

**MATERNITY, PATERNITY, PARENTAL AND ADOPTION LEAVE
MATERNITY, PATERNITY AND ADOPTION PAY
AND THE RIGHT TO REQUEST TIME OFF WORK OR ADJUSTMENTS
TO THE DUTIES OF THE OFFICE TO CARE FOR A DEPENDANT**

ADVICE ISSUED BY THE ARCHBISHOPS' COUNCIL

This advice is issued by the Archbishops' Council for information and to assist in the development of good practice and does not constitute formal guidance under the Ecclesiastical Offices (Terms of Service) Measure 2009

Scope of Directions

1. Under the Ecclesiastical Offices (Terms of Service) Directions 2010, office holders are entitled to maternity, paternity, parental and adoption **leave** for the same periods and subject to the same conditions as apply in the case of an employee under the Employment Rights Act 1996, or any regulations made under that Act that have effect at the time when the Directions came into force on 1 January 2011. This also includes additional paternity leave.
2. Office holders already have a right to statutory maternity, paternity and adoption **pay** because of their National Insurance Contributions.
3. Each diocese will need to
 - decide whether or not to confer any additional entitlement (and if so what);
 - ensure that office holders' entitlements are recorded on statements of particulars and in the diocesan handbooks.

Application of Directions to Office Holders

4. Holding of office is distinct from employment in a number of ways that affect consideration of office holders' entitlements in connection with maternity, paternity, parental and adoption leave.
 - Office holders remain in office while they are on leave – which means they retain the rights and responsibilities that go with the office, for example the right to remain in any accommodation provided for the better performance of their duties and the obligation to ensure that the duties of the office are carried out on their behalf.
 - This also means that, unlike an employee, an office holder does not have the right to be found an equivalent post when she returns from maternity leave. She has not left her office whilst on maternity leave and therefore returns to work in her existing post as of right unless she resigns or is removed from it. .
 - Clause 2 (2) of the Directions confers a requirement on office holders 'in consultation with a responsible person or authority' to 'use all

reasonable endeavours to make arrangements for the duties of the office to be performed by another person or persons during the period of leave'. This may simply involve a discussion with the archdeacon about how best to ensure that cover is provided whilst the office holder is on leave. Regulation 29 allows for someone to be appointed to a post designated as created in order to cover for an office holder's authorised absence from work. This may be held for a fixed term or under terms which provide for the appointment to be terminated on the occurrence of a specified event, such as the return of the original office holder from maternity leave

Training posts

5. The length of a training post may be extended to take account of maternity or adoption leave or additional paternity leave.

Keeping In Touch Days

6. It is possible to work for a total of 10 days during maternity leave without losing the entitlement to SMP for the week in which the work is undertaken. The days may be for work, training or any other activity that has the purpose of keeping in touch with the workplace. The days do not need to be taken consecutively. They may not be taken within two weeks of childbirth.

Additional Paternity Leave

7. Mothers of children born after 3 April 2011 will be able transfer to the father any unused leave from 20 weeks after the birth. This includes any paid leave.
8. Those claiming additional paternity leave are required to
 - give notice of when they wish the leave to start
 - make a declaration stating that they are taking leave to care for the child
 - provide a declaration from the mother stating certain information.

Right to request time off work or adjustments to the duties of the office to care for a dependant

9. Holders of parochial offices already have a high degree of flexibility over how they carry out their duties, which is not always the case with employees, who will generally have defined hours of work. Office holders may not always need therefore to request flexible working to care for a dependant, in the way that an employee might. However, office holders still need to bear in mind the need to arrange appropriate cover if they are taking time off. For example, if they wish to take half term as leave, they should check with the area dean that one of their colleagues is available to provide cover during this period. Similarly an incumbent or priest in

charge still has a responsibility to ensure that someone is available to take weddings on Saturdays, despite any family commitments.

10. Where office holders need to vary their duties in order to care for a dependant (for example reducing a post from full time to part time with a commensurate reduction in stipend), they should use the procedure below.
11. The request may only be made in order to help care for a dependant not for any other purpose. "Dependant", as defined in paragraph 3(6) of the Directions, embraces a spouse or civil partner; a child; a parent; a person living in the same household as the office holder (other than a tenant, employee, lodger or boarder) or anyone who reasonably relies on the office holder for assistance or provision of care in the event of illness or injury. The provision therefore covers a wide range of possible arrangements, from a few days' time off in an emergency to a longer term adjustment of duties to accommodate, for example, the need to care for an elderly parent or a disabled child.
12. The Directions confer the right to make a request – and have the request properly considered. The request may be refused if there is no other reasonable way of meeting the pastoral needs of the parish and the requirements of the office.
13. The Archbishops' Council has agreed that the procedure for making a formal request should be as follows, and that the office holder should
 - make the request in writing
 - set out the date of the request
 - make no more than one request during a twelve month period
 - state that the request is being made under the Ecclesiastical Offices Terms of Service) Directions 2010
 - set out the reasons for needing an adjustment to the duties of the office
 - set out the change requested
 - state whether they have made any previous requests in their current post
 - identify the effect the proposed change will have on the provision of ministry to the parish
 - suggest how such an effect could be mitigated (the office holder may wish to consult colleagues about this first so that he or she is in a position to indicate that the proposed solution might have their support in principle)
 - give a proposed start date
 - indicate whether the proposed adjustment is intended to be permanent, or, if not, for how long it might be expected to last.
14. The bishop, on receiving the request, is required by paragraph 3(5) to consult the PCC(s). The bishop may also wish to consult any of the office holder's colleagues who are likely to be affected by the request.

15. Once the bishop has received a reply from the PCC(s), the office holder's request should be considered promptly.
16. If the bishop agrees to the request, the office holder and the PCC(s) should be informed in writing of the bishop's agreement.
17. If the bishop is not in a position to agree immediately, the bishop should arrange to meet the office holder as soon as possible to discuss the request. The office holder may bring a colleague or trade union representative to the meeting.
18. In good time after the meeting (normally within 14 days), the bishop should inform the office holder of the decision. If he does not accept the request, he must give the reason in writing and give reasonable time (normally 14 days) for the office holder to appeal. The appeal should be held and the office holder informed of the result within reasonable time (in both cases, normally 14 days).
19. A revised statement of particulars should be issued to reflect any changes made, unless they are very temporary and short term. The office holder will need to be informed that this will be a permanent change to the duties of the office, and there is no automatic right to have the duties adjusted back to the original terms at a later point, unless this has been agreed in advance.
20. The bishop should not refuse the request simply because the PCC does not support it or the proposed solutions. Potential grounds for refusing a request include:
 - cost
 - inability to reorganise duties among existing clergy
 - inability to recruit additional clergy
 - potential effect on the office holder's performance of his or her duties.
21. The bishop may delegate consideration of these requests to the suffragan or area bishop or the archdeacon.

Archbishops' Council
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