

FAMILY FRIENDLY GUIDANCE FOR CLERGY

Original	Clergy HR	July 2011
Version 2	Clergy HR	March 2017

Statement of Intent

The Diocese of Oxford supports all clergy and licensed lay workers, who would like to exercise their right and take maternity; paternity; shared parental; adoption leave or time off to care for dependants.

It is our intent to provide fair, consistent and effective application of these provisions

This document should be read in conjunction with the advice issued by the Archbishop's Council in November 2015 and can be accessed by following the link here

https://www.churchofengland.org/media/2423433/parental_pay_and_leave_advice_dec_2015.pdf

Aim

- ❖ To inform all clergy and licensed lay workers who minister in the Diocese of Oxford about their entitlements to both statutory and enhanced maternity; paternity; shared parental; adoption and time off to care for dependants' rights
- ❖ To ensure that clergy and licensed lay workers who qualify understand those rights and obligations
- ❖ To ensure that the Bishop and his officers understand their responsibilities in relation to these provisions
- ❖ To provide information for Churchwardens and Parish Church Councils

Objectives

- ❖ Explore statutory entitlements and define those for the Diocese of Oxford.
- ❖ Define the roles and responsibilities in the diocese relevant to this policy application
- ❖ Identify the right procedures to follow
- ❖ Make references to other related policies and legislation if relevant

Scope

This policy applies to all clergy and licensed lay workers in the Diocese who would like to exercise their right for maternity; paternity; shared parental; adoption and/ time off to care for dependants leave.

Related Guidance

- ❖ Dignity at Work
- ❖ Grievance Procedure
- ❖ Health and Safety

Relevant UK Legislation/ Church of England Regulations and Directions

Employment Rights Act 1996 as amended by the Employment Relations Act 1999; the Employment Act 2002; the Maternity and Parental Leave Regulations 1999; the Maternity and Parental Leave (Amendment) Regulations 1999 and 2002; The work and Families Act 2006; Equality Act 2010

Under regulation 23 of the Ecclesiastical Offices (Terms of Service) Regulations 2009, the Archbishops' Council has a duty, in the exercise of its functions as the Central Stipends Authority, to make directions ("the Directions") regarding the entitlement of office holders under Common Tenure to maternity, paternity, parental and adoption leave and time off work to care for dependants.

With the coming into effect on 1 December 2015 of the Ecclesiastical Offices (Terms of Service) (amendment) Directions 2015, clergy office holders now have a legal entitlement to Shared Parental Leave. (Additional Paternity Leave has been abolished by Parliament on the basis that it is now replaced by shared parental leave.)

Under the Ecclesiastical Offices (Terms of Service) Directions 2010 an office holder shall be 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.

MATERNITY LEAVE AND PAY

The Diocese follows the Central Stipends Authority (CSA) guidelines on maternity leave and pay – these are in fact more generous than the statutory provisions. Maternity leave section applies to all clergy and licensed lay workers, whilst maternity pay section applies only to stipendiary clergy.

CARE DURING PREGNANCY

Medical Advice

Clergy/ licensed lay worker receives medical advice from her doctor, health adviser or midwife. They advise whether she is medically fit to continue working and will issue a certificate of expected date of childbirth (MAT B1). This is issued 14 weeks before the Expected Week of Childbirth (EWC).

Confidentiality

All matters relating to a clergy/ licensed lay worker's pregnancy will be treated confidentially (unless the expectant mother wishes otherwise).

Working Arrangements

The incumbent/ Archdeacon supported by clergy HR will discuss with her any adjustments to working arrangements that may be required during pregnancy.

Ante Natal Care

In line with the Ecclesiastical Offices (Terms of Service) Directions 2010, a clergy/ licensed lay worker who

- (a) is pregnant, and
- (b) has, on the advice of a registered medical practitioner, registered midwife or registered health visitor, made an appointment to attend at any place for the purpose of receiving ante-natal care,

is entitled to take time off during her working hours in order to enable her to keep the appointment.

Antenatal care includes medical examinations. It may also include other appointments, for example, relaxation classes and parent-craft classes.

Health and Safety - Risk Assessment

Clergy/ licensed lay worker should be aware and take responsibility to protect themselves and their babies of any potential risks.

