



# **East Dunbartonshire Council**

## **Family Leave Policy**

**Chief Officer & Local Government Employees**

**Teachers and employees on SNCT Conditions of Service should refer to SNCT Handbook Part 2, Section 7 Family Leave**

**1 April 2024**

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### 1.0 Policy Statement

1.1 As a Family Friendly employer, East Dunbartonshire Council recognises the diverse workforce we employ and the different work life balance requirements of employees at different points in their lives. This policy promotes best practice in retaining and supporting employees when they have a lifestyle change which may involve:

- Pregnancy and Maternity Leave
- Adoption and Surrogacy Leave
- Paternity Leave
- Shared Parental Leave
- Fostering Leave
- Parental Leave
- Carer's Leave
- Parental Bereavement Leave and Miscarriage Support
- Other Support such as Fertility Treatment, Breastfeeding and Kinship Care

1.2 This policy aims to:

- Highlight entitlements to employees in line with statutory and Council provisions;
- Ensure employees and line managers take the appropriate action when a lifestyle change occurs;
- Provide a positive approach to work/life balance and ensure fair and consistent treatment during a period of family leave and on return to work.

### 2.0 Scope

2.1 The Family Leave Policy applies to Chief Officers and Local Government Employees.

2.2 Teachers and those employed on SNCT Conditions of Service should refer to SNCT Handbook Part 2, Section 7, Family Leave.

### 3.0 References and Related Documents

3.1 This forms part of the Council's Policies and Procedure base surrounding employment and certain policies, procedures and toolkits may be referenced throughout this document. This policy has been developed to ensure compliance with relevant employment legislation.

3.2 This Policy should be applied with reference to the Charter of Commitment outlining the Roles & Responsibilities for Employment based Policies and Procedures.

### 4.0 Definitions

4.1 The following definitions are used in this Policy:

4.1.1 **Partner** - means the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. This includes

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someone, of either sex, who lives with the mother and the child in an enduring family relationship. The mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew will not be defined as a "Partner".

- 4.1.2 **Expected week of childbirth** - means the week, starting on a Sunday, during which the mother's doctor or midwife expects the child to be born.
- 4.1.3 **Qualifying week** this is the 15th week before the week the baby is due to be born.
- 4.1.4 **SMP** – Statutory Maternity Pay is paid for up to 39 weeks
- 4.1.5 **SAP** – Statutory Adoption Pay is paid for up to 39 weeks
- 4.1.6 **ShPP** – Statutory Shared Parental Pay – Statutory prescribed rate or 90% of employee's average weekly earnings, whichever is lower.
- 4.1.7 **SPL** – Shared Parental Leave – where the mother or main adopter and their partner can share up to 50 weeks of leave in the first year after their child is born or placed with their family.
- 4.1.8 **KIT** – Keeping in Touch (days) – employees can work up to 10 days during maternity/adoption leave.
- 4.1.9 **SPLIT** – Shared Parental Leave in Touch Days – employees can work up to 20 days during SPL without bringing it to an end. (This is in addition to the 10 KIT days available on maternity/adoption leave)
- 4.1.10 **Main Adopter** – The 'Main Adopter' is the person who is taking the adoption leave and pay and will take the first two weeks of leave following the child's placement.

## 5.0 Policy Outline

### 5.1. Maternity Leave

#### 5.1.1 Notification of Pregnancy

Employees should ensure that they inform their line manager of their pregnancy as soon as possible. This should be no later than the 15<sup>th</sup> week before the expected week of childbirth that they plan to exercise their right to take maternity leave. It is essential that employees notify the Employee Services Team by completing the Application for Maternity Leave & Pay Form. Please refer to the toolkit for application process.

The application will detail:

- That the employee is pregnant
- The employee's expected date of childbirth
- The date the employee intends to begin their Maternity Leave

The employee must also give their manager their **Maternity Certificate form (MATB1)** which should be provided by their doctor or midwife, stating their Expected Week of Childbirth. This must be done as soon as reasonably practical. Please refer to the toolkit for further information.

## 5.1.2 Changing the start date of maternity leave

After giving notification, an employee can change their intended start date as long as they notify their manager of the new start date at least 28 days prior to commencing maternity leave. This must be submitted in writing or by email, if the reason for the change of date is not due to the child(ren) being born early.

## 5.1.3 Risk Assessment Procedures

The Council has a duty to assess the workplace risks for all their employees and take action to control these risks. Line managers are expected to do this before and after the maternity leave period on return to work.

Advice can be sought from the Health and Safety Team. A risk assessment form (available in the Family Leave Toolkit) should be completed for all pregnant employees and must also be completed for any training courses or other activities out with the daily workplace of the employee.

Where a risk assessment identifies risks which cannot be eliminated, minimised or lessened, there may be a requirement to redeploy an employee, in consultation with your HR Case Adviser, for a temporary period to alleviate the risks posed.

An expectant employee will have the right to request alternative work location, or types of duties, where any risks to the employees' health or the baby can be avoided.

## 5.1.4 Ante-Natal Care

All expectant employees will be entitled to reasonable time off at the normal daily rate of pay to attend ante-natal appointments, such as doctors and midwife appointments.

This entitlement will include travel time and the duration of the appointment. It is therefore expected that employees will endeavour to make appointments that have minimal disruption to their working day by requesting appointments at the beginning or end of the working day, where possible.

With the exception of the first appointment, line managers will have the right to request an appointment card if deemed necessary.

Fathers and partners of pregnant women are entitled to unpaid time off to attend two ante-natal appointments. Evidence of the appointment will need be produced in advance of the appointment.

## 5.1.5 Sickness Absence

Any pregnancy related sickness absence within the last four weeks leading up to maternity leave will automatically begin the employee's maternity leave and pay. Illness which is unrelated to pregnancy will not affect maternity leave and the maternity arrangements made will remain as agreed.

Expectant mothers will not be subject to disciplinary procedures through the Attendance Management Policy and processes where absences are related to pregnancy, nor will pregnancy related absence count towards absence triggers.

### **5.1.6 Birth prior to planned Maternity Leave**

Where an employee's baby is born before their maternity leave period is due to start, maternity leave and pay will be rescheduled and will begin the day after the baby is born.

