

**Employee Leave
Schemes for teachers
employed by the local
authority and not
attached to schools**

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Guidance on the arrangement of formal meetings with staff involving Union/ Professional Association representatives

Version	Date	Detail	Author

Forward

Whilst there has been considerable co-operative development of the document at Schools' Joint Consultative Committee, it has not been possible to reach a collective agreement on the whole policy with all the unions.

The NASUWT and NEU withheld agreement to the policy on the grounds that they determined that the guidance provided on the Discretionary Leave of Absence amounts to an unreasonable deterioration in terms of conditions of employment.

1. Introduction

The Council supports the promotion of work-life balance for employees. This Document sets out the leave schemes and flexible working arrangements which will assist Teachers employed by the Local Authority and not attached to schools in achieving this balance, while maintaining a high standard of service.

The procedure applies to Teachers employed by the Local Authority and not attached to schools.

A separate policy applies to all other employees of the Council except those in schools where the Governing Body performs the function of the employer.

All leave entitlements referred to within this document are pro rata for part-time employees.

All applications for leave or time off should be discussed initially with the manager and the time recorded on Workplace or through other means as appropriate to employment.

Sickness absence should be recorded by the line manager.

An appropriate request form should be authorised by the line manager where an employee does not have access to workplace

2. Scope

This policy outlines Derbyshire County Council's approach and basis upon which the pay of teaching employees will be determined in the context of the Council's improvement plans and staffing structure. It has been developed to comply with the current School Teachers' Pay and Conditions Document (STPCD) and the conditions of service laid down in the Burgundy Book. The policy takes account of associated government guidance and has been the subject of formal consultation with the recognised professional associations and trade unions.

3. Purpose

This document provides guidance Heads of Service on current legislation and local and national conditions affecting leave of absence, and the extent of their discretionary

powers. It has been discussed and agreed with all the recognised professional associations and trade unions at Schools' Joint Consultative Committee.

4. Public Duties

The Employment Protection (Consolidation) Act 1978 gives statutory rights to reasonable time off for the following purposes:

- Magistrates/Justices of the Peace
- Education body – Chair of school/college governors (other governors see below)
- Statutory tribunal
- Police Authority
- Service Authority for National Criminal Intelligence Service or National Crime Squad
- Board of prison visitors or prison visiting committee
- Probation boards
- Members of court boards
- Health Authority
- Environment Agency
- Youth Offending Panels
- Meetings of SACRE & attendance at Diocesan Education Committee, or equivalent education body, meetings

Time off for Public Duties

The Time Off For Public Duties Order 2018 extends the right to time off for public duties under Section 50 of the Employment Rights Act 1996 to:-

- Members of a panel of lay observers, appointed under section 81 (1) (1) (b) of the Criminal Justice Act 1991. These are volunteers who monitor conditions for prisoners under escort and in court custody.
- Members of Visiting Committees, for the immigration and detention estate, appointed under section 152(1) of the Immigration and Asylum Act 1999. These committees monitor the immigration detention estate.
- Members of Visiting Committees appointed to monitor short-term immigration holding facilities, for example at airports; and
- Independent prison monitors in Scotland appointed under section 7B (2) of the Prisons (Scotland) Act 1991.

Leave arrangements for all staff to carry out recognised public duties have been agreed on the basis of up to 18 days/36 half days paid leave per year.

- Education body – School/College Governors - Employees may apply for a maximum of 7 days paid leave and 7 days unpaid leave in a leave year to undertake school/college governor duties.
- Chair of Governors – those elected as Chair of Governors may apply for a maximum of 18 days paid leave in a leave year to undertake Chair of Governor duties.

Before committing to public duties, employees must seek the approval of their manager. When doing so they should give a clear indication of what level of commitment is likely to be required.

Further reasonable unpaid time off for public duties may be granted at the discretion of the Head of Service.

All time off for public duties is pro rata for part time employees.

Other Special Leave arrangements have also been agreed and should be granted on the following basis:

- Jury Service –time off without financial detriment is allowed for jury service. The employee is issued with a loss of earnings form from the Court, which they receive prior to their attendance. This is sent to HR Services to complete with the details and then returned for the employee to claim from the court, once they have attended for jury service. The Head of Service notifies HR Services of the dates the employee attended jury service and the necessary amount is deducted from the employee's pay. This also applies if an employee is a witness or subpoenaed. The Leave should be coded as jury service.
- Elected member duties with other Local Authorities up to 208 paid hours per year.
- Trade Union Duties – These are set out in the Authority's Facilities Agreement.

Further advice can be sought from the HR Services on how to record these types of leave.

5. Service in Non-Regular (Reservists)

Employees are entitled to up to 2 weeks to attend summer camp as a volunteer member of the non-regular forces.

Any request for additional time off to undertake specific non-regular forces training that cannot be undertaken in non-working time will be considered by the Executive Director, taking into account service requirements.

If an employee is mobilised into full time service, this will be unpaid.

6. Disability Leave

If an employee is covered by the Equality Act 2010, they can take disability leave if it is specifically for appointments for assessment, treatment, rehabilitation or training for a condition covered by the Act.

7. Adoption

Pre-Adoption Leave Entitlement

Employees who have completed the initial enquiry stage of the adoption process and wish to proceed to Stage 1 are eligible to apply for up to 5 days paid leave and 5 days unpaid leave, in a rolling 12-month period, specifically for pre-adoption activities; for example, training, introductory meetings, assessments, adoption panel. This is per adoption not per child.

The total hours recorded for the day whether all classed as 'pre-adoption leave' or a combination of 'pre-adoption leave' and working time, should not be for longer than the employee's planned working time.

Adoption Leave Entitlement

Eligible employees are entitled to 52 weeks adoption leave comprising:

- 26 weeks ordinary adoption leave.
- 26 weeks additional adoption leave.

There is no requirement for a period of qualifying service.

During adoption leave, all employment terms and conditions (except normal pay) will continue.

Only one person in a couple can take adoption leave.

Eligibility

In order to qualify for adoption, leave the employee must:

- Be the only partner taking adoption leave.
- Be newly matched with a child for adoption and by an approved adoption agency.
- Commence your adoption leave on the date of the child's placement or from a pre-determined date which can be up to 14 days before the expected date of placement. In the case of a child adopted from overseas, you may commence your adoption leave on the date the child enters Great Britain or from a pre-determined date that is no later than 28 days after this.

An employee does not qualify for statutory adoption leave or pay if they:

- Arrange a private adoption.
- Adopt a family member or a stepchild.

Adoption Pay

Is paid up to a maximum of 39 weeks, dependent upon eligibility for Statutory Adoption Pay (SAP) and Occupational Adoption Pay (OAP). This comprises:

- 4 weeks at full pay and 2 weeks at 90% of earnings made up of both OAP and SAP;
- 12 weeks (weeks 7 to 18) at half pay OAP plus SAP (providing this does not exceed normal full pay)
- 21 weeks of SAP (weeks 19 to 39).

Eligibility for 12 weeks OAP at half pay is dependent on being continuously employed in local government service for 52 weeks, when the adoption commences.

The 12 weeks half pay is paid if the employee is returning to work for at least 3 months and can be spread over a longer period if requested. If they are unsure whether they intend to return to work, they can opt to have the half pay frozen and paid at a later date.

Eligibility for SAP is dependent on being employed continuously in local government service for at least 26 weeks at the date of matching, and you must earn, on average, at least equal to the lower earnings limit for National Insurance purposes.

An individual can check current statutory rates and check your eligibility on the government website, GOV.UK.

Applying For Adoption Leave

An employee will need to:

- Inform their manager as soon as possible that you are adopting a child.
- Notify their manager in writing of:
 - the date their child will be placed.
 - the date their adoption leave will commence.

- Provide the matching certificate.
- Send the original documentation to the HR Services
- Record their adoption leave on Workplace or through other means as appropriate to their employment
- Following the receipt of their notification letter:
 - They will receive a written acknowledgment, within 28 days, from HR Services informing them when they are due back at work.
 - The employee must return the slip from this letter to the HR Services to confirm their adoption pay arrangements during your adoption leave.
 - No notice period is required if they intend to return to work at the end of the full adoption leave period.

Keeping in Touch (KIT) days

Prior to commencing adoption leave the employee should discuss and agree with their manager the type and frequency of contact they prefer whilst you are away from work. The manager may wish to contact the employee to inform them of any training opportunities, significant work developments, any relevant promotional opportunities or job vacancies that may occur during the absence. An employee can work for up to 10 days during your adoption leave period, by mutual agreement, although there is no obligation for them to do so. These working days or hours are known as Keeping in Touch days (KIT).

Payment for the hours worked will not affect their Statutory Adoption Pay or leave entitlement, and they will remain on adoption leave throughout this period.

The additional hours worked can be claimed through Workplace, or their usual time recording process, and will be paid at their existing rate of pay. They will only be paid for the time worked, i.e., if they attend work for 1 hour this will count as 1 KIT Day. They must not work in excess of your standard day.

Return to Work

An employee will normally be able to return to their existing post after taking ordinary adoption leave. If they also take additional adoption leave, they have the right to return to their original job unless this is not reasonably practicable. Then they will be offered suitable alternative employment on terms no less favourable than their original post.

The employee has the right to request flexible working. Please see the section entitled 'Flexible Working Arrangements'.

The employee can change their return-to-work date but must provide 8 weeks' notice.

A model letter to advise the HR Services that an employee is adopting a child is available below. The employee should keep a copy of this letter, give one to their manager, and submit one to the HR Services at Pay@Derbyshire.gov.uk.

Letter for Employee Taking Adoption Leave

Dear.....

Name

Employee Number

Service:

I wish to inform you that I have been matched with a child for the purpose of adoption and I enclose for your information the Matching Certificate issued by the adoption agency.

The date the child is due to be placed with me is
and I therefore wish to take adoption leave with effect from

I intend to take weeks adoption leave, however should I decide to return to work earlier I will write to you again giving you 8 weeks' notice of this and the date I wish to return.

Yours sincerely,

Send completed letter to Pay@Derbyshire.gov.uk

8. Foster Carers

An employee who is registered with Derbyshire County Council as a foster carer may apply for a maximum of 5 days paid leave and 5 days unpaid leave in any rolling 12-month period.

This leave is for activities essential to foster caring e.g., training, introductory meetings and promotional events. The leave allocation is in total and not per child.

The total hours recorded for the day whether classed as 'foster care leave' or a combination of 'foster care leave' and working time should not be for longer than the time the employee is planning to work.

This quota is pro rata for part time employees

9. Maternity Leave

With regard to pregnancy and maternity leave, the following definitions are used:

- 'Expected week of childbirth' (EWC) means the week, starting on a Sunday, during which you are expected to give birth.
- 'Qualifying Week' (QW) means the 15th week before the expected week of childbirth.

Ante-natal Care

Once an employee has advised their manager that they are pregnant, they are eligible to paid time off to attend antenatal appointments, as advised by their doctor, registered midwife or health visitor. The manager can request to see the appointment card after the first visit.

During maternity leave, all terms and conditions (except normal pay) will continue.

Maternity Leave Entitlement

Pregnant employees are entitled to 52 weeks maternity leave comprising:

- 26 weeks ordinary maternity leave; followed by
- 26 weeks additional maternity leave.

There is no requirement for a period of qualifying service.

The earliest maternity leave can commence is the beginning of the 11th week before the baby is due.

Maternity leave will commence automatically 4 weeks before the baby is due if the employee is off work due to a pregnancy related illness.

If the baby is born earlier than expected, the maternity leave will commence automatically on the day following the birth.

The employee does not have to take the whole 52 weeks, but they **must** take 2 weeks leave immediately after the baby is born.

Eligibility

To be eligible for maternity leave, the employee must provide notice by the qualifying week:

- That they are pregnant;
- Of the expected week of childbirth; and
- The date they intend to commence your maternity leave.

Ideally, they should inform their manager as soon as possible that they are pregnant to enable them to carry out a risk assessment for you. They may request help to do this from either Occupational Health, or Departmental Health and Safety.

The pregnant worker risk assessment for is available on our Derbyshire

The manager will need to notify HR Services of the employee's intention once the employee provides the maternity leave notice in writing. They will need to provide the HR Services with the original MATB1 form once this is issued, which will be approximately 20 weeks before the EWC.

Once the HR Services have been notified of the employee's intention to take maternity leave, they will respond within 28 days, confirming the date on which they are due to return if they take the full 52-week entitlement to maternity leave.

The employee can change their return-to-work date, but they must provide 8 weeks' notice.

Sickness and Maternity Leave

In the unfortunate event of a still birth, the employee is entitled to the full provisions of the maternity leave scheme if this occurs after 24 weeks of pregnancy. If earlier than this, then the Executive Director may grant time off under the provision of the Council's Discretionary Leave Scheme.

Maternity Pay

Is paid up to a maximum of 39 weeks, dependent upon eligibility for Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP). This comprises:

- 6 weeks at 90% of earnings; If the Teacher meets the service requirements they will be paid full pay for the first 4 weeks of the maternity leave and 2 weeks at 90% of Pay
- 12 weeks at half pay OMP plus SMP (provided this does not exceed normal full pay);
- 21 weeks of SMP.

Eligibility for OMP is dependent on being employed in local government service for 52 weeks by the 11th week before the expected week of childbirth (i.e., at week 29 of your pregnancy you have been employed for 1 year or more).

The 12 weeks half pay OMP is paid if they are returning to work for at least 3 months and can be spread over a longer period if requested. If they are unsure whether they intend to return to work, you can opt to have the half pay frozen and paid to them at a later date.

Eligibility for SMP is dependent upon being employed continuously for at least 26 weeks by the 15th week before the expected week of childbirth (week 25) and they must earn, on average at least equal to the lower earnings limit for National Insurance purposes 8 weeks prior to this date (between weeks 17 to 25).

An employee can check their eligibility and find the current statutory rates on the government website GOV.UK.

Non Qualification for SMP

If an employee does not qualify for SMP they may be eligible to claim a maternity allowance through Jobcentre Plus for 39 weeks. An SMP1 form will be sent to you confirming the reason why SMP is not payable. The 12 weeks half pay OMP (weeks 7 to 18) will be paid in addition to any maternity allowance paid provided it does not exceed full pay. OMP will be reduced by the maternity allowance for the first 6 weeks

Childcare Vouchers

The maternity pay will be reduced if the employee uses childcare vouchers during this period. Details relating to childcare vouchers are available through HR. Childcare vouchers offer national insurance and tax deductions from the childcare costs.

From April 2018, new entrants to the childcare voucher scheme are not permitted. Parents already in the scheme will, however, be able to remain in the scheme for as long as they require.

The employee may be eligible to participate in the government's tax-free childcare scheme instead.

For more information check the government website GOV.UK.

Applying for Maternity Leave

Following receipt of our notification letter, the employee will receive a written acknowledgment from HR Services within 28 weeks, informing them when they are due back at work. They must return the slip from this letter to HR Services to confirm maternity pay arrangements during your maternity leave.

Contact during Maternity Leave / Keeping in Touch (KIT Days)

By mutual agreement an employee can work up to 10 days during their maternity leave although they are not obliged to do so.

They will receive payment for the number of hours worked without it affecting their SMP or maternity leave entitlement.

They will remain on maternity leave during this period.

The additional hours worked can be claimed through Workplace, or their usual time recording process, and will be paid at their existing rate of pay. They will only be paid for the time worked i.e., if they attend work for 1 hour this will count as 1 KIT Day. They must not work in excess of their standard day.

Returning to work after maternity leave

An employee can return to work at any time during their maternity leave, provided they give the appropriate notification, which is 8 weeks' notice of the date they intend to return. Alternatively, they can take the full period of maternity leave entitlement and return to work at the end of this period.

They have the right to return to their existing post after taking ordinary maternity leave (up to 26 weeks).

If they also take additional maternity leave, they have the right to return to their original job unless this is not reasonably practicable. In that case, they will be offered suitable alternative employment on terms no less favourable than your original post. They have the right to request flexible working. Please see the section on 'Flexible Working Arrangements'.

If they are still breastfeeding when they return to work they will need to notify their manager who will carry out a risk assessment and discuss appropriate arrangements with the employee.

If they decide during their maternity leave that they do not want to return to work, they should provide written notice of resignation as soon as possible, and in accordance with the terms of their contract of employment.

Letter for Employee taking Maternity Leave

An employee may use this as a letter to advise the HR Services that they are pregnant. Notification must be at least 15 weeks before their expected week of childbirth (week 25). They should keep a copy of this letter and give one to their manager.

Dear.....

Name:

Employee Number:

Department/Division:

I am writing to tell you that I am expecting a baby, and the baby is due
on.....

At present I intend to take maternity leave from..... and I
*expect/do not expect to return to work after the baby is born. Please send me all
relevant information.

If my circumstances change I will let you know.

Yours sincerely,

*Please delete as appropriate

Send completed letter to Pay@Derbyshire.gov.uk

10. Parental Leave

Eligible employees can take **unpaid** parental leave to look after their child's welfare.
To qualify they must:

- Have one year's continuous service **and**
- Be a named parent on the child's birth certificate or adoption certificate or expect to have parental responsibility for a child under 18 years old

and

The purpose of requesting the leave is to care for a child

Parental Leave Entitlement

Is 18 weeks unpaid leave (pro rata if part time), to be taken before child's 18th birthday. This also applies to adopted children. The maximum leave that can be taken in one year is four weeks, although a longer period may be agreed in exceptional circumstances. The leave does not have to be taken in one period.

Parental leave should be taken in blocks of a week or multiples of a week. It can only be taken in single days if specific approval has been given from their manager or if their child is disabled. Time taken as parental leave will be treated as continuous service all contractual terms and benefits will accrue during this period.

The Council may postpone parental leave for up to 3 months for operational purposes and will provide the reasons for the postponement in writing together with the agreed revised commencement and end dates. It cannot be postponed if it immediately follows the birth or adoption or if postponement means the employee would no longer qualify for the leave.

The employee has the right to return to their existing post.

If the employee falls ill during a period of parental leave and you give the Council relevant notification and documentation they will be entitled to pay under the sickness scheme (where applicable) and this period will not count towards their parental leave entitlement.

Applying for Parental Leave

Requests should be discussed with the line manager providing at least 21 days' notice of any proposed days of absence, with a copy of the relevant documentation (either the birth certificate or adoption certificate). The employee will need to request time off through Workplace as appropriate. If they do not have access to Workplace, they should complete the Parental Leave Application Form submitting the completed form and relevant documentation to the HR Services-. The employee will need to record the time off as appropriate to their working arrangements.

The government website GOV.UK gives more detail and enables an employee to check their eligibility for Parental Leave.

PARENTAL LEAVE APPLICATION FORM

Name	
Job Title	
Employee Number	
Service	
Child's Name (if known)	
Dates requested (pro rata for part time employees)	
Dates of any previous parental leave taken (current or previous employer)	
The date the baby is due to be born / placed on, OR if the child has been born / placed, the actual date of birth / placement	
I am named on the child's birth certificate, OR I have, or expect to have, parental responsibility OR I am an adoptive parent, foster parent or a spouse or partner of any of the above who is living with the child	YES/NO*
PENSIONS	I have Sought Guidance from Teachers Pensions in relation to the implications of a period of unpaid on my Teachers Pension
The purpose in requesting leave is to care for the child or make arrangements for the child's welfare	YES/NO*
Pension	
Employee's Signature	
Date	
Head of Service Approved / Not Approved* (*delete as appropriate)	
Signature	
Date	

Please enclose relevant documentation, either a copy of the birth certificate or adoption certificate and send completed form to Pay@Derbyshire.gov.uk

11. Shared Parental Leave

Overview

An entitlement to Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) is available and replaces Additional Paternity Leave and Pay which was previously available to fathers.

SPL enables mothers to end their maternity leave and pay early and to share the untaken balance of leave and pay as SPL with their partner. SPL is designed to allow couples greater freedom to decide how to take their leave and is also available to adoptive parents. The partner does not have to be employed by the Council to partake in this scheme.

SPL must be taken in blocks of at least one week. Individuals can request to take SPL in one continuous block (in which case an employer is required to accept your request provided that you meet the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee will need your employer's agreement). Each parent can make up to three separate requests.

An employee can choose how much SPL each of you will take, and they can take it at the same time or separately. Shared Parental Leave and Statutory Shared Parental Pay must be taken between the baby's birth and first birthday (or within 1 year of adoption).

Eligibility and Entitlement

To be able to take SPL, both the employee and their partner must have at least 26 weeks' continuous employment with their employer by the 15th week before the expected week of childbirth and remain in employment with that employer until the week before any period of shared parental leave, they are planning.

The employee must supply notices to the Council and their partner must supply notices to their employer. These are made up of three elements:

- A 'leave curtailment notice' from the mother setting out when she proposes to end her maternity leave.
- A 'notice of entitlement and intention' from the mother or partner giving an initial (non-binding) indication of each period of SPL that he/she is requesting.
- A 'period of leave notice' setting out the start and end dates of each period of SPL being requested.

Statutory Shared Parental Pay

An employee can get ShPP if one of the following applies:

- They qualify for Statutory Maternity Pay or Statutory Adoption Pay

- They qualify for Statutory Paternity Pay and have a partner who qualifies for Statutory Maternity Pay or Maternity Allowance or Statutory Adoption Pay

If an employee thinks they may be interested in Shared Parental Leave, they should discuss this in the first instance with their manager.

For more details about SPL and ShPP please see the guidance on the government website GOV.UK. This provides details of the notices that are required as well as templates of letters that can be used to apply. An employee can check whether they and their partner are eligible for SPL and ShPP.

Alternatively, they can contact, HR Services, adjustments team who will be able to provide further advice.

12. Parental Bereavement Leave

The Parental Bereavement (Leave and Pay) Act 2018, provides an entitlement for bereaved parents of a child to be absent from work for up to two weeks.

Entitlement to Parental Bereavement Leave

Employees who are primary carers for a deceased child under the age of 18 are entitled to parental bereavement leave. This is a day one right i.e., there is no service requirement for parental bereavement leave.

This entitlement is available to any employee with parental responsibility for the child, for example:

- A child's legal parents so both natural and adoptive parents;
- A parents partner;
- Others with a caring relationship to the child*

*This is defined as a person who has lived with the child for at least four weeks continuously and had day to day responsibility for their care, including foster cares.

This entitlement also applies to those parents who suffer a still birth 24 weeks or more into pregnancy, although it does not affect a woman's maternity leave entitlement which would be taken prior to any parental bereavement leave.

Bereaved parents will be able to take the leave as one block of two weeks or two blocks of one week. The leave may be taken up to 56 weeks following the death of the child.

This entitlement does not affect other leave entitlements as it is an additional entitlement.

Notice Period

There is no notice period required for leave taken immediately following the bereavement. There is no requirement to provide evidence as informal notification will suffice. At some point employees will be required to provide a written declaration that they are entitled to parental bereavement leave / pay by completing the Declaration of Entitlement to Parental Bereavement & Proforma. Managers should refer to Advice and Support Team prior to contacting the employee.

Specifically, employees are **not** required to provide either a copy of the death certificate or medical evidence.

For leave taken after the initial bereavement, (56 days) one weeks' notice will be required.

Requests should be made through completion of the Declaration of Entitlement to Parental Bereavement Leave & Pay pro-forma.

Parental Bereavement Pay

Parental Bereavement Pay is payable for a maximum of two weeks, at full basic pay, regardless of service and earnings.

13. Paternity Leave

Paternity leave and pay is available for employees whose partner is having a baby, adopting a child, or having a child through a surrogacy arrangement

Eligibility for Ordinary Paternity Leave (OPL)

To qualify for paternity leave:

- Have or expect to have responsibility for the child's upbringing; **and**
- Be the biological father of the child OR the mother's husband / partner
- Have worked for us continuously for 26 weeks ending with the 15th week before
- the baby is due, or the end of the week in which the child's adopted is notified of being matched with a child, or the date the child enters the Great Britain (overseas adoptions).

Ordinary Paternity Leave

An employee is entitled to:

- 5 half days with pay to accompany their partner to antenatal appointments (e.g., relaxation classes, exercise and parent craft classes, medical appointments). These examples are not exhaustive.
- 10 days leave with contractual pay (pro rata for part time employees). This is regardless of the number of children born as the result of the same pregnancy.

All days must be taken within 52 weeks of the date of birth (or if the baby is born early within the period from the actual date of birth up to 52 weeks after the first day of the expected week of birth) or within the placement date for adoptive parents.

The employee does not have to give a precise date when they want to take leave. Instead, they can give the general time (e.g., from the day after the birth or from one week after the birth).

The employee has the right to return to their existing post.

An employee can take their paternity leave in blocks of one week or as individual days spread throughout the 52 week period. Taking leave in blocks of one week enables the Council to reclaim some of the costs. If they take their leave in this way, they should therefore record it as 'Paternity Leave – Full Week'.

If an employee prefers to take your paternity leave as individual days, they should record it as 'Paternity Leave – In Days'.

Applying for Paternity Leave

The employee should notify their manager of the proposed dates of absence in writing at least 28 days before the expected week of childbirth or as soon as is reasonably practicable and complete their time recording on Workplace as appropriate. If they do not have access to Workplace, they should complete the Paternity Leave Application Form below and submit the completed form to the HR Services

The employee does not have to provide evidence of pregnancy or birth but must provide notice in writing. They can use form SC3 on the gov.uk website and forward it to the HR Services to help them with this.

In the case of adoptive parents, a copy of the matching certificate should be provided in order to qualify for paternity pay. The employee must also provide notice in writing, and they can use form SC4 or SC5 on the gov.uk website and forward it to HR Services to help with this.

If they change their mind about the date on which they want their leave to start they should inform their manager at least 6 weeks in advance (unless it is not reasonably practicable to do so).

Statutory Paternity Pay

To qualify for Statutory Paternity Pay an employee must meet the eligibility conditions for OPL as stated above. In addition, they must have average weekly earnings of at least the lower earnings limit for NI purposes over the 8-week period ending with the 15th week before the EWC (or matching date in the case of adoption).

See the government website GOV.UK for more details on paternity leave and pay.

PATERNITY LEAVE APPLICATION FORM

Name	
Job Title	
Employee Number	
Service	
Dates requested	
The date the baby is due to be born / placed on / OR if the child has been born / placed, the actual date of birth / placement	
I confirm that I expect to have responsibility for the child's upbringing and the purpose of requesting leave is to care for the child	YES/NO* (please delete)
Employee's Signature	
Date	
Head of Service Approved/Not Approved* (* delete as appropriate)	
Signature	
Date	

- Please enclose form SC3, SC4, or SC5 and in the case of adoptive parents the matching certificate.
- If the dates change please inform your manager/ HR Services as soon as possible.

Send completed forms to Pay@Derbyshire.gov.uk

14. Carer's Leave

Employees have a statutory entitlement to one week's unpaid leave in a 12 month period, pro rata for part time employees and those working irregular work patterns, to provide or arrange care for a dependent who has a long term care need.

Employees can choose to take the leave in blocks from a minimum of half a day to one continuous week.

Employees are entitled to Carer's Leave from the first day of your employment.

Eligibility

A dependent is defined as:

- A spouse, civil partner, child, or parent of the employee
- Someone who lives in the same household as the employee, other than a boarder, employee, lodger or tenant.
- Someone who reasonably relies on the employee to provide or arrange care.

A person has a long term care need if:

- They have an illness or injury (physical or mental) that requires, or is likely to require care for more than 3 months.
- They have a disability which is covered by the Equality Act 2010.
- They require care for a reason connected with their old age.

Applying for Carer's Leave

Employees are encouraged to discuss their request for Carer's Leave with their manager, after which they will need to formally submit a request in writing using the Carer's Leave Application Form which can be found on Our Derbyshire. Managers will then need to send the authorised form to pay@derbyshire.gov.uk.

- Employees must give their manager notice in writing of their intention to take Carer's Leave, confirming their entitlement to take Carer's leave. They will need to provide the dates and times they wish to take the leave, and include any carer's leave previously taken with 12 months to ensure that they have not exhausted their entitlement.
- This notice must be provided before the relevant date (the date the Carer's Leave commences) and must give at least twice the amount of notice than the period of leave.

For leave requests of three days or less, employees are required to give at least three days notice before the start date of the leave they wish to take. For leave

of four days or more they are required to give twice the length of the leave they are requesting. For example:

- For leave requests that are for 4 days leave they must submit their application 8 days before the intended start date
- For leave requests that are for 5 days they must submit their application 10 days before the intended start date
- If the employee doesn't give the required notice or provide the details in writing as stipulated, the application will not be considered to be a valid application and so the leave may not be granted.
- An employee is not required to provide evidence in relation to a request for Carer's Leave before the leave is granted, but must confirm their entitlement.

Postponing Carer's Leave

An employee is eligible to take Carer's Leave for dependents outlined as above. However, if a manager has reasonable concerns about impact on and disruptions to service delivery, the manager can consult with them and the requested leave can be postponed. The following circumstances apply to Carer's Leave which has been postponed:

- The postponed date of Carer's Leave must be no later than one month after the first day of the leave period originally requested.
- The manager must give the employee notice outlining the reason(s) for the postponement as soon as is practicable, along with the agreed new dates. This notice must be provided no later than whichever is the earlier of seven days after the employee's notice was given to their manager or before the first date in that notice.

15. Adverse Weather

(This is covered in the DCC Adverse Weather Policy document).

16. Sick Leave

Information relating to sick leave and pay can be found in the Management of Sickness Absence policy and in the Burgundy Book for Teachers.

17. Time Off in Lieu

Where it is mutually suitable and agreeable, TOIL may be available for some employees. TOIL is time off for additional hours not “payment for”. TOIL is subject to the Head of Service or Line Manager’s approval on an hour-for-hour basis and with the agreement of the employee. i.e., there is no Enhancement reference should be made to the relevant section of the STPCD.

A specific policy relating to the accrual of TOIL is in development and this guidance will be updated when this is available.

18. Discretionary Leave of Absence

Leave of Absence with Pay

The types of leave of absence outlined below provide details of the circumstances where it is considered reasonable for the Local Authority to grant leave of absence with pay. It is the responsibility of the Head of Service to ensure that the number and pattern of absences do not individually or collectively adversely affect the smooth-running of the Service.

For the purposes of leave of absence, with or without pay, the definition of a near relative will be relationships outlined in the kinship regulations i.e., father, mother, stepfather, stepmother, husband, wife, civil partner, son, daughter, stepson, stepdaughter, adopted son or daughter, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law. In addition, there are occasions when, despite the lack of a direct family relationship, it is clear that the member of staff concerned should be regarded as a near relative. Thus, the term “near relative” shall include any other person with whom the member of staff has a close personal relationship which, in the opinion of governors or managers, justifies leave of absence with pay.

It should be remembered that all requests for leave are at the discretion of the service and where the Head of Service considers that a request is not reasonable in all the circumstances, it should be declined. The Head of Service should not hesitate to contact HR for advice if they have any reservations as to the reasonableness of any requests.

Any member of staff, regardless of their working pattern, may find it necessary to apply for leave of absence (paid or unpaid). Each individual case must be considered on its own contributory factors. A high level of consistency is important when reaching a decision if staff are to be treated equitably.

As the agreements for leave of absence with pay cover most contingencies, it is not expected that Heads of Service will have to consider many requests of leave of absence without pay.

Types of Discretionary leave

When requesting leave of absence members of staff should only apply for the amount of time they genuinely need, bearing in mind the effect on pupils, colleagues and the organisation. The list below is neither prescriptive nor comprehensive. A sympathetic consideration of requests for leave of absence on compassionate grounds, and where staff are not in a position to control or influence the timing of important activities, should be taken. Circumstances should be considered on their own contributory factors and in the context of maintaining effective and efficient smooth running of the service.

The table below outlines examples of leave of absence that are discretionary and should not be seen as an entitlement. Should a staff member experience more than one such situation, the potential durations of leave to be granted exemplified below are not cumulative but are per event.

Reason for absence	Period of absence	Paid/unpaid
Category 1 – Bereavement/Serious illness		
Death of immediate family i.e. mother, father, husband, wife, partner, civil partner, son, daughter, brother, sister, grandparent, or grandchild.	Up to 5 days (including the day of the funeral) As a principle: Up to 2 days including the day of the funeral (½ or 1 day where only attendance at a funeral is required) 3 days for funeral arrangements and attendance 5 days for funeral arrangements, attendance at a funeral and dealing with affairs of deceased.	Paid
Death of an aunt, uncle, nephew, niece, cousin, mother-in-law, father-in-law, sister-in-law, brother-in-law, spouse's/partner's close relative	Up to 2 days including the day of the funeral (½ or 1 day where only attendance at a local funeral is required)	Paid
Appointment as Executor of the will/arrangements	5 days maximum (not in addition to the above)	Paid
Serious illness of near relative *	Up to 5 days	Paid

Where the leave of absence is granted in relation to activities beyond attendance at the funeral the days authorised may not necessarily be continuous.

* 'Serious illness of near relative' – examples could be a life threatening, life changing, terminal illness, or serious accident. This list is neither prescriptive nor comprehensive. As above, a sympathetic consideration of requests for these types of leave of absence should be taken. Circumstances should be considered on their own contributory factors and in the context of maintaining effective and efficient smooth running of the service

Reason for absence	Period of absence	Paid/unpaid
Category 1 – Bereavement/Serious illness		
Death of immediate family i.e. mother, father, husband, wife, partner, civil partner, son, daughter, brother, sister, grandparent, or grandchild.	Up to 5 days (including the day of the funeral) As a principle: Up to 2 days including the day of the funeral (½ or 1 day where only attendance at a funeral is required) 3 days for funeral arrangements and attendance 5 days for funeral arrangements, attendance at a funeral and dealing with affairs of deceased.	Paid
Death of an aunt, uncle, nephew, niece, cousin, mother-in-law, father-in-law, sister-in-law, brother-in-law, spouse's/partner's close relative	Up to 2 days including the day of the funeral (½ or 1 day where only attendance at a local funeral is required)	Paid
Appointment as Executor of the will/arrangements	5 days maximum (not in addition to the above)	Paid
Serious illness of near relative *	Up to 5 days	Paid

Where the leave of absence is granted in relation to activities beyond attendance at the funeral the days authorised may not necessarily be continuous.

* 'Serious illness of near relative' – examples could be a life threatening, life changing, terminal illness, or serious accident. This list is neither prescriptive nor comprehensive. As above, a sympathetic consideration of requests for these types of leave of absence should be taken. Circumstances should be considered on their own contributory factors and in the context of maintaining effective and efficient smooth running of the service

Category 2 - Medical			
Ante-natal care appointments			Paid
Medical appointment or screening <u>where the time or the appointment cannot be chosen to fall out of working hours</u>			Paid
IVF treatment – any medical appointments related to IVF, see above re hospital appointments. Where treatment causes illness, refer to management of absence procedure.			Paid
Emergency dental/medical appointments		Max 1 day	Paid

Routine dental appointments to be made outside of working hours. Routine medical appointments should be made outside of working hours but exceptionally, where particular circumstances prevail (arising either from the condition concerned or the nature of the medical service) consideration will be given to granting paid leave of absence. Where the employee is unsure whether the nature of their appointment would be classified as routine, they should discuss this with the Head of Service. The Head of Service is advised to consult HR

Managers should also consult the DCC Managers Guidance “Time off for Medical Appointments”

FOR CATEGORY 3 DISCRETIONARY LEAVE OF ABSENCE REQUESTS, UP TO A MAXIMUM OF 5 DAYS INCLUSIVE (NOT PER EXAMPLE), IN AN ACADEMIC YEAR, IS THE NORMAL EXPECTATION, FOR ALL EXAMPLES LISTED BELOW.

(See below “Requests for Leave of Absence” paragraph for details of how to request leave of absence, consideration of circumstances outside of the norm and right of appeal.)

Category 3 – personal & domestic considerations	For all of the examples below, an initial allowance of up to 1 day’s paid leave per	
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	<p>incident may be granted by the Head of Service. This may be extended to 2 days where it is clear to the Head of Service that particular circumstances require this.</p> <p>Where the nature of the event determines that the staff member needs to request further leave of absence, a case should be submitted to the Executive Director, Childrens Services</p>	
Urgent, personal & domestic e.g. property damage due to fire, flood, storm, impact, subsidence or burglary.		Paid
To attend to the care of a dependant where no other care is immediately available and to make arrangements for alternative care.		Paid
	<p>Applications for Leave of Absence, where the event is known in advance should be submitted to the Head of Service as far in advance as possible. This would apply to the examples below. Any leave granted will be based on the particular event and impact on the Service</p>	
Some foreseen events e.g. hospital appointment or planned operation for a child or partner, pre-adoption leave (see Maternity, Paternity, Parental & Fostering leave scheme)		Paid
Attendance at meetings or associated activities of examining bodies where these are not already funded by the Local Authority		Paid

Interviews in connection with an application for another post.		Paid
Attendance at any court as a witness		Paid
Attendance at ceremonies such as graduation, Duke of Edinburgh's award, presentations, investitures etc. where the individual employee or a near relative is involved.		Paid
Sitting examinations to improve qualifications which are not requirements of your service role but could be useful for the role.		Paid
Training and associated activities with any branch of HM Forces		Paid
Participating in County, Regional, National or International sporting or cultural event.		Paid
Attendance at conferences or training courses organised by an approved educational body.		Paid
Absence from last day of Spring term until 30 April (retiring teachers only)		Paid
Moving house	1 day	Paid
Weddings of near relatives	1 day - Closeness of relative/relationship and location of wedding to be taken into consideration	Paid

Requests for Leave of Absence

Applications should be submitted to the Head of Service on the form provided and he/she may have the authority to agree those that fall within the guidelines above or refuse those which fall outside. Particularly in the case of urgent, unforeseen requests the Head of Service should have the ability to make a decision, although this may be in consultation with the Executive Director, Childrens Services, where discretion in the application of the policy is required.

The employee will state whether leave is sought with or without pay. Throughout, the Head of Service or Executive Director's, response will make clear their decision both in relation to the leave requested and to pay.

For applications:-

- related to one event, which require a decision beyond that which the Head of Service can determine (as outlined in the table above) or
- for Leave of Absence when the normal cumulative total of days leave in Category 3 has already been utilised, the case outlining the reasons and circumstances must be submitted in writing to the Executive Director, Childrens Services Where the nature of the event is urgent and unplanned then the Head of Service is empowered to initially grant unpaid Leave of Absence, beyond the 2 days paid leave which is at their discretion, and the employee's request for the leave to be paid can subsequently be considered by the Executive Director, Childrens Services. The Head of Service may consult with the Executive Director, Children's Services in deciding whether to grant the unpaid leave.

Where the Head of Service does not authorise leave of absence that is within their remit, reasons should be given. If the employee wishes to challenge the decision, they should first request a meeting with the Head of Service in order to make representations. At this meeting the employee should state the reasons why they believe their leave should be approved. The employee may be represented by their trade union/professional association or other representative.

Where the Head of Service continues to refuse the request, the employee may appeal to. Executive Director, Childrens Services. If the employee wishes to appeal they must notify the Executive Director, Childrens Service in writing within 5 term-time working days of receiving the response to their application for leave of absence. The Executive Director, Childrens Service or their representative will liaise to arrange the meeting. There will be a minimum of 10 days' notice of the appeal meeting date. The application for leave, the Head of Service's reasons for refusal and any additional factors the employee wishes to submit should be provided to all parties 5 working days before the meeting.

The employee may choose to present their case to the committee in person and may be accompanied by their representative. In such circumstances the Head of Service will also attend the meeting to explain their decision and answer questions.

If the employee does not wish to present their case in person the Executive Director, Childrens Services can consider the request on the basis of the written submissions. The Executive Director Childrens Service's decision will be final and communicated to

the employee as soon as possible and confirmed in writing within 5 term-time working days.

Where the employee's request for leave has **first** been considered by the Executive Director (because it fell beyond the Head of Services remit) and has not been agreed, then there is a right of appeal to a member of the Senior Leadership Team from another department. The arrangements and employee entitlements will follow the same pattern as outlined above for appeals to Executive Director, Childrens Services.

Leave of Absence without Pay

Requests for leave of absence without pay shall be determined by The Executive Director, Childrens Services.

In considering such requests, The Executive Director, Childrens Services will wish to take into account the nature of the request and the effect on the effective and efficient smooth running of the Service.

Leave of absence without pay should not normally be granted to enable employees to pursue private interests, or to extend periods of holiday.

As well as submitting requests for leave which is all unpaid, employees can request unpaid leave, to follow a period of paid leave of absence, to be authorised. The Executive Director, Childrens Services may wish to grant additional unpaid leave following a period of paid leave granted for an urgent personal or domestic situation, which is ongoing.

Reasonable consideration should be given for requests for unpaid leave to undertake religious observance.

Employees should be made aware that where a leave of absence (with or without pay) request has not been authorised and the employee decides to take the leave, this will be classed as unauthorised leave of absence and subject

DISCRETIONARY LEAVE APPLICATION FORM

Name	
Job Title	
Part-Time FTE (e.g. 0.5 FTE)	
Employee Number	
Date(s) requested (paid) (pro rata entitlement for part time employees)	
Date(s) requested (unpaid) (pro rata entitlement for part time employees)	
Date(s) of any previous special leave taken within 12 months *	
Reason for the request (please provide full details to enable your request to be fully considered by your manager)	
Employee's Signature	
Date	
Approved/Not Approved* (*delete as appropriate) Please include reasons for the decision.	Approved/Not Approved*
Head of Service	
Signature	
Date	

*This information can be provided by your line manager on request.

19. Career Break Scheme (Unpaid Leave)

The Career Break Scheme provides an opportunity for employees to have an extended period away from work.

If an employee wishes to apply for a career break, they would need to discuss this request with their line manager/Head of Service. They would also need to complete the Career Break Application Form. The completed form would then need submitting to the Head of Service. The Head of Service may consult with the Executive Director, Childrens Services before reaching a decision. Where possible, applications for a planned career break should be made at least 3 months before the proposed start date.

The Executive Director, Childrens Services will retain discretion over the granting of a career break, however, it will normally be taken for such activities as:

- Caring responsibilities
- Extended foreign travel
- Personal development - education or training
- Voluntary/community work

A career break will NOT be granted for employees:

- To take up other paid employment.
- Where a temporary or permanent reduction in contractual hours would be more appropriate
- Where other time off provisions apply e.g., time off to undertake public duties

Heads of Service should consider before granting a career break:

- The possible effects on service delivery and team workloads.
- Any anticipated difficulties in the cost-effective temporary replacement for the period of the career break.

If the employee wishes to challenge the decision, they should first request a meeting with the Head of Service in order to make representations. At this meeting they should state the reasons why they believe their request for a career break should be approved. The employee may be accompanied by their trade union/professional association or other representative.

If the employee wishes to appeal against the Head of Service's decision they should write to the Executive Director, Childrens Services within 5 days of receiving the notification that the application has been refused. The employee will receive a reply within 5 days, acknowledging the registering of their appeal which will take place as soon as practicable. There will be a minimum of 10 days' notice of the appeal meeting date.

The employee may choose to present their case to Executive Director, Childrens Services in person and may be accompanied by their representative. In such

circumstances the Head of Service will also attend the meeting to explain their decision and answer questions.

If the employee does not wish to present their case in person the committee can consider the request on the basis of the written submissions. The Executive Director, Childrens Services decision will be final and communicated to the employee as soon as possible and confirmed in writing within 5 working days.

If the employee states their intention to present their appeal in person but fails to attend the appeal hearing or rearranged appeal, in normal circumstances their request will be considered withdrawn.

During the Career Break

- The maximum duration of a career break will be 12 months.
- Depending on individual circumstances, the employee may be invited to attend regular 'keeping in touch' meetings and should plan regular contact with their manager.

Following the Career Break

- When the employee returns to work the manager will ensure they are suitably inducted back into the workplace and developments and changes that have occurred during the period of absence will be discussed with them.
- An employee has a right to return to their job following an extended career break.

Conditions for Career Break Scheme

During any period of absence when on a career break, employees should be advised to consider the impact on their pensions, Statutory Sick Pay, Statutory Maternity, Statutory Adoption or Statutory Shared Parental Pay, National Insurance related benefits, annual leave entitlement (If applicable), statutory holidays and qualification training. An employee's continuous service will be maintained throughout the career break. For further information on how a career break may affect any of the above, the employee should contact HR.

CAREER BREAK (UNPAID LEAVE) APPLICATION FORM

Name	
Job Title	
Full-time/ Part-time FTE	
Employee Number	
Service	
Grade (Pay Point)	
Requested Dates for Career Break: Number of days requested shown as	
<ul style="list-style-type: none"> • Days • Hours and Minutes 	
<p>Pensions – I have Sought Guidance from Teachers Pensions in relation to the implications of a period of unpaid on my Teachers Pension.</p>	
<p>I have read and agree to the conditions relating to the scheme.</p> <p>Employee's Signature:</p> <p>Date:</p>	
<p>To be Completed by Head of Service</p>	
<p>Application Approved/Not Approved*</p> <p>Reason for Decision (if application refused)</p> <p>Signature:</p> <p>Date:</p>	
For HR Services completion - Details of deductions:	Confirmed number of hours/minutes to be deducted:

Guidance on the arrangement of formal meetings with staff involving Union/Professional Association representatives

The arrangement of a formal meeting with a member of staff is a fairly occasional event in most services. This will particularly be the case in small services.

Such meetings are likely to be in connection with one of the Human Resources policies, e.g. Disciplinary Policy, Absence Management, Competence Procedure. When the need arises to meet with a member of staff in connection with such processes or to arrange a hearing, there is an entitlement for him/her to be accompanied by a chosen representative. This representative will usually be from one of the trade unions or teachers' professional associations.

Senior Leaders are advised to ask for the name/organisation of the representative, where possible, and make contact to ascertain their availability before setting dates and times. It can be very unsettling and disruptive to relationships, at an already difficult time, when a date is set and then has to be postponed owing to the unavailability of the representative:-

The legal position is as follows (The Employment Relations Act 1999 Section 10, paragraph 4)

"If:

- (a) a worker has a right under this section to be accompanied at a hearing,
- (b) his chosen companion will not be available at the time proposed for the hearing by the employer, and
- (c) the worker proposes an alternative time which satisfies subsection (5),

the employer must postpone the hearing to the time proposed by the worker.

5 An alternative time must—

- (a) be reasonable, and
- (b) fall before the end of the period of five working days beginning with the first working day after the day proposed by the employer".

Unions/associations are likely to quote this when they are presented with a date they cannot accommodate. The service will have no choice, at this point, but to make new arrangements. This can cause considerable inconvenience for everyone concerned. A further difficulty is likely to be caused because the legal requirement calls for the representative to set a new date, within 5 days, and this will probably not be convenient for other people involved.

It is best to try and avoid a difficult period where parties struggle to set a mutually suitable date, colleagues (and sometimes pupils) in service may suffer because of the delay and resentment may develop.

Service leaders need to consider the perspective of the employee and their representative. Most employees would not expect to be called to a formal meeting, or any other management process, outside of working hours. The representatives themselves are sometimes

employees of the union/association, who have scheduled working time, and branch officials are allocated particular times away from their 'day job' for their union duties. They may struggle to obtain release at other times.

It has been possible, on occasions, to arrange such hearings/meetings in the evenings but Heads of Service should expect to be challenged if making such arrangements. If at all possible, meetings in working hours are also preferable because the participants are more likely to be able to contribute effectively, than at the end of the day.

When informed that a representative cannot attend a meeting and a considerable number of other stakeholders have been assembled (Heads of Service, witnesses, HR Consultant, minute taker), Heads of Service have sometimes challenged the union to send a different representative to facilitate the process and save the impact of further delay on the employee. This is not easy for some associations to accommodate. They may have an agreement where only an individual union representative is authorised to receive the details of the case and to act on the member's behalf.

Heads of Service are advised to take these factors into consideration, in order to enable arrangements to be made in co-operative fashion. Alongside this guidance there has also been correspondence to the unions/associations seeking a similarly collaborative approach from their representatives. For instance, in recognising the requirement to co-operate with the process and offer a reasonable number of possible dates when meetings are needed. We reminded the association that just asserting their rights can foster a defensive response.

The need for formal meetings invariably means that there are challenging situations to manage, not just with the employee concerned but also possibly colleagues and the wider service. The 'tone' of all actions in connection with progressing the issue of concern will play a large part in minimising disruption, negative relationships and the ability to re-establish normal working practice afterwards.

Heads of Service may wish to contact the HR Service, if they are having difficulty in working with the unions on these matters.