It is acknowledged that most clergy/ licensed lay workers exercise their ministry in their own environment. It is, however, advisable that expectant mothers make the incumbent and/ Archdeacon aware of the pregnancy as early as possible so that if there is any need to address a health and safety potential risk, this is acted on with the support of clergy HR.

Further guidance can be obtained from the HSE – A guide for New and Expectant Mothers who work www.hse.gov.uk

Sickness Absence

Maternity leave will not be counted against sick leave entitlement. However, If absence is pregnancy related and if it occurs on or after the **start of the 4th week before the expected week of childbirth**, maternity leave is automatically started.

Definition of childbirth: the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy

In these circumstances, all leave and pay benefits described later in this document apply.

Where a child is stillborn at earlier than 25 weeks, clergy/ licensed lay worker is not entitled to maternity pay or maternity leave. She will be entitled to sick leave and pay as detailed in sickness policy and procedure. The normal rules for special/ compassionate leave also apply.

Premature Births: In the case of a premature birth, maternity leave and pay will start automatically from the date of the childbirth.

MATERNITY ENTITLEMENTS

Maternity Leave

Regardless of length of service all clergy and licensed lay workers who express an intention to return to work are entitled to ordinary maternity leave of 26 weeks followed by additional maternity leave of a further 26 weeks. Therefore, all female clergy are entitled to take up to 52 weeks maternity leave which consists of:

- 26 weeks ordinary maternity leave
- 26 weeks additional maternity leave

Both ordinary and additional maternity leave can be taken from the time of childbirth.

It is a legal requirement to take at least two weeks' **compulsory maternity leave**,

which commences with the day on which childbirth occurs and forms part of the ordinary maternity leave period.

A clergy/ licensed lay worker is only entitled to one period of leave irrespective of whether more than one child is born because of the same pregnancy.

Notification requirements

Clergy/ licensed lay workers **must notify the Stipends Administrator** (stipendiary clergy/ licensed lay worker only) **as well as the Incumbent and/ Archdeacon (in writing)** no later than the end of the 15th week before the expected week of childbirth, of the following:

- ❖ that she is pregnant
- ❖ the expected week of childbirth (by means of a medical certificate)(MAT B1)
- ❖ the date she wishes maternity leave to commence (which can be no earlier than the 11th week before the expected week of childbirth)

The start date of maternity leave can be varied provided the Archdeacon and the Stipends Administrator (stipendiary clergy/ licensed lay worker only) of the diocese are notified (in writing) giving 28 days notice or as soon as reasonably practicable thereafter.

The Archdeacon will, within 28 days, set a date when the clergy or licensed lay worker will be expected to return to work assuming they take their full entitlement to additional maternity leave. This will be in writing and will include:

- ❖ her intended start date for maternity leave;
- ❖ that she is expected to return to work at the end of the maternity leave;
- ❖ the required date of return; (for clarity) the date on which a clergy/ licensed lay worker should return to work will be the first working day after the end of the additional maternity leave period.

The clergy/ licensed lay worker will also ensure that she has made arrangements to cover the duties of her office during her absence with suitable other persons.

Commencement of maternity leave will be triggered automatically if a clergy/ licensed lay worker:

- ❖ Is absent from work within the 4 weeks before the expected week of childbirth for a pregnancy related reason; or
- ❖ gives birth prematurely.

In which case, she should give the required notice as soon as reasonably practicable thereafter.

Maternity Pay (stipendiary clergy/ licensed lay workers only)
(includes Statutory Maternity Pay (SMP))

The minimum level of pay depends on length of service. Clergy with 26 weeks' service are currently entitled to at least Statutory Maternity Pay (SMP) which is payable for 39 weeks, at two different rates: at 90% of average weekly earnings for 6 weeks followed by lower rate SMP for the remaining 33 weeks) plus 13 weeks' unpaid leave.