### **5.1.7 Overdue Birth**

If an employee has their baby later than the expected week in which it was due, the intended start date and pay arrangements will not change.

### **5.1.8 Miscarriage or Stillbirth**

In the unfortunate event that an employee loses their child before the 24th week of the pregnancy, employees will be entitled to two weeks' paid leave. This will be classed as Special Leave. This entitlement is from day one of employment.

In the event that a baby is born before the 24<sup>th</sup> week of pregnancy and lives for any period of time then the employee is entitled to full maternity leave and relevant payments.

Employees whose partners have suffered a stillbirth will also be entitled to take paternity leave within 52 weeks of the stillbirth. If the stillbirth was early this must be taken from the day after the stillbirth to up to 52 weeks after the expected week of the birth. Paternity Leave is outlined in Section 5.4

Employees whose partners have suffered a stillbirth will also be entitled to take Parental Bereavement Leave within 56 weeks of the stillbirth. If the stillbirth was early this must be taken from the day after the death or stillbirth to up to 56 weeks after the death or stillbirth.

The right to time off and pay depends on the stage of the pregnancy and the employee's length of service. Further guidance can be sought from the HR Case Adviser or Section 5.9.2 below.

Where you have already provided notification and have an agreed shared parental leave schedule, in the event of a stillbirth the entitlement to this leave and pay remains, if the stillbirth occurs on or after the 24<sup>th</sup> week of pregnancy. However, if this leave has not been scheduled and agreed there is no entitlement to share the maternity leave provisions. Further information on Shared Parental Leave is outlined in Section 5.5.

It is acknowledged this can be a traumatic time for individuals and your HR Case Advisor will be able to provide further information around the leave provisions and support available. For further information about Parental Bereavement Leave, please see Section 5.9.2.

**5.1.9 Entitlements to Maternity Leave & Pay**

All pregnant employees regardless of length of service are entitled to **52 weeks'** maternity leave, with length of service determining pay or maternity allowance entitlements.

Leave Entitlement	Pay Entitlement
<b>Scheme A</b>	
Employees with less than 26 weeks continuous service by the 15 <sup>th</sup> week before the baby is due, will be entitled to 52 weeks maternity leave	Maternity Allowance paid for 39 weeks at the current rate of SMP. Remaining 13 weeks will be unpaid.
<b>Scheme B</b>	
Employees with 26 weeks continuous service by the 15 <sup>th</sup> week before the baby is due, will be entitled to 52 weeks maternity leave.	Subject to qualifying conditions employees are entitled to:  <b>First 6 weeks</b> = 90% of the average earnings from the previous 2 pays, prior to the qualifying week*.  <b>12 weeks</b> = 50% of average earnings from previous 2 pays, prior to the qualifying week* + SMP**  <b>21 weeks</b> = SMP**  <b>13 weeks</b> = Unpaid  * The qualifying week is 15 <sup>th</sup> week prior to the expected date of delivery.  **subject to satisfying NI Earnings Criteria

**5.1.10 Contact while on Maternity Leave/Adoption Leave – Keeping in Touch Days**

Employees can undertake up to 10 days paid work known as “Keeping in Touch” (KIT) days during Maternity/Adoption Leave (except during the two weeks compulsory leave period immediately following childbirth/child placement) without losing their statutory payments or bringing the leave to an end.

There is no obligation on the employee to use this leave and it is important to note that KIT days are distinct from keeping in contact with the employee.

KIT days can be used for employees to keep updated with developments throughout their leave period and may include training, conferences, team meetings or other events.

KIT days should be arranged by agreement with the line manager and will be paid at the normal hourly rate of employee pay inclusive of SMP, SAP or Maternity Allowance, as appropriate for any hours of work undertaken. The Manager is required to complete the KIT form for the employee’s pay to be adjusted accordingly. The form can be found in the Family Leave toolkit.

Employees will be provided with Corporate and Service updates via their line manager or team leader while on Maternity/Adoption Leave.

### 5.1.11 Notification of Return

Employees must complete and return the “Return to work following Maternity/Adoption Leave” form (available in the Family Leave Toolkit) no later than eight weeks before the intended date of return in order for reinstatement to payroll. This will include:

- Proposed Date of Return (end of Maternity/Adoption Leave for reinstatement to payroll)
- Actual Date of Return (if commencing a period of annual leave immediately following Maternity/Adoption Leave)
- Any annual leave or public holiday entitlement to be used
- Any other applications being made (e.g., flexible working etc.)

If an employee wishes to return to work before the planned return date, they must give at least eight weeks’ notice before their new return date. If the required notice is not given, the employees return can be postponed.

If an employee wishes to return to work after the planned return date, they must give at least eight weeks’ notice before the original planned return date. A return to work from Maternity/Adoption Leave cannot be postponed beyond the end of the 52 weeks of Maternity/Adoption Leave. However, an employee may opt to use any accrued annual leave at the end of their Maternity/Adoption leave with prior approval from their line manager.

The employee has the right to return to the same job unless this is not reasonably practicable, this should only be in exceptional circumstances. In these circumstances, if it is not reasonably practicable for the Council to permit a return to the same job, the employee has the right to return to another job at the same level as previously held. If there is a requirement to return the employee to another role, advice should be sought from your HR Case Adviser.

### 5.1.12 Failure to Return following Maternity/Adoption Leave

Employees must return to work for a period of three months following Maternity / Adoption Leave. If an employee leaves the Council’s employment within this period, they will be expected to repay half of the Occupational Maternity/Adoption element of their pay.

## 5.2 Adoption, Surrogacy and 'Foster to Adopt' Leave

Intended parents in adoption, surrogacy and 'foster to adopt' arrangements, will qualify for adoption leave and pay. This will include concurrent planning placements. Further advice in relation to leave and pay entitlements is available from your HR Case Adviser.

Where the policy refers to Adoption Leave or Pay, this equally applies to Surrogacy Leave and Pay unless otherwise stated.

