

# COLWICH PARISH COUNCIL



## PD111 PATERNITY LEAVE

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Parish Centre, St. Mary's Road, Little Haywood, Staffordshire, ST18 0TX  
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## PATERNITY LEAVE

# Paternity Leave – PD111

### Revision history

**This document was originally written by:**

<b>Name</b>	<b>Position</b>	<b>Date</b>
Michael Lennon	Clerk	January 2017

**This document version was reviewed by:**

Employment Committee	October 2023
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**This document version was approved by:**

Full Council	December 2023
Chairman of Council	W Plant

**Document Review Schedule:**

Next Mandatory Review by:	December 2024
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### Revision History

<b>Version</b>	<b>Issue Date</b>	<b>Document ID</b>	<b>Reason for Change</b>	<b>Section(s) Changed</b>
1	January 2017	PD111-01	Initial Issue	NA
2	09/2018	PD111-02	New Chairman	None
3	10/2021	PD111-03	New chairman Annual review	None
4	10/2022	PD111-04	Annual review	None
5	12/2023	PD111-04	Annual review	8

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# PATERNITY LEAVE

## 1 INTRODUCTION

- 1.1 For many years women employees have had statutory maternity rights. Paternity leave and Adoption Leave rights have followed this and were introduced through the Employment Act 2002, the Paternity and Adoption Leave Regulations 2002 and the Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002.
- 1.2 Following further legislative developments, this policy reflects the changes that came into force from 6th April 2011. In the main, the intent of the Additional Paternity Leave Regulations 2010, was to give partners the opportunity to support the mother both during the period immediately following birth/adoption, and following the mothers return to work (adopting parents are advised to also consult the Adoption Policy).
- 1.3 It is fair to say that the current Government intends to further extend shared parenting arrangements so updates may be expected in this area.

## 2 POLICY STATEMENT

- 2.1 Colwich Parish Council recognises that it has a responsibility to support employees to balance their childcare responsibilities immediately after the birth of their child and following the mother's return to work.

## 3 ELIGIBILITY/EXCLUSIONS

- 3.1 Unless otherwise stated this policy applies to all employees of Colwich Parish Council excluding casual workers and agency personnel.

## 4 DEFINITIONS

### 4.1 Partner

A partner is a person, whether of a different sex or the same sex, who lives with the mother and child in an enduring family relationship, but is not a relative of the mother (a 'relative' for these purposes includes the mother's parents, grandparents, sisters, brothers, aunts or uncles).

### 4.2 Paternity Leave.

This now takes two forms:

4.2.1 Ordinary Paternity Leave (weeks 1-2)

4.2.2 Additional Paternity Leave (Up to 26 weeks taken in place of the mother)

### 4.3 Keeping in Touch 'KIT' days

Keeping in Touch (KIT) days enable the employee, by agreement with his/her employer, to work for up to 10 days' during the period of Additional Paternity Leave and be paid for that work whilst still retaining his/her Additional Statutory Paternity Pay for the week in which any such work is done.

## 5 ACCOUNTABILITIES

### 5.1 Employees

- To read and comply with the Councils policies and procedures at all times.

### 5.2 Clerk

- Adhere to this policy and procedure.

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- Seek professional advice from a Human Resource Specialist in a timely manner.
- To develop the Paternity Policy and procedure.
- Once notified, to make appropriate payments through Payroll

### 6 RECORDS

- 6.1 All written documentation and forms will be kept confidential, and retained in accordance with the Data Protection Act 1998.

### 7 ORDINARY PATERNITY LEAVE

#### 7.1 Definition

- 7.1.1 Ordinary Paternity Leave is intended to give partners the opportunity to support the mother during the period immediately following birth/adoption. It is used within 56 days after the date of birth.
- 7.1.2 If the baby is born early, you can choose to take your leave anytime between the actual date of birth and the end of an 8 week period starting from the Sunday of the week the baby was originally due.

#### 7.2 Eligibility Criteria

In order to be eligible for Ordinary Paternity Leave an employee must fulfil the following criteria:

- 7.2.1 Must have a minimum of 26 weeks continuous employment with the Council, ending in the fifteenth week before the expected week of childbirth or the week in which the adopter is notified of being matched with a child.
- 7.2.2 Has or expects to have responsibility for the child's upbringing, and be making the request to help care for the child or to support the child's mother.
- 7.2.3 Is the biological father of the child, the mother's husband or civil partner. (Partner may include a partner in a same sex couple).
- 7.2.4 The partner who adopts or the member of a couple adopting jointly, who hasn't chosen to take adoption leave.

