

ABERDEEN CITY COUNCIL

COMMITTEE Finance and Resources
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DIRECTOR Stewart Carruth
TITLE OF REPORT Policies Update Report
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1. PURPOSE OF REPORT

This report proposes the introduction of a replacement procedure and a new Paternity Leave Scheme to replace the existing one.

Retirement Policy and Procedure (Appendix 1)

It is proposed to introduce a retirement policy and procedure to replace the current Age Neutral Policy. This is in light of a change in legislation concerning the removal of the default retirement age and the introduction of ACAS guidance on working without the default retirement age.

Paternity Leave Scheme (Appendix 2)

It is proposed to introduce a new Paternity Leave Scheme to replace the existing Scheme to reflect a change in legislation - the introduction of the Additional Paternity Leave Regulations 2010 and the Additional Paternity Leave (Adoption from Overseas) Regulations 2010.

2. RECOMMENDATION(S)

The Committee is requested to:

- a) Approve the introduction of a retirement policy and procedure to replace the current Age Neutral Policy
- b) Approve the introduction of a new Paternity Leave Scheme to replace the existing scheme.

3. FINANCIAL IMPLICATIONS

There are financial implications with regard to the Paternity Leave Scheme. The employer can claim back 92% of the cost of any additional statutory paternity pay paid to an employee from the Government. Therefore, if the post is covered on a fixed term basis in the employee's absence, the cost would comprise 8% of any additional statutory paternity pay paid. If the post were

not covered (or partially covered through overtime working) then there would be a monetary saving for the Council, although a likely reduction in efficiency.

There are no financial implications in relation to the introduction of the Retirement Policy and Procedure.

4. OTHER IMPLICATIONS

It would be necessary to inform managers of the new Retirement policy and procedure to ensure compliance with the revised arrangements.

Paternity Leave Scheme

As additional paternity leave and pay is a statutory provision, the Council is required to implement the Regulations. The duration of additional paternity leave can be for up to 26 weeks. Therefore, it may be necessary for services to cover an employee's post whilst they are on additional paternity leave.

It would be necessary to communicate the existence of the additional paternity leave provision around the organisation to raise awareness of the provision and to ensure compliance with the new arrangements.

5. BACKGROUND/MAIN ISSUES

Retirement Policy and Procedure

Current Situation in the Council

The Council took the decision in 2003 to abolish the retirement age and introduced the 'Age Neutral Policy' which effectively provided a flexible retirement age. This gave employees the option to extend their employment beyond the 'normal' retirement age of 65 and be issued with a variation of contract to confirm the extension to their employment to a date the employee wished to retire on. A meeting was held with the employee one year in advance of their 65th birthday to discuss their intentions regarding retirement. Where an employee wished to retire, arrangements were put in place for that to occur. Where the employee wished to work on beyond 65, this was confirmed through a contract extension to the chosen date.

The purpose of the policy was to demonstrate that the Council had a positive approach to older people, valuing ability rather than age, consistent with the commitment to equality and diversity.

Change in Legislation and ACAS guidance

The law prior to 6 April 2011 allowed employers to retire employees at age 65. This was known as the Default Retirement Age (DRA) and was the same for men and women. Employees had the legal right to ask their employer to work past this date of retirement and the employer had to consider the request but were not required to agree to it.

The change in law is the phasing out of the DRA over the period from 6 April 2011 to 1 October 2011. Under the arrangements for abolishing the DRA, employers can only make employees retire using the DRA procedure if they have been notified of their retirement date before 6 April 2011 and reached the DRA of 65 by 30 September 2011. From 6 April 2011 employers will not be able to issue any notifications for compulsory retirement using the DRA procedure.

By abolishing the DRA, which fully occurs on 1 October 2011, this will mean that in most cases employees will be able to choose when to retire. After this date employers will not be able to use the DRA to compulsorily retire employees.

If an employer wishes to specify a retirement age from 1 October 2011 onwards, they will have to be able to demonstrate that this is 'objectively justified', however, the Government expects this to apply only in limited cases where retirements are an essential part of succession planning or necessary for health and safety reasons. 'Objective justification' would require a legitimate aim and appropriate evidence to demonstrate the means of achieving the aim was proportionate. If employers retain a retirement age they cannot justify, they risk claims for unfair dismissal and age discrimination.

An ACAS guide has been issued. It advocates a performance management approach and recommends having regular conversations, called 'work place discussions', with employees about future plans typically undertaken during annual appraisals.

Therefore, organisations will need to invest time in conducting and documenting performance reviews and will have to address poor performance consistently for all employees and set objectives that are not different for reasons of age.

Proposed Approach

A consultation was undertaken with Services as to whether the Council wished at this juncture to consider reintroducing a retirement age, if there was thought to be a business need for this and if it could be 'objectively justified' or whether it would wish to continue without a retirement age.

From the consultation, the general view of services was that the Council should not revert to having a retirement age and should continue with a policy of having a flexible retirement age. Since 2003 employees have had the option to work on beyond age 65 and this policy appears to have been effective and has not caused significant difficulties for the organisation. The 'Age Neutral' policy was considered enlightened at the time it was introduced. It demonstrated that the Council had a positive approach to the employment of older people and a commitment to having an age diverse workforce. It also showed that the organisation was tackling age discrimination in the workplace.

Reversing the policy and reverting to a retirement age would probably be viewed as a regressive step. As mentioned above, 'objective justification' requires legitimate and appropriate evidence to demonstrate the means of achieving the aim is proportionate. It would be difficult to 'objectively justify' having a retirement age and it would leave the organisation vulnerable to tribunal claims if any 'objective justification' defence was not robust, with there being very little case law at present to guide employers.

The 'Age Neutral' policy did, however, still require replacement, even though Services indicated that they did not wish to set a retirement age, as it was no longer fully compliant with the law and the ACAS guidance. For instance there would be no need for a meeting with the employee one year in advance of their 65th birthday this no longer being applicable nor would there be any need for contract extensions to be applied. The employee would in future simply give contractual notice when they wished to retire.

The attached policy and procedure was therefore compiled to replace the 'Age Neutral' policy and is a general paper covering retirement issues which reflects the advice detailed in the ACAS guide as well as the new legislation. It details a performance management approach, regardless of age, with regular discussions with employees about future plans undertaken at annual appraisals. It also details the procedure for retirement and pension arrangements for employees who are members of one of the pension schemes.

Paternity Leave Scheme

The Additional Paternity Leave Regulations 2010 and the Additional Paternity Leave (Adoption from Overseas) Regulations 2010 were introduced to provide additional paternity leave and pay to eligible fathers and husbands, partners and civil partners of mothers of children to be born on or after 3 April 2011 or adoptive parents who are notified of having been matched with a child (or in the case of overseas adoptions whose child enters Great Britain) on or after 3 April 2011.

The Regulations enable parents and adoptive parents to share a period of leave and pay between them following the birth or adoption of a child. They give new mothers or primary adopters the right to transfer part of their maternity leave or adoption leave to the father, husband, partner or civil partner, as well as a portion of their statutory maternity pay or statutory adoption pay, subject to certain conditions. This gives families greater flexibility in how they choose to look after their child.

An employee who qualifies for additional paternity leave may elect to take up to 26 weeks' additional paternity leave within the first year of the child's life, provided that the mother or primary adopter has returned to work.

The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born or placed for adoption and it must end no later than 52 weeks after that date. Eligible employees will be able to take a minimum of 2 weeks' and up to a maximum of 26 weeks' leave.

Various criteria require to be met in order to be eligible for additional paternity leave and additional statutory paternity pay. Full details of these are contained in the scheme document along with details of the process for applying for additional paternity leave.

The abovementioned Regulations are in addition to the existing statutory entitlement to paternity leave under the Paternity and Adoption Leave Regulations 2002 and the Paternity and Adoption Leave (Adoption from Overseas) Regulations 2003, which provide eligible fathers and partners with 2 weeks' statutory paternity leave, now to be known as ordinary paternity leave.

The Council has had a Paternity Leave Scheme in place since 2002. However, with the introduction of the new Regulations, it has been necessary to include the additional paternity leave and pay provisions in the scheme and make other necessary amendments to the document, including compiling a set of appendices comprising forms and letters to cover the various scenarios.

The attached amended scheme, therefore, incorporates the new statutory provisions, ensuring that the Council is compliant with the new legislation.

6. IMPACT

Retirement Policy and Procedure

The implementation of this new policy and procedure will have a limited impact on employees, with a flexible retirement age being retained and only contractual notice having to be given prior to retiring. There will be a focus on performance management for all employees regardless of age, with the format of the appraisal meeting changing to cover employees' future plans. An equalities impact assessment will be carried out in respect of the new policy and procedure.

Paternity Leave Scheme

The implementation of this statutory provision provides Council employees with an additional 'family friendly' condition of service giving them some flexibility in how they care for a child.

From an employer's perspective, although this provision will result in additional administration and the possible need to arrange for cover when an employee is on additional paternity leave, it may have the benefit of assisting in the retention of employees who would otherwise have left the organisation had this not been available. It is not expected that there will be wide scale take up of the provision, with additional statutory paternity pay in many cases only applying for part of the leave period. An equality impact assessment will be carried out on the policy and procedure.

7. TRADE UNION COMMENT

No comments were received from the trades unions.

8. BACKGROUND PAPERS

Retirement Policy and Procedure

The ACAS guidance on working without the default retirement age was referred to in the preparation of this report.

Paternity Leave Scheme

Referral to the employment section of the UK government website, www.direct.gov.uk

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ABERDEEN CITY COUNCIL

**MANAGING
RETIREMENT**

POLICY & PROCEDURE

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SECTION 1: INTRODUCTION

Policy statement

The Council does not operate a compulsory employee retirement age. It is committed to and recognises the contributions of a diverse workforce, including the skills, knowledge and experience older employees bring to an organisation. We are also of the view that employees should be permitted to continue working for as long as they wish to do so, provided they meet the performance standards required of their job.

SECTION 2: SCOPE AND PRINCIPLES

Scope

This policy covers all employees of the Council but does not apply to any casual or agency worker where a contract of employment does not exist.

Core principles

This policy complies with legislation concerning removal of the Default Retirement Age and the equality and diversity obligations in terms of age contained in the Equality Act 2010. The policy reflects the ACAS guidance on 'Working without the Default Retirement Age'.

Discussions with the employee on their future plans will normally take place annually at their appraisal meeting (or performance review and development meeting for teachers).

Any discussions with an employee about retirement will not result in any assumptions being made about an employee's commitment to the Council.

Any concerns about an employee's work performance will be addressed through the Managing Work Performance procedure, regardless of age.

Employees will be expected to co-operate with handover arrangements and in the transfer of knowledge and skills prior to their retirement.

Within the process special allowance will be made for employees whose first language is not English or who have difficulty expressing themselves.

SECTION 3: RETIREMENT IN GENERAL

Retirement is a stage in life when an individual ceases to work and chooses to do something different. For most people the decision to retire is influenced by their access to pension benefits, as most Council employees are in a pension scheme.

At times there will be a mutual interest for the Council, as the employer, requiring to increase its efficiency or reduce the size of the workforce, and the employee who may wish to retire early. In this situation the Council's voluntary severance/early retirement scheme will detail the arrangements and process that will apply, with an estimate of benefits issued where there was support for a case.

In addition, there is a facility for employees who are pension scheme members to apply for flexible retirement (phased retirement for teachers) where they can access their pension benefits but remain in employment. This provision allows the Council to retain experienced staff with valuable skills, albeit the employee must meet the conditions provided in the flexible retirement policy.

As well as the above, flexible working options in general are available to both pension scheme and non pension scheme members of any age, including older employees who may be nearing retirement. These options require management approval with details available from line managers or the HR Service Centre.

SECTION 4: RETIREMENT PROCESS AND OTHER ISSUES

Deciding to Retire

Where an employee decides that they wish to retire, they should inform their line manager as far in advance as possible and in all cases put their decision in writing in accordance with their notice period as set out in their contract of employment. Following the written notification of the employee's decision to retire a meeting should be organised to discuss and plan the arrangements for retirement.

Discussing Future Plans

It is important that the employee's future plans and work aspirations are discussed on a regular basis. The Council's appraisal scheme (or performance review and development process for teachers) is the setting where such discussions will take place. The ACAS guidance promotes "open discussions between employers and employees about future plans ... can help facilitate the transition from work to retirement."

An appraisal must not take any account of the age of the employee, however, it is the opportunity to look ahead and may involve a discussion about where they see themselves in the organisation in the future. Such a discussion may lead to a conversation about retirement, if the employee suggests this, but it should not result in any assumptions being made about the employee's commitment to the Council.

In short, the Council seeks to retain the best talent, including older employees, with such discussions being an opportunity for both the line manager and the employee to plan jointly for the future.

Performance Management

Any issues and concerns about an employee's work performance, regardless of age, will be addressed through the Council's Managing Work Performance policy. No assumptions should be made about an employee's performance in relation to their age.

All employees have a contractual duty to perform to the required standards. The Managing Work Performance policy provides a framework to ensure that employees who fall below the required level of performance are managed in a fair and consistent manner through early intervention. The procedure ensures that the employee is informed of any concerns with their performance and provided with reasonable time and support to meet the required standards. They will also be informed of the consequences of a failure to improve.

Pension Arrangements and Benefits

There are two pension schemes operating in the Council, the Local Government Pension Scheme (LGPS), available to all employees except teachers and the Scottish Teachers Superannuation Scheme (STSS) available to teachers, with separate rules and regulations applying to each.

Scheme members who have decided to retire on a specified date may request an estimate of benefits. General information on the schemes and benefits is also available at the contact addresses and numbers detailed below:

1. For ALL employees except teachers (LGPS)

The **North East Scotland Pension Fund's** website states:

"You can contact the Pension Fund by emailing the [Pensions Section](#); by calling the Helpdesk on 01224 814949; or by coming to our offices in Balgownie One in Bridge of Don, Aberdeen between 9 a.m. and 5 p.m., Monday to Friday. No appointment is necessary, but please call the Helpdesk first if there is a particular officer you would like to speak to."

The web-site address for this scheme is <http://www.nespf.org.uk>

Please note that NESPF cannot give advice on other pension arrangements or on the State Pension.

2. For Teachers (STSS)

The **Scottish Public Pension Authority** website provides the following contact details:

Scottish Teachers Superannuation Scheme - to contact the STSS (administered by the SPPA) dial 01896 893000.

Alternatively, you can write to us at:

Scottish Public Pensions Agency
7 Tweedside Park
Tweedbank
Galashiels
TD1 3TE

Web-site address <http://www.sppa.gov.uk/>

Retirement provisions of recognised pension schemes

Within the LGPS and the STSS there are a variety of differing provisions which detail ways staff can retire and/or access their pension benefits. The provisions of the schemes differ so it is important to check with the particular scheme as some of the following options may not apply to both schemes. Some examples of the provisions of the schemes are:

- Flexible retirement
- Ill-health retirement
- Winding down
- Phased retirement
- Actuarially reduced pension benefits
- Rule of 85.

Employees not in a pension scheme recognised by the Council

Where an employee is not in one of the pension schemes recognised by the Council (ie LGPS or STSS) and decides that they wish to retire, this should be progressed in accordance with the notice provision of the person's contract of employment. The employee should be treated in the same way as a colleague in the pension scheme, as detailed in this procedure, having a discussion on future plans as part of their annual appraisal (or performance review and development for teachers).

SECTION 5: REVIEW OF THE POLICY

The Human Resources and Organisational Development Service will review this policy every 3 years. It will, nevertheless, be subject to continual review and amendment in light of experience of its operation, employment best practice and statutory requirements. Changes will only be made following normal consultation arrangements.



LOCAL CONDITION OF SERVICE

PATERNITY LEAVE SCHEME

1.0 INTRODUCTION

- 1.1 The provisions in this paper apply to all employees in the Council excluding teachers, who have a separate paternity leave provision contained in the SNCT conditions.
- 1.2 The right to ordinary paternity leave arises under the Paternity and Adoption Leave Regulations 2002 and the Paternity and Adoption Leave (Adoption from Overseas) Regulations 2003. Ordinary paternity leave and pay for births is detailed in section 2.0 below and ordinary paternity leave and pay for adoptions in section 3.0.
- 1.3 The right to additional paternity leave arises under the Additional Paternity Leave Regulations 2010 and the Additional Paternity Leave (Adoption from Overseas) Regulations 2010. Additional paternity leave and pay for births is detailed in section 4.0 below and additional paternity leave and pay for adoptions in section 5.0.

2.0 ORDINARY PATERNITY LEAVE AND PAY (FOR BIRTHS)

- 2.1 Ordinary paternity leave applies to all employees of the Council (except casual and relief workers), irrespective of hours of work and length of service.
- 2.2 Ordinary paternity leave is available to a baby's father, or the partner or nominated carer of an expectant mother, at or around the time of the birth.
- 2.3 The baby's father, or partner or nominated carer of the expectant mother, must be an employee of the Council and only one of the foregoing may be granted ordinary paternity leave in relation to any one pregnancy. A partner is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative.
- 2.4 A 'nominated carer' is a person nominated by the mother to assist in the care of the baby and to provide support to the mother at or around the time of the birth.
- 2.5 If an employee applies for ordinary paternity leave on the basis of being a 'nominated carer' then they require to detail on the request form why they have been chosen by the mother to fulfill this role including details as to why the father/partner is unable to provide such support.
- 2.6 Ordinary paternity leave can be taken as either one week or two consecutive weeks but not odd days.
- 2.7 Ordinary paternity leave requires to be taken at or around the time of the birth and must be within 56 days of the actual date of birth of the child or, if the

child is born earlier than expected, between the birth and 56 days from the first day of the expected week of birth.

- 2.8 If time off is requested to attend the birth of the baby, then this time off will not be regarded as part of the ordinary paternity leave period. Instead, time off to attend the birth will be granted for up to a period of 24 hours and will be classed as special leave.
- 2.9 Ordinary paternity leave is with pay at the normal contractual rate of pay for the job (pro-rata for part-timers and job sharers) unless the normal rate of pay is below the rate of Statutory Paternity Pay (SPP), in which circumstance the statutory rate will be paid provided that all of the following are met:
- (i) the employee's average weekly earnings are above the Lower Earnings Limit for National Insurance Contribution purposes; and
 - (ii) the employee has 26 weeks' continuous service ending with the 15th week before the baby is due; and
 - (iii) ordinary paternity leave commences in accordance with the following:
 - (a) on the date of the baby's birth (whether this is earlier or later than expected); or
 - (b) from a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected); or
 - (c) from a chosen date later than the first day of the week in which the baby is expected to be born.

Please note that where the employee does not meet all of the above mentioned qualifying criteria for SPP, they will be paid their normal contractual pay during their ordinary paternity leave period.

Note: SPP is not payable to a 'nominated carer' and consequently contractual pay will apply.

- 2.10 Where applicable, pension contributions will continue to be payable by the employee during their period of ordinary paternity leave on the actual pay they receive, with pension service counted as normal.
- 2.11 Ordinary paternity leave will still be available should a child be stillborn after 24 weeks of pregnancy. If the baby is born alive at any point in the pregnancy but dies later, the employee will be entitled to paid ordinary paternity leave in the usual way.
- 2.12 Notification of an employee's intention to take ordinary paternity leave should be submitted in writing to the employee's line manager by the end of the 15th week before the baby is expected (or as soon as is reasonably practicable) using the notification for ordinary paternity leave form (Appendix 1), together with documentary evidence of the expectant mother's pregnancy e.g. photocopy of MAT B1 Certificate of Pregnancy or a letter from the midwife. This is to enable the Service to plan for the employee's period of leave. The line manager will arrange for the form to be acknowledged by the HR Service Centre in writing (see letter at Appendix 2).

- 2.13 Applications for ordinary paternity leave (Appendix 3) must be submitted to the line manager as early as possible, but at least 28 days prior to the expected date of childbirth, unless this is not reasonably practicable. Applicants should bear in mind the operational needs of their Section/Service and give their line manager as much advance notice as is practicable, particularly if they wish to combine this time off with a period of annual leave, to allow for the necessary arrangements to be made to cover their leave period. The line manager will arrange for the HR Service Centre to write to the employee to confirm their ordinary paternity leave (see letter at Appendix 4).

Note: Employees can change their mind about the date on which they want their leave to start providing they tell their line manager at least 28 days in advance, unless this is not reasonably practicable.

- 2.14 Employees are not entitled to payment in lieu where they elect to take only one week's ordinary paternity leave.
- 2.15 If the expectant mother is expecting more than one baby, then the entitlement to ordinary paternity leave is the same as if she were expecting only one baby.
- 2.16 During ordinary paternity leave all the employee's contractual conditions of employment will continue.
- 2.17 Employees will be entitled to return to the same job following the ordinary paternity leave.

3.0 ORDINARY PATERNITY LEAVE AND PAY (FOR ADOPTIONS)

- 3.1 Following the placement of the child for adoption, employees (except casual and relief workers) have the right to take ordinary paternity leave to support the primary adopter, irrespective of hours of work and length of service. (Please note that teachers have a separate paternity leave provision contained in the SNCT Conditions of Service.)
- 3.2 Ordinary paternity leave is available to the adopter's spouse or partner who must have, or expect to have, responsibility for the child's upbringing.
- 3.3 Ordinary paternity leave can be taken as either one week or two consecutive weeks but not odd days.
- 3.4 Ordinary paternity leave requires to be taken at or around the time of the placement of the child and must be within 56 days of the placement of the child.
- 3.5 Ordinary paternity leave is with pay at the normal contractual rate of pay for the job (pro-rata for part-timers and job sharers) unless the normal rate of pay is below the rate of Statutory Paternity Pay (SPP), in which circumstance the statutory rate will be paid provided that all of the following are met:

- (i) the employee's average weekly earnings are above the lower earnings limit for national insurance contribution purposes; and
- (ii) the employee has 26 weeks' continuous service ending with the 15th week before the week in which the employee was notified of having been matched with the child; and
- (iii) ordinary paternity leave commences in accordance with the following:
 - (a) on the date of the child's placement (whether this is earlier or later than expected); or
 - (b) on a chosen number of days or week after the date of the child's placement (whether this is earlier or later than expected); or
 - (c) on a chosen date which is later than the date on which the child is expected to be placed with the adopter.

Please note that where the employee does not meet all of the above mentioned qualifying criteria for SPP, they will be paid their normal contractual pay during their ordinary paternity leave period.

- 3.6 Where applicable, pension contributions will continue to be payable by the employee during their period of ordinary paternity leave on the actual pay they receive, with pension service counted as normal.
 - 3.7 Notification of an employee's intention to take ordinary paternity leave should be submitted in writing to the employee's line manager within 7 days of the adopter being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable, using the notification of ordinary paternity leave form (Appendix 1) together with documentary evidence of the adoption e.g. photocopy of Matching Certificate or other appropriate documentary evidence confirming the match. This is to enable the Service to plan for the employee's period of leave. The line manager will arrange for the form to be acknowledged by the HR Service Centre in writing (see letter at Appendix 2).
 - 3.8 Applications for ordinary paternity leave (Appendix 5) must be submitted to the line manager as early as possible, but at least 28 days prior to the expected date of placement of the child, unless this is not reasonably practicable. Applicants should bear in mind the operational needs of their Section/Service and give their line manager as much advance notice as is practicable, particularly if they wish to combine this time off with a period of annual leave, to allow for the necessary arrangements to be made to cover their leave period. The line manager will arrange for the HR Service Centre to write to the employee to confirm their ordinary paternity leave (see letter at Appendix 4).
- Note:** Employees can change their mind about the date on which they want their leave to start providing they tell their line manager at least 28 days in advance, unless this is not reasonably practicable.
- 3.9 Employees are not entitled to payment in lieu where they elect to take only one week's ordinary paternity leave.
 - 3.10 Only one period of leave will be available to employees irrespective of whether more than one child is placed together.

- 3.11 During the ordinary paternity leave all the employee's contractual conditions of employment will continue.
- 3.12 Employees will be entitled to return to the same job following ordinary paternity leave.

4.0 ADDITIONAL PATERNITY LEAVE AND PAY (FOR BIRTHS)

- 4.1 The Additional Paternity Leave Regulations 2010 provide additional paternity leave and pay to eligible fathers of a child due on or after 3 April 2011 or husbands, partners and civil partners of mothers of children due to be born on or after 3 April 2011.

The Regulations enable parents to share a period of leave and pay between them following the birth of a child by giving new mothers the right to transfer part of their maternity leave to the father/husband/partner/civil partner as well as a portion of their statutory maternity pay, subject to certain conditions. This gives families greater flexibility in how they choose to look after their child.

- 4.2 An employee who qualifies for additional paternity leave may elect to take up to 26 weeks' additional paternity leave within the first year of the child's life provided that the mother has returned to work.
- 4.3 The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born and it must end no later than 52 weeks after the date on which the child is born. Additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.
- 4.4 An employee may take just one period of additional paternity leave per pregnancy, regardless of the number of children born as a result of the pregnancy.
- 4.5 An employee must meet all of the criteria below in order to be eligible for additional paternity leave:
- a) The employee must be the biological father of the child or the mother's husband, partner or civil partner. A partner is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative. In addition, the employee must expect to have the main responsibility for the upbringing of the child (apart from the mother's responsibility) and must be taking the leave to care for the child.
 - b) The employee must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born.
 - c) The employee must remain in continuous employment with the Council until the week before the first week of additional paternity leave.
 - d) The employee must be the only person exercising the entitlement to additional paternity leave in respect of the child.
 - e) The mother must be entitled to one or more of statutory maternity leave, statutory maternity pay or maternity allowance and the mother must have

returned to work (and where claiming additional statutory paternity pay, forfeited a portion of statutory maternity pay or maternity allowance).

4.6 The process for applying for additional paternity leave is as follows:

- a) The employee must give written notice of their intention to take additional paternity leave to their line manager at least eight weeks before the chosen start date. The written notice specifies the date the child was expected to be born and the actual date of birth and the intended start date and end date of additional paternity leave. The employee must also make a signed declaration stating that the purpose of the period of leave is to care for the child and that they satisfy the relationship eligibility conditions for additional paternity leave. The additional paternity leave application form (Appendix 6) is completed by the employee giving the notice and includes the employee declaration. In addition, the employee must also submit a mother's declaration form (see Appendix 7) and return this to their line manager at least eight weeks before the chosen start date of leave.
- b) Within 28 days of the employee giving notice of intention to take additional paternity leave, the line manager will arrange for the HR Service Centre to write to the employee (letter at Appendix 8) to acknowledge receipt of the additional paternity leave application form and mother's declaration form and to request the information below, which the employee must produce within 28 days:
 - (i) a copy of the child's birth certificate; and
 - (ii) the name and business address of the mother's employer (or self-employed business address).

4.7 On receipt of the mother's declaration form at 4.6a), the line manager will arrange for the HR Service Centre to write to the mother's employer to verify the information contained within the mother's declaration form using the relevant standard letter (see Appendix 9).

4.8 Once an employee has provided proper notification of their application to take additional paternity leave (and pay where applicable) and it has been determined that the employee is eligible, the line manager will arrange for the HR Service Centre to respond in writing within 28 days acknowledging the employee's intentions and confirming the relevant start and end dates of additional paternity leave (and pay where applicable) (see letter at Appendix 10). A response should also have been received from the mother's employer following 4.7 above.

4.9 If the employee subsequently wishes to change the date on which they are starting or ending additional paternity leave (whether the new date is earlier or later than the date originally notified), or wishes to cancel their additional paternity leave altogether, they must give their line manager written notice before the earlier of six weeks before the date cancelled or changed or six weeks before the new date (see relevant forms at Appendices 11 and 12). The above would be acknowledged in writing (see relevant letters at Appendices 13 and 14).

- 4.10 Additional paternity leave normally commences on the start date specified in the employee's leave notice, or in any subsequent notice. A mother and father (or husband, partner or civil partner) cannot take maternity leave and additional paternity leave, respectively, at the same time.
- 4.11 The proportion of annual leave accrued prior to the start date of the additional paternity leave should be taken prior to the leave commencing. Employees continue to accrue annual leave whilst on additional paternity leave and this will be granted upon return to work subject to operational requirements and in accordance with normal leave arrangements.
- 4.12 The employee can work up to 10 "keeping-in-touch" days during their additional paternity leave but only where both the line manager and the employee agree to this. These days could be used for training or other events with a maximum of two days taken in any one week. The employee will be paid paternity pay (where they qualify) plus any additional monies to make this up to their normal contractual rate of pay for these days.
- 4.13 If an employee wishes to return to work early from additional paternity leave, they must notify their line manager at least six weeks before the new date on which they wish to return to work (see relevant form at Appendix 15). The letter at Appendix 16 is used to acknowledge the early return.
- 4.14 The line manager can maintain 'reasonable contact' with employees during their additional paternity leave to keep them up-to-date with any workplace developments during their period of leave. The line manager will agree with the employee before commencing additional paternity leave how contact will be maintained and how often.
- 4.15 All terms and conditions of the employee's contract, except remuneration, will be continued during additional paternity leave.
- 4.16 Employees are entitled to return to the same job on the same terms and conditions in which they were employed prior to additional paternity leave.
- 4.17 Pension contributions will continue to be payable on any additional paternity pay actually received by the employee. For any unpaid additional paternity leave, the employee can make an election in writing to the Council's Pensions Section within 30 days of reinstatement to the payroll to pay unpaid pension contributions.
- 4.18 Eligible employees will be entitled to additional statutory paternity pay during some of the additional paternity leave period, if taken during what would have been the mother's maternity pay period. The remaining period of additional paternity leave would be unpaid. The standard weekly rate for additional statutory paternity pay would apply, unless the employee's earnings are lower than this, in which case 90% of normal weekly earnings will be paid.
- 4.19 In order to be eligible for additional statutory paternity pay an employee must satisfy the following criteria:

- a) The employee's average weekly earnings for the period of eight weeks ending with the qualifying week must not be lower than the lower earnings limit for national insurance contributions.
- b) The mother must be entitled to statutory maternity pay or maternity allowance and must have returned to work before her full entitlement of 39 weeks' statutory maternity pay or maternity allowance has been exhausted.
- c) The mother must have at least two weeks of her maternity pay period remaining unexpired, with additional statutory paternity pay only payable for the remainder of the mother's untaken statutory maternity pay/maternity allowance period.

5.0 ADDITIONAL PATERNITY LEAVE AND PAY (FOR ADOPTIONS)

- 5.1 The Additional Paternity Leave Regulations 2010 provide additional paternity leave and pay to adoptive parents who are notified of having been matched with a child (or in the case of overseas adoptions whose child enters Great Britain) on or after 3 April 2011.

The Regulations enable adoptive parents to share a period of leave and pay between them following the adoption of a child by giving the primary adopter the right to transfer part of their adoption leave entitlement to their spouse, partner or civil partner as well as a portion of their statutory adoption pay, subject to certain conditions. This gives families greater flexibility in how they choose to look after the child.

- 5.2 An employee who qualifies for additional paternity leave may elect to take up to 26 weeks' additional paternity leave within the first year of placement for adoption (or entry to Great Britain in the case of overseas adoptions) provided that the primary adopter has returned to work.
- 5.3 The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is placed for adoption and it must end no later than 52 weeks after the date on which the child is placed for adoption. Additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.
- 5.4 An employee may take just one period of additional paternity leave per adoption, regardless of the number of children adopted.
- 5.5 An employee must meet all of the criteria below in order to be eligible for additional paternity leave:
- a) The employee must be the spouse, partner or civil partner of the primary adopter of the child. A partner is someone who lives with the primary adopter in an enduring family relationship but is not an immediate relative. In addition, the employee must expect to have the main responsibility for the upbringing of the child (apart from the primary adopter's responsibility) and must be taking the leave to care for the child.

- b) The employee must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born.
- c) The employee must remain in continuous employment with the Council until the week of being notified that they have been matched with the child when adopting within the UK (the date the adopted child enters Great Britain when adopting from overseas).
- d) The employee must be the only person exercising the entitlement to additional paternity leave in respect of the child.
- e) The primary adopter must be entitled to one or more of statutory adoption leave and statutory adoption pay and must have returned to work (and where claiming additional statutory paternity pay forfeited a portion of statutory adoption pay).

5.6 The process for applying for additional paternity leave is as follows:

- a) The employee must give written notice of their intention to take additional paternity leave to their line manager at least eight weeks before the chosen start date. The written notice specifies the date on which the employee was notified of having been matched with the child and the date of placement for adoption and the intended start date and end date of additional paternity leave. The employee must also make a signed declaration stating that the purpose of the period of leave is to care for the child and that they satisfy the relationship eligibility conditions for additional paternity leave. The additional paternity leave application form (see Appendix 17 for UK adoptions and Appendix 18 for Overseas adoptions) is completed by the employee giving notice and includes the employee declaration. In addition the employee must also submit an adopter declaration form (see Appendix 19) and return this to their line manager at least eight weeks before the chosen start date of leave.
- b) Within 28 days of the employee giving notice of intention to take additional paternity leave the line manager will arrange for the HR Service Centre to write to the employee (letter at Appendix 20 UK adoptions and Appendix 21 Overseas adoptions) to acknowledge receipt of the additional paternity leave application form and adopter declaration form and to request the information below, which the employee must produce within 28 days:
 - i. evidence (in the form of documents issued by the adoption agency) of the name and address of the adoption agency, the date on which the employee was notified of having been matched with the child and the date on which the agency expects to place the child for adoption; and
 - ii. the name and business address of the primary adopter's employer (or self-employed business address).

5.7 On receipt of the adopter declaration form at 5.6a) above, the line manager will arrange for the HR Service Centre to write to the primary adopter's employer to verify the information contained within the partner declaration form using the relevant standard letter (see Appendix 9).

5.8 Once an employee has provided proper notification of their application to take additional paternity leave (and pay where applicable), and it has been determined that the employee is eligible, the line manager will arrange for the

HR Service Centre to respond in writing within the next 28 days acknowledging the employee's intentions and confirming the relevant start and end dates of additional paternity leave (and pay where applicable) (see letter at Appendix 10). A response should also have been received from the primary adopter's employer following 5.7 above.

- 5.9 If the employee subsequently wishes to change the date on which they are starting or ending additional paternity leave (whether the new date is earlier or later than the date originally notified), or wishes to cancel their additional paternity leave altogether, they must give their line manager written notice before the earlier of six weeks before the date cancelled or changed or six weeks before the new date (see relevant forms at Appendices 11 and 12). The above would be acknowledged in writing (see relevant letters at Appendices 13 and 14).
- 5.10 Additional paternity leave normally commences on the start date specified in the employee's leave notice or in any subsequent notice. A primary adopter and spouse (or partner or civil partner) cannot take adoption leave and additional paternity leave, respectively, at the same time.
- 5.11 The proportion of annual leave accrued prior to the start date of the additional paternity leave should be taken prior to the leave commencing. Employees continue to accrue annual leave whilst on additional paternity leave and this will be granted upon return to work, subject to operational requirements and in accordance with normal leave arrangements.
- 5.12 The employee can work up to 10 "keeping-in-touch" days during their additional paternity leave but only where both the line manager and the employee agree to this. These days could be used for training or other events, with a maximum of two days taken in any one week. The employee will be paid paternity pay (where they qualify) plus any additional monies to make this up to their normal contractual rate of pay for these days.
- 5.13 If an employee wishes to return to work early from additional paternity leave they must notify their line manager at least 6 weeks before the new date on which they wish to return to work (see relevant form at Appendix 15). The letter at Appendix 16 is used to acknowledge the early return.
- 5.14 The line manager can maintain 'reasonable contact' with employees during their additional paternity leave to keep them up to date with any workplace developments during their period of leave. The line manager will agree with the employee before commencing additional paternity leave how contact will be maintained and how often.
- 5.15 All terms and conditions of the employee's contract, except remuneration, will be continued during Additional Paternity Leave.
- 5.16 Employees are entitled to return to the same job on the same terms and conditions in which they were employed prior to additional paternity leave.
- 5.17 Pension contributions will continue to be payable on any additional paternity pay actually received by the employee. For any unpaid additional paternity

leave, the employee can make an election in writing to the Council's Pensions Section within 30 days of reinstatement to the payroll to pay unpaid pension contributions.

- 5.18 Eligible employees will be entitled to additional statutory paternity pay during some of the additional paternity leave period if taken during what would have been the primary adopter's adoption pay period. The remaining period of additional paternity leave will be unpaid. The standard weekly rate for additional statutory paternity pay will apply, unless the employee's earnings are lower than this, in which case 90% of normal weekly earnings are paid.
- 5.19 In order to be eligible for additional statutory paternity pay an employee must satisfy the following criteria:
- a) Their average weekly earnings for the period of eight weeks ending with the qualifying week must not be lower than the lower earnings limit for national insurance contributions.
 - b) The primary adopter must be entitled to statutory adoption pay and must have returned to work before their full entitlement of 39 weeks' statutory adoption pay has been exhausted.
 - c) The primary adopter must have at least two weeks of their adoption pay period remaining unexpired, with additional statutory paternity pay only payable for the remainder of the primary adopter's untaken statutory adoption pay period.

6.0 SUMMARY OF ADMINISTRATIVE ARRANGEMENTS

6.1 Ordinary Paternity Leave

The HR Service Centre will provide advice on ordinary paternity leave where necessary.

- a) Line managers will arrange through the HR Service Centre:
 - (i) for the issue of ordinary paternity leave notification forms and application forms and the scheme document to employees on request;
 - (ii) the acknowledgement of receipt of the notification form;
 - (iii) on receipt of a completed application form, a check on whether the employee is eligible for the leave and whether they have applied in line with the scheme;
 - (iv) to determine whether the employee should be paid their normal contractual pay or Statutory Paternity Pay (SPP);
 - (v) to confirm to the employee in writing their leave dates and specify payment details (whether they are paid contractual pay or SPP); and
 - (vi) to send the application form to the Payroll Section once verified and checked along with a copy of the letter to the employee (a copy of both to be placed in the employee's personal file).
- b) Employees will:

- (i) notify their manager in writing using the standard form of their intention to take ordinary paternity leave;
- (ii) complete and return an ordinary paternity leave application form within the specified timescales, where reasonably practicable; and
- (iii) give sufficient warning where they wish to change their leave dates, where reasonably practicable.

6.2 Additional Paternity Leave

The HR Service Centre will provide advice on additional paternity leave where necessary.

- a) Line managers will arrange through the HR Service Centre:
 - (i) for the issue of additional paternity leave application forms and the scheme document to employees on request;
 - (ii) the acknowledgement of the application form and mother/adopter declaration form within 28 days of receipt, requesting a copy of the relevant documentation i.e. the child's birth/matching certificate (whichever applies), the name and address of the mother's/partner's/primary adopter's employer or, if they are self-employed, their business address;
 - (iii) to write to the mother's/partner's/primary adopter's employer to confirm that maternity/adoption leave details are correct (whichever applies);
 - (iv) on receipt of the completed documents, to check whether the employee is eligible for the leave and whether they have applied in line with the scheme;
 - (v) to determine whether the employee is entitled to additional statutory paternity pay (ASPP); and
 - (vi) to confirm in writing that the employee is eligible to take additional paternity leave as requested.

- b) Employees will:
 - (i) submit their application for additional paternity leave using the standard form giving at least eight weeks' notice of their intention to take leave, indicating what date the baby is due or the date the child will be placed for adoption (whichever applies), along with the dates when the additional paternity leave is due to begin and end and declaring that they meet the relevant eligibility criteria; at the same time the employee will submit a mother or adopter declaration form, as appropriate;
 - (ii) submit a copy of the child's birth certificate confirming the date of birth or when the child is placed for adoption, along with other relevant adoption information as necessary (whichever applies);
 - (iii) submit the name and address of their spouse's or partner's employer or, if he/she is self-employed, his/her business address;
 - (iv) notify their line manager of any changes of planned dates for additional paternity leave, including the planned return to work date, giving at least six weeks' notice; and
 - (v) inform their line manager if their circumstances change e.g. if their partner has decided not to return to work.