However, the Diocese of Oxford operates an enhanced scheme. To be entitled to this enhanced scheme, the clergy/ licensed lay worker should:

- ❖ be in at least one year continuous paid service at the time her maternity by the beginning of the 14th week before the 'expected week of childbirth (EWC)'
- ❖ her average weekly earnings are above the National Insurance threshold.
- ❖ she has given at least 28 days' notice (or as much as is reasonably practicable) of the date she intends maternity pay to start
- ❖ she is still pregnant 11 weeks before the expected week of childbirth, or has already given birth
- ❖ she supplies, no more than 3 weeks after the birth, a certificate from a midwife or doctor confirming the date of her expected week of childbirth

How will it be paid?

- ❖ will be paid as full stipend for 39 weeks from the commencement of maternity leave, for the period of continuous absence before and after confinement;
- ❖ can start any time from the 11th week before the baby is due;
- ❖ must start from the date the baby is born if it has not already done so;
- ❖ is a weekly payment, but the week can start from any day of the week, from the day after the last day worked before starting maternity leave. This will allow maternity pay to align with the start of the maternity leave in all cases. Maternity pay is payable for whole weeks.
- ❖ is not payable in a week, if any work is undertaken in that week, unless the work is undertaken as a 'Keeping in Touch' day
- ❖ is taxable and attracts National Insurance deductions;
- ❖ is partly reclaimed by the Clergy Payments Department from the Government at the rate of 92% of the clergy equivalent of the lower rate of SMP.

There is no SMP or enhanced maternity pay, payable for the final 13 weeks of additional maternity leave.

Pension contributions

The period of Maternity Leave (both paid and unpaid) remains pensionable. This means that the diocese will continue to pay the pension contribution to the clergy/ licensed lay worker's pension fund as under the present rules of the scheme, death in service payments can only be made during pensionable leave.

Holiday entitlement

A clergy/ licensed lay worker will be entitled to accrue paid holiday leave during her maternity leave.

Keeping in Touch ("KIT") Days

The clergy/ licensed lay worker may work up to 10 days, consecutive or not, during the paid maternity leave period (i.e. the first 39 weeks) (except during the two week period of compulsory maternity leave) without losing maternity pay and without bringing her leave to an end. This may include attending training events. The purpose of this provision is to help ease the eventual return to work. The individual should contact her Archdeacon if this is something that she is interested in doing. Also, the Archdeacons are encouraged to inform the clergy/ licensed lay worker who are on maternity leave of any events that are taking place in their area.

Return to work

Clergy/ licensed lay workers wanting to return to work after maternity leave will find it advantageous to state the intention of doing so at the outset. In respect of both ordinary and additional maternity leave, no notice of return is required unless the individual wishes to return early (see below). The date of return will be the date notified by her as above.

Unlike an employee, an office holder does not have the right to be found an equivalent post when she returns from maternity leave. This is because she has not left her office whilst on maternity leave and therefore returns to work in her existing office as of right unless she resigns or is removed from it. However, a clergy/ licensed lay worker who resigns either before, during or after her maternity leave, but later changes her mind, has no absolute right to return, although every effort will be made to find a suitable office.

If a clergy/ licensed lay worker does not wish to return to work after maternity leave she must give the Bishop notice of termination as detailed in her Statement of Particulars.

Other Scenarios

a) *Illness during Maternity Leave*

The Bishop cannot postpone return to work after additional maternity leave and similarly a clergy/ licensed lay worker cannot postpone return to work after additional maternity leave by forwarding a medical certificate. If a clergy/ licensed lay worker is ill, normal rules on sick leave will apply, as detailed in the guidance on 'sickness reporting' section of the clergy HR pages on the website.

b) Early return to work

A clergy or licensed lay worker must give the Bishop via the Stipends Administrator eight weeks' notice if she intends to return to work before the expiry of additional maternity leave. Failure to give the correct notice entitles the Bishop to postpone her return until eight weeks' have elapsed following receipt of the notice.