### 5.2.1 Qualification

Entitlement to adoption leave will only apply where the child is newly placed with adoptive parents and will not apply to stepfamily adoptions or adoptions by the child's existing foster carer/family member where there is no placement.

The employee will also not qualify for statutory adoption leave or pay if they arrange a private adoption or become a special guardian or kinship carer.

An employee qualifies for 52 weeks' Statutory Adoption Leave (SAL), regardless of length of service, when they adopt a child if they:

- Have been matched with a child to be placed with them by a UK adoption agency;
- Have notified that they agree that the child should be placed with them and agree the date of placement;
- Within seven days of being matched with the child, the employee must notify the Council that they are taking their SAL.

The main adopter will be able to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

### 5.2.2 Overseas Adoptions

Employees must be the child's adopter and must:

- Have received official notification from the relevant UK authority of their eligibility to adopt a child from abroad;
- Give notice of no later than 28 days before they want their leave to start.

This leave can be requested using the "Application for Adoption Leave/Pay" form and submitting a Matching Certificate from the approved adoption agency as evidence of entitlement to Adoption Leave and Pay. This form is available in the Family Leave Toolkit.

It is essential that Employee Services are sent a copy of this completed form, to ensure that the appropriate paperwork is provided to the employee and the employee is paid accordingly.

Further advice can be obtained from the HR Case Adviser Team to discuss individual circumstances.

### 5.2.3 Surrogacy

Employees acting as surrogates are entitled to maternity leave and pay as per section 5.1.9 and are required to take two weeks compulsory maternity leave as per UK Law.

Intended parents in a surrogacy arrangement, including where the surrogate mother gives birth overseas, who are eligible and intend to apply for a Parental Order within six months of the birth, may be entitled to Adoption Leave and Pay provided that:

- They intend to apply for, have applied for, or have been granted a parental order;
- If requested, the employee must provide the Council with proof of their surrogacy.
- Give notice no later than 15 weeks before the baby is due and when they want their leave to start.

Some surrogate parents will become eligible for adoption leave provided they meet eligibility criteria. Parents who have a child through surrogacy will be permitted to take ordinary paternity leave and pay or adoption leave and pay and shared parental leave and pay. Both parents will also be entitled to take unpaid time off to attend two antenatal appointments with the woman carrying their child.

This leave can be requested using the “Application for Adoption Leave/Pay” form and submitting a Matching Certificate from the approved adoption agency as evidence of entitlement to Adoption Leave and Pay. This form is available in the Family Leave Toolkit.

It is essential that Employee Services are sent a copy of this completed form, to ensure that the appropriate paperwork is provided to the employee and the employee is paid accordingly.

Further advice can be obtained from the HR Case Adviser Team to discuss individual circumstances.

### 5.2.4 Adoption/Surrogacy Entitlements

Employees who qualify will be entitled to 26 weeks’ Ordinary Adoption Leave and 26 weeks’ additional Adoption Leave. Employees will have the right to Adoption Leave from the first day of their employment.

To receive Statutory Adoption Pay, employees must:

- have been continuously employed by East Dunbartonshire Council for at least 26 weeks;
- follow the correct notification procedures as described above;
- have received earnings subject to qualifying conditions, in the eight weeks prior to their ‘qualifying week’.

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Leave Entitlement	Pay Entitlement
<b>Scheme A</b>	
Employees with less than 26 weeks by the week they are matched with a child, will be entitled to 52 weeks' Adoption Leave	Statutory Adoption Pay paid for 39 weeks at the current Government set rate of pay. Remaining 13 weeks will be unpaid.
<b>Scheme B</b>	
Employees with 26 weeks' continuous service by the week they are matched with a child, will be entitled to 52 weeks' Adoption Leave.	Subject to qualifying conditions employees will be entitled to:  <b>First 6 weeks</b> = 90% of average earnings from previous two pays, prior to the qualifying week*.  <b>12 weeks</b> = 50% of average earnings from previous 2 pays, prior to the qualifying week* + SAP**  <b>21 weeks</b> = Statutory Adoption Pay  <b>13 weeks</b> = Unpaid  * The qualifying week is 15 <sup>th</sup> week prior to the expected date of adoption.  **subject to satisfying NI Earnings Criteria

**5.2.5 If an employee is on adoption leave when their child stops living with them or dies**

If an employee is on adoption leave and their newly adopted child either stops living with them or dies, their leave will end eight weeks after the end of the week in which the child stops living with the adopter.

In this circumstance, further advice can be obtained from the HR Case Adviser Team to discuss individual cases.

**5.2.6 Failure to Return following Adoption/Surrogacy Leave**

Employees must return to work for a period of three months following Adoption Leave. If an employee leaves the Council's employment within this period, they will be expected to repay half of the Occupational Adoption element of their pay.

**5.3 Terms & Conditions**

**5.3.1 Terms and Conditions during Maternity/Adoption Leave**

Employees are entitled to benefit from all their contractual terms and conditions (excluding wages and salary) throughout the entire maternity/adoption leave period. This will include the provision of non-cash benefits such as salary sacrifice agreements.

Following return from Maternity/Adoption Leave, employees will be entitled to return to a job at the same level and same terms and conditions of employment as if they had not been absent.

### 5.3.2 Annual Leave Entitlement during Maternity/Adoption Leave

Annual Leave and Public Holiday entitlements continue to accrue throughout the 52 weeks of Maternity/Adoption Leave. If an employee wishes to take annual leave at the end of their leave period, this should be requested on their 'Return from Maternity/Adoption Leave' form.

For term-time employees, advice can be obtained from Employee Services in relation to accrued annual leave during Maternity/Adoption Leave. Please refer to the toolkit.

### 5.3.3 Pensions, Service & Benefits during Maternity/Adoption Leave

The employment contract will continue whilst on Maternity/Adoption Leave unless it is terminated by either the employer or employee with the contractual notice periods given.

Pension Contributions will be paid during the period of paid Maternity/Adoption leave (39 weeks) and the employee will have the opportunity to "buy back" periods of time from when they were on unpaid leave.

To "buy back" any pension contributions, EDC recommends employees apply for pension "Buy Back" through the pension provider within 30 days of an employee returning to duty. Further information in relation to this can be found in the Family Leave Toolkit.

