

The background of the slide features a large, light blue watermark of the City of Vancouver's coat of arms. The crest includes a crown with four maple leaves, a shield divided into four quadrants (top-left: a building, top-right: a stag's head, bottom-left: a sailing ship, bottom-right: a grizzly bear), and a banner at the bottom with the motto "CITY OF VANCOUVER".

Agenda Item 5

**Referral from
Joint Consultative Committee**

Falkirk Council

Title: Referral from Joint Consultative Committee
Meeting: Executive
Date: 29 November 2016
Submitted By: Director of Corporate & Housing Services

1. Purpose of Report

- 1.1 The purpose of this report is to seek approval of the policies which were referred to the Executive, by the Joint Consultative Committee on 9 November 2016.

2. Recommendations

- 2.1 **The Executive is asked to approve the immediate implementation of the following policies:**
- 1. Managing Sickness Absence Policy;**
 - 2. Extra Mural Employment Policy;**
 - 3. Grievance Policy;**
 - 4. Learning & Development Policy;**
 - 5. Accident and Incident Reporting Policy;**
 - 6. Family Leave Policies for teaching and non teaching employees.**

3. Background

Unless otherwise stated, all policies have been reviewed in line with the HR policy review timetable. The Joint Consultative Committee agreed to refer each policy to the Executive for approval. However both the Managing Sickness Absence and Extramural Employment Policies were agreed following divisions. The details of each division are provided in appendix A.

3.1 Managing Sickness Absence Policy

The policy has been reviewed to provide greater clarity regarding absence management and monitoring processes. The main changes are as follows:

- Further references to the Stress Risk Assessment Process to ensure that work related mental well-being issues are addressed appropriately;
- Additional guidance about managing triggers, amending current absence triggers and monitoring periods;
- Incorporating formal reviews for long-term absences and issuing further guidance regarding progressing to capability;
- Removal of the option for up to 6 months unpaid special leave along with removal of references to the Employee Counselling Service.

3.2 Extra Mural Employment Policy

The policy is designed to help Services prevent, where possible, conflicts of interest arising. The policy has been amended to include further clarification on the definition of extra mural employment along with an updated application form.

3.3 Grievance Policy

With the exception of the Appeals Committee, this policy has been amended to reflect that legal representatives will no longer attend grievance hearings or appeals.

3.4 Learning & Development Policy

The main changes reflect the Council's new management structure, team name changes and practical arrangements such as a change in location to the Learning Resource Centre. In addition, the liP (Investors in People) section has been removed as services will no longer be applying for formal accreditation, although they will continue to work to the required standards as good practice. The Equality Monitoring process has also been formally incorporated into the policy.

3.5 Accident and Incident Reporting Policy

The revised policy incorporates a new Accident/incident form which provides for a more robust investigation process to help identify root causes and reduce the risk of future accidents. The new policy also moves to an electronic process where appropriate, to reduce the use of paper.

3.6 Family Leave Policy

This policy has been revised to reflect updated HMRC guidance on the payment of Childcare Vouchers during maternity leave. In line with the revised guidance, Falkirk Council will no longer pay for Childcare Vouchers whilst an employee is on maternity/paternity/adoption leave.

4. Considerations

- 4.1 The main proposed changes to the policies are as outlined above.

5. Consultation

- 5.1 This has followed the Council's Policy Consultation process with Services. Trade Unions have also been consulted on the policies.

6 Implications

Financial

- 6.1 Please refer to Family Leave report for relevant financial implications, which refer to a monthly saving. The Absence management policy is also intended to improve the management of absence across the Council with the aim of reducing absence levels and associated costs.

Resources

- 6.2 These changes include improvements to processes, therefore reducing administration time. Additional software at a limited cost will be required to process the new Accident/Incident form within the revised Accident & Incident Policy.

Legal

- 6.3 There are no legal implications from the proposals. Where appropriate advice has been taken into account.

Risk

- 6.4 There are no risks from the proposals. The risk of future accidents should reduce with a more robust Accident/Incident investigation process being in place.

Equalities

- 6.5 EPIAs were carried out where relevant. These demonstrate that the proposals are robust; there is no potential for discrimination and opportunities to promote equality have been taken.

Sustainability/Environmental Impact

- 6.6 The revised Accident and Incident Policy should reduce the use of paper.

7. Conclusions

- 7.1 A number of changes have been proposed to improve process and increase efficiency. In addition, the amendments are in line with legislation and relevant guidance. Full consultation has taken place with Services and Trade Unions and no major adverse issues have been identified.

Director of Corporate & Housing Services

Author – Tracey Gillespie, HR Manager 01324 506239
tracey.gillespie@falkirk.gov.uk

Date: 15 November 2016

Appendices

- A. Joint Consultative Committee - decisions
 - 1. Managing Sickness Absence Policy Report
 - 2. Managing Sickness Absence Policy
 - 3. Extra Mural Employment Policy Report
 - 4. Extra Mural Employment Policy
 - 5. Grievance Policy Report
 - 6. Grievance Policy
 - 7. Learning & Development Policy Report
 - 8. Learning & Development Policy
 - 9. Accident and Incident Reporting Policy Report
 - 10. Accident and Incident Reporting Policy
 - 11. Family Leave Policy Report
 - 12. Family Leave Policies

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

None

Joint Consultative Committee 9 November 2016 - decisions

JCC25. Managing Sickness Absence Policy

Councillor Alexander, seconded by Councillor Balfour, moved that, the policy is not approved and that there is discussion between officers, Trades Union representatives and elected members in regard to the proposals to amend the absence trigger and to remove the option for up to 6 months unpaid special leave.

As an amendment, Councillor Murray seconded by Councillor Dr C R Martin moved, in substitution for the motion, that the Committee notes the recommendations set out in the report.

In terms of the JCC's constitution, a decision can only be reached when the majority of both sides present and voting agree. With a motion and an amendment proposed, the JCC proceeded to vote on each. The vote was taken by roll call, with voting as follows:-

Employees' side:

For the motion (0)

For the amendment (7) - Gray Allan, Colin Finlay, Les Grant, Bert McManus, Margaret Smith, Raymond Smith and Lynne Tanner.

Employers' side:

For the motion (3) – Councillors Alexander, Balfour and Garner.

For the amendment (3) – Depute Provost Patrick and Councillors Dr C R Martin, Murray.

As the votes were tied, the Convener, in accordance with Standing Order 23, cast her second vote for the amendment.

Accordingly, with the majority of the Employees side and the Employers side voting in favour of the amendment, the amendment was carried.

Decision

The committee approved the amended Managing Sickness Absence Policy and agreed to refer it to the Executive for consideration.

JCC26. Extra-Mural Employment Policy

Councillor Alexander, seconded by Councillor Balfour, moved that:-

The Committee agrees the policy subject to the deletion of references to involvement in parent councils and voluntary organisations.

As an amendment, Councillor Dr C R Martin, seconded by Councillor Murray, moved the recommendations set out in the report.

In terms of the JCC's constitution a decision can only be reached when the majority of both sides present and voting agree. With a motion and an amendment proposed, the JCC proceeded to vote on each. The vote was taken by roll call, with voting as follows:-

Employees' side:

For the motion (0)

For the amendment (7) - Gray Allan, Colin Finlay, Les Grant, Bert McManus, Margaret Smith, Raymond Smith and Lynne Tanner.

