

## **Maternity, Paternity & Adoption rights - Addendum to existing LA Policies**

**(Derbyshire County Council's Maternity, Paternity, Parental and Adoption Leave Scheme Feb 2024, and Derby City Council's School Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy Teaching Staff Oct 2015 and Support Staff April 2015)**

### **The Protection from Redundancy (Pregnancy and Family Leave) Act 2023:**

From 6 April 2024 the redundancy protection period for pregnant employees or those taking maternity leave has been extended from only being protected whilst on maternity leave to enhanced protection covering the time of pregnancy, maternity leave and the time following return from maternity leave.

Employees who have not started their maternity leave but who have notified their Line Manager of their pregnancy before 6 April 2024 are also protected.

The redundancy protected period during pregnancy and maternity:

- starts when an employee tells their Line Manager that they are pregnant
- ends 18 months from the exact date the baby is born

***If an employee does not tell their employer the exact date:*** the protected period ends 18 months from the expected week of childbirth.

### **Stillbirth or Miscarriage:**

The redundancy protected period starts when an employee tells their Line Manager that they are pregnant.

If an employee has a miscarriage within the first 23 weeks and 6 days of pregnancy, the redundancy protected period ends 2 weeks from the date of the miscarriage.

If a child is stillborn after 24 weeks of pregnancy, the redundancy protected period ends 18 months from the date of the birth.

### **Adoption leave:**

From 6 April 2024 the redundancy protected period for someone taking adoption leave has been extended. Before this change they were only protected while on adoption leave.

The redundancy protected period starts on the day someone's adoption leave begins. It ends 18 months from either:

- the date the adoption placement starts
- the date the child enters England, Scotland or Wales, if it's an overseas adoption

### **Shared parental leave:**

From 6 April 2024 the redundancy protected period for someone taking shared parental leave has been extended. Before this change they were only protected while on shared parental leave.

The redundancy protected period starts on the day a period of shared parental leave begins.

If an employee takes:

- less than 6 weeks leave – the protected period ends on the last day of the block of leave
- 6 weeks or more of continuous leave – the protected period ends 18 months from the date of the child's birth

If the employee takes discontinuous leave, the redundancy protected period finishes at the end of each period of shared parental leave.

An employee who has already taken adoption or maternity leave will have the redundancy protected period of that specific type of leave.

### **Suitable alternative employment:**

If there are any suitable alternative vacancies an employer must offer them to employees who have this redundancy protection.

Anyone who has this redundancy protection has priority over other employees. This applies even if other employees are also suitable for the vacant post. If this does not happen, the employee could potentially claim [automatically unfair dismissal](#).

In some situations, there may not be enough suitable vacancies for everyone who has this redundancy protection. The Executive Headteacher / Headteacher / CEO or delegated panel will have to decide who is most suitable for the roles they have. This will include those who fall within this protection and the following will be considered:

- skills
- job knowledge
- experience

The outcome and justification will be explained in writing detailing the criteria used to make the decision and why.

If employees are not offered a suitable vacancy, the outcome and details will be explained in person and also in writing to inform and give opportunity to discuss the decision in line with the Redundancy Policy.

## **Paternity Leave (Amendment) Regulations 2024:**

These amendments apply to parents of children who are born (or adopted) on or after 7 April 2024. The new law gives more flexibility for employees to take the two-week paternity leave as two separate one-week block intervals, rather than having to take it as a single block or as consecutive weeks. The total amount of paternity leave remains at two weeks.

Paternity leave can now be taken at any point within 52 weeks of the child's birth or placement with the adopter, rather than the previous eight weeks after the child's birth.

### **Written notice periods:**

Fathers and partners need to give at least 28 days' (4 weeks) written notice for each period of paternity leave and pay, instead of the previous requirement of 15 weeks before the expected date of childbirth. Employees can amend the start date of leave and pay by providing 28 days' written notice. In some circumstances it may not be possible for the employee to give 28 days' notice of the change, for example if the baby is born early or late. Line Managers should be supportive of any difficult circumstances.

To take statutory paternity leave, the employee must inform their Line Manager in writing that they are one or both of the following:

- the child's father
- married to, the civil partner or partner of the mother or birth parent – this includes same-sex partners

They will also confirm:

- their partner is having a baby
- they're planning to take paternity leave
- the expected week of childbirth

They should do this:

- In a letter / email
- Via the form [statutory paternity pay and leave: becoming a birth parent \(SC3\) on GOV.UK](#)

***If an employee cannot provide information in the required time:*** It might not always be possible for an employee to provide the information in the required time (28 days' notice). In these cases the Line Manager should meet with the individual to ascertain the reasons why the required notice period has not been met. The employee must give the information without any further delay. The Line Manager should seek advice from the Central HR Team.

### **Confirming the paternity leave:**

The School / Trust should respond in writing confirming the dates the employee has requested. If an employee is not eligible for [statutory paternity pay](#) while they're on paternity leave, this will be confirmed in writing within 28 days and this following form can be used [non-payment of statutory paternity pay \(SPP1\) on GOV.UK](#).

**Stillbirth or death soon after birth:**

If there's a stillbirth or the baby dies soon after birth, the Line Manager should offer support for the employee. When the employee is ready, they can talk about what time off they think they'll need.

Their paternity rights still apply if their baby:

- is stillborn after 24 weeks of pregnancy
- is born alive at any stage of the pregnancy but only lives for a short time

They can take paternity leave:

- at the time it was planned for – if they had already booked the leave before the baby died
- within 52 weeks of the baby's death – if they had not already booked paternity leave

If the employee is eligible for [parental bereavement leave and pay](#), they have the right to take this after they finish their paternity leave. Please also see DDAT's Parental Bereavement Leave appendix April 2020 to the existing LA Parental Leave Policies.

**Miscarriage:**

A miscarriage means a pregnancy loss in the first 24 weeks (23 weeks and 6 days). Employees are not entitled to statutory paternity leave after a miscarriage. However, many people would still consider miscarriage a bereavement. The Line Manager should offer support and consider offering time off at what can be an extremely difficult time, both physically and emotionally.

- [if an employee or their partner has a stillbirth or miscarriage](#)
- [supporting an employee after a death](#)

**Advice and support:**

- Referral to a mental health first aider either in school or via the Central Team
- Signposting to Education Support website: [Education Support, supporting teachers and education staff](#).
- Signposting to wellbeing support through the absence insurance policy e.g. Schools Advisory Service.
- Webinars available through The National College platform that are provided through the School / Trust.