## 5.4. Paternity Leave

Employees who have 26 weeks' continuous service by the 15th week before the Expected Week of Childbirth, will be entitled to two weeks' paternity leave to be taken within the first 52 weeks after the child's birth (it cannot be taken before the birth). Leave can be taken in either one block of two weeks or two blocks of one week each.

### 5.4.1 Qualification

The right to paternity leave and pay applies to the partner of either a woman who has given birth or someone who is adopting a child if they:

- Have or expect to have responsibility for the baby's upbringing;
- Are the biological father of the baby and/or the mother's husband or partner;
- Have been continuously employed for at least 26 weeks up to any day in the 'qualifying week';
- Have not exhausted their paternity leave with a previous employer.

Eligibility will also be dependent on the employee using the leave to support the child's mother or care for the child.

The employee must inform the Council of their request to take paternity leave by completing the information requested on the Application for Paternity Leave Form, which can be found in the Family Leave Toolkit.

### 5.4.2 Paternity Leave for Adoptions/Surrogacy Arrangements

Employees will qualify when adopting a child in the UK if they:

- Are either one of two parents jointly adopting a child or the partner of someone adopting a child individually;
- Have or expect to have responsibility for the child's upbringing with the other joint adoptive parent or the individual adopter;
- Are not taking statutory adoption leave and pay;
- Continuously employed for at least 26 weeks ending with the week they are matched with the child;
- Have given notice of taking paternity leave no more than seven days after the adopter is matched with a child;
- Time off will be taken to support the adopter and/or take care of the child.

An employee cannot get Paternity Pay and Leave if they have taken **paid** time off to attend adoption appointments as only the main adopter is entitled to paid time off, with the second adopter taking unpaid time off and is eligible for Paternity Leave and Pay.

### 5.4.3 Entitlement and Payment while on Paternity Leave

A week is calculated as the same number of days the employee would normally work in that week.

Paternity Leave will count towards an employee's period of continuous service with terms and conditions continuing as if the employee was at work except in relation to wages and salary. Employees on Paternity Leave will be paid at one week's full pay (normal weekly pay) and one week at 90% of normal weekly pay. Employees have the right to return to the same role on the same terms and conditions of employment, as if they had not been absent on paternity leave.

In the unfortunate event that a stillbirth occurs the employee will still be entitled to paternity leave, which must be taken within 52 weeks of the stillbirth or death. Please also refer to Section 5.8.3 Parental Bereavement Leave.

Employees should complete the "Application for Paternity Leave" Form available in the Family Leave Toolkit.

## 5.5 Shared Parental Leave (SPL)

Shared Parental Leave (SPL) enables eligible parents to choose how to share the care of their child during the first year of the child's birth (including surrogacy arrangements) or placement for adoption. Parents are able to share a "pot" of leave and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after their child.

Shared Parental Leave also applies to parents who are adopting a child via an adoption agency. In order for adoptive parents to take Shared Parental Leave in respect of a child

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they must meet similar eligibility criteria as described below and be entitled to Statutory Adoption Leave. Parents must provide a similar notice of entitlement to their employers, however the notice must also confirm:

- The date the parents were notified as having been matched with the child;
- The date the child is expected to be placed with the parents.

For surrogacy arrangements, if the intended parents have applied, or intend to apply, for a 'parental order' then, subject to meeting qualifying conditions, the nominated 'main' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto shared parental leave.

Shared Parental Leave enables the mother or main adopter to commit to ending their Maternity/Adoption Leave and Pay at a future date, and to share the untaken balance of leave and pay as Shared Parental Leave and Pay with their partner, or to return to work early from Maternity/Adoption Leave and opt into Shared Parental Leave and Pay at a later date. Shared Parental Leave can be taken as follows:

- Maternity and Adoption Leave is 52 weeks' leave entitlement, with payment being made for 39 weeks'. The first two weeks' following the birth of a child must be taken as compulsory maternity leave and the first two weeks' following the adoption of a child must be taken as compulsory adoption leave for one parent;
- This leaves a maximum amount of leave available to share between the parents of 50 weeks' leave and 37 weeks' pay (although it will be less than this if the mother/main adopter has taken maternity or adoption leave before the birth or adoption placement);
- The mother/ main adopter's partner can begin a period of SPL at any time from the date of the child's birth/placement if the correct booking notification has been given;
- The employee can request to take SPL in one continuous block, or up to three blocks of discontinuous leave. Where one continuous period of leave has been requested (i.e. the period of leave will be taken and then the employee returns to work and takes no further leave) this must be granted;
- For discontinuous blocks of leave, agreement will be required from the line manager due to service delivery requirements, as there is no entitlement to provide discontinuous periods of leave. Discontinuous periods of leave involve taking a period of leave, returning to work for a period of time before taking a further period of leave;
- Leave is requested through "Period of Leave Notice", a maximum of three "Period of Leave Notice" requests per pregnancy can normally be made by each parent for blocks of leave;
- Each notice may be for a block of leave, or the notice may be for a pattern of discontinuous leave involving different periods of leave;

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- The partner must ensure that they use up any paternity leave prior to taking shared parental leave. **If paternity leave is not taken before shared parental leave starts, it will be lost;**
- If the employee has two or more posts with the Council, they are required to take shared leave for all posts at the same time. The mother/main adopter will be required to curtail their Maternity/Adoption leave for all posts before taking Shared Parental Leave can be provided to their partner.

Employees must take any SPL within 52 weeks of the birth/placement of their child.

### 5.5.1 Eligibility

To be eligible for Shared Parental Leave:

Shared Parental Leave (SPL)	Shared Parental Pay (ShPP)
<ul style="list-style-type: none"> <li>• The employee must have 26 weeks' continuous employment ending with the 15<sup>th</sup> week before the baby's expected due date or placement and is still employed one week before any period of Shared Parental Leave period.</li> <li>• The Mother/Main Adopter must have given notice to the employer to end their Maternity/Adoption leave and/or pay early.</li> <li>• Is entitled to Statutory Maternity/Adoption Leave and Pay or Maternity Allowances in respect of the child.</li> </ul>	<ul style="list-style-type: none"> <li>• The employee must meet the qualifying conditions of Shared Parental Leave; and</li> <li>• Be entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Statutory Paternity Pay.</li> </ul>

### 5.5.2 Notice Requirements

The notices employees must give to be able to take Shared Parental Leave are made up of a number of elements and this information must be provided on the relevant forms. Both the employee and their partner must provide these notices to their respective employers.