#### 7.3 Entitlement

- 7.3.1 Ordinary Paternity Leave is granted in addition to an employee's normal annual holiday entitlement.
- 7.3.2 Eligible employees are entitled to take 2 weeks Ordinary Paternity Leave.
- 7.3.3 The first week is as paid leave and the second week is paid at the standard Statutory Paternity Pay rate, currently £135.45 a week (April 2012), or 90% of their average earnings if this is lower.
- 7.3.4 Leave can be taken either one week or two consecutive weeks' Ordinary Paternity Leave but not individual days. The leave must be taken within 8 weeks of the birth or adoption of the child.

#### 7.4 Ordinary Paternity Pay

You are entitled to:

- Week 1 – Full Pay (at the normal rate)

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- Week 2 – Standard Paternity Pay £138.18 per week (April 2014)

7.4.1 However, if your average earnings are below the lower earnings limit for National Insurance Contributions, you will not be eligible for Ordinary Statutory Paternity Pay, please seek advice from Human Resources.

7.4.2 Statutory Paternity Pay is treated as earnings and is therefore subject to PAYE and National Insurance deductions.

### 7.5 Notification

7.5.1 Employees should discuss with the Clerk or, in the case of the Clerk, the Chairman of the Employment Committee, as soon as possible that they wish to take Ordinary Paternity Leave. They should provide formal notification of their intention either before or in the 15th week before the expected week of childbirth. Where adopting, written notification is required no later than 7 days after the date on which the adopter is notified of being matched with a child. In both instances, the length of the ordinary paternity leave to be taken, and the start date of the leave should also be provided.

7.5.2 The date specified may be altered but a minimum of 28 days notice will normally be required. However, if the baby arrives early, Ordinary Paternity Leave may be taken in the period from the actual date of birth up to 8 weeks after the expected date of birth.

7.5.3 If, after applying for Ordinary Paternity Leave, you no longer satisfy any of the conditions you should notify the Clerk or, in the case of the Clerk, the Chairman of the Employment Committee, in writing, as soon as possible.

## 8 ADDITIONAL PATERNITY LEAVE

### 8.1 Definition

8.1.1 Additional Paternity Leave is intended to give partners the opportunity to support the mother during the period following the mothers' return to work.

8.1.2 In essence, it allows the child's father or mothers partner to take up to 26 weeks leave to look after the child where the mother has returned to work.

8.1.3 Additional Paternity Leave is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work.

### 8.2 Eligibility Criteria

In order to be eligible for Additional Paternity Leave (and Additional Paternity Pay) an employee must fulfil all of the following criteria:

8.2.1 An employee must have a minimum of 26 weeks' continuous employment with the Council, ending in the fifteenth week before the expected week of childbirth or the week in which the adopter is notified of being matched with a child (the "relevant week").

8.2.2 The employee must be employed with the Council, for the week which runs Sunday to Saturday, before the start of the Additional Paternity Leave

8.2.3 The employee has or expects to have responsibility for the child's upbringing.

8.2.4 In the case of adoption only, the employee must have been matched with the

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child for adoption.

8.2.5 The employee is the biological father of the child, the mother's husband or civil partner. (Partner may include a partner in a same sex couple).

8.2.6 The employee must be taking the time off to care for the child.

8.2.7 The child's mother/adopter must have been entitled to one or more of the following:-

- Statutory Maternity Leave,
- Statutory Maternity Pay,
- Maternity Allowance, or
- Statutory Adoption Leave or Pay.
- The child's mother/adopter has returned to work with at least two weeks of her statutory pay remaining.

8.2.8 The child's mother/adopter has returned to work and has ceased claiming any relevant maternity pay.

### 8.3 Entitlement

8.3.1 You can apply for a minimum of 2 weeks and a maximum of 26 weeks Additional Paternity Leave.

8.3.2 The earliest an eligible employee can start Additional Paternity Leave is 20 weeks after the child is born/placed for adoption, and it must end no later than 12 months after that date.

8.3.3 Additional Paternity Leave cannot start before the mother of the child has returned to work and stopped receiving her Statutory Maternity Pay or Maternity Allowance.

8.3.4 Additional Paternity Leave may start on any day of the week but must be taken in complete weeks and as one continuous period.

8.3.5 Additional Paternity Leave can continue until the child's first birthday but any leave taken after the mother's maternity pay period of 39 weeks will be unpaid.

### 8.4 Additional Paternity Pay

8.4.1 The mother or primary adopter must also have at least two weeks of his/her maternity or adoption pay period that remains unused for the employee to benefit from Additional Paternity Pay. Where this is the case, eligible employees will be entitled to Additional Statutory Paternity Pay. This is currently paid as **£172.48 (April 2023)** or 90% of average weekly earnings if this is lower.