The Archdeacon will write to the clergy or the licensed lay worker not earlier than 21 days before the end of the Ordinary Maternity Leave to enquire whether she is returning to work

c) Continuous service less than a year but more than 26 weeks

Where a clergy/ licensed lay worker has worked for less than one year she needs to be in employment at the qualifying week (15 weeks before the EWC) and have completed 26 weeks work to qualify for Statutory Maternity Pay although entitled to maternity leave regardless of length of continuous service. The SMP is paid at 90% for the first 6 weeks and thereafter at the lower flat rate SMP for 33 weeks

d) Continuous service less than 26 weeks

A clergy/ licensed lay worker who does not have 26 weeks continuous service at the 15th week before the expected week of childbirth **is not entitled to SMP, but may claim maternity allowance from the government.**

e) Redundancy

The only situation when this may occur will be in times of pastoral reorganisation. In this case, the clergy/ licensed lay worker in maternity leave will exercise her rights to information, consultation and entitlement to compensation the same way as the rest of clergy involved in that process.

f) Maternity leave during curacy or any other time limited posts

Under Regulation 29 of Ecclesiastical Offices (Terms of Service) Regulations 2009, there are several categories where the role is given on fixed term basis. Pregnant clergy/ licensed lay workers in these roles have the same rights as those in other roles. More specifically, for those in curacy roles, provided the clergy or licensed lay worker has met her obligations in terms of notification requirements, a period of extension would be considered and granted upon her return from maternity leave. However, when the role comes to an end, the SMP rate will apply for the period between the end of post date and the end date of the paid maternity leave.

g) *Leaving work during or after maternity leave*

As indicated above, the enhanced entitlements provided by the diocese depend on certain conditions being met. In cases when there is a change of circumstances and the clergy/ licensed lay worker decides to move to another diocese during her maternity leave, she will stop benefiting from the enhanced entitlements and will receive only the SMP rate instead. The same would apply in cases when the individual leaves the diocesan payroll within 3 months of returning to work after her maternity leave. In both these scenarios, the clergy/ licensed lay worker will be expected to reimburse the diocese for the difference between the SMP rate and the diocesan rate for the full maternity period.

h) *Renegotiation of Working Arrangements*

A clergy/ licensed lay worker may wish to negotiate new working arrangements / adjustment to duties when they return from maternity leave. Although such requests will be considered, there is no guarantee that they will be agreed. Any decision will be reached in consultation with the Church Warden or any the nominated PCC representative and advice from HR. If the request is approved, the **stipend** will be adjusted pro rata to reflect the reduced hours eg if a full stipend was £26,350 and a 5 day working week was negotiated the reduction would be a 1/6th ie down to £21,958.

Where a **house** is provided as an entitlement for the better performances of duties and where the reduction of hours is requested and granted, the entitlements to housing will remain unchanged unless the new agreed working hours fall below the minimum set for entitlement to housing.

If however, the individual is receiving a 'housing allowance', the reduction in stipend will come with a proportionate reduction of the 'housing allowance'

In cases where the clergy/ licensed lay worker is employed by the parish, then this would have to be a matter between the employer and the individual concerned. However, in cases of 'locally supported ministry' under Common Tenure, the parish may want to follow the same provision as indicated above. These changes will need to be reflected in the 'legally binding agreement'

When new working hours are negotiated, there is further impact on other entitlements:

Pension contributions: Please be advised that with the reduced stipend as per above, there is a corresponding downward adjustment in pension entitlement

Heating, Lighting and cleaning allowances will also be impacted when someone moves from a full-time role to a part time role. You are advised to speak to Clergy Payroll Service for your individual circumstances.

For advice in cases where **car loans** are concerned, please contact the clergy payroll service

PATERNITY LEAVE AND PAY

Paternity Rights

Clergy/ licensed lay worker is eligible to exercise his paternity rights if he:

- ❖ Has or expect to have responsibility for the child's upbringing;
- ❖ Is the biological father of the child or the mother's husband
- ❖ Has served continuously for the diocese for 26 weeks as at the 15th week before the child is due; and
- ❖ Wishes to take time off either to care for the child or support the mother. (Please note: This is separate to parental leave and time off to care for dependants)

This entitlement also applies to the partner of an individual who adopts or one member of a couple where the couple adopt jointly.

Length of Leave

If a clergy/ licensed lay worker is eligible, he is entitled to **take up to two weeks' leave, either one week or two consecutive weeks' leave**. He is not allowed to take odd days except with the prior written approval of the Bishop.

Leave must be taken within 56 days of the birth of the child, or if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.

A clergy/ licensed lay worker is only entitled to one period of leave irrespective of whether more than one child is born because of the same pregnancy.