Please refer to the Family Leave Toolkit and Appendix 1 (Shared Parental leave Flowchart) in this policy for further information.

### 5.5.3 Maternity/Adoption Leave Curtailment Notice – ending Maternity/Adoption leave.

Before SPL can be taken by the partner, the mother or main adopter must either return to work before the end of their Maternity/Adoption Leave (by giving the required eight weeks' notice of their planned return) or provide a **Maternity/Adoption Leave Curtailment Notice**. If the mother/main adopter is employed by the Council, they must complete the "**Application for Shared Parental Leave**" form available in the Family Leave Toolkit and submit to their line manager.

**If the mother/main adopter ends their maternity leave before any occupational maternity/adoption pay has ended (pay up to 18 weeks), this will be lost once the mother commences SPL.**

### 5.5.4 Withdrawal of Maternity/Adoption Leave Curtailment Notice

The mother/main adopter can withdraw their “Maternity/Adoption Leave Curtailment Notice” in limited circumstances and remain on Maternity/Adoption Leave. The withdrawal of a “Maternity/Adoption Leave Curtailment Notice” must be in writing and can be given only if the mother/main adopter has not returned to work. The mother/main adopter can withdraw their “Maternity/Adoption Leave Curtailment Notice” if:

- It is discovered that neither the mother/main adopter nor the partner are entitled to SPL or Statutory ShPP and the mother/main adopter withdraws their “Maternity Leave Curtailment Notice” within eight weeks of the date on which the Notice was given;
- The “Maternity Leave Curtailment Notice” was given before the birth/placement of the child and the mother/main adopter withdraws their “Maternity Leave Curtailment Notice” within six weeks of the child's birth/placement; or
- The partner has died.

Consideration will also be given to the withdrawal of a “Maternity/Adoption Leave Curtailment Notice” in exceptional circumstances. Advice can be sought from your HR Case Adviser.

### 5.5.5 Notice of Entitlements & Intentions for Leave

The employee/s must provide their employer (or the Council) with an initial non-binding indication of each period of Shared Parental Leave that they are requesting by completing the “**Application for Shared Parental Leave**” form available in the Family Leave Toolkit. For Council employees, this must be submitted to their line manager. This must be completed at least eight weeks before the start date of the first period of SPL to be taken by the employee and must set out certain information and incorporate declarations from both the employee and their partner.

### 5.5.6 Variation or Cancellation of Notice of Entitlement and Intention

Having given notice of their intention and dates of SPL the employee can vary or cancel their proposed SPL dates, by writing to their line manager using the form in the Family Leave Toolkit. Details of the information the employee is required to provide, and the timelines are contained within the Family Leave Toolkit.

There is no limit on the number of “Variations of Notice of Entitlement and Intention” that the employee can make within eight weeks of the start date of the SPL. Employees are, however, encouraged to discuss variations of leave with their line manager so consideration can be given to how to accommodate the leave and service delivery requirements.

Any indication of leave intended to be taken that the employee provides in a “Variation of Notice of Entitlement and Intention” is non-binding until they provide a “Period of Leave Notice” in relation to that period of leave.

### 5.5.7 Period of Leave Notice

The employee must set out the start and end dates of each period of SPL they are requesting. A period of leave notice must be given not less than eight weeks before the start date of the first period of SPL requested in the notice. The “Period of Leave Notice” may be given at the same time as a “Notice of Entitlement and Intention” and can be a request for a continuous period of leave or discontinuous periods of leave. Once the “Period of Leave Notice” has been given, this becomes binding and counts towards one of the three statutory requests.

### 5.5.8 Variation or Cancellation of Period of Leave Notice

The employee can vary or cancel their proposed SPL dates after the submission of a “Period of Leave Notice”. The employee must provide written notice no less than eight weeks to their line manager before any period of leave varied or cancelled by the notice, is due to commence. Details of the information the employee is required to provide and examples of how the notice can vary, can be found in the Family Leave Toolkit.

Employees are advised that, if they have already decided the pattern of SPL that they would like to take, they can provide more than one type of notice at the same time. For example, the mother/main adopter could provide a “Maternity Leave Curtailment Notice”, “Notice of Entitlement and Intention” and “Period of Leave Notice” at the same time. Similarly, the partner could provide their “Notice of Entitlement and Intention” and “Period of Leave Notice” at the same time.

The earlier an employee informs of their intention, the earlier consideration can be applied to accommodate the request and process if s/he wants to take periods of discontinuous leave. The Council can refuse periods of discontinuous leave, if the request would impact adversely on service delivery as outlined below.

The employee will be required to provide evidence that they are eligible for SPL. Further information on what evidence is required can be found in the Family Leave Toolkit.

### 5.5.9 Discontinuous periods of shared parental leave

The employee may submit a “Period of Leave Notice” requesting discontinuous periods of leave. For example, the mother/main adopter and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

While it is for each employer to decide, in order to maximise the flexibility available to the parents and operational benefit for all parties, line managers are strongly encouraged to allow SPL to be taken in blocks of at least four weeks where service delivery requirements can accommodate this.

If the employee submits a “Period of Leave Notice” requesting discontinuous periods of leave, the line manager (within two weeks of the “Period of Leave Notice” being given,) can:

- Consent to the pattern of leave requested and the employee is entitled to take the leave on the dates agreed;
- Propose an alternative pattern of leave; or
- Refuse the pattern of leave requested. If the decision is taken to refuse the leave, reasons for this must be provided to the employee. Further advice is available from your HR Case Adviser.

If no agreement has been reached within the two-week discussion period from the date the “Period of Leave Notice” was given, the employee is entitled to take the leave as one continuous period of leave. In this event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the “Period of Leave Notice” was originally given.

The employee must notify their line manager of the leave date chosen within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date the first period of leave was requested in the “Period of Leave Notice”.

Alternatively, if the council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a “Period of Leave Notice” requesting discontinuous periods of leave. The employee can withdraw a “Period of Leave Notice” at any time on or before the 15th day after the “Period of Leave Notice” was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests that an employee can make.

### 5.5.10 Terms & Conditions during Shared Parental Leave

All terms and conditions of the employee’s contract with the exception of normal pay will continue during a period of SPL. Salary during this period will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, whilst sums payable by way of salary will cease, all other benefits will remain in place.

Pension Contributions will be paid during the period of paid Shared Parental Leave (37 weeks) and the employee will have the opportunity to “buy back” periods of time from when they were on unpaid leave. This “buy-back” must be within 30 days of the employee’s return to work. Further information is available from Strathclyde Pension Fund Office website or SPPA website, as detailed in the Family Leave Toolkit.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks.

## **Family Leave Policy**

- When added to any other period of shared parental leave
- Statutory maternity/adoption or paternity leave taken in relation to the same child, or
- Was the last of two or more consecutive periods of statutory leave that included a period of ordinary paternity leave of more than four weeks, or
- A period of additional maternity/adoption leave

Then the employee has the right to return to the same job unless this is not reasonably practicable, this should only be in exceptional circumstances. In these circumstances, if it is not reasonably practicable for the Council to permit a return to the same job, the employee has the right to return to another job at the same level as previously held. If there is a requirement to return the employee to another role, advice should be sought from your HR Case Adviser.

### **5.5.11 Contact while on Shared Parental Leave – Keeping in Touch (SPLIT days)**

Employees can undertake work for up to 20 days during SPL without that work bringing the period of their SPL and pay to an end. These are known as “Shared Parental Leave in Touch Days” (SPLIT) days. Each parent is entitled to work for up to 20 SPLIT days each. These will be in addition to the 10 “Keeping in Touch” (KIT) days already available for those on Statutory Maternity/Adoption Leave. Once a mother/main adopter has ended their Maternity/Adoption leave, any days worked must come out of the SPLIT entitlement.

The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their SPL. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and their line manager. An employee will be paid the equivalent of their normal pay for time worked on a SPLIT day which will be inclusive of Statutory Shared Parental Pay. Further information is available in the Family Leave Toolkit.

## **5.6 Fostering**

Employees who have at least one year’s continuous service are entitled to one paid half day per week for three weeks to enable a child to meet with and get to know the foster parents before commencing fostering. In exceptional circumstances, this leave may be increased but leave should not exceed six half days in a six-week period.

Request for fostering leave should where possible be requested at least two months prior to commencement of a Foster Care Placement. Confirmation from the fostering authority should be provided to support this application.

In cases of emergency foster placements, where two months’ notice is not possible, advice should be sought from the HR Case Adviser.

Additional time off may be available through unpaid leave or special leave or using annual leave.

To apply for Fostering Leave, please refer to the Family Leave Toolkit.

## **5.7 Parental Leave**

### **5.7.1 Overview**

Parents are entitled to parental leave to spend more time with their children and have a balance between work and family commitments.

### **5.7.2 Qualifying Criteria**

Employees require one year's continuous service and are entitled to 18 weeks' unpaid parental leave for each child born or adopted. The leave can start once the child is born or placed for adoption, or as soon as the employee has completed a year's service, whichever is later.

Employees are still entitled to Parental Leave if:

- They are a step-parent and have parental responsibility that is agreed by both biological parents;
- The parent is separated from the other parent or does not live with their child, if they keep parental responsibility for their child.

### **5.7.3 Duration of Parental Leave**

Employees are entitled to take up to 18 weeks' unpaid leave, for each child up until the child's 18th birthday.

On completing the Application to Qualify for Parental Leave Form, available in the Family Leave Toolkit, an employee may be requested by their line manager to provide:

- The child/children's birth certificate
- The child/children's adoption papers or the date of placement in adoption cases
- A parental order for surrogacy
- A legal guardianship

Parental leave must be taken in blocks, or multiples, of a week, with a maximum of four weeks per year for each child. If a period of less than one complete week is requested, this will still count as a full week for the purposes of calculating the total parental leave allowance. Only the actual number of leave days taken will be deducted from pay.

Parents of children in receipt of Disability Living Allowance or Personal Dependent Payment, can request single days without losing a week from their full entitlement. In this case evidence of the child's Disability Living Allowance information should be provided.

The council may postpone parental leave for up to six months but not in the case of leave required following the birth or adoption of a child. Postponement can only take place if the absence would unduly disrupt the Service. Notification of postponement arrangements should be issued to the employee no later than seven days following the employee's notice to take leave.

### 5.7.4 Contractual Rights

During parental leave, the employee retains all of their contractual rights, except remuneration and should return to the same job on expiry of their parental leave.

### 5.7.5 Using Parental Leave Alongside Paternity Leave

Parental leave can be used to extend paternity leave for the biological father or partner of the mother, adopting a child or having a child through surrogacy.

Parental leave can be taken once the baby is born or adoption placement, it can be used alongside/ as well as Paternity Leave.

Employees should advise their manager at least 21 days before the expected week of childbirth or adoption placement is due to start, should they wish to take parental leave in this manner. In certain circumstances, leave can be postponed, but advice must be sought from your HR Case Adviser.

Further information around the parental leave application process is contained within the Family Leave Toolkit.

## 5.8 Carers Leave

Employees who are required to provide, or arrange, care for a dependant who has a long-term care need are entitled to five days unpaid leave within a 12 month rolling period. This entitlement is from day one of employment and can be taken in half or full days.

A person is classed as a dependant of an employee if they fall into one of the following categories:

- are a spouse, civil partner, child or parent of the employee,
- live in the same household as the employee (except if they are the employee's boarder, lodger or tenant)
- reasonably rely on the employee to provide or arrange care

The entitlement to five days unpaid leave is per employee and not per dependant the employee has.

Employees must provide notice of the leave they wish to take which must be the longest duration of either:

## **Family Leave Policy**

- twice the length of the time being requested off (i.e. two days notice to take one days leave)

OR

- three days notice

Requests for leave cannot be denied but the council may postpone the leave if it is considered that the absence would unduly disrupt the Service. Notification of postponement arrangements should be issued to the employee no later than seven days following the employee's notice to take leave and the employees must be allowed to take the requested leave within 1 month of their original request.

To apply for Carers Leave employees should complete the Carer's Leave Application Form and give this to their manager. The form is available in the Family Leave toolkit.

## **5.9 Support for employees**

### **5.9.1 Fertility Treatment**

An employee will be entitled to time off with pay for the purpose of attending appointments related to fertility treatment. An employee who is supporting their partner to attend this appointment, should request time off under the Special Leave Policy. Paid time off will be granted to attend the appointment only and there is an expectation that the partner will return to work after the appointment. Any time before / after this appointment should be booked as annual leave or unpaid leave.

### **5.9.2 Parental Bereavement Leave**

In the unfortunate event that a parent loses a child under the age of 18 or the child is stillborn after 24 weeks pregnancy (or lives for any amount of time prior to 24 weeks)', the employee will be entitled to two weeks' paid leave on full pay. Parental Bereavement Leave can be taken in the 56 weeks following the child's death.

Employees have the right to Parental Bereavement Leave from the day they start their employment.

If more than one child dies, the employee is entitled to two weeks' Parental Bereavement Leave for each child.

This right applies to the:

- Biological parent
- Adoptive parent, if the child was living with them
- Person who lived with the child and had responsibility for them, for at least four weeks before they died
- 'Intended parent' – due to become the legal parent through surrogacy
- Partner of the child's parent, if they live with the child and the child's parent in an enduring family relationship

## **Family Leave Policy**

An employee can choose to take either one or two weeks' leave.

- If an employee takes two weeks, this can be taken in one go, or as two separate weeks. For example, they could take one week immediately after the death, and take the other week later on.
- The leave must end within 56 weeks of the child's death. The date of the child's death is the first day of the 56 weeks.

The 56 weeks are split into two periods:

- From the date of the child's death or stillbirth to eight weeks after
- Nine to 56 weeks after the date of the child's death or stillbirth

The employee must give their line manager notice before they take Parental Bereavement Leave. For Parental Bereavement leave, the employee can speak to their employer by phone, leave a voicemail, send a text message or an email. They do not need to give their line manager notice in writing (for example through a form or letter). However, if the employee is eligible for Statutory Parental Bereavement Pay, they must complete the "Parental Bereavement Form" available in the Family Leave Toolkit. How much notice the employee must give, depends on when they are taking the leave.

### Up to eight weeks after the child's death or stillbirth

The employee must give their line manager notice of the leave before they would normally start work on the first day of the week or weeks they want to take off work.

### Nine to 56 weeks after the child's death or stillbirth

The employee must give their line manager at least one week's notice before the start of the week or weeks they want to take off work.

Further information can be found in the Family Leave Toolkit.

Additional leave may be granted in line with Bereavement Leave provision within the Special Leave policy. For more information, contact your HR Case Adviser.

It is acknowledged this can be a traumatic time for individuals and your HR Case Adviser will be able to provide further information around the leave provisions and support available, such as the Employee Assistance Programme, Time for Talking.

### **5.9.3 Breastfeeding**

The Council recognises the health benefits to both mother and child that breastfeeding provides and is committed to making provision for female employees who wish to continue breastfeeding after their return to work following maternity leave.

## **Family Leave Policy**

Nursing mothers will be allowed paid time off during their working hours of up to 60 minutes per day for the purposes of breastfeeding or expressing milk. In circumstances where longer than 60 minutes is required, this should be discussed with their line manager and HR Case Adviser.

Where an employee wishes to express milk at work, the following should be provided where possible:

- A warm clean room with a lock or privacy sign
- A low comfortable chair
- Electric sockets
- Hand-washing facilities in the room or nearby
- A hygienic place to clean pumps and store sterilising equipment
- A fridge for storing milk at the appropriate temperature

While this has implications in terms of space and cost, an example of a suitable location would be a First Aid room. This could be used on agreement that should a first aid incident arise, the mother must vacate the room.

For further information, please refer to the Family Leave Toolkit.

### **5.9.4 Flexible Working**

The Council has a range of policies designed to complement work-life balance. These are designed to allow employees to accommodate different daily demands in line with service requirements.

Employees should refer to the Flexible Working Policy for all information relating to flexible working requests. Employees who wish to apply for Flexible Working hours following maternity/adoption leave should forward a 'Flexible Working Application Form' to their Line Manager or Executive Officer at least 3 months before the proposed change.

### **5.9.5 Kinship Care Leave**

There are different types of Kinship Care, and an employee who is a kinship carer might find that as circumstances change, the type of kinship carer they are changes too. Kinship care includes children who may be:

- Living in an informal arrangement made by their parents;
- "Looked after" by the local authority and placed with kinship foster carers;
- On a Child Arrangement Order or Special Guardianship Order.

The type of Kinship Carer, determines what type of leave the employee is entitled to.

#### **5.9.5.1 Informal Kinship Care**

Informal kinship care is where there is an agreement between the carers and the parents, who are unable to care for the child themselves but do not want to put the

## **Family Leave Policy**

child into care. Informal kinship carers are not entitled to parental leave as they do not have parental responsibility for the child. However, there are provision under the Special Leave Policy for time off for a dependent.

### **5.9.5.2 Formal Kinship Care**

There can be more formal arrangements for Kinship Care including Kinship Foster Care, Child Arrangements Order or a Special Guardianship Order.

A kinship foster carer is a formal arrangement made through the local authority. The child will be “looked after” by the authority and the child placed in the employees care under a kinship foster carer agreement. As a kinship foster carer, employees do not have parental responsibility for the child and are not entitled to parental leave. However, please refer to the Special Leave Policy for information on time off for a dependent.

If a Child Arrangement Order or Special Guardianship Order has been put into place, the kinship carer has parental responsibility. This means that they are entitled to parental leave. Please refer to Section 5.7 Parental Leave in this policy.