8.4.2 However, if your average earnings are below the lower earnings limit for National Insurance Contributions (£123 as at April 2023), you will not be eligible for Additional Statutory Paternity Pay.

8.4.3 Statutory Paternity Pay is treated as earnings and is therefore subject to PAYE and National Insurance deductions.

8.4.4 Pension contributions will continue to be made during any period when the employee is receiving statutory paternity pay but not during any period of

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unpaid additional paternity leave. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had he/she not gone on additional paternity leave.

- 8.4.5 Pension contributions can only be stopped if an employee opts out of the Local Government Superannuation Scheme as soon as they go on Paternity Leave. It is recommended that guidance is obtained from the Payroll Department before considering exercising this option. (Check again with Payroll).
- 8.4.6 Statutory Paternity Pay is also payable whether or not the employee intends to return to work after his/her additional paternity leave.

### 8.5 Notification

As soon as it is possible, please discuss with the Clerk or, in the case of the Clerk, with the Chairman of the Employment Committee that you wish to take Additional Paternity Leave. However, you should formally notify the Council at least eight weeks before the Additional Paternity Leave start date. This written notification should also include:

- 8.5.1 the start and end date of the leave
- 8.5.2 in the case of a birth child, the date on which the child was expected to be born and the actual date of birth
- 8.5.3 in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption
- 8.5.4 If you need to change the date of your Additional Paternity Leave, you should advise us, in writing, giving six weeks notice before the original start date.
- 8.5.5 If, after applying for Additional Paternity Leave, you no longer satisfy any of the conditions, or the mother of the child no longer intends to return to work, you should notify the Clerk or, in the case of the Clerk, the Chairman of the Employment Committee, in writing, as soon as possible.

### 8.6 Contact and 'Keeping in Touch' during Additional Paternity Leave

- 8.6.1 Reasonable contact from time to time with an employee on Additional Paternity Leave is to be expected and will not bring the period of Additional Paternity Leave to an end.
- 8.6.2 Similar to 'Keeping in Touch' days (KIT days) under Additional Maternity Leave provision, during Additional Paternity Leave an employee can work for up to 10 days. This enables the employee to participate in key events, for example, key work developments, training or important team meetings.
- 8.6.3 A 'keeping in touch' day can be taken at any time during the Additional Paternity Leave and in any format – i.e in single days, in one block or several blocks of days, but not exceeding 10 days and may be a full or part day.
- 8.6.4 Payment for a 'keeping in touch' day will be at an employee's normal rate of pay on an hour-by-hour basis.
- 8.6.5 Both the timing and the format need to be agreed by both parties and will not affect the duration of the Additional Paternity Leave. There is no requirement whatsoever to undertake a 'keeping in touch' day if you do not wish to, nor



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do you have the right to insist that the work is provided.

- 8.6.6 Any keeping-in-touch days worked will not extend the period of additional paternity leave. Once the keeping-in-touch days have been used up, the employee will lose any further entitlement to statutory paternity pay for any week in which he/she agrees to work. It may also bring the additional paternity leave period to an end.

## 9 GENERAL INFORMATION ON PATERNITY LEAVE

### 9.1 Returning Early from Additional Paternity Leave

- 9.1.1 If you wish to return early from Additional Paternity Leave, please advise the Clerk or, in the case of the Clerk, the Chairman of the Employment Committee, in writing, giving us at least six weeks notice.
- 9.1.2 Where notice of less than six weeks is given, the Council may postpone the return to ensure six weeks' notice.

### 9.2 Holiday Entitlement

- 9.2.1 During Additional Paternity Leave, you will accrue annual leave as if you had been at work.
- 9.2.2 Throughout Additional Paternity Leave, you will continue to be entitled to bank holidays. Where a bank holiday falls within this period, you will be credited with the time.

### 9.3 Additional Paternity Pay and Childcare Vouchers (where applicable)

If you are already in receipt of childcare vouchers, you are advised to promptly contact the Clerk as this may affect statutory Paternity Pay.

### 9.4 What if the Child's Mother has died?

- 9.4.1 The provision of Paternity leave assumes that the mother has returned to work after taking maternity leave. However, the new provisions also provide for eligible employees to take Additional Paternity Leave in cases where the child's mother has died.
- 9.4.2 Fortunately, these situations are rare, but in these circumstances additional paternity leave may be taken provided that the mother would be entitled to maternity leave, maternity pay or maternity allowance; and provided you have not already completed the period of Additional Paternity Leave.
- 9.4.3 In these circumstances, Additional Paternity Leave may be taken at any time from the mother's death up to 12 months after the child's birth.
- 9.4.4 The minimum period of leave that can be taken is two weeks and the maximum is 52 weeks, therefore allowing the employee to take up to a year of additional paternity leave where the mother has died during childbirth.
- 9.4.5 Notification of the intention to take Additional Paternity Leave should be given as soon as reasonably practicable, but in any event no later than eight weeks after the mother's death. Further information will also be required relating to the child's birth date and the employee should also fulfil the eligibility criteria, as outlined previously.

