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Maternity, Paternity and Adoption Policy

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.
This document is also available in Welsh.

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1 Introduction and definitions

1.1 This policy outlines:

- the statutory rights and responsibilities of staff who are pregnant or have recently given birth, and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave:
 - staff entitlements to ordinary and additional paternity leave and pay and sets out the arrangements for taking it
 - staff entitlements to adoption leave and pay for employees who are adopting a child through a UK adoption agency and sets out the arrangements for taking it.

1.2 This policy and procedure applies to all staff regardless of status or length of service except for agency workers or the self-employed.

1.3 This policy does not form part of contracts of employment and may be amended at any time.

1.4 Definitions contained within this policy are as follows:

OML	Ordinary Maternity Leave
AML	Additional Maternity Leave
SMP	Statutory Maternity Pay
EWC	Expected week of childbirth
QW	Qualifying Week (15th week before the expected week of childbirth)
OPL	Ordinary Paternity Leave

APL	Additional Paternity Leave
SPP	Statutory Paternity Pay
ASPP	Additional Statutory Paternity Pay
OAL	Ordinary Adoption Leave
AAL	Additional Adoption Leave

2 Qualifying criteria

- 2.1 Workers employed by an agency who work at PSOW do not qualify for maternity / paternity / adoption pay or leave from PSOW. They should contact their own employer (the agency) for advice. Agency staff who become employees of PSOW cannot count their service with the agency as part of their continuous service with the PSOW.
- 2.2 Fixed term and temporary staff employed directly by PSOW are entitled to the same maternity / paternity / adoption entitlements as permanent employees.
- 2.3 Paternity leave is available when a child is born or placed with you for adoption. However, in adoption cases paternity leave is not available to an employee who decides to take adoption leave.

Qualifying criteria – Paternity Leave

- 2.4 Paternity leave is available on the birth of a child if you have been continuously employed by PSOW for at least 26 weeks ending with the 15th week before the Expected Week of Childbirth or and either:
- You are the biological father and will have some responsibility for the child's upbringing.

- You are the husband, civil partner or cohabiting partner of the biological mother and will have the main responsibility (with the mother) for the child's upbringing.

2.5 Paternity leave is also available where a child is placed with you for adoption by an adoption agency, if you have been continuously employed by PSOW for at least 26 weeks ending with the week in which the agency notifies you that you have been matched with a child.

2.6 Additional paternity leave (APL) is a further period of leave that is only available if the child's mother or co-adopter has returned to work after taking maternity or adoption leave, or after a period of entitlement to statutory maternity or adoption pay or maternity allowance in respect of the child. APL cannot start until at least 20 weeks after the birth or placement, it cannot last more than 26 weeks in total and must end within 12 months of the birth or placement.

Qualifying Criteria – Adoption Leave

2.7 Adoption leave is available to employees who are adopting a child under the age of 18 on their own, or to one member of a couple who are adopting together. The couple can decide who will take the paid leave. This person must be the primary carer. The other member of the couple may take paternity leave instead.

2.8 Paid time off will be granted to prospective parents to attend interviews arranged by the Adoption Society.

2.9 To qualify to adoption leave, you must:

- be adopting a child through a UK or overseas adoption agency
- have received written notice that you have been newly matched with a child by an adoption agency (“matched” means that the adoption agency gives you the details of the child they think is suitable for you to adopt) and of the date the child is expected to be placed into your care with a view to adoption (Expected Placement Date)
- have notified the agency that you agree to the child being placed with you on the Expected Placement Date
- be employed by PSOW and worked continuously for PSOW for at least 26 weeks before the beginning of the week when you are matched with a child (Qualifying Week)
- be adopting a child through an adoption agency which is properly recognised in UK law.

3 Entitlements

3.1 All entitlements are dependent upon the member of staff complying with the notification requirements as stated in this policy.

Maternity / Adoption Leave and Pay entitlements

Irrespective of length of service, all permanent and fixed term contract staff are entitled to a total maximum of 52 weeks maternity / adoption leave (26 weeks OML / OAL followed by 26 weeks AML / AAL).

Maternity: Commencing no earlier than the 11th week before the expected week of childbirth (EWC) for Maternity

Adoption: Commencing no earlier than 14 days before the Expected Placement Date for adoption. (In the event that further children are adopted, subsequent periods of adoption leave may be taken subject to the requirements of this policy).

Level 1	<p>An employee with less than 26 weeks continuous service at the Qualifying Week is entitled to:</p> <p>There is no entitlement to maternity / adoption pay, either statutory or PSOW paid. You may be entitled to maternity / adoption allowance which you can apply for at a job centre or social security office.</p>
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Level 2	<p>An employee with more than 26 weeks continuous service but less than 1 years' service at the Qualifying Week is entitled to:</p> <p>Maternity: 39 weeks of Statutory Maternity Pay (SMP). SMP is paid at 90% of your average earnings for the first 6 weeks of maternity leave, and at the standard SMP rate for the remaining 33 weeks (or 90% of average weekly earnings if lower than the standard SMP rate). The remaining 13 weeks of AML will be unpaid.</p> <p>Adoption: 39 weeks of Statutory Adoption Pay (SAP). SAP is paid at the standard SAP rate or 90% of average weekly earnings if lower than the standard SAP rate). The remaining 13 weeks of AML will be unpaid.</p>
Level 3	<p>An employee with at least 1 years' service (in the previous three years), at the Qualifying Week, is entitled to:</p> <p>26 weeks (OML / OAL) of full pay (which will include any SMP due), plus 13 weeks of AML / AAL paid at the standard rate of Statutory Maternity / Adoption Pay (SMP / SAP) or 90% of average weekly earnings if lower than the standard rate. The remaining 13 weeks of AML / AAL will be unpaid.</p>

3.2 PSOW are happy to spread pay equally over the period of maternity / paternity / adoption leave, if that is what the staff member prefers.

4 Notification

Notification of Pregnancy

- 4.1 For reasons of Health and Safety and to identify and minimise any potential risks at work, we advise you to inform your manager in writing that you are pregnant so that an initial risk assessment can be carried out and reviewed as necessary. However, we do recognise that women may prefer to keep this matter private until the 15th week before the expected week of childbirth, and we respect that right to privacy.
- 4.2 To qualify for the maternity leave entitlement, you must inform your manager in writing (and copy to Corporate Services) in or before the 15th week prior to your EWC, or as soon as is reasonably practical thereafter.
- 4.3 You must include the following information:
- that you are pregnant
 - your expected week of childbirth, providing the original MATB1 (this is issued by your midwife or GP no earlier than 20 weeks before the EWC)
 - the date you intend to commence your maternity leave.
- 4.4 The earliest date you can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless your child is born prematurely before that date).
- 4.5 Once you have notified us of your pregnancy, we will carry out a risk assessment, and identify any preventive and protective measures that we consider we need to take. We will take such steps as necessary to avoid

any risks identified affecting your health and safety as a new or expectant mother. If necessary, this could include:

- changing your working conditions or hours of work
- offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable
- suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

Notification of intention to take adoption leave

4.6 As the adoption process can be lengthy and complex, it is essential for employees to notify their manager of their intention to adopt and keep them informed of any developments to enable planning for your absence.

4.7 Employees must give 28 days' notice to their manager of the date they wish to take adoption leave. If it is not reasonably practicable to give 28 days notice (in the case of the time between the child being matched and placed being less than that), you should notify PSOW as soon as possible.

4.8 Within 7 days of being notified by the adoption agency that the employee has been matched with a child, employees must formally apply to their manager in writing for adoption leave. It should include the following:

- the date which you wish to commence your adoption leave
- the duration of leave required
- The 'date of placement' the expected or actual date the child is placed with you

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- The name and address of the agency and the staff member
- confirmation of the person who will be the primary carer and will be taking the adoption leave entitlements
- the original matching certificate from the local authority or adoption agency
- expected or actual date of placement, for example a letter from the agency
- relevant UK authority's 'official notification' confirming the parent is allowed to adopt (overseas adoptions only)
- date the child arrived in the UK, for example a plane ticket (overseas adoptions only)
- your manager must forward these to Corporate Services.