Employers' side:

For the motion (3) – Councillors Alexander, Balfour and Garner.

For the amendment (3) – Depute Provost Patrick and Councillors Dr C R Martin, Murray

As the votes were tied, the Convener, in accordance with Standing Order 23, cast her second vote for the amendment.

Accordingly with the majority of the Employees side and the Employers side voting in favour of the amendment, the amendment was carried.

Decision

The committee approved the amended Extra-Mural Employment Policy and agreed to refer it to the Executive for consideration.

Falkirk Council

Title: Managing Sickness Absence Policy

Meeting: Joint Consultative Committee

Date: 9 November 2016

Submitted By: Director of Corporate & Housing

1. Purpose of Report

- 1.1 The purpose of this report is to advise Committee of updates to the Managing Sickness Absence Policy & Procedure.

2. Recommendation(s)

Committee is asked to agree the changes to the Managing Sickness Absence Policy & Procedure and refer it to the Executive Committee for approval.

3. Background

- 3.1 The Managing Sickness Absence Policy & Procedure applies to all employees of Falkirk Council. It provides a fair and consistent process for monitoring sickness absence and enabling managers to take appropriate action to manage absence, whilst remaining responsive to the needs of individual employees. This policy has been reviewed to provide greater clarity regarding absence management monitoring processes

4. Considerations

- 4.1 The main proposed changes to the policy are outlined below:
- Streamlining and avoiding duplication between the Managing Sickness Absence and Capability Policies to ensure greater clarity;
 - Providing additional guidance to managers about managing triggers and employees where there is a repeated pattern of monitoring;
 - Adding further references to the Stress Risk Assessment Process to ensure that work related mental well-being issues are addressed appropriately;
 - Amend the current absence trigger of 2 or more absences totalling 20 days or more in any 12 month period to 10 days absence within a 12 month period;
 - Extending the informal and formal absence monitoring periods from 3 months to 6 months to provide a longer monitoring period for those employees whose absence is causing concern;
 - Further guidance to managers re progressing to capability where there is no clear indication of a return to work date following several months of absence;
 - Incorporating a formal review for long-term absence at the 4 month stage and every 2-3 months thereafter;

- Including a checklist for managers to consider prior to referral for a capability hearing;
- Removal of the option for up to 6 months unpaid special leave as this does not meet the requirements of current case law which focuses on adjustments required to allow an individual to return to work rather than extending their absence; and
- Removing references to the Employee Counselling Service but highlighting the other support mechanisms available.

5. Consultation

- 5.1 This policy has been subject to consultation with Services and relevant trade unions.

6. Implications

Financial

- 6.1 There are no financial implications arising from this change to the Policy. The proposed changes are, however, intended to improve the management of absence across the Council with the aim of reducing absence levels and the costs associated with this.

Resources

- 6.2 There are no resource implications arising from this change to the Policy.

Legal

- 6.3 There are no legal implications from this proposal.

Risk

- 6.4 There are no risk implications from this proposal..

Equalities

- 6.5 No additional equality and poverty impact assessment is required.

Sustainability/Environmental Impact

- 6.6 Not applicable.

7. Conclusions

- 7.1 The proposed changes to the Managing Sickness Absence Policy & Procedure are intended to improve the management of absence across the Council and to provide greater clarity for managers in relation to the absence monitoring procedures.

Director of Corporate & Housing Services

**Author – Kathleen Docherty, Senior HR Adviser, 01324 506222,
kathleen.docherty @falkirk.gov.uk**

Date: 04/10/2016

Appendices

Managing Sickness Absence Policy

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

None



FALKIRK COUNCIL

**MANAGING
SICKNESS ABSENCE
POLICY &
PROCEDURE**

(For all employees including Teachers)



October 2016

INDEX		
PART		PAGE
1	POLICY STATEMENT	
	1.1 Policy Statement	4
2	POLICY	
	2.1 Introduction	4
	2.2 Scope	4
	2.3 Responsibilities	5
3	ABSENCE PROCEDURES	
	3.1 NOTIFICATION AND CERTIFICATION	6
	3.1.1 Pregnancy-related sickness absence	9
	3.1.2 Sickness absence due to industrial injury/disease	9
	3.1.3 Sickness absence during industrial action	10
	3.1.4 Sickness absence during disciplinary proceedings	10
	3.1.5 Non-compliance with notification and certification procedures	10
	3.1.6 Conditions of Service for Teachers and Associated Professionals	10
	3.2 MANAGING SHORT TERM SICKNESS ABSENCE	11
	3.2.1 Return To Work Interview	11
	3.2.2 Occupational Health	12
	3.2.3 Applying Trigger Levels	12
	3.2.4 Monitoring Absence	13
	3.3 MANAGING LONG TERM SICKNESS ABSENCE	15
	3.3.1 Keeping in touch	15
	3.3.2 Occupational Health / Medical Referrals	16
	3.3.3 Outcome of Medical Referrals	18
	3.3.4 Phased Return To Work	20
	3.3.5 Equality Act	21
	3.3.6 Sensitive Illness	22
	3.4 SICKNESS ABSENCE AND ANNUAL LEAVE	22
	3.5 CAPABILITY DISMISSALS ON ILL HEALTH GROUNDS	24
4	IMPLEMENTATION	
	4.1 Implementation	25
	4.2 Monitoring & Review	25
Appendix		
	1 Statement of Short Term Sickness Absence (Self Certificate Form)	26
	2 Return to Work Interview Form	28
	3 Guidance for Managers on Informal Monitoring Meeting	30
	4 Outcome lettering following Informal Monitoring Meeting	31
	5 Invitation to Formal Absence Monitoring Meeting	32
	6 Guidance for Managers on Formal Monitoring Meeting	33
	7 Medical Referral Process	34
	8 Occupational Health / Medical Referral Form	35

9	Explanatory notes for Employees	38
10	Guidelines for Employees on Ill Health Retiral	41
11	Memo to Payroll regarding Annual Leave Request	45

PART 1

1.1 POLICY STATEMENT

Falkirk Council aims to maximise attendance and minimise ill-health amongst its employees by promoting Health at Work. It is recognised that attendance of employees at work is crucial for the effective operation of the Council's services. High levels of attendance at work will contribute positively to the provision of quality services. Low levels of attendance, on the other hand, will adversely affect service provision in terms of both quality and performance, and may result in low morale and motivation generally amongst employees.

The Council is committed to implementing a fair and proper means of monitoring sickness absence in accordance with the Equal Opportunities Policy, to ensure that managers can be alerted to problems with service quality and delivery, and to enable them to take appropriate action in a fair and consistent manner whilst remaining responsive to the needs of the employees.