### **5.9.6 Special Leave Policy**

The Special Leave Policy defines the circumstances which employees can take time off in line with service requirements, which may be with or without pay. The policy sets out the provisions for leave for a wide range of circumstances.

## **6.0 GDPR Statement**

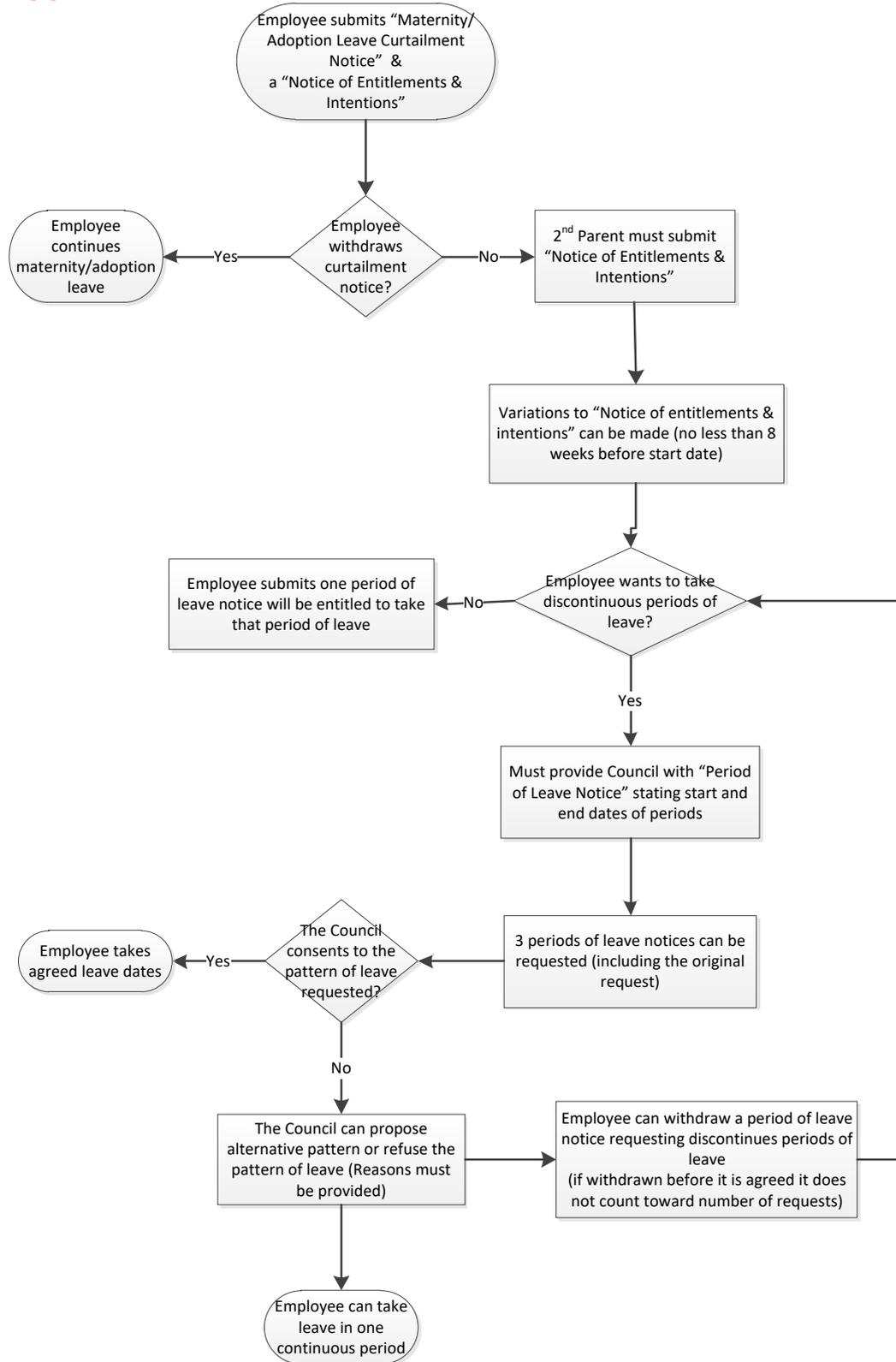
East Dunbartonshire Council holds, uses and processes information in accordance with the General Data Protection Regulations and all other relevant national data protection laws. Further information detailing how East Dunbartonshire holds and uses personal information and copies of privacy notices used throughout the Council are available on our website: [Privacy Notices | East Dunbartonshire Council](#)

## **7.0 Policy Review Statement**

This policy will be reviewed in two years or in line with:

- Legislative Change
- Other external factors
- Feedback on the effectiveness of the policy
- Requests for review by Elected Members, Trade Unions and/or Management

**Appendix 1 - Shared Parental Leave Flow Chart**



**Other Formats & Translations**

This document can be provided in large print, Braille or on audio cassette and can be translated into other community languages. Please contact the Council's Corporate Communications Team at:

East Dunbartonshire Council, 12 Strathkelvin Place, Southbank

**Kirkintilloch G66 1TJ Tel: 0300 123 4510**

本文件可按要求翻譯成中文，如有此需要，請電 **0300 123 4510**。

اس دستاویز کا درخواست کرنے پر (اردو) زبان میں ترجمہ کیا جاسکتا ہے۔ براہ مہربانی فون نمبر **0300 123 4510** پر رابطہ کریں۔

ਇਸ ਦਸਤਾਵੇਜ਼ ਦਾ ਮੰਗ ਕਰਨ ਤੇ ਪੰਜਾਬੀ ਵਿੱਚ ਅਨੁਵਾਦ ਕੀਤਾ ਜਾ ਸਕਦਾ ਹੈ। ਕਿਰਪਾ ਕਰਕੇ **0300 123 4510** ਫੋਨ ਕਰੋ।

Gabhaidh an sgriobhainn seo cur gu Gàidhlig ma tha sin a dhith oirbh. Cuiribh fòn gu **0300 123 4510**

अनुरोध करने पर यह दस्तावेज़ हिन्दी में भाषांतरित किया जा सकता है। कृपया **0300 123 4510** पर फ़ोन कीजिए।