Notice

If a clergy/ licensed lay worker wishes to take leave he must notify the Stipends Administrator and Archdeacon, in writing, by no later than the end of the 15th week before the expected week of childbirth about:

- ❖ The date of the expected week of childbirth;
- ❖ Whether he wishes to take one or two weeks' leave; and
- ❖ When he wants to commence the leave.

In the case of stipendiary clergy/ licensed lay workers, notification should be done using form **SC3**.

A clergy/ licensed lay worker may change their mind about the commencement date provided they inform the Archdeacon at least 28 days in advance, unless not reasonably practicable.

Paternity Pay (includes SPP and diocesan enhanced pay)

Stipendiary clergy/ licensed lay workers will be entitled to Statutory Paternity Pay (SPP) during paternity leave. The rate of SPP is the same as the rate set for Statutory Maternity Pay. However, **the diocese will enhance this to full stipend for the period of leave taken, provided that the eligibility criteria above and the following are met.** The clergy/ licensed lay worker:

- ❖ Must have been continuously holding an office between the qualifying week and the child's birth
- ❖ Must have had normal weekly earnings of at least the lower earnings limit over the eight weeks ending with the qualifying week
- ❖ Are not undertaking any work

Other Rights during Paternity Leave

Apart from stipend entitlements that are specified above, a clergy/ licensed lay worker is entitled to the benefit of all their terms and conditions throughout their paternity leave period. This includes their right to return to work.

Shared parental leave and pay

Mothers and adopting parents who meet the conditions for entitlement to Shared Parental Leave remain entitled to 52 weeks of maternity leave. After taking two weeks' compulsory leave, they are entitled to reduce their entitlement to maternity/ adoption leave either by returning to work before their full entitlement of Statutory Maternity/Adoption Leave has been taken, or by giving notice to curtail their leave at a specified future date. They may then share the balance of any remaining leave, and pay, with the other parent.

The eligibility and notification requirements for Shared Parental Leave are quite complex. A sample shared parental leave and pay policy for employees is available from ACAS. This may be used as a guidance when applying it to the case of a clergy person. See the link below:

<http://www.acas.org.uk/index.aspx?articleid=4911#splletters>

Clergy who exercise an entitlement to Shared Parental Leave and who meet the eligibility requirements of the Statutory Shared Parental Pay (General) Regulations 2014 are entitled to Statutory Shared Parental Pay.

ADOPTION POLICY

Adoption Leave

A clergy/ licensed lay worker will be entitled to 26 weeks of ordinary adoption leave (OAL) followed immediately by 26 weeks of additional adoption leave (AAL). In total, any clergy/ licensed lay worker is entitled to 52 weeks of adoption leave regardless of their length of service

To qualify for adoption leave the clergy/ licensed lay worker must:

- ❖ Be newly matched with a child for adoption by an adoption agency;
- ❖ Be the person with main care of the child; and

Where a couple adopt jointly, one member of a couple (the couple must choose which partner takes adoption leave) is entitled to adoption leave. The other one may consider their rights under paternity leave and pay subject to the conditions expressed above.

If more than one child is adopted at the same time, only one period of adoption leave is taken.

The earliest a clergy/ licensed lay worker can begin adoption leave is 14 days before the expected date of placement. They can choose to begin their leave on the date on which the child is placed with them for adoption or a predetermined date no more than 14 days before the date on which the child is expected to be placed for adoption.

Notification Requirements

A clergy/ licensed lay worker must notify the Bishop through the Stipends Administrator, in writing, **no more than 7 days after** the date in which he/ she has been notified as having been matched:

- ❖ He/ she intends to take adoption leave.
- ❖ The date on which the child is expected to be placed for adoption with them; and
- ❖ The date he/ she intends to start his/ her adoption leave.

The Bishop via the Stipends Administrator reserves the right to request evidence of entitlement – a "Matching Certificate" from the adoption agency. The Certificate will provide details of the known address of the adoption agency; the date the clergy was notified of having been matched with a child and a date on which the child is expected to be placed for adoption.