PART 2

2.1 INTRODUCTION

The aims of this Policy are to:

- Promote the health, safety and wellbeing of employees;
- Promote high levels of attendance at work;
- Ensure that managers adopt a fair and consistent approach in the management of absence, taking account of individual circumstances, while seeking to achieve and maintain acceptable standards of attendance;
- Ensure employees are aware of and understand the Council's position on managing sickness absence, and their own responsibilities in reporting sickness absence;
- Ensure that employees are treated in a fair and consistent manner and are encouraged to seek help with any problems they may have which may be the cause of absence from work;
- Ensure that employees suffering from critical or terminal illness are given the necessary consideration and support;
- Provide a framework for monitoring and managing attendance;
- Comply with the legal framework of Employment legislation, Health & Safety directives and legislation, the Equality Act and the Access to Medical Reports Act.

2.2 SCOPE

This Policy applies to all employees of Falkirk Council. Reference is made within this policy document to other policies and procedures of the Council, including the Disciplinary Policy and Code of Practice, Capability Policy, Rehabilitation and Redeployment Policy, Health & Safety at Work Policy, Health at Work Strategy, Drug and Alcohol Policy and Policy & Procedure for the Management of Stress and Mental Wellbeing.

2.3 RESPONSIBILITIES

Managers are expected to:

- Promote the health, safety and wellbeing of all employees, including use of risk assessments to identify and manage hazards impacting on both physical and mental health in the workplace;
- Ensure employees are aware of their responsibilities, and the consequences of not complying;
- Monitor levels of sickness absence for individuals and teams, applying triggers where necessary;
- Fairly and consistently apply procedures to support and manage staff absences, whilst dealing with unauthorised and/or high levels of sickness absence;
- Maintain a positive and preventive approach rather than a punitive approach;
- Be sensitive and supportive to those suffering the effects of ill health;
- Maintain regular communication with employees who are absent on long term sick leave;
- Ensure that all recording of sickness absence is maintained with respect for confidentiality, and that relevant certificates are passed promptly to Payroll to enable the payment of Sickness Allowance and Statutory Sick Pay;
- Be aware of how the disability provisions of the Equality Act could impact on managing sickness absence.

Employees are expected to:

- Attend work unless unfit to do so;
- Advise their manager of any illness which affects their ability to attend for work or to undertake the duties of their post to a satisfactory level;
- Raise concerns with their manager if they believe that their job is making them ill or contributing to their illness;
- Report sickness absences promptly to their manager and ensure that the appropriate certification is provided in accordance with the procedure;
- Maintain contact with their manager during periods of sickness absence and communicate effectively about their sickness absence;
- Co-operate fully with the Occupational Health Unit and other organisations that provide support to the Council and its employees;
- Ensure that medical advice and treatment, where appropriate, is received and followed as quickly as possible in order to facilitate a return to work;
- Not participate in any extra-mural or sporting activities which may be detrimental to their health or recovery;
- Not abuse the sickness absence procedures or sick pay scheme.

In order to support this policy and its implementation, the following services are available to managers and employees:

- Occupational Health Service: to provide advice and guidance on the impact of ill health on work, and what steps the Council and/or employee may take;
- Physiotherapy assessment and/or treatment where appropriate;
- Human Resources: to provide support and guidance to managers and employees in dealing with sickness absence and ill health, and in the use of the Council's related policies and procedures (e.g. Health & Safety, Stress, Capability etc.);

- Phased return to work/rehabilitation programmes;
- A range of flexible working arrangements to support the needs of employees in managing their health;
- Permanent and temporary redeployment to assist with return to work.

PART 3 ABSENCE PROCEDURES

3.1 NOTIFICATION AND CERTIFICATION

Managers have direct responsibility for managing sickness absence. It is essential that they are familiar with and fully understand the Council's procedures for reporting, recording and monitoring sickness absence.

Employees also have a responsibility to follow certain procedures to be entitled to Occupational Sickness Allowance and Statutory Sick Pay. Sickness absence and sick pay (both occupational and statutory) are calculated over a seven-day week regardless of the employee's contracted working days.

It is the responsibility of managers to ensure that employees are aware of notification arrangements, as detailed below, and the consequences of non-compliance. This should form part of induction training and any changes to these arrangements should be notified to all relevant employees.

Employee responsibilities for notifying sickness absence:-

- **On the first day of absence- employees are required to** telephone the appropriate supervisor or manager as early as possible and certainly no later than one hour after normal starting time. Employees who work shifts, job-share or part-time should notify their supervisor or line manager as soon as they become aware that they will be absent from work. They should not wait until their next scheduled work period. Some Services have local procedures such as telephoning a specific contact number for out of hours reporting. Employees should check with their manager if this affects them.
- **Employees are expected to telephone their manager personally** to report their sickness absence. Sending a text message is not acceptable and only if the employee is physically unable to speak to the manager should a representative (such as husband or wife, partner, relative or friend) be asked to act on behalf of the employee to ensure that the manager is advised promptly of the employee's absence. As soon as the employee is physically capable they should contact their manager direct. If the manager is not available to take the call, arrangements should be made for a nominated person to act as a contact point and for the manager to return the employee's call later. The employee will be expected to provide the reason for the absence and the likely duration of absence to the person who takes their call.
- **The employee must stay in regular contact with his/her line manager.** If the duration of illness was not specified at the time of the initial call then it is the employee's responsibility to telephone their manager the following day to update them and to keep in touch with the manager thereafter to advise of an expected date of return.

- If the **absence continues for more than three calendar days**, the employee must contact the line manager again on the 4th day. At this point, the employee should be asked to indicate whether the absence is likely to continue beyond the seventh calendar day. Employees absent for more than seven days should keep in weekly contact with their manager (unless another arrangement is made) and continue to submit medical certificates on the due date. Occupational Sickness Allowance and Statutory Sick Pay may stop if medical certificates are not submitted on time.
- For absences **up to seven calendar days**, it is expected that a **statement of short term sickness absence** (*Appendix 1*) will be completed on the day the employee returns to work. In respect of teaching employees it is recognised that national conditions state in section 6.27 that “where the absence period is 4 to 7 days, the employee will complete a self-certification form on return to work”. Teaching employees are however, encouraged to complete a statement of short term sickness absence from day one of absence. This enables managers to provide appropriate support for employees such as early referral to Occupational Health or Physiotherapy, as required.
- If the absence is **longer than seven calendar days** then the employee should complete a sickness absence self certificate (sent to them by their manager) and send this to his/her normal operating base along with a Medical Certificate (Doctor’s Statement Form Med3) to cover the period of absence beyond the first seven calendar days/self certification period. The Med3 certificate will state that the employee is either **unfit** for work, or **may be fit** for work taking account of advice provided. The advice is likely to cover issues such as: phased return, altered hours, amended duties, and/or workplace adaptations.

GPs may provide additional written comments to assist employers, e.g.: how the employee’s condition will affect what they do and some of the things that could help their return to work.

The Med3 Statement of Fitness for Work is :

- evidence for why an employee cannot work due to illness or injury;
- not required until day 8 of a sickness absence, with the first 7 days covered by a self-certificate;
- advice to the patient which is not binding on the employer.

Manager responsibilities regarding notification of sickness absence:-

- Managers must keep in contact with employees who are absent from work;
- If the absence lasts, or is likely to last longer than seven calendar days, then a sickness absence self certificate form must be sent to the employee as soon as possible for them to complete and return;
- Managers must ensure that all sections of the self certificate form are completed prior to submission to Payroll;
- Managers are responsible for ensuring that medical certificates are passed to Payroll promptly upon receipt;
- Managers should advise Payroll of periods of unauthorised absences.