4.9 In relation to leave for adopting a child from overseas, within 28 days of getting your 'official notification', you must tell us the date of the notification and when you expect the child to arrive in the UK. You must tell us:

- the actual date the child arrives in the UK – within 28 days of this date
- how much leave you want and when you want it to start

4.10 In relation to leave for staff in surrogacy arrangements, at least 15 weeks before the due date, staff in surrogacy arrangements must tell us in writing when the baby is due and when you want to start your leave. You will also need to confirm in writing that you;

- intend to apply for a parental order in the 6 months after the baby's birth
- expect the order to be granted.

4.11 In the event of the child's placement ending or the employee being notified that the adoption will not take place during the adoption leave period, the primary carer can continue their adoption leave for a maximum of 8 weeks after the end of the placement unless the entitlement to leave (and / or pay) would have ended earlier in the normal course of events. In this event please contact your manager and give at least 28 days' notice of your return to work.

Changes to Leave dates

4.12 Staff must tell PSOW about changes to leave dates at least 28 days before their original start date or the new start date – whichever is earlier. Staff must give 8 weeks' notice if they want to change the date they return to work.

Notification of Ordinary Paternity leave

- 4.13 Employees wishing to take OPL must inform their manager and should apply for this as special leave. You must give notice that you intend to take paternity leave no later than the 15th week before the baby is due (or no more than seven days after the adoption agency notified of being matched with a child). Where this is not reasonably practical, notice must be given as soon as possible.
- 4.14 You can change the intended start date by giving us 28 days' notice or, if this is not possible, as much notice as you can.

Notification of Additional Paternity leave

- 4.15 To take APL you must make a request in writing which must include the information detailed in Appendix A at least 8 weeks before the date you would like your leave to start.
- 4.16 You can cancel APL or change the start or end dates by giving us at least 6 weeks' written notice. If this is not possible, give as much written notice as you can, but if we are unable to accommodate the change on such short notice we may still require you to start APL as previously notified and / or finish APL 6 weeks after your written notice (or on the date previously notified, if earlier).

Confirmation of Maternity / Paternity / Adoption leave.

- 4.17 PSOW will write to you within 28 days of receipt to confirm the start date of your Maternity / Paternity / Adoption leave, along with details of your Maternity / Paternity / Adoption (including your expected return date) and pay entitlements.

5 Commencement

- 5.1 **Maternity leave** will start on the earliest of:
- Your Intended Start Date (if notified to us in accordance with this policy).
 - The day after any day on which you are absent for a pregnancy-related reason during the 4 weeks before the Expected Week of Childbirth. If this happens you must let us know as soon as possible in writing. Maternity leave will be triggered unless we agree to delay it.

- The day after you give birth. If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible.

5.2 Paternity leave:

Unless agreed otherwise, the basic statutory leave of two weeks maximum must be taken between:

- The baby's birth date or any day of that week, and within 56 days of the baby's birth date.
- Additional Paternity leave cannot start until at least 20 weeks after the birth or placement. It cannot last more than 26 weeks in total and must end within 12 months of the birth or placement.

5.3 Adoption leave will start:

- From the date that the child starts living with you.
- On an earlier date up to 14 days before the date you expect the child to start living with you.

5.4 You are entitled to change the date on which you intend to start your maternity / paternity / adoption leave providing you:

- Give PSOW at least 28 days' notice before the original commencement date or 28 days before the new date, whichever comes first. If it is not reasonably practical to give 28 days' notice, you should notify PSOW as soon as possible.
- Put the request in writing.

5.5 We shall write to you within 28 days of the revised leave start date to confirm your revised expected return date.

5.6 Shortly before your maternity / paternity / adoption leave starts we will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave.

6 Keeping in Touch (KIT) Days and Shared Parental Leave in Touch (SPLIT) Days

6.1 Unless it is agreed at the start of your leave that you do not wish to be contacted or kept up to date, we may make reasonable contact with you from time to time during your Maternity / Paternity / Adoption leave.

6.2 Staff can come into work for up to 10 days during their leave, called 'keeping in touch' (or KIT) days for those on maternity or adoption leave without it affecting their pay. In addition to these, staff can work up to 20 days during their Shared Parental Leave and these are called 'shared parental leave in touch' (or SPLIT) days. Both KIT and SPLIT are optional – both PSOW and the staff member need to agree to them.

6.3 The actual dates and times of attendance at PSOW for KIT days must be agreed with the relevant line manager beforehand.