The Stipends Administrator will acknowledge, in writing and within 28 days of the clergy/ licensed lay worker's notice and confirm:

- ❖ the intended start date for their adoption leave;
- ❖ that they are expected to return to work at the end of the adoption leave;
- ❖ the required date of return; the date on which a clergy should return to work will be the first working day after the end of the additional adoption leave period.

Clergy/ licensed lay worker should make arrangements to cover the duties of their office during their absence with suitable other persons.

Return to work

In respect of both ordinary and additional adoption leave, no notice of return is required unless the individual wishes to return early (see below). The date of return will be the date notified to them by the Archdeacon.

If the clergy/ licensed lay worker does not wish to return to work after adoption leave they must give the Bishop notice of termination as detailed in their Statement of Particulars.

When returning from ordinary adoption leave the individual has the right to return to work, as if they had not been absent (even where they also took a period of parental leave of four weeks or less immediately following the ordinary adoption leave period).

When returning from additional adoption leave (regardless of whether the individual also took a period of parental leave) he/ she has the right to return to work, as if they had not been absent.

Early return to work

Clergy/ licensed lay worker must give eight weeks' notice if they intend to return to work before the expiry of additional adoption leave. Failure to give the correct notice entitles the Bishop to postpone their return until eight weeks' have elapsed following receipt of the notice.

Adoption Pay (includes Statutory Adoption Pay, SAP)

Statutory Adoption Pay (SAP) is paid for up to 39 weeks at the same rate as Statutory Maternity Pay. There is no SAP payable for the final 13 weeks of additional adoption leave. The Diocese will also pay enhanced adoption pay for those clergy/ licensed lay worker with more than one year's service. Those who qualify will receive their full stipend for the 39 weeks of their adoption leave. For the avoidance of doubt, the enhanced adoption payment will include the clergy's/ licensed lay worker's entitlement to SAP.

In order to be eligible for the enhanced rate clergy/ licensed lay worker must:

- ❖ Have been matched with a child to be placed with them by a UK adoption agency.
- ❖ Have notified the agency that they agree that the child should be placed with them and on a date of placement.
- ❖ Have served continuously for the Diocese for a year into the week in which they are notified of having been matched with a child.
- ❖ Give the Bishop at least 28 days notice before the date they want it to begin; and
- ❖ Have average weekly earnings at or above the lower earning limit for National Insurance over the eight weeks ending with the date on which they are notified of the match
- ❖ Have ceased work

Either partner may receive Statutory Adoption Pay, but not both. The other partner may receive Statutory Paternity Pay subject to the conditions stated.

Where two or more children are being placed for adoption the entitlement to SAP remains the same as if there was one child.

Pension contributions

The period of Adoption Leave (both paid and unpaid) remains pensionable. This means that the diocese will continue to pay the pension contribution to the clergy/ licensed lay worker's pension fund as under the present rules of the scheme, death I service payments can only be made during pensionable leave.

Holiday entitlement

A clergy/ licensed lay worker will be entitled to accrue paid holiday leave during adoption leave which shall accrue on a pro rata basis.

Keeping In Touch ("KIT") Days

If agreed by the Bishop a clergy may work up to **ten days** during adoption leave without losing statutory adoption pay and without bringing their leave to an end.

PARENTAL LEAVE POLICY

Parental Leave

The objective of Parental Leave is to enable people with parental responsibility to have time off to spend time with and to look after a child, or to make arrangements for the child's welfare.

Entitlement

Clergy/ licensed lay worker eligible for parental leave will be entitled to a **maximum total of 13 weeks unpaid leave for each child** Leave taken with a previous employer counts toward the maximum entitlement.

Clergy with a disabled child up to his/ her 18th birthday will be entitled to a maximum of 18 weeks unpaid leave).

Parental Leave can be taken by both mothers and fathers. Parental leave is an individual right and you cannot transfer the leave between parents. For example a father cannot decide to take only ten weeks and the mother take 16 weeks.

To be eligible for the entitlement, clergy/ licensed lay workers should:

- ❖ have completed one year's continuous service
- ❖ the child has not reached their 5th birthday or 18th birthday in the case of a disabled child.
- ❖ notify the diocesan office in writing of their intention to take Parental Leave at least 21 days prior to the intended date of Parental Leave
- ❖ produce evidence of their responsibility for the child and the age of that child in the form of a child's birth certificate; adoption placement certificate or the award of disability living allowance in the case of a disabled child.

When Parental Leave may be taken

Leave must normally be taken in blocks of one week or more, up to a maximum of four weeks in a year for each child. If less than a week is taken at a time, this will count as a whole week. However, parents of disabled children can take leave in blocks or multiple of one day.

Applying for Parental Leave

Clergy/ licensed lay workers must give at least 21 days notice of their request for parental leave.

If clergy/ licensed lay worker wishes to take parental leave immediately after the birth or adoption of a child, he/ she must give at least 21 days notice before the beginning of the expected week of childbirth or the expected week of adoption, wherever possible.

Postponement of Leave

Any leave may be postponed by the Bishop, for a period of up to six months from the date requested where it is considered that the individual's absence would unduly disrupt the services. Examples of such situations are:

- ❖ Seasonal or peak work requirements.
- ❖ Where a significant proportion of the workforce applies for parental leave at the same time
- ❖ Where the absence of a key clergy/ licensed lay worker at a particular time would unduly harm the services.

Right to Return to the Same or Similar Role

At the end of any parental leave of up to 4 weeks' duration, a clergy/ licensed lay worker is guaranteed the right to return to the same role as before. However, if parental leave follows maternity leave, and it would not have been reasonably practical for the woman to return to her previous role, and it is still not reasonably practical at the end of parental leave, she is entitled to return to a similar role which has the same or better status, terms and conditions the old role.

If parental leave is for a longer period than 4 weeks, the clergy/ licensed lay worker is entitled to return to the same role, or if that is not reasonably practical, to a similar role with similar or better conditions.

THE RIGHT TO REQUEST TIME OFF WORK OR ADJUSTMENTS TO THE DUTIES OF THE OFFICE TO CARE FOR A DEPENDANT

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, clergy/licensed lay workers 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.

Where clergy 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.

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.

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.

In line with the advice by the Archbishops' Council the procedure in the diocese for making a formal request should be as follows, and that the clergy person 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.

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 clergy's colleagues who are likely to be affected by the request.

Once the bishop has received a reply from the PCC(s), the office holder's request should be considered promptly.

If the bishop agrees to the request, the office holder and the PCC(s) should be informed in writing of the bishop's agreement.

If the bishop is not in a position to agree immediately, the bishop should arrange to meet the individual concerned as soon as possible to discuss the request. The office holder may bring a colleague or trade union representative to the meeting.

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).

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.

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.

In our diocese, the bishop has delegated consideration of these requests to the area bishops.

If the diocesan bishop needed to adjust the duties of his office to care for a dependant, he could use his power under s13 of the Dioceses Mission and Pastoral Measure 2007 to delegate his functions to an area bishop by instrument. This would require the approval of the diocesan synod (or, where the bishop considers that the

matter is urgent and it is not practicable to obtain the approval of the diocesan synod) the bishop's council and standing committee of the Diocesan Synod.

Some of the instances where clergy/ licensed lay worker may need time off may include;

- ❖ to provide assistance if the dependant is ill, gives birth, is injured or assaulted;
- ❖ to make arrangements for the provision of care for a dependant who is ill or injured;
- ❖ to deal with the death of a dependant;
- ❖ to deal with an unexpected disruption or termination of arrangements for the care of a dependant;
- ❖ to deal with an incident involving a dependent child which occurs unexpectedly in a period during which an educational establishment, which their child attends, is responsible for him or her.

In all cases when time off is given, it is the duty of the clergy/ licensed lay worker to keep the incumbent and/ Archdeacon informed of the length of emergency and intention to return to work.

Availability of the Above Guidance and Further Advice

A copy of this document will be made available to all clergy/ licensed lay workers through the Diocesan Clergy HR pages at www.oxford.anglican.org/clergyhr Clergy/ licensed lay workers can also contact Clergy HR in Church House Oxford about the application of the above and relevant pay scheme.

In addition, information on statutory rights and entitlements and related matters may be found on line at: www.acas.org; www.hse.gov.uk; www.hmrc.gov.uk or www.bis.gov.uk