Guidance for Managers on receipt of the Med3 Statement of Fitness for Work

If the Med3 states that the employee is **not fit for work**:

- You will check that the GP has indicated the expected period of absence [either as (1) a period of time or (2) between specific dates] and whether or not the employee will have to see the GP again before returning to work.
[NB: Any period described in days refers to calendar days not working days. Within the first 6 months of an absence the maximum period a GP can certify at any one time is 3 months.]
- If the GP does not need to see the employee again, you can expect the employee to return to normal duties at the end of the Statement period.
- If the employee feels well enough and asks to return before the end of a “not fit” Statement period, they do not have to return to the GP. However, you should consult the Occupational Health Adviser by telephone or e-mail.
- If the Occupational Health Adviser wishes to see the employee, you should proceed with an Occupational Health Referral in the normal way. You should not allow an employee who has a “not fit” certificate to return to work without Occupational Health approval. If Occupational Health do not authorise a return to work, the employee will still be covered up to the end date of the certificate. The Occupational Health Adviser will confirm any telephone consultation by e-mail [with a copy to HR].
- If the GP needs to see the employee again and then decides that the employee can return to normal duties the GP will not issue a new Statement. GPs no longer issue “signing-off lines”. GPs will continue to issue consecutive “not fit” certificates in the case of long-terms sickness.
- If you have any queries, please contact Human Resources.

If the Med3 states that the employee **may be fit for work** and recommends adjustments for a specific temporary period:

- You will consider the adjustments suggested and contact Occupational Health by telephone or e-mail for guidance. If the Occupational Health Adviser wishes to see the employee, you should proceed with an Occupational Health referral in the normal way.
- If the Occupational Health Adviser confirms temporary adjustments, you should discuss these with the employee and make every effort to accommodate them. Where issues such as manual handling are involved, you should also consider carrying out a risk assessment.
- If the adjustments can be accommodated, then you should arrange for the employee to return to work immediately. In these cases, the period of time given on the Med3 relates to the need for adjustments.
- If it is not possible to accommodate the adjustments, the employee may remain on sick leave up to the end date of the Med3 without obtaining a further certificate. An additional certificate is only required if the employee is unable to return to work at the end of the Med3 period.
- If the GP has recommended an Occupational Health assessment, you should still telephone or e-mail the Occupational Health Adviser for guidance. A referral to Occupational Health will only be required if the Occupational Health Adviser requires to see the employee.
- If the employee feels able and asks to return to full duties before the end of the certificate period, and Occupational Health are in agreement, you may allow the

employee to return. If Occupational Health are not in agreement, the employee must remain on restricted duties or on sick leave as appropriate and as advised by Occupational Health.

- If you have concerns at any of the above stages, you should telephone Human Resources.

If you have discussed with Occupational Health and agreed adjustments to enable an employee to return to work and the employee disagrees with your proposal:

- You should discuss the issues with the employee to find out why they feel they cannot return to work.
- You should contact Human Resources for guidance, and you may also wish to contact the Occupational Health Adviser again to discuss any issues raised by the employee.
- If the employee is still reluctant to return to work, you should refer the employee to Occupational Health for an independent assessment of their fitness to return to work with the adjustments you have proposed.
- If Occupational Health consider that the employee is fit to return the employee will be expected to return immediately.
- If Occupational Health consider that the employee is not fit to return, then the employee can continue on sick leave up to the end date on the Med3 without revisiting the GP.

It should be noted that employees returning to work before the end date of the Med3 Statement with Occupational Health approval will be covered by Falkirk Council's Employers Liability Insurance as it is generally accepted that an employee does not necessarily have to be 100% fit to return to work. However, managers should ensure that they record all actions taken so that they can demonstrate that they have done everything possible to minimise the risk to the employee.

3.1.1 Pregnancy-related sickness absence

The Council has no obligation to provide different sick-pay provision for women who take time off work for reasons related to their pregnancy. However, managers should note that they must not include absences related to pregnancy in any assessment of an employee's sickness record as this could leave the Council vulnerable to claims of sex discrimination if, for example, a trigger was reached. An employee who is absent due to a pregnancy-related illness during the four week period prior to her due date can be required to start her maternity leave early, and will, where eligible, be entitled to maternity pay and not occupational sick pay or statutory sick pay.

3.1.2 Sickness absence due to Industrial Injury/Disease

Where an employee is absent due to sickness or disablement as a result of an accident or incident arising out of and in the course of employment, which has been investigated and accepted as industrial injury, an Accident/Incident Report Form (HR14) must be completed as appropriate, by the employee and the manager. The employee will be entitled to payment of Industrial Injury Allowance. This is separate from Occupational Sickness Allowance and does not count against that entitlement. Details of the accident must be entered on the sickness absence self certificate form.

Where an absence is as a result of a disease caused by work, or by any reportable disease, as defined by the HSE, the manager must ensure an HR14 form is completed. (This is available on the Council's Underground under Health, Safety & Care).

Further information and guidance is available from the Health, Safety and Care Team and the Policy for the Prevention and Management of Infectious Diseases.

Failure to notify that an absence results from an accident or incident at work will result in non-payment of Industrial Injury Allowance, and could jeopardise future claims for Industrial Injury Benefit.

Following any musculo-skeletal injury to an employee at work, the manager should make an immediate referral to Occupational Health for physiotherapy assessment/treatment, where appropriate. Equally, where an employee is absent citing work related stress, an immediate referral to Occupational Health should be progressed and reference should be made to the Stress Management and Mental Wellbeing Policy http://underground.falkirk.gov.uk/employee/strategies_policies_procedures_guidance/health_safety_care_docs/stress_management.pdf. Ideally, where possible, a completed stress risk assessment should be forwarded to Occupational Health with this referral.

Further information and guidance can be found in the Corporate Health, Safety and Care Policy and the Corporate Accident/Incident Reporting Policy and Procedure.

3.1.3 Sickness absence during Industrial Action

There is no entitlement to sickness allowance if an employee is off work sick during a stoppage of work at the place of employment due to a trade dispute, unless the employee has not taken part in the trade dispute and has no direct interest in it.

3.1.4 Sickness absence during Disciplinary proceedings

If an employee is suspended from work due to a disciplinary issue being investigated and then becomes ill, the employee will be required to report the absence through the normal procedure as stated previously in the policy. The employee will then be paid as per relevant sick pay provisions. If an employee is absent from work due to illness and then a disciplinary issue comes to light, a meeting will be convened with the employee to explain the situation. If necessary a referral to Occupational Health will be organised to check if the employee is fit to proceed with the disciplinary process. Payroll should be kept advised by the Service so that the employee's salary is processed correctly. Please seek advice from Human Resources.

3.1.5 Non-compliance with notification and certification procedures

If an employee fails to comply with the sickness absence notification and certification requirements without good reason, the manager may consider this unauthorised absence and, in discussion with Human Resources, it may be appropriate to withhold pay pending an investigation into this matter in line with the Disciplinary Procedures, confirming this in writing to the employee involved. Persistent disregard of the notification procedures may also be dealt with through the Disciplinary Procedures.

