

ADVISORY NOTE

PARENTAL LEAVE

Note	Before 5 April 2015, Parental Leave was allowed to be taken up to the child's 8 th birthday or placement anniversary. Parental Leave can now be taken up to <u>the child's 18th birthday or placement anniversary.</u>
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The responsibility for assessing and granting parental leave to employees lies with Line Managers and Supervisors.

People and Culture, however, will be the main source for information on the procedure for authorising requests and for ensuring that the appropriate recording requirements are completed. In addition, they may be called upon for advice on whether an employee is entitled to parental leave.

Parental leave is not discretionary - employees have a statutory entitlement to unpaid time off work which relates to the welfare of their child(ren).

This Advisory Note should be read in conjunction with the [Advisory Note on Special Leave Provisions](#).

WHAT PARENTAL LEAVE IS

Parental leave is leave relating to the welfare of the child. It is a short or long period of leave, which is always planned in advance in line with the required notice periods as outlined in the provisions.

It differs from "emergency" leave, for which separate provisions exist, which is designed to respond to short term emergency situations which require immediate attention, such as the sudden illness of a child, difficulties at school, or where care arrangements fail.

Parental leave can be taken in addition to the other types of family leave, such as adoption, maternity support, carer and maternity leave. However, employees should note the different notice requirements for each type of leave.

QUALIFYING CONDITIONS

For an employee to be entitled to parental leave, he/she must meet certain qualifying conditions. The flow chart, Appendix 1, will assist you to determine what, if any, leave the employee is entitled to. To calculate actual entitlement to parental leave, see [Calculating Parental Leave Entitlement](#) below.

In addition, before approving parental leave, the Line Manager must verify and record, by way of a copy, on the employee's file:

(a) The date of birth or adoption placement of the employee's child. This should be verified with the original birth certificate or document detailing the adoption placement, and a copy kept on file. This is to ensure the child was born or placed for adoption on or after 15 December 1994, and to establish the 18th birthday of the child, or, if the child is adopted, the 18th anniversary from the date of adoption placement.

(b) Proof that the employee has parental responsibility for the child. Parental responsibility should be verified against any one of the following documents:

- i) Information on the child's birth certificate.
- ii) Papers confirming the adoption and the date of adoption placement, i.e. the adoption order or letter from the Agency who placed the child.
- iii) A parental responsibilities order or parental responsibilities agreement.
- iv) Papers confirming the employee is a formally appointed guardian of the child.
- v) Written proof from a Head Teacher, General Practitioner, Social Worker, or other appropriate person, that the employee has parental responsibility for the child.

If an employee has proof of parental responsibility other than that listed here, you should verify this with People and Culture prior to approving leave. If the employee has no proof of parental responsibility, you may wish to refer them to Social Work Services for advice.

(c) Proof that the child is disabled. This should be verified against documentation that shows the child is in receipt of the disability living allowance.

If the child is not in receipt of the disability living allowance, a letter from the child's General Practitioner should be requested from the employee, indicating why additional leave should be granted. Where the child is not in receipt of disability living allowance additional leave will be at the discretion of the Strategic Lead.

If an employee has proof of disability other than the above, then you should verify this with People and Culture prior to approving leave.

Note 1: *Under the Parental Leave Regulations, it is reasonable to request the above information prior to approving parental leave for the first time, for each child. It is not necessary to request this every time an employee submits an application for parental leave.*

Note 2: *Under the Parental Leave (Amendment) Regulations 2001 and the Parental Leave (EU Directive) Regulations 2013, employees with children born or placed for adoption between 15 December 1994 and 15 December 1999 are now entitled to 18 weeks' parental leave. To effect this change, employees in this situation who wish to take parental leave must take the parental leave up to the child's 18th birthday.*

PROCEDURE FOR REQUESTING, APPROVING AND POSTPONING LEAVE

1. Requests for Parental Leave should be made by the employee on the [Application for Parental Leave form](#) and this should be approved by the Strategic Lead or nominated officer, subject to the employee meeting the qualifying conditions set out above.

Note: *Parental leave taken with another employer will count towards the 18 weeks' entitlement. If there is a question over the amount of parental leave an employee may have already taken with a previous or other employer(s) then it may be necessary to contact the employee's previous employer(s) for verification of parental leave already taken. This should be carried out prior to approving parental leave.*

2. If the leave requested is approved, then you should advise the employee in writing and confirm that the leave is unpaid. This can be done using a letter or by issuing an amendment to contract, where a temporary amendment to working hours has been agreed. This correspondence should be copied to the Employment Services Team in all cases, as this is the notification to make a deduction from pay of the amount of leave stated in the letter; therefore it is important that it states clearly that the leave is unpaid.

3. If it is not possible for the leave to be taken when requested, the employee should be notified of this in writing within 7 days of their application for leave, giving reasons why and alternative dates when the leave can be taken. *In any event, the leave must be given within a 6 month period from the original date parental leave was to start.*

Note: *The Regulations clearly state that parental leave can only be postponed when the business will be adversely affected by the absence of the employee on parental leave. The types of occasions that would justify postponing leave are if the work is at a seasonal peak, where a significant proportion of employees apply for parental leave at the same time, or when the employee's role is such that his/her absence, at a particular time, would harm service provision.*

Line Managers must consider carefully if they are thinking of postponing leave as the leave cannot be refused, it can only be postponed and must be given within a 6 month period from the original date parental leave was to start. Instead, Line Managers should consider how they can cover the impact of the parental leave by considering which of the various options for taking parental leave best suits the needs of the Service and the employee.

NEW EMPLOYEES

Parental Leave is a day one right.

Parental leave is not pro-rated against the age of the child, when the employee joins the Council. For example, if an employee joins the Council with a 6 year old child and they meet all the conditions for parental leave and have not taken any leave with a previous or other employer(s) since 15 December 1999, he/she will be entitled to 18 weeks' leave, or 26 weeks if the child is disabled or has special needs.

CALCULATING PARENTAL LEAVE ENTITLEMENT

Calculating entitlement to parental leave depends on the weekly working hours and working pattern of the employee, under his/her contract of employment. Entitlement can be worked out in weeks or days. Part-time and job share workers are entitled to pro-rated leave, which can be taken in hours.

Appendix 2 outlines how to calculate parental leave entitlement, including for part-time and job share workers.

If you have difficulty calculating an employee's entitlement, please contact Employee Support for further advice.

APPORTIONING PAY DURING LONGER PERIODS OF LEAVE

Where a Line Manager has approved a period of parental leave in excess of 4 weeks at any one time, the employee can request that the Head of Finance considers apportioning their pay over the pay periods surrounding and including the period of parental leave (usually over 3 months). If any requests of this nature are received, you should contact Human Resources who will advise you whether this is possible and what the arrangements for pay would be. These arrangements would be confirmed with the employee.

RECORD KEEPING

All parental leave taken must be recorded in the same way as other special leave (see [Advisory Note on Special Leave Provisions](#)). In summary, all leave should be recorded in the employee's personal file. A copy of all correspondence and associated documentation should be retained on personal file. Any changes which affect pay must be notified to the Employment and Payroll Services Team by sending copies of correspondence.

A running balance of parental leave should be recorded on the employee's file. The [Parental Leave Recording Form](#) can be used to record the entitlement and running balance, for each child.

Appendix 1 ([back](#))

ASSESSING ENTITLEMENT TO PARENTAL LEAVE

Was the child for whom the parental leave is being requested, born or being adopted on or after 15 December 1994?	_____ No _____	No entitlement if child was born before 15 December 1994
 Yes 		
Is the child under 18 years old?	_____ No _____	No entitlement if child is over 18
 Yes 		
Does the employee have parental responsibility for the child?	_____ No _____	No entitlement if employee does not have parental responsibility.
 Yes 		
The employee has an entitlement to parental leave unless it has been exhausted with a previous or other employer(s). If there is a question over parental leave already taken this should be verified before approving parental leave. Is the child disabled?	_____ No _____	Entitlement is 18 weeks unpaid leave for each child, to be taken by the child's 18 th birthday.
 Yes 		
Entitlement is 26 weeks unpaid leave which can be taken up to the child's 18 th birthday		

CALCULATING PARENTAL LEAVE ENTITLEMENT

Parental leave is calculated on the weekly working hours and the working pattern of the employee, under his/her contract of employment.

Depending on this, the entitlement is calculated in weeks, days or hours. You should choose the most suitable method to the employee's working pattern.

Full-Time Employees Working any 5 Days from 7 Days

Parental leave entitlement is 18 weeks or 90 days.

Example 1, an employee working 36 hours per week, Monday to Friday, who takes 3 days' parental leave will have their entitlement reduced from 90 to 87 days.

Part-Time and Job Share Employees Working any 5 Days from 7 Days

Parental leave entitlement is 18 weeks or 90 days at their part time/job share hours. Part of a day is counted as a full day for parental leave.

Example 2, an employee who works job share each morning, Monday to Friday, who requests and is granted 2 mornings' absence on parental leave, will have their entitlement reduced from 90 to 88 days (a morning's leave for them is equal to a day's leave for a full-time employee).

Example 3, an employee who works part-time and whose hours are full day Monday and Tuesday, and half days Wednesday to Friday, who requests and is granted a Tuesday and a Wednesday on parental leave, will have their entitlement reduced by 2 days.

Part-Time and Job Share Employees Working less than 5 Days out of 7 Days per Week but Work the Same Hours Each Week

Parental leave entitlement is calculated in hours.

Example 4, an employee who works 21.6 hours, 3 full days on a Monday to Wednesday, is entitled to 283 hours' parental leave. This is calculated as follows:

$$\begin{array}{r} 21.6 \\ \hline 36 \end{array} \times 648^* = 388.8 \text{ (rounded to 389 hours)}$$

If the employee takes one day's parental leave, their entitlement will reduce from 389 to 381.8 hours (389 minus 7.2 hours).

Example 5, an employee who works 19 hours per week, 4 days, Monday to Thursday (Monday - 6 hours, Tuesday - 3 hours, Wednesday - 5 hours, Thursday - 5 hours), is entitled to 247 hours' parental leave. The entitlement is calculated as follows:

$$\frac{19}{36} \times 648^* = 341.99 \text{ (rounded to 342 hours)}$$

If the employee takes 2 days' parental leave on a Monday and Tuesday, their entitlement will reduce by 9 hours, from 342 to 333 hours.

Part-Time and Job Share Employees Working less than 5 Days out of 7 Days per week Working Different, or a Minimum Number of Hours, Each Week, which are Planned in Advance

Parental leave entitlement is calculated in hours.

Because there are no set weekly working hours, an average is taken over the previous 52 weeks to calculate the entitlement.

Average daily working hours are also calculated, by dividing the average weekly working hours by the number of days they normally work in a week. Although this is not exact, it should be used to reduce the entitlement by an approximate number of hours.

Example 6, an employee whose weekly hours vary from week to week, but the employee normally works 4 days per week, has an average of 20 hours per week (calculated by dividing the total working hours of the previous 52 working weeks by 52). The entitlement is then calculated as follows:

$$\frac{20}{36} \times 648 = 359.99 \text{ (rounded to 360 hours)}$$

The daily working hours are calculated as 5 hours per day (average of 20 hours per week divided by 4 working days per week).

If the employee takes 2 days' parental leave, equating on average to 10 hours, their entitlement will reduce to 350 hours (360 minus 10).

**18 weeks' parental leave converted into hours, for an employee with a 36 hour working week, is 648 (18 weeks x 36).*