### 9.5 Protection Against Unfair Treatment or Dismissal During Paternity Leave

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- 9.5.1 During Paternity Leave, an employee retains the right to return to the same job on the same terms and conditions, unless a redundancy situation has arisen, in which case, where available a suitable alternative vacancy will be offered.
- 9.5.2 Paternity Leave will count as continuous service for accrual of holiday entitlement, sick pay entitlement etc.

### **9.6 Professional Fees**

If an employee has support for professional fees included in their terms and conditions, they should contact their professional association as this may be discounted during the paternity leave period.

## 10 FREQUENTLY ASKED QUESTIONS

### 1. What day of the week can the Ordinary Paternity Leave start on?

*Ordinary Paternity Leave does not have to run from Sunday to Saturday. You can start the leave on any day, for example Tuesday to Monday.*

### 2. Is the 26 weeks of Additional Statutory Maternity Leave in addition to the 2 weeks of Ordinary Paternity Leave?

*Yes, if the partner chooses to take both Ordinary Paternity Leave and the full 26 weeks Additional Paternity leave, the overall Paternity leave will total 28 weeks.*

### 3. Can there be a gap between the end of the mothers Maternity Leave and the beginning of Additional Paternity Leave?

*Yes, although in practice Additional Paternity Leave is likely to be taken immediately after the mothers return to work. In any event, Additional Paternity Leave must be taken by no later than 12 months after the baby is born/placed.*

### 4. Is it that the leave entitlement of the mother transfers between the parents/partners?

*No, contrary to belief, Additional Paternity Leave is a separate right. It can result in a couple having a combined Maternity Leave and Additional Paternity Leave period that is longer than if the mother alone had taken her full 52 weeks Maternity Leave entitlement.*

*Additional Maternity Pay/ Additional Statutory Paternity Pay, on the other hand can be shared between the partners provided that the mother has at least two weeks of her entitlement left and all the eligibility criteria is met.*

### 5. I've had twin's does this double the Statutory Paternity Pay?

*No extra Statutory Paternity Pay is payable for multiple births.*

### 6. What is the maximum Additional Paternity that can be paid?

*Because the earliest date that Additional Paternity Leave and Additional Statutory Paternity Pay can start is 20 weeks after the child is born, this means that Additional Statutory Paternity Pay is only payable for a maximum of 19 weeks.*

### 7. I'd intended to start my Additional Paternity Leave, but the mother is sick, does this affect my leave at all?

*Yes, if the mother takes annual leave or is sick during her maternity pay period, this does not count as a return to work and Additional Paternity Leave cannot start.*

### 8. Can I start Ordinary Paternity Leave at anytime?

*No. You cannot start your ordinary paternity leave before the child is born.*

### 9. What happens if I choose not to return after my Additional Paternity Leave?

*In these circumstances, you are required to provide written notification of your resignation in the normal way.*

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### 11 OTHER SOURCES OF INFORMATION

#### 1. Related internal policies

- Maternity Leave
- Parental Leave
- Right to Request Flexible Working

#### 2. Trade Union

It is recommended that a trade union representative be contacted at the earliest possible stage so that appropriate advice, guidance and support can be offered to the employee.

#### 3. External Sources

Further advice can be found on the following websites:

[www.Direct.gov.uk](http://www.Direct.gov.uk)

[www.ACAS.org.uk](http://www.ACAS.org.uk)

Please note that the Council takes no responsibility or liability for any material produced by or contained in external sites or for any advice or services given by external organisations. It is the responsibility solely of each person to decide whether or not they use any such material, advice or service.

### 12 LEGISLATIVE FRAMEWORK

- Employment Act 2002
- Paternity and Adoption Leave Regulations 2002
- Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002
- Additional Paternity Leave Regulations 2010
- Work & Families Act 2006
- Additional Paternity Leave Regulations 2010
- Additional Statutory Paternity Pay Regulations 2010

### 13 POLICY REVIEW

Save as required by law, this policy may be reviewed on a yearly basis.

<b>SIGNED</b>	
COUNCILLOR WENDY PLANT, PARISH COUNCIL CHAIRMAN	