3.1.6 Conditions of Service for Teachers and Associated Professionals

Teachers and Associated Professionals will receive pay and leave in accordance with National Conditions in respect of:

- Respiratory Tuberculosis (Clause 13.6) – where a teacher is found to be suffering from respiratory tuberculosis, the teacher shall be entitled to receive full salary for any period up to a maximum of 12 months and half salary for up to a maximum of 6 months thereafter, where the absence is supported by a Med3 certificate; and
- Victims of Crime Violence (Clause 13.2.20) - Where a teacher is absent from work because of an injury in respect of which an award may be made by the Criminal Injuries Compensation Board and the teacher is otherwise qualified to receive sickness allowance, such allowance shall be granted without a requirement to refund any proportion of any sum which the Compensation Board may award. Where such an award is made, the period of absence shall not be treated as sickness absence and will not count against any period of entitlement but should instead be treated as special leave. In the case of an assault occurring in the course of employment, the period of absence will not be treated as sickness absence and shall not count against sick pay entitlement. Any such absence will be treated as special paid leave.

3.2 MANAGING SHORT TERM SICKNESS ABSENCE

Short term sickness absence is the most disruptive form of sickness absence to Services, as it is difficult to put alternative arrangements in place to cover the absent employee and ensure service provision. Over a period of time it can affect the morale and performance of other staff, and it is important that it is carefully managed.

Short term absences are normally sporadic and attributable to minor ailments: in most cases these are unconnected. Short term absences can last for up to 7 calendar days and are covered by a self-certificate form.

The key to managing short term absence is ensuring that employees are aware of the standards expected of them, and applying the procedures consistently. The effective use of the Return to Work Interview, the monitoring of trigger levels and the informal and formal absence review meetings are vital tools for managing sickness absence.

3.2.1 Return to Work Interview

Return to Work Interviews can be particularly effective for the management of short term, recurrent absences as they enable the manager and employee to meet within hours of an employee returning to work to discuss the reason for absence. However, a Return to Work Interview (RTWI) must be adopted as regular practice for each and *every* period of sickness absence, to ensure an effective means of reducing absenteeism. Prior to the RTWI managers should review an employee's sickness absence as per section 3.2.3 to establish if there is a pattern and/or whether a trigger has been reached. The RTWI should (where possible) be completed on the day the employee returns to work and certainly within 72 hours of returning to work. Obviously, if an employee has been absent from work due to a musculo-skeletal problem and they carry out a physical job then their RTWI should be completed before they resume normal duties in case any adjustments to working practices need to be made. A RTWI is not about challenging the reason for sickness or disputing that genuine sickness exists. It may be used to provide any information which may assist the employee to improve attendance, while highlighting the importance of good attendance and advising the employee that there is a limit to how much non-productive time the Council can sustain. The RTWI should be informal, always conducted sympathetically and held in private.

The WARM approach is useful to refer to when conducting RTWI's. Guidance on this approach is attached as Appendix 2.

If you have identified that the employee has reached one of the absence triggers this should be discussed and, where appropriate, informal monitoring should be implemented (Appendix 3). It is recognised, however, that in some service areas, the immediate manager/ supervisor responsible for conducting RTWI may not be responsible for the management of absence and in such circumstances, a separate informal absence review meeting may be appropriate. This should be confirmed to the employee in writing (refer to Appendix 4). Where the employee is already on informal monitoring and they have had further absences they should be advised at their RTWI that they may be invited to a formal absence monitoring meeting and you should seek guidance from Human Resources re how to progress.

3.2.2 Occupational Health Referral

If a possible underlying health problem is indicated, the manager may propose a referral to Occupational Health to seek medical advice. Alternatively if the employee is suffering from a musculo-skeletal problem (work-related or not) then the manager may consider referral for physiotherapy assessment/treatment. Equally, where an employee's absence relates to a mental well being or any stress related illness, an Occupational Health referral should be considered. In such circumstances a stress risk assessment should be completed and ideally submitted with the referral or as soon as possible thereafter. HR should be included in any meeting with the employee to discuss the stress risk assessment.

Full details of occupational health/medical referrals can be found in section 3.3.2.

3.2.3 Applying Trigger Levels

When an employee has been off work due to sickness their manager must look back at their sickness absence record to establish if any of the following trigger levels have been met or exceeded. This should be reviewed prior to the employee returning to work to inform discussion at the RTWI.

The trigger levels are:

- Three absences of any length in three months;
- Four absences of any length in 12 months;
- 10 days or more absence in 12 months;
- Two or more absences equating to more than 15% absence in 2 out of the previous 3 years (this information will be provided by HR).

It is recognised however that there may be circumstances where a Service may want to consider adjusting the trigger levels and this should be done in consultation with Human Resources and appropriate Trade Unions.

An employee whose sickness absence meets or exceeds a trigger level will be reviewed by the manager and this will be discussed at the RTWI or at separate informal absence review meeting as appropriate. This however, does not necessarily mean that any formal action should be taken or that an immediate referral to Occupational Health is required. The purpose of the trigger is to ensure that the manager reviews the employee's attendance record and provides appropriate support and assistance to the employee to enable them to attend work.

Managers must remember that each employee and his/her absence record is a unique case, and they should look at the circumstances of each period of absence leading up to the trigger, including:

- The reason for each sickness absence and whether there is any connection between them;
- The duration of each sickness absence;
- If any patterns are identified;
- The impact on service delivery/staff morale;
- The % absence and days lost.

Managers should be aware that there are various types of patterns of absence which can emerge when sickness absence is being regularly reviewed, such as before or after weekends, annual leave, public holidays or related to personal problems e.g. caring for dependants. Managers should not assume that this indicates that an absence is not genuine, but should be prepared to discuss this with the employee and try to establish whether a genuine health problem exists.

Patterns may also become evident which may be connected to the working environment, such as several employees in the same area being off with similar complaints. This may indicate problems such as:

- Inefficient lighting, heating and/or ventilation;
- Inadequate training on manual handling;
- Improper workstation setup;
- Low morale, stress.

This list is not exhaustive. Managers should be prepared to investigate any such patterns, check risk assessments, and find ways of alleviating problems. Further guidance is available in the Health & Safety at Work Policy, Policy for the Prevention and Management of Infectious Diseases and the Policy & Procedure for the Management of Stress & Mental Wellbeing.

3.2.4 Monitoring Absence

Informal Monitoring

When an individual's sickness absence becomes more frequent, and meets or exceeds a trigger level then the line manager should identify this prior to the Return to Work Interview (RTWI) and discuss the triggers reached with the employee during the RTW meeting (Appendix 3 provides a checklist of what should be discussed at this meeting). It is recognised, however, that in some service areas, the immediate manager/ supervisor responsible for conducting RTWI may not be responsible for the management of absence and in such circumstances, a separate informal absence review meeting may be appropriate.

Managers may apply discretion when applying monitoring as there may be situations where it may not be appropriate e.g. where employee has previously had excellent attendance record, pregnancy related absences, industrial injury, bereavement, disability related absences etc.

