the amount on which national insurance is payable, you are **not** eligible for SMP and maternity allowance (MA) may be payable. Eligibility for MA is dependent on NI contributions and is administered by the Benefits Agency.

Claiming your entitlement

To apply for maternity leave and to receive the pay provisions under both the occupational maternity scheme and SMP, you must complete the relevant maternity documentation.

After its completion it should be sent, together with your **MAT B1** form (which is provided by your medical practitioner), to the BSC no later than the end of the 15th week before the expected week of childbirth. The council will reply within 28 days of receiving notification confirming the date you are due to return to work after your full entitlement to leave.

If you wish to change the date you want to start maternity leave you must give the council at least 28 days' notice. The council will then respond within 28 days confirming any new return to work date at the conclusion of the full entitlement to maternity leave.

Right to time off for ante-natal care

Time off with pay will be given for ante-natal care. You are asked to inform your manager as far in advance as possible of the date and time of an appointment and the best estimate of the length of absence from work, including travelling time if significant. It would also be helpful in many cases if you could try to arrange appointments at the beginning or the end of the day, although the council recognises this may not always be possible. Ante-natal care may include:

- appointments with your GP or registered midwife
- hospital appointments for scans or tests
- other appointments made on the recommendation of your GP or registered midwife
- relaxation and parent craft classes

If you are not sure whether a particular appointment is included in one of the above categories you should contact local HR.

Except in the case of the first appointment, you should produce for your manager:

- an appointment card or some other document showing that the appointment has been made, **or**
- a certificate from a registered medical practitioner, registered midwife or registered nurse, stating that you are pregnant.

The time taken to attend such appointments within your working hours for that day will be paid at your usual rate, provided you have complied with the above requirements.

The expected date of the birth

Your doctor or midwife will give you a certificate stating the expected week of birth – MAT B1. This can be issued to you up to 20 weeks before the expected week of birth. You'll need this certificate to apply for maternity leave and pay and to receive SMP (if eligible). See the flowcharts for further information.

As soon as the expected date of birth of your baby is confirmed to you on this MAT B1 form then you will be able calculate the earliest date when you could commence your period of maternity leave.

The earliest maternity leave can commence is the beginning of the 11th week before the EWC. To calculate this date you should count back 11 weeks from the Sunday before your date of expected birth. You may commence maternity leave any time between this date and your expected date of birth. However, your maternity leave will start automatically if you are absent from work with a pregnancy related illness during the four weeks before you baby is due.

Continuous service

The amount of your continuous service will affect your entitlement to maternity pay. The critical continuous service periods that may then affect your entitlements are whether at the 11th week before the expected week of childbirth:

- you have one year's continuous service in local government
- you have 26 weeks continuous service with LCC

When calculating length of continuous service in local government please note the following:

- where an employee returns to local government service following a break for maternity reasons or reasons concerned with caring for children or other dependants, they will be entitled to have their previous service taken into account provided the break does not exceed eight years and no permanent paid full time employment has intervened.
- previous continuous service with any public authority covered by the 1983 Redundancy Payments Modification Order (local government) may be taken into account. Further advice on this can be obtained from local HR.

Sickness absence

Sickness absence before the start of maternity leave, which is certified as being unrelated to pregnancy shall be treated as sick leave. If, however the cause of absence is wholly or partly related to your pregnancy and occurs during the four weeks before the EWC then maternity leave shall commence on the day after your first complete day of sickness.

Returning to work

You'll need to decide if you intend to return to work after your baby is born. You have three options:

a) To definitely return to work – you may decide that your previous working arrangements no longer suit your circumstances and you want to discuss other alternative forms of working with your line manager. This may include flexible working options such as reduced hours, job share or taking some unpaid parental leave. Please refer to LCC's guidelines on flexible working options.

To qualify for occupational maternity benefits it must be your intention to return to work at the council following maternity leave for a minimum period of three months. [Flowchart one](#), summarises your entitlements.

b) To defer your decision until after the birth - if you're unsure about whether or not to return to work, [flowchart two](#) summarises your entitlements. If you decide to return to work then any remaining entitlements will be paid to you following the completion of three months service.

c) To definitely leave work - i.e. resign, which should be confirmed in writing if this is your chosen option. If you're definitely not intending to return to work then [flowchart three](#) summarises your entitlements.

Please inform your manager of your intentions as early as possible.

You may be considering the possibility of varying your working arrangements when you return from maternity leave. Whilst you don't need to do this until after the baby is born, it may be helpful for you to discuss the range of options with your manager prior to going off on maternity leave. **You can also contact local HR for advice.** However, if you want to change your working arrangements you need to formally put this in writing to your manager giving as much notice as possible.

At the same time, you are under no obligation to request any change in working arrangements. Provided you have notified your manager of your intention to return to work you have the following legal rights:

- if returning during or at the end of the first 26 weeks (**ordinary maternity leave**) you are entitled to return to the same job on the same terms and conditions that you had before going on leave, unless this is not reasonably practicable by reason of redundancy.
- if you take more than 26 weeks (**additional maternity leave**) you are entitled to return to the same job on the same terms and conditions. If that is not practicable you are entitled to return to a job on terms and conditions no less favourable than your previous job.

Notice of return to work

There is no legal obligation for you to notify the council of the date you will be returning to work if you take your full maternity leave entitlement. Your latest return date will be fixed and should already be known by the council.

However it would be helpful if you could confirm your return date with your manager and the BSC as soon as you are aware of this. Remember that your manager has to cover your absence and if a temporary replacement is taken on then they need to know when you might be returning.

If you wish to return to work before you have taken your **full** maternity leave entitlement then you must give your manager at least eight weeks' notice in writing of your proposed return to work date. It will however help the council make arrangements if you are able to give a period longer than that required by law.

Failure to return to work

If you do not return to work after maternity leave, having declared your intention to do so, and you have chosen to receive full maternity payments whilst absent, then the council will reclaim from you the maternity pay you have received (except for any statutory payments to which you may be entitled and the first six weeks occupational maternity pay).

Contact during maternity leave

It's good practice for you and your manager to maintain reasonable contact during your absence so that you remain informed of developments and changes within your Directorate and you can be helped in your return to work. The mechanisms by which you wish to do this and the extent to which you wish to be informed should be discussed with your line manager prior to you commencing maternity leave. Managers will remain in contact with you and inform you of any changes taking place, in the same way as other affected employees.

Keeping-In-Touch (KIT) days

KIT days can also enable you and your manager to keep in touch during your maternity leave to ease your return to work. Following agreement with your manager you can work for up to 10 days during your maternity leave period without bringing your maternity leave period to an end. For these purposes, 'work' may include training or any other activity undertaken to assist you keeping in touch with the workplace such as conferences, team meetings etc. The provisions apply to the entire period of your maternity leave, except during the first two weeks of childbirth which is a period of compulsory maternity leave.

Any work done during maternity leave must be by agreement and neither you nor your manager can insist on it. It is also important to note that even if you only agree to work for a few hours on each occasion it will still be counted as 'days' under the maternity scheme. A form to register any hours worked whilst keeping-in-touch will be available to your manager from the BSC. Once complete the form should be returned to the BSC to process.

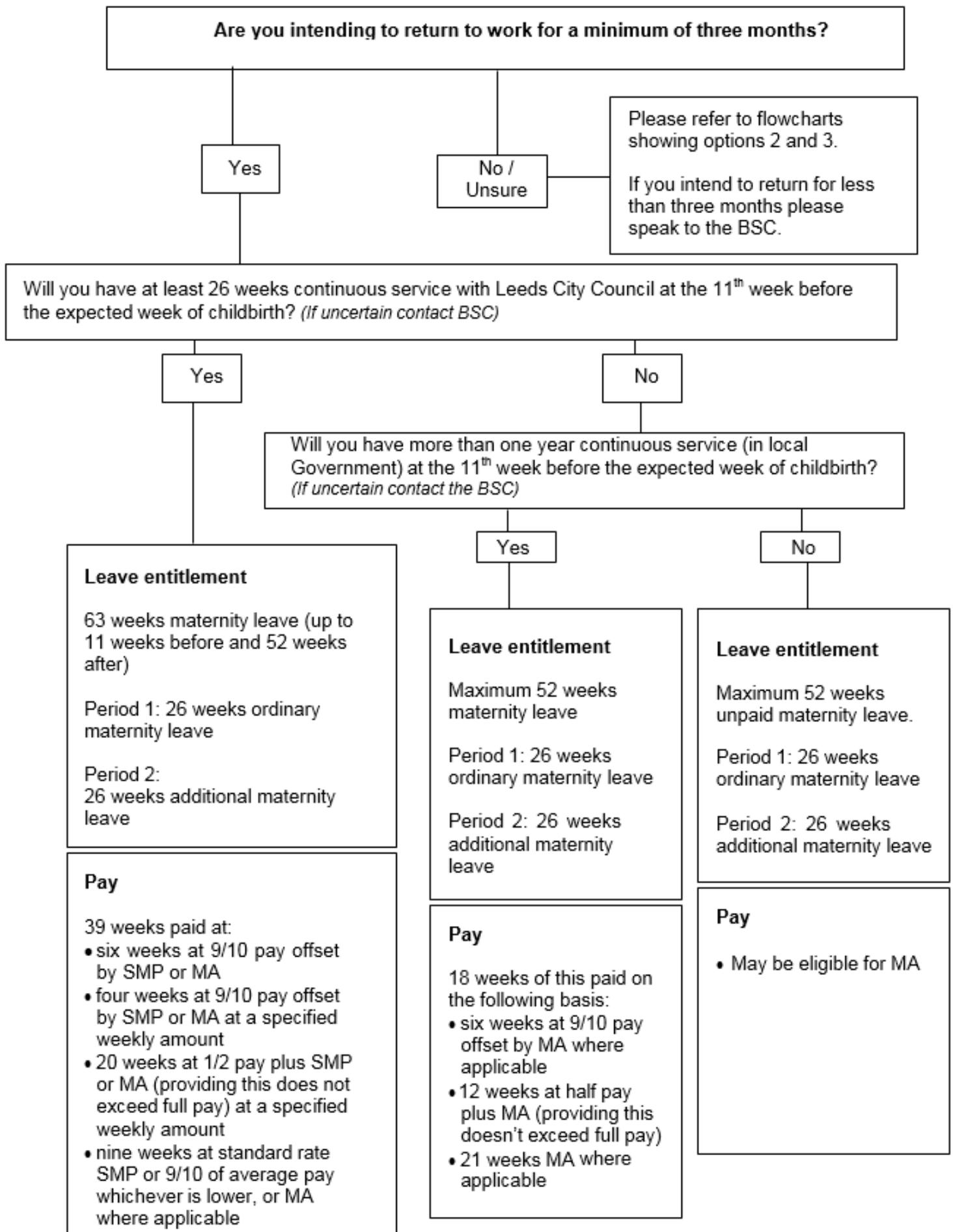
You'll be paid at your contractual rate of pay per hour which will be offset against SMP or SAP for any hours worked during KIT days.

Change in circumstances

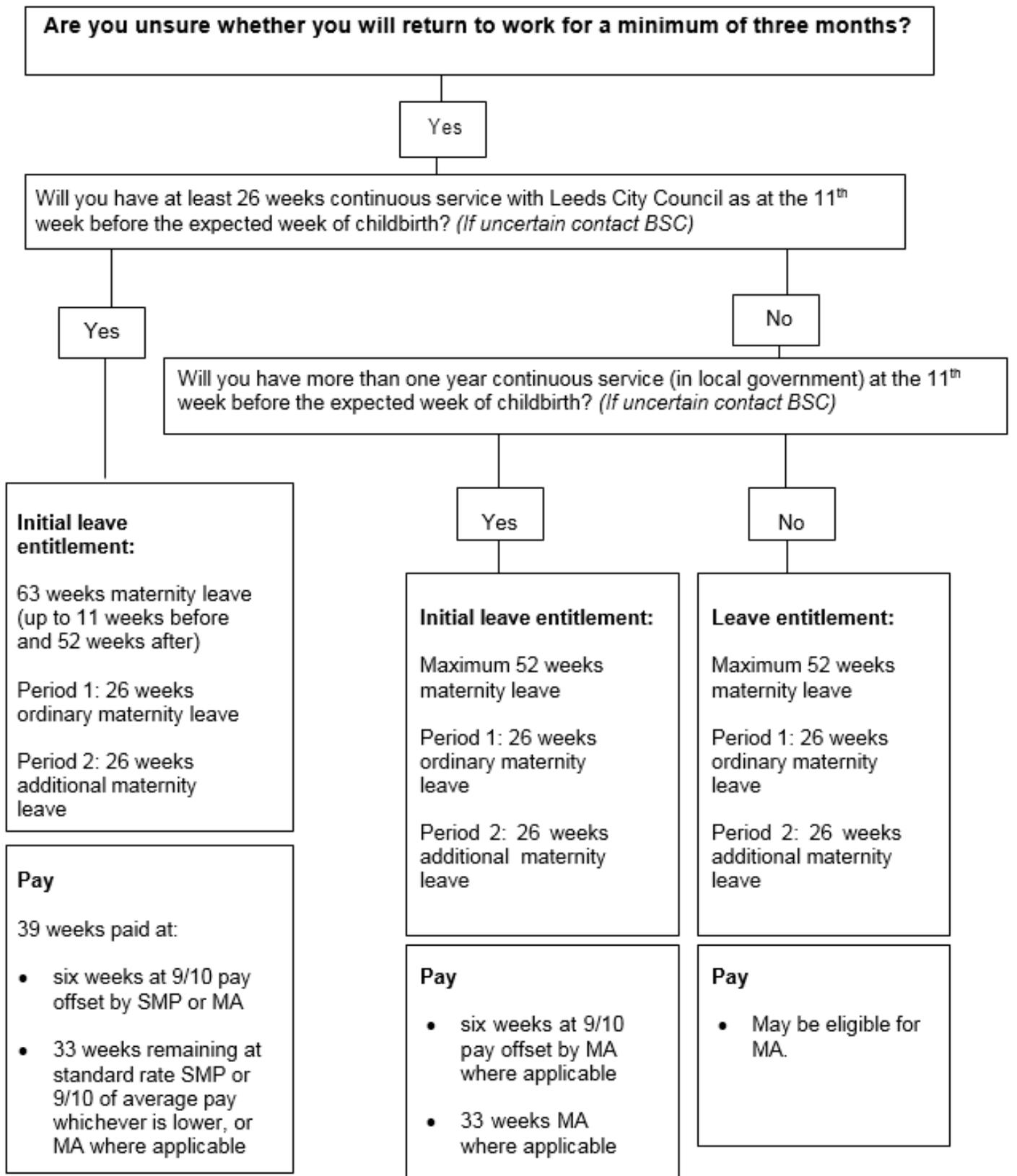
It's your responsibility to notify your manager in writing if any of the following events occur as your entitlement to SMP will be affected:

- a) You start work for another employer during your maternity leave
- b) You're taken into legal custody

Maternity flowchart 1 - Intending to return to work (Option 1)



Maternity flowchart 2 – Unsure of intention to return to work (Option 2)



If you do return to work:

If you decide to return to work for a minimum of three months your OMP will be paid to you. This payment will be the difference between the SMP or MA you'll already have received and your full entitlement OMP. (See flowchart 1)

Maternity flowchart 3 – Not intending to return to work (Option 3)

I'm not intending to return to work

If you're unsure, please refer to option 2 or seek advice from the BSC.

Will you have at least 26 weeks continuous service with Leeds City Council at the 11th week before the expected week of childbirth? *(If uncertain contact BSC)*

Yes

No

Will you have more than one year continuous service (in local government) at the 11th week before the expected week of childbirth? *(If uncertain contact BSC)*

Leave entitlement:

63 weeks maternity leave (up to 11 weeks before the date of birth and 52 weeks after)

Period 1: 26 weeks ordinary maternity leave

Period 2: 26 weeks additional maternity leave

Pay

39 weeks paid at:

- six weeks at 9/10 pay offset by SMP or MA
- 33 weeks remaining at standard rate SMP or 9/10 average pay whichever is lower, or MA where applicable

Yes

Leave entitlement:

Not applicable

Pay

- six weeks at 9/10 pay offset by MA where applicable
- 33 weeks MA where applicable

No

Leave entitlement:

Not applicable

Pay

- may be eligible for MA

If due to exceptional circumstances you do return to work:

If you return to work for a minimum of three months, your OMP will be paid to you. This payment will be the difference between the SMP or MA you've received and your full entitlement to OMP. *(see flowchart 1)*

Annual leave

Annual leave and bank holidays will continue to accrue for the duration of your maternity leave. Any time taken as maternity leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Maternity leave will also count towards length of continuous employment.

You should discuss your annual leave entitlement fully with your manager to ensure that you have the opportunity to take your annual leave either before commencing maternity leave or immediately prior to your return to work.

If you're not returning to work then you should plan to take any annual leave entitlement that you may be due before you commence your maternity leave.

Temporary contracts

All female employees, regardless of their length of service or the number of hours they work, will qualify for some maternity leave, provided that they complete the relevant maternity documentation.

If an employee is on a temporary contract that would cease before their maternity leave entitlement would end, then they should seek advice on this from local HR.

Casual claimants should also seek advice from the BSC regarding their precise entitlements.

Contact BSC Enquiries 0113 37 60350 or BSC.Enquiries@Leeds.gov.uk.

Part 2 – Adoption leave

This document provides a summary of employees' entitlements to adoption leave. It's not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, conditions of service handbooks and in local LCC agreements will take precedence. Further information and advice on these is available from local HR.

Employee guide to adoption provisions

This guidance applies only to employees who expect have a child placed for adoption by a UK adoption agency.

These notes are intended for general guidance only. Should you have any specific enquiries please ask your manager or contact local HR.

Since April 2003 (as amended 2015) there has been a legal right to adoption leave and pay, where employees meet the qualifying period.

Entitlement to adoption leave and pay

All employees will be entitled to a maximum of 52 weeks of adoption leave from their first day of employment with the council. The earliest date that adoption leave can start is up to 14 days before the expected date of adoption. To qualify for adoption leave you must have;

- been matched with a child for adoption
- notified the adoption agency that they agree to the placement and have agreed a date for the placement to start
- let your manager know within seven days (or as soon as reasonably practical) of being matched to a child, that you intend to take adoption leave.
- the date the child will come to live with you
- the date you want to start your adoption leave, which can be up to 14 days before the expected date of adoption

Adoption pay

The amount you're paid for adoption leave paid will depend on;

- your decision on whether you intend to return to work
- your continuous length of service, which must be 26 weeks continuous employment at the 'qualifying week' i.e. the date at which you're notified that you've been matched to a child
- whether your earnings have been high enough to attract national insurance contributions
- that you've notified your manager that you intend to take adoption leave

Statutory Adoption Pay (SAP)

SAP is a weekly payment for which you may be eligible. The weekly rate is set by the government and is taxable. National insurance may also be payable. If you're eligible it's payable for a maximum of 39 weeks from the start of your adoption leave. It's paid at:

- first six weeks is paid at 90% of your average weekly earnings with no upper limit
- the remaining 33 weeks is paid at the lower earning related rate of £139.58

To qualify for SAP you must have;

- at least 26 weeks' continuous service at the 'qualifying week' i.e. the week in which you're notified of a match with a child
- earned at least the lower earnings level (£112 per week) in the eight weeks leading up to the date that you were notified of the match

Occupational adoption pay

If you have 26 weeks continuous service with LCC, and intend to **return to work** after adoption, you'll be entitled to 39 weeks paid leave at these rates:

- six weeks at 9/10 pay offset by SAP
- 20 weeks at half pay plus SAP (standard rate)
- 13 weeks SAP (standard rate)

If you have 26 weeks continuous LCC service by the week in which you're notified that you've been matched with a child and you're **not intending to return to work, or you have less than 26 weeks continuous LCC service**, you'll be entitled to six weeks at 9/10 pay followed by SAP where appropriate.

Claiming your entitlement

Adopters should notify the BSC and their manager of their intention to take adoption leave within seven days of being notified of a match. This must be evidenced by production of a 'Matching certificate' within at least 28 days of the date they expect statutory adoption payments to start.

Where two employees of the council are jointly adopting a child only one of you may take adoption leave and pay. The other adopter may be eligible to take two weeks paternity leave and pay. Adopters are also eligible to share up to 50 weeks adoption leave and up to 37 weeks of pay where the adopter ends their adoption leave early to opt into Share Parental Leave (ShPL) or pay. For more information see [ShPL guidance below](#).

Right to time off for attending adoption appointments

Employees matched with a child for adoption will be given paid time off to attend up to five adoption appointments, such as, introduction visits, or meetings with your social. In the case of joint adopters where both adopters are employed by the council only one employee is entitled to paid time off, the other adopter is entitled to unpaid time off to attend up to two adoption appointments. The adopter who takes 'paid' time off to attend adoption appointments can't claim paternity leave and pay. Leave is to be requested via self-service or by completing a special leave form if you don't use self service.

Notice of returning to work

There is no legal obligation for you to notify the council of the date you will be returning to work if you take your full adoption leave entitlement. Your latest return date will be fixed and will already be known by the council. **However it would be helpful if you could confirm your return date with your manager and the BSC as soon as you know it.** Remember that your manager has to cover your absence and if a temporary replacement is taken on then they need to know when you might be returning.

If you wish to return to work before you have taken your **full** adoption leave entitlement then you must give your manager **at least** eight weeks' notice in writing of your proposed return to work date. It will help the council make arrangements if you are able to give a period longer than that required by law.

You will need to decide if you intend to return to work after your adoption leave ends.

Provided you have notified your manager of your intention to return to work you have the following legal rights:

- if returning during or at the end of the first 26 weeks (**ordinary adoption leave**) you are entitled to return to the same job on the same terms and conditions that you had before going on leave, unless this is not reasonably practicable by reason of redundancy.
- if you take more than 26 weeks (**additional adoption leave**) you are entitled to return to the same job on the same terms and conditions. If that is not practicable you are entitled to return to a job on terms and conditions no less favourable than your previous job.

Return to work options

When deciding whether to return to work you have three options:

1. **To definitely return to work** – you may decide that your previous working arrangements no longer suit your circumstances and you may wish to discuss other alternative flexible working options with your line manager or the option of taking some unpaid parental leave. To qualify for 39 weeks paid adoption leave, it must be your intention to return to work for a minimum period of 3 months.
2. **To defer your decision until after your child is placed** - If you decide at a later date to return to work then any remaining entitlements will be paid to you following the completion of 3 months service.
3. **To definitely leave work** - your resignation should be confirmed in writing if this is your chosen option.

If you are considering making a request to vary your working arrangements when you return from adoption leave, it is a good idea to talk to your manager about your intentions as early as possible, so that you can both discuss what options might be available to you. Further advice on this can be sought from local HR.

If you wish the council to consider a request for varying your working arrangements you must formally request this in writing to your manager giving as long a period as possible.

Failure to return to work

If you don't return to work after adoption leave, having declared your intention to do so, and you've chosen to receive full adoption payments whilst absent, then the council will reclaim from you the adoption pay you've received (except for any statutory payments to which you may be entitled and the first six weeks' occupational adoption pay).

Contact during adoption leave

It's good practice for you and your manager to maintain reasonable contact during your absence so that you remain informed of developments and changes within your directorate which can help with your return to work. The mechanisms by which you wish to do this and the extent to which you wish to be informed should be discussed with your line manager prior to you commencing adoption leave. Managers will remain in contact with you and inform you of any changes taking place, in the same way as other employees.

Keeping-In-Touch (KIT) days

KIT days will enable you and your manager to keep in touch during your adoption leave to ease your return to work. Following agreement with your manager you can work for up to 10 days during your adoption leave period without bringing your adoption leave period to an end. For these purposes, 'work' may include training or any other activity undertaken to assist you keeping in touch with the workplace, such as conferences, team meetings etc. The provisions apply to the entire period of your adoption leave.

Any work carried out during adoption leave must be by agreement and neither you nor your manager can insist on it. It's important to note that even if you agree to only work for a few hours on each occasion it will still be counted as 'days' under the adoption scheme. Your manager must inform the BSC of the days worked.

You'll be paid at your contractual rate of pay per hour which will be offset against SMP or SAP for any hours worked during KIT days.

Shared Parental Leave (ShPL)

Please refer to the [ShPL section](#) in this document for further information

Paternity leave

Please refer to the guidance on paternity leave for further information.

Change in circumstances

It's your responsibility to notify your manager in writing if any of the following events occur as your entitlement to SAP will be affected:

- a) you start work for another employer during your adoption leave
- b) you are taken into legal custody

Annual leave

Annual leave and bank holidays will continue to accrue during the whole of your adoption leave.

Any time taken as adoption leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Adoption leave will also count towards length of continuous employment.

You should discuss your annual leave entitlement fully with your manager to ensure that you have the opportunity to take your annual leave either before commencing adoption leave or immediately prior to your return to work.

If you are not returning to work then you should plan to take any annual leave entitlement that you may be due before you commence your adoption leave.

Temporary contracts

All employees, provided they meet the service requirements, will qualify for 52 weeks adoption leave, provided that they complete the relevant adoption documentation. If an employee is on a temporary contract that would cease before their adoption leave entitlement would end, then they should seek advice on this from local HR.

Casual claimants should also seek advice from the BSC regarding any entitlements.

Contact BSC Enquiries 0113 37 60350 or BSC.Enquiries@Leeds.gov.uk.

Other types of adoption arrangements:

Dual approved prospective adopters

Changes under the Children Act 1989 mean that some children (usually under two years old) may be placed with local authority foster parents under S22C of the Children Act 1989 with the expectation that they will adopt that child. This is sometimes called 'fostering for adoption'.

Dual prospective adopters may be entitled for adoption leave and pay from two weeks before the child is placed with the family (initially for fostering) under this legislation; they are also entitled to ShPL and paternity leave if they meet the eligibility criteria.

For further information please contact local HR.

Adoptions from overseas

Prospective adopters who adopt a child from overseas may qualify for adoption leave and pay.

For further information please contact local HR.

Pay additions or deletions during maternity or adoption leave

National insurance and income tax

National insurance contributions are deductible from the gross occupational maternity or adoption pay and gross SMP. They are not, however, deductible for the unpaid part of your maternity or adoption leave and therefore benefits may be lost.

- you should contact your DWP office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits.
- pay during ordinary maternity or adoption leave and SMP or SAP is subject to the provisions of income tax.
- you may be entitled to a tax rebate if you are not returning to work. As soon as you have received any maternity pay you are entitled to, you should receive a P45 from the council. You should send this to HMRC, along with written confirmation that you have finished work.

Pension contributions

Absence on paid or unpaid maternity or adoption leave is pensionable. You will continue to pay full pension contributions on maternity or adoption pay whether the pay element is a nine tenths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid maternity leave you will be given the option of repaying your pension contributions for that period. These deductions can be made from your pay on return to work by arrangement with yourself and the BSC.

Trade union and other deductions

Trade Union deductions cease during the unpaid part of your maternity or adoption leave and are reinstated upon your return to paid employment unless otherwise agreed. It would be advisable for you to contact your trade union to arrange continuous benefits.

Other deductions, such as Leeds Hospital Fund, Credit Union and Council Tax, will automatically cease during the unpaid part of any maternity absence and you will need to make alternative arrangements for these payments.

Increments

Absence on maternity or adoption leave whether paid or unpaid shall count towards any normal annual increment and shall not defer the normal incremental date.

Retrospective pay awards

In the event of a retrospective pay award being agreed after the commencement of your maternity leave, the OMP or occupational adoption pay, SMP or Statutory Adoption Pay (SAP) and any payment for KIT days will be re-calculated based on the new values. If you have left your employment with LCC, you need to write the BSC to request the payment of arrears.

Essential car user allowance – lump sum

Employees who are designated as having an essential car user allowance will continue to receive their essential car user allowance during the period of maternity or adoption leave.

Child care vouchers

Employees will continue to receive child care vouchers during the period of maternity or adoption leave.

Bike to work scheme

The council will continue to provide the bike to employees in the bike to work scheme during the period of maternity or adoption leave.

Part 3 – Birth leave (including rights to paternity leave)

This document provides a summary of employees' entitlements to birth leave. It's not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, conditions of service handbooks and in local LCC agreements will take precedence. Further information and advice on these is available from local HR.

Guide to birth leave provisions

These notes are intended for general guidance only. Should you have any specific enquiries please ask your manager or local HR.

Birth and paternity leave is seen as leave which enables the father (or person of mother's choice) to give much needed practical and emotional support at or around the time of the birth.

Since April 2003 there has been a legal right to paternity leave and, where employees qualify, for pay during this leave. The council's **birth leave provisions** exceed these statutory provisions insofar as they do not require an employee to have 26 weeks continuous service to qualify for payments to be made during approved absence.

1. Qualifying for birth or paternity leave

Are you the biological father, spouse or partner?

In order to claim your entitlement to paternity leave you'll need to request an SC3 form from HMRC (available from the HMRC website). You must complete this form and submit it to your manager along with a copy of the MAT B1 or birth certificate and special leave request form.

Are you the nominated person of the mother's choice?

In order to apply for birth leave you'll need to provide a copy of the MAT B1 or birth certificate along with a letter from the mother confirming you are the nominated person.

2. Attending ante-natal and child care clinics

Up to five absences can be requested to attend ante-natal or child care clinics. For each absence a period of up to half a day can be paid.

3. Attending the birth

One day's absence can be requested to attend the child's birth if this falls on a working day. Any requirements beyond this (such as arising from complications during birth) would have to be considered under special leave provisions.

4. Birth and paternity leave

An employee is entitled to a maximum of two calendar weeks birth or paternity leave. This can be taken at any time between 11 weeks prior to, and eight weeks after the birth. The leave has to be taken in whole weeks (either two separate weeks or two weeks)

5. Notice of absences

The council appreciates that employees cannot always determine in advance the precise time the absence will occur. At the same time employees need to recognise that managers need to make cover arrangements and they should endeavour wherever possible to keep their manager or supervisor up-to-date on developments and potential requirements for absence.

6. Sharing Parental Leave (ShPL)

Please refer to part 4 of this policy guidance document for further information on ShPL.

Part 4 – Shared Parental Leave (ShPL)

This document provides a summary of employees' entitlements to ShPL. It's not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, conditions of service handbooks and in local LCC agreements will take precedence. Further information and advice on these is available from local HR.

Terminology

Continuous leave: a period of leave that is taken in one block, such as, four weeks' leave.

Discontinuous leave: separate periods or 'blocks' of leave

Summary

Shared parental leave Regulations (2014) introduced a new statutory right to parents of a new-born infant or a child newly placed for adoption the opportunity to share up to a maximum of 50 weeks maternity leave and 39 weeks of pay if they meet the eligibility criteria.

Eligible mothers and the main adopter have the option to cut short (curtail) their maternity or adoption leave and convert the remainder of the leave into ShPL. This provides both parents with the opportunity to consider the best arrangements to care for their child during the child's first year. The first two weeks must be taken by the mother or main adopter, leaving a further 50 weeks that can be shared before the baby's first birthday or anniversary of adoption.

ShPL can be taken by either of the baby's parents in periods of one week or multiples of a week. Parents can share the leave if both eligible and can choose to take the leave at the same time or separately.

Eligibility

To be eligible for ShPL a parent and their partner must:

- be a mother, father or main adopter of a child
- must share equal responsibility for a child with their partner at the time of the birth or placement for adoption
- be entitled to maternity or adoption leave or SMP

The partner is defined as the biological father of the child, or civil partner or partner of the mother. The partner can be the same or different sex, but must live with the mother in a family relationship, yet not be related to the mother.

Qualifying criteria for ShPL:

Parents wishing to use ShPL must satisfy the following conditions to qualify for eligibility and entitlement:

The mother or main adopter must	The father or partner must
<ul style="list-style-type: none">• have 26 weeks' continuous service by the end of the 15th week before the EWC or at the week in which the main adopter was notified of being matched with the child (relevant week)• still be employed until the week before any period of ShPL is to be taken	<ul style="list-style-type: none">• be in employment – this doesn't have to be employment with LCC but they must have worked (in an employed or self-employed capacity) for at least 26 of the 66 weeks' immediately before the baby's expected due date or matching date earning an average of at least £30 per week in any 13 of the 66 weeks in question

The maximum amount of ShPL available is 50 weeks. The mother or main adopter cannot start ShPL until after the compulsory maternity or adoption leave period, (two weeks) has been taken. The father or partner, if eligible, must take statutory paternity leave and pay which is in addition to ShPL before any period of ShPL can be entered into (maximum of two weeks).

Shared Parental Pay (SPP)

If eligible, SPP is paid in line with the council's occupational maternity or adoption pay if both parents are paid by LCC.

SPP is available up to a maximum of 37 weeks (39 weeks less any weeks of statutory maternity pay, maternity allowance or statutory adoption pay already taken by the employee or their partner which includes at least two weeks compulsory maternity or adoption leave).

Please note: If only one parent is an employee of LCC, the other parent will be paid SPP in line with their own employers maternity or adoption pay. Only one parent can take occupational maternity or adoption pay at any one time.

Notification of taking ShPL

If the parents meet the qualifying requirements and wish to take ShPL or pay, the mother or main adopter must cut short (curtail) their maternity leave and pay or adoption leave and pay.

In order to cut short the maternity or adoption leave and pay the ShPL notification form must be completed and given to their manager for authorisation giving at least eight weeks' prior notice of the date on which maternity or adoption leave and pay is to end.

The ShPL notification form is sent to the BSC through the employee matters mailbox at BSC.HR.Employee.Matters@leeds.gov.uk. The remaining maternity or adoption leave and pay available will then be converted into ShPL.

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

- if it becomes apparent that neither parent is entitled to ShPL or SPP
- 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

Taking ShPL

If an employee asks for a single continuous period of leave, they are entitled to take it. If they have asked for separate periods of leave, ('discontinuous' blocks must be taken in weekblocks and no more than three separate blocks) the manager can:

- agree to the requested pattern of leave
- refuse the request
- refuse the request but propose alternative dates

If an agreement between the manager and employee can't be reached within 14 days, employees can withdraw their request, or take the leave requested as a single continuous period.

Documentation required:

The following evidence of entitlement is required:

- the name and address of the partner's employer or a declaration that they have no employer

and either

- a copy of the child's birth certificate or if one has not been obtained a signed declaration of the child's date and place of birth;

or

- one or more documents from the adoption agency showing the agency's name and address and the expected placement date

The employee should supply this information either with the evidence of entitlement or intention to take ShPL form or within 14 days of submitting the form (or within 14 days of the birth of the child if the request was made before the child was born)

Formal notice - varying or cancelling a period of leave

Employees are entitled to submit a maximum of three combined formal notices to take, vary or cancel a 'Period of leave'. The minimum block of time for any 'Period of leave' is one week with the maximum not exceeding the combined leave available (i.e. 50 weeks). Any changes or cancellation of leave must be put in writing to the manager giving at least eight weeks' notice. An amended ShPL notification form should then be sent to the BSC.SPP

When varying a period of ShPL employees are entitled to:

- change the start date for a period of leave, or the length of the leave, by notifying their manager in writing at least eight weeks before the original start date and the new start date
- change the end date for a period of leave by notifying their manager in writing at least eight weeks before the original end date and the new end date
- combine ShPL periods into a single continuous period of leave by notifying their manager in writing at least eight weeks before the start date of the first period

The following situations do not count as a variation of leave:

- if notice is withdrawn within 15 days of providing it;
- if dates are changed due to the child being born earlier or later than the EWC or the child being placed earlier or later than the expected placement date
- if the variation in dates is at the request of the council or manager

It's possible that circumstances may change after periods of ShPL have been agreed. This could prove difficult for the service if the change is advised at short notice and arrangements to cover the post are already in place. In such circumstances, the manager may decide to hold the employee to the agreed arrangements.

Shared Parental Leave In Touch (ShPLIT) days

Each parent is entitled to up to 20 ShPLIT days during ShPL where employees may, in agreement with their manager, ask or be asked to work (including attending training) for up to 20 days during the ShPL period (this is additional to the 10 KIT days allowed during maternity and adoption leave).

ShPLIT days, as with KIT days may be worked at any time during the ShPL period by both parents except during the first two weeks after the baby is born as this is a compulsory maternity leave period which must be taken by the mother.

Both the manager and employee must agree these days and the type of work to be undertaken in advance. These days are not compulsory and the employee is entitled to refuse the opportunity without suffering any detriment.

Managers may make reasonable contact with the employee during a period of ShPL although this should be kept to a minimum and may include making contact to discuss arrangements for the employees return to work.

Employees will be paid at their normal basic rate of pay for time spent working on ShPLIT days and work undertaken during ShPL will not have the effect of extending the employee's ShPL. Pension contributions will be payable for ShPLIT days.

Sickness during SPP

If an employee is unwell and unable to care for the child, then they are not entitled to take ShPL. An employee must be paid sick pay rather than statutory SPP when they are sick if eligible. SPP would recommence after the statutory sick pay period ends.

Returning to work after SPP

If an employee wishes to return to work early following a period of ShPL eight weeks written notice of the new return date must be given and will count as one of the three period of parental leave allowed. The manager must notify the BSC of the employees return.

If an employee has taken any combination of statutory leave, any additional maternity or adoption leave or ordinary parental leave which totals more than 26 weeks', they are entitled to return to the same job. If, however, there is some reason (other than redundancy) why it is not reasonably practicable for an employee to return to their original job they will be entitled to be offered suitable alternative work on terms and conditions no less favourable than if they continued to be employed in their previous role.

The employee must return to their original job or suitable alternative job for a minimum period of 13 weeks. If the employee doesn't return for the specified period all the occupational SPP shall be recoverable.

Rights during SPP

Employees are entitled to receive all of the normal terms and conditions of the contract of employment, including annual holiday entitlement, with the exception of normal pay.

Employees must not be subjected to detrimental treatment because they have taken, or tried to take, ShPL, or because their employer believes they are likely to take ShPL. A dismissal for such reason will be automatically unfair.

Pension

Pension contributions will continue to be made during the period when the employee is in receipt of pay, including SMP, maternity allowance or SPP, but not during any period of unpaid maternity leave.

Providing correct information

It's the employee's responsibility to ensure the information provided on the ShPL declaration is accurate. Any false information or fraudulent claims could lead to disciplinary action.