6.4 Time off in lieu will be given on return to work at the end of Maternity / Paternity / Adoption leave which will correspond with the actual time worked during KIT days or SPLIT days (excluding any lunch break).

7 Miscarriage / Still births / Premature birth

- 7.1 In the sad event of a baby being stillborn after the 24th week of pregnancy, the staff member would still qualify for maternity / paternity leave.
- 7.2 Should a staff member suffer a miscarriage in the first 24 weeks of pregnancy, you would not qualify for maternity leave, but would be eligible to receive sick pay as per the sickness absence policy. Managers should be mindful of the support a staff member would need under these circumstances and deal with communications sensitively and confidentially.
- 7.3 In the event of a child being born prematurely and before maternity leave has started, the maternity leave start date will be the date the baby is born.
- 7.4 In the event of the baby being born either prematurely or after the due date, flexibility on the start date of paternity leave may be negotiated with the line manager.
- 7.5 You may be eligible for Parental Bereavement Leave and Parental Bereavement Pay in the event of the sad event of a child's death or stillbirth, please refer to HR for information.

8 Returning to work

- 8.1 The law prohibits an employee from returning to work within 2 weeks of having a baby.
- 8.2 It is assumed you will take your full maternity / adoption leave entitlement. If you wish to return to work earlier than the 52 weeks, you must give 8 weeks' notice in writing to Human Resources, who will write to you to confirm your revised expected return to work date.
- 8.3 You have the right to return to your original position if you take:
- Paternity Leave
 - Only 26 weeks of Maternity or Adoption Leave
 - Only 26 weeks of Shared Parental Leave (between both parents)
 - 4 weeks or less of unpaid Parental Leave
 - Parental Bereavement Leave
- 8.4 Your terms of employment shall be the same as they would have been had you not been absent.
- 8.5 If you have taken any period of Additional maternity / paternity / adoption leave or more than 4 weeks' parental leave, and it is not reasonably practicable for us to enable you to return to your substantive job, you will return to a similar job on the same terms and conditions. If you unreasonably refuse to take the similar job, PSOW can regard this as your resignation.

8.6 Requests for returning to work part-time or on a flexible basis should be made as early as possible and the application to work flexibly should be completed as per the policy. We will deal with any requests by employees to change their working patterns (such as working part-time) after adoption leave on a case-by-case basis. There is no absolute right to insist on working part-time, but you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business.

8.7 If agreed prior to your leave commencing and shortly before you are due to return to work, we may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may cover:

- updating you on any changes that have occurred during your absence
- any training needs you might have
- any changes to working arrangements (for example if you have made a request to work part-time).
- To agree the content of your end of maternity return to work meeting.

9 Maternity / paternity / adoption and sickness absence

- 9.1 Periods of pregnancy-related sickness absence prior to the commencement of maternity leave shall be paid in accordance with your contract of employment in the same manner as any other sickness absence.
- 9.2 Periods of pregnancy-related sickness absence from the start of your pregnancy until the end of your maternity leave will be disregarded for absence management purpose and in any future employment-related decisions.
- 9.3 If you are absent for a pregnancy-related reason during the 4 weeks before your Expected Week of Childbirth, your maternity leave will start automatically. The maternity leave will start from the beginning of the certified sickness absence, or 4 weeks before the EWC, whichever is the later. If the certified sickness absence starts more than 4 weeks before the EWC, the maternity leave will start at 4 weeks before the EWC.
- 9.4 If an employee is unable to return to work after the period of maternity / paternity / adoption leave due to sickness, the normal sickness absence policy will apply.
- 9.5 Requests for phased return to work on medical grounds following any extended period of absence will be considered as normal in line with the PSOW attendance & absence policy.
- 9.6 In any other case, late return will be treated as unauthorised absence.

10 Extension to maternity / paternity / adoption leave

10.1 There are a number of options available if you wish to extend your period of time off work, for example parental leave, annual leave or unpaid leave. You should give at least 8 weeks' notice in writing, prior to your scheduled return to work date, to request to extend your leave in this way.

11 Resignation

11.1 An employee who resigns because they do not intend to return to work after maternity / paternity / adoption leave will be expected to repay any occupational maternity / paternity / adoption pay received in full. An employee who does resign whilst on maternity / paternity / adoption leave may be allowed to withdraw their resignation in exceptional circumstances.

11.2 Employees are expected to attend work for a period of a least 1 month following their period of maternity / paternity / adoption leave. Employees who resign within a 6 month period may be expected to repay any occupational maternity / paternity / adoption pay received in full.

11.3 This does not affect your right to receive Statutory maternity / paternity / adoption pay.

12 Effects of maternity / paternity / adoption leave on other Terms and Conditions

12.1 All employees are entitled to all non-pay benefits for the full duration of their maternity / paternity / adoption leave.

12.2 **Annual leave** – annual leave accrues for the period of the maternity / paternity / adoption leave (up to a maximum of 52 weeks for maternity and adoption leave, and a maximum of 10 days for OPL and 26 weeks for APL), but there is no accrual after that period until the employee returns to work. An employee will be allowed to carry forward any outstanding balance at the end of their leave year if this falls during maternity / paternity / adoption leave. All holiday dates are subject to approval by the line manager.

12.3 **Pension entitlements** – During periods of unpaid leave you may not build up reckonable service towards your pension entitlements. This may vary according to the pension scheme you are a member of. For more information please refer to the relevant scheme administrator, details of which can be obtained from Corporate Services.

12.4 **Annual pay awards** – you will be entitled to your incremental award and annual pay award during your period of absence. If you become eligible for a pay rise before the end of your maternity / paternity / adoption leave, you will be treated for SMP / SPP purposes as if the pay rise had applied throughout the Relevant Period. This means that your SMP / SPP will be recalculated and increased retrospectively if necessary), or that you may qualify for SMP/SPP if you did not previously qualify. We shall pay you a lump sum to make up the difference between any SMP / SPP already paid

and the amount payable by virtue of the pay rise. Any future SMP / SPP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

12.5 **Continuation of Service** – periods of paid and unpaid maternity / paternity / adoption leave are recognised and count towards continuation of service.

13 Time off for antenatal / fertility treatment / adoption meetings

13.1 **Antenatal** - All pregnant employees, regardless of length of service, are entitled to paid time off to attend antenatal care.

13.2 A certificate of pregnancy and / or proof of appointment may be required for the first appointment but not for subsequent appointments. Staff wishing to attend antenatal care appointments with their partners may do so and must make up the lost time.

13.3 **Adoption meetings** - Paid time off will be granted to prospective parents to attend pre-placement and pre-adoptive meetings arranged by the adoption agency. In addition, paid time off will be granted for post-adoption meetings, such as court hearings etc.

13.4 **Fertility treatment** - Please see section 3 of the PSOW attendance and absence policy for details of entitlement regarding time off for fertility treatment.

14 Review and publication

14.1 This policy will be reviewed every 2 years and published internally and externally.

14.2 Any queries about this policy can be directed to policycontrol@ombudsman.wales

15 Appendix A

Information required in a written request for Additional Paternity Leave

- (a) A written "leave notice" stating:
- in the case of birth, the Expected Week of Childbirth and the child's actual date of birth
 - in the case of adoption, the date the adoption agency notified you that you had been matched with the child and the date the child was actually placed with you
 - the dates you would like your APL to start and finish.
- (b) A signed "employee declaration" confirming that you satisfy the eligibility conditions set out above for APL and wish to take the leave to care for the child.
- (c) A written "mother declaration" from the child's mother or "adopter declaration" from the co-adopter stating:
- their name, address and National Insurance number
 - the date they intend to return to work
 - in the case of birth, confirmation that you are the child's biological father or the mother's partner, and that you have or expect to have responsibility for the child's upbringing
 - in the case of adoption, confirmation that you are their spouse, civil partner or cohabiting partner

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- that, to his or her knowledge, you are the only person exercising an entitlement to APL in respect of the child
- that they consent to us processing the information they have provided
- in birth cases, we may require you to provide a copy of the child's birth certificate and the name and address of the mother's employer or, if she is self-employed, her business address
- in adoption cases, we may require you to provide the name and address of the co-adopter's employer or, if they are self-employed, their business address. We may also require documentary evidence such as a matching certificate issued by the adoption agency confirming the agency's name and address, the date you were notified of the match, and the expected placement date.