This meeting/RTWI should include discussion around the following areas:-

- Reasons for absence.
- What is expected of the employee and how their current high absence level is affecting the rest of the team.
- Referral to Occupational Health if this has not been done previously (or a further referral if a significant time has passed, there are additional concerns, absences relate to a different health condition etc.).
- Where relevant, the employee should be advised that their absence level will be monitored on this informal basis for up to 6 months and if they have any further absences during this period then they may be called into a formal absence review meeting. (In specific cases it may be appropriate to extend informal arrangements by a further 2 months rather than moving to the formal process e.g. industrial injury, bereavement, significant improvement then just 1 day off sick).
- If aspects of the job may be contributing to the sickness absence, then the manager should explore possible solutions with the employee. These could include doing risk assessments to identify problem areas, allowing the employee to work in more flexible ways, or more flexible hours, or changing to part-time for a short period. Contact Occupational Health or Human Resources for advice and guidance on suitable options for consideration.
- If the employee is finding it difficult to cope with the job, because of a lack of skill or knowledge, and this is contributing to the sickness absence, then the manager should look into what skills or knowledge gaps can be addressed by education or training. In these circumstances, managers may consider it more appropriate to follow the Capability Procedure. Human Resources can provide advice on the application of this procedure and options for employee training and development.

After the meeting, the manager should write to the employee confirming all the points discussed and stating that their level of sickness absence will be monitored informally for 6 months (Appendix 4 provides a template letter for managers to use). Managers should note that they do not have to wait until the end of a review period to proceed to the next stage of the monitoring procedure if an employee has further absences.

Following or during the informal monitoring period, if the employee has failed to achieve or maintain the required attendance levels, the following options are open to the manager at this point:

- Progress to the formal monitoring stage under the Council's Capability Policy.
- If satisfied that a return to an acceptable level of attendance is likely within an acceptable period of time, continue to monitor and review under the informal stage, giving the employee an extension to the monitoring period and confirmation of this in writing.
- If an underlying health problem has been highlighted or suggested, the manager should arrange a medical referral and continue to monitor and review, under the informal stage initially although the formal process may be used thereafter where the triggers continue to be met or the employee fails to achieve or maintain required attendance levels.
- If there is firm evidence that any sickness absence is not genuine, the manager should advise the employee that the matter will now be dealt with under the Council's Disciplinary Procedures. In these circumstances, the manager should always seek advice from Human Resources.

If a pattern of informal or formal monitoring followed by only short term improvements in attendance emerges, it may be appropriate for the matter to progress directly to formal absence monitoring, without completing further informal monitoring periods. It may also be appropriate to proceed to a formal capability hearing.

3.3 MANAGING LONG TERM SICKNESS ABSENCE

Long term sickness absence is considered to be continuous absence in excess of 4 weeks. When dealing with employees on long term sickness absence managers should adopt a sympathetic and understanding approach.

Managers should ensure that they keep in touch with employees when they are off ill for a long period, holding periodic absence review meetings/home visits. These meetings should of course be kept informal and used as a catch up unless the employee has been informed that their absence record is being monitored on a formal basis.

3.3.1 Keeping in touch

This has a number of benefits for both parties:

- It can be used to remind the employee that a doctors certificate is coming to an end;
- The employee can be kept up-to-date with changes in the workplace;
- The employee will not feel that they have been forgotten or are unimportant or being ignored;
- It is an opportunity for the manager to ask the employee whether there are any changes to be considered which would make it easier for the employee to return to work;
- It will provide the manager with the opportunity to discuss when a return to work may be possible (this will help with decisions about any cover that has been put in place for the post).

It is important that the manager maintains regular, informal contact with the employee, by telephone or home visits (if the employee agrees), showing concern for the employee's welfare. The manager must discuss with the employee the process for keeping in touch and agree how and when this will take place. In any case, once an employee has been off for four weeks, consideration should be given to arranging a **home visit** with the employee or a meeting in a mutually agreeable location. This may simply be a courtesy visit (and some managers may feel comfortable with making such a visit earlier than four weeks). Even where a home visit is not considered to be practical, appropriate contact must be maintained. Each contact must be handled sensitively, and due consideration must be given to the nature of the employee's illness. In some cases it may be appropriate to ask the employee if they would prefer that another manager or officer conducts the home visit/ maintains contact.

If the employee wishes representation or support at any meeting or home visit, this must be permitted. However, it should be borne in mind that any suggestion that the employee is entitled to representation is likely to make the employee feel anxious and defensive. It is essential that the employee is not given the impression that this visit represents any kind of formal disciplinary meeting. It is better to maintain the informal approach, and arrange the meeting by telephone rather than by letter, although the meeting should be documented to record discussions.

If the manager does not know the employee personally, he/she should take someone who does know the employee. It is important that the employee feels at ease during the meeting. The manager should read through the employee's file and be familiar with the relevant information so that the purpose of the visit can be clearly explained to the employee.

If the absence extends to 4 months a further review meeting should be arranged (unless it is deemed appropriate to meet at an earlier date) and if the absence continues meetings should be arranged every 2-3 months to maintain contact and discuss ongoing absence. These meetings should be documented.

3.3.2 Occupational Health/Medical Referrals

The Occupational Health Service is provided by an independent contractor who will provide managers with impartial professional advice to assist in managing employees with health issues which are contributing to their sickness absence record or impacting on their performance at work. The information provided will be limited by rules governing medical confidentiality.

An Occupational Health referral may be made where, e.g.:

- A work related illness is suspected;
- The capability or disciplinary procedures are being implemented as a result of short term persistent absences;
- Advice is needed on fitness for duties after an accident;
- An employee has been absent from work due to sickness for 4 weeks or more;
- An employee is off with depression/anxiety or any stress-related illness. In most mental wellbeing cases immediate referral should be sought. However managers should, where possible, ascertain the cause of the depression, anxiety, stress etc. as this may determine whether a referral to Occupational Health is required or whether some other forms of support would be more appropriate e.g. in short term absence cases where the cause of stress or anxiety is due to bereavement. Consideration should also be given to the stress risk assessment process. Managers should decide the most appropriate course of action;
- The manager has concerns about the absence continuing and feels that an Occupational Health assessment (whether or not the employee has previously attended Occupational Health), would be beneficial for the employee and for managing the absence;
- A long term sickness absence is continuing, and the outcome and likely duration is unclear;
- Advice is needed about any measures that can be put in place to assist the employee to return to work/continue in work;
- Advice is needed about whether the employee is permanently unfit/or could be considered for redeployment.

In other cases, where an absence is lasting longer than expected or is causing concern in other ways, a referral is appropriate, especially where an employee has been off for 4 weeks. Do not wait until an employee goes on half-pay or is out of pay before referring. You can get advice and guidance about whether to refer an employee from Human Resources.

A referral for a physiotherapy assessment may be made for an employee who has a musculo-skeletal condition which, e.g.

- Has the potential to deteriorate and result in sickness absence;
- Is affecting the employee's ability to carry out their full range of normal duties or appears to be aggravated by the employee's work duties or postures;
- Has resulted in recurring absences for similar reasons;
- Was the result of an injury at work;
- Has resulted in a current absence of 5 days or more.

Early referral for employees who experience any musculo-skeletal problem can greatly reduce and even prevent sickness absence. Please note that referral for physiotherapy does not require an appointment with the Occupational Health nurse or physician and can be requested direct using the referral form.

Referral process (See Appendix 7 for quick reference flow chart)

Managers who wish to refer an employee for an occupational health/medical or physiotherapy assessment should meet with the employee and discuss the referral with them. At this meeting the manager must complete the referral form (sample at Appendix 8) or at least discuss the content of the referral form. Managers must provide as much background information about the employee's absence and their job as possible (by enclosing absence records and job description where possible) and should also clearly explain the reason for the referral (e.g. long term absence, physiotherapy assessment etc.) and the advice required from Occupational Health, by indicating on the referral form which questions they wish Occupational Health to comment on and by adding their own questions if necessary. Managers may call HR for advice on completing the referral form. It is good practice to give the employee a copy of the completed referral form as this will be discussed with them by Occupational Health. Information that has not been discussed with the employee should not be included on the referral form. When a referral is being made a manager should give the employee a copy of the Explanatory Notes for Employees which can be found in Appendix 9.

The completed referral form should be e-mailed to hr.support@falkirk.gov.uk in the first instance, where it will be logged and passed onto Occupational Health. Once the referral is received at the Occupational Health Unit, it will be assessed by the Occupational Health Nurse Adviser, who will write to the employee within one week giving an appointment date and time, either for a physiotherapy session or for an appointment with an Occupational Health Nurse or Physician. A copy of this letter will be sent to the referring manager.

The Occupational Health Nurse or Physician will not normally send for a GP report, if required, until after the employee's first appointment, so that the Occupational Health Nurse or Physician has a full understanding of the case and can ask specific questions of the GP. Where required Occupational Health will get the necessary mandate signed and make a request for a GP report.

Refusal to attend Occupational Health or for GP report to be requested

The Council has the right to insist that the employee attends Occupational Health. Where possible, appointments should be made within an employee's normal working hours. Occupational Health should be advised of this on the referral form. If the employee refuses to attend Occupational Health, this should be discussed with the employee to clarify the reasons for refusal. If the specific physician or nurse is

unacceptable to the employee, Human Resources will make every effort to arrange for the employee to be seen by a mutually acceptable Occupational Health practitioner. However this cannot be guaranteed. If the employee is physically unable to attend an Occupational Health appointment, then a home visit may be arranged if, in the judgement of the Occupational Health practitioner, this is the most appropriate way to obtain information.

If the employee unreasonably persists in not attending, this may have to be dealt with under the Disciplinary Procedures, and managers should contact Human Resources to discuss the way forward.

The employee has the right to refuse permission for the Occupational Health practitioner to approach their GP. However, the manager will then have to take a decision based only on facts/advice already known. This again should be discussed with the employee where necessary. Occupational Health will also explain this to the employee at their appointment.

Following the employee's appointment a report will be sent by Occupational Health to the manager within one week.

Managers may contact the Occupational Health Unit direct with specific queries about appointments or reports. The Occupational Health Unit is open during office hours, Monday to Friday.

Falkirk Council Occupational Health Unit
Office 7, Grangemouth Enterprise Centre
Falkirk Road
Grangemouth
FK3 8XS
Tel: 01324 508757 Fax: 01324 508758
E-mail: admin.occhealth@falkirk.gov.uk

3.3.3 Outcomes of Medical Referrals

The outcomes of a medical referral can potentially be very complex, and the manager should seek advice on handling such long term sickness absence cases from Human Resources, particularly where there may be Equality Act implications. If the report includes inaccurate information the manager should contact Occupational Health and provide facts and updated information where necessary. In complex cases, a case management discussion can be arranged involving Occupational Health, the manager, the employee and HR.

In all other cases, after the referral, the manager should arrange a meeting with the employee to discuss the Occupational Health report. This will normally fall into one of the following categories:

1. Fit to return to work at an agreed date (with or without a temporary period of rehabilitation).

The manager should ensure that the employee agrees with this and discuss the proposed reintroduction to work. If Occupational Health has recommended a temporary period of part-time working, or alternative work, the manager should

make every effort to accommodate this advice, if it is operationally possible. Further information on arranging a phased return to work can be found in section 3.3.4.

2. Fit to return to work at an agreed date with modifications or adaptations to the working environment.

The manager must comply with the disability provisions of the Equality Act, which places a responsibility on the Council to make reasonable adjustments to meet the needs of a disabled employee. Reasonable adjustments do not just refer to equipment but can involve changes to working hours or working patterns etc. For further details please see section 3.3.5. Occupational Health will make recommendations on any modifications or adaptations which may assist the employee. These will require to be discussed with the employee and it will be for the manager to assess and agree, in consultation with Human Resources if required, whether they can be practically and reasonably supported.

3. Unfit for the current post, but fit for other duties on a permanent basis.

The manager must discuss the option of redeployment in full with the employee. It is the responsibility of the employing Service to find alternative employment, but options can be explored within other Services. Further information is available in the Rehabilitation and Redeployment Policy. If no suitable alternative employment can be found, or the employee refuses an offer of alternative employment, the manager should check with the Occupational Health physician whether ill-health retiral is an option. If not, and all other options have been ruled out, the manager will have to proceed to a Capability Hearing. Managers should refer to the Capability Procedure and seek advice from HR. *See section 3.5.*

4. Currently unfit for the post, and unlikely to be fit in the foreseeable future but not meeting criteria for Certificate of Permanent Ill Health to release pension.

The manager must balance the impact of the continuing absence on service delivery against the employee's individual circumstances and decide whether to:

(a) Allow the absence to continue in the hope that the individual will be able to return to work soon;

or

(b) If the service cannot accommodate the employee's absence continuing long term proceed to a Capability Hearing. *See section 3.5.*

Where Occupational Health have indicated that they will review the employee's case in, for example, two months time, managers should note that they do not have to wait until this time has expired to make a decision on an employee's capability. If there is no clear indication of a return to work or any suggested return is not within a reasonable timescale then the manager can progress with recommending a capability hearing.

5. Permanently unfit

Ill- health retiral (dismissal on capability grounds) is only possible where every effort has been made to find reasonable adjustments, or redeployment opportunities have been examined and ruled out, or where the employee is unfit for all work. There are 2 tiers of ill health retirement options, entitling employees of the pension scheme to either a higher or lower tier of ill health pension provision. In either case, a Certificate of Permanent Ill Health will require to be agreed by an independent

physician and, if considered appropriate, Occupational Health will organise this Certificate.

Teachers who are members of the Scottish Public Pensions Agency scheme which has different rules, will have to apply to the SPPA for early release of pension benefits on the grounds of ill health, and the final decision lies with the SPPA, irrespective of the guidance provided by the Council's Occupational Health Service.

NB: Guidelines for employees who are being dismissed are at Appendix 8. The manager should always provide a copy of these guidelines to any employee who is being dismissed after long term sickness absence.

For any of the above, the manager should seek advice from Human Resources.

3.3.4 Phased Return to Work

Returning to "normal working" after a prolonged period of absence can prove difficult for an employee. When an employee has been off on long-term sick leave and they are ready to come back to work it is essential that their return to work is planned and managed effectively. A phased return to work is recommended for most employees who have been off long-term as it facilitates an early resumption of normal duties, allowing them to re-familiarise themselves with the working environment and their role on a gradual basis. It also, where necessary, allows time for any adaptations to be made.

Occupational Health can advise on a return to work plan, but a manager must consider whether or not the service can accommodate it. A phased return to work is not compulsory nor is it a right and therefore implementation will be at the discretion of the manager. Where possible, however, a phased return to work should be accommodated by the Service. However, if it cannot be accommodated the manager should consider alternative approaches and discuss this with Occupational Health. In all cases the details of the phased return to work plan should be co-ordinated by the manager and agreed with the employee taking into account the views of Occupational Health and the needs of the Service. Where it cannot be accommodated or where any recommendation from Occupational Health cannot be put in place, this should be explained to the employee with the reasons for this provided.

The Phased Return to Work Process is an integral part of the Managing Sickness Absence Policy. In implementing a phased return to work managers should consider the following on a temporary basis:

- Reduced hours;
- Alteration to shift pattern days;
- Restricted/modified duties;
- Buddy system/mentor;
- Temporary relocation/redeployment.

A return to work plan should form a written document which includes the following:

- A programme or timetable showing the days/hours the employee is expected to work and showing the gradual increase back to normal working hours over the period of the phased return;
- The period of the phased return - usually 2-3 weeks, but occasionally up to 6 weeks, and only in exceptional cases longer than 6 weeks;

- Any other issues such as restrictions or modifications to the job role;
- A date to review the plan;
- Details of annual leave and/or special leave used to facilitate the phased return to work. (Managers should therefore calculate how much leave the employee is entitled to and use this towards the phased return – see section 3.4)

The manager will monitor the return to work and will review the employee's progress as required during the programme and before a return to full normal working arrangements. The manager can contact Occupational Health to request further advice at anytime during the process as necessary. The phased return should be a short-term measure and employees should be encouraged to build up to normal employment within as short a timescale as is reasonable given their medical condition.

Further details are available from Human Resources.

3.3.5 Equality Act

Many illnesses which result in long term sickness absence will require to be considered under the disability provisions of the Equality Act. The Act defines disability as: "a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities".

This definition includes:

- Physical impairment- weakening or adverse change of part of the body caused through illness, by accident or from birth. e.g. blindness, deafness, heart disease, the paralysis of a limb or severe disfigurement. It also includes conditions such as cancer, MS, HIV from the date of diagnosis etc.;
- Mental impairment – this can include learning disabilities and all recognised mental illnesses;
- Substantial – this does not have to be severe, but is more than minor or trivial;
- Long term adverse effect – that has lasted or likely to last more than 12 months;
- A normal day-to-day activity – one that affects one of the following: mobility, manual dexterity, physical co-ordination, continence, ability to lift, carry or otherwise move everyday objects, speech, hearing or eyesight, memory or ability to concentrate, learn or understand, or perception of the risk of physical danger. It does not include the ability to work because no particular form of work is 'normal' for most people. (Source CIPD and Shaw Trust)

When dealing with cases with disability issues, The Act places a duty on employers to make reasonable adjustments to enable an employee to return to work. This duty requires managers to be flexible, to look at what needs to be done and accept that it may be possible to achieve the right end by different means. Managers are not expected to know all the answers for the best solution for any case, but they are expected to make every effort to find out.

Some examples of **reasonable adjustments** are:

- Making adjustments to premises (e.g. installing electronic door openers, ramps; installing loop systems, visible fire alarms);
- Arranging to modify equipment or acquiring specialised equipment;
- Re-allocating some of the duties;
- Altering employee's working hours (allow extra flexibility);

- Assigning the employee to a different place of work;
- Giving or arranging special training;
- Providing additional supervision and/or support;
- Providing a reader or interpreter;
- Transferring employee to an alternative post (redeployment).

Occupational Health will provide advice and guidance on the types of adjustments, aids or adaptations required, but it is the **manager's responsibility** to consider the appropriateness, and where appropriate, to put such adjustments in place. Managers can suggest alternatives and should discuss them with Occupational Health. Costs of any adjustments will be borne by the Service. External funding to purchase aids or adaptations, or to assist with transport to work, in some cases may be available. Further details are available within the Rehabilitation and Redeployment Policy or from Human Resources. Decisions must be justifiable and reasonable given the size of the Council and must be recorded by the manager for future reference.

3.3.6 Sensitive Illnesses

For any sickness absence that is as a result of a critical or terminal illness, managers must be extremely sensitive and understanding. With cancer or other critical illnesses an employee may be off long term sick or may be able to work between treatment and medical appointments. Managers should keep in regular contact with an employee who is off long term sick with a critical illness just as they would with any other employee with a long term illness.

An employee with a critical illness who is fit enough to be at work must be given support from their line manager. Time off should be granted for specialist treatment and medical appointments, with self-certification used to cover periods of related illness. Where necessary, adjustments to working hours and/or equipment should be made to accommodate effects of the illness and its treatment.

For employees who are on long term sick leave as a result of sensitive illnesses, managers should discuss this with Human Resources in the first instance, to consider whether unpaid special leave would be appropriate and beneficial. Approval for such leave will then require to be sought from the relevant Head of Service.

3.4 SICKNESS ABSENCE AND ANNUAL LEAVE

Illness When On Annual Leave

Employees who fall sick during a period of annual leave will only be able to claim back annual leave if they follow the normal notification procedures, and provide a doctor's (Med3) certificate covering the whole period of absence evidencing that their illness would have rendered them unfit for work. In these circumstances, sick leave will commence from the date of the doctor's certificate. Employees should note that the doctor is likely to charge for such a certificate, and that the employee will be responsible for any such costs. Providing a self certificate while sick during annual leave will not enable annual leave to be claimed back, unless it is linked to a period covered by a medical certificate. A self certificate should be provided along with the medical certificate.

For SJC and Craft employees (i.e. for employees other than Teachers and Associated Professionals) public holidays which occur during a period of sickness absence cannot be claimed back.

Abatement of Leave

For SJC and Craft employees, where an employee has a sickness absence which lasts over three months the annual leave will be limited to an amount pro-rated to the period of actual service given during the year, provided:

1. The period of annual leave granted in a full leave year does not fall below the statutory minimum (currently 28 days, which can include public holidays which fall outwith the period of sickness absence), and
2. Annual leave which would otherwise have been lost because of the sickness absence may be reinstated if required to facilitate a phased return.

An example of an abatement calculation is as follows:

Full time employee absent from 1st March to 4th July in current leave year. If they have a normal leave entitlement of 33 days, their leave would be abated by the equivalent of 4 months leave i.e. 11 days leaving 22 days leave outstanding to be taken. However, as this outstanding entitlement is less than the statutory minimum, they must receive the statutory minimum of 28 days leave inclusive of public holidays. As such, the manager would be required to deduct from the statutory minimum any days already taken as annual leave (in this case 10 days) and any public holidays they have had or which fall after their return to work (2 days in January, 1 day in September and 2 days in December i.e. 5 days) which would leave 13 days leave to take as leave for the remainder of the year.

For Teachers, where a teacher has a continuous absence of 8 consecutive days or more, the teacher will accrue compensatory leave if the following conditions are met. For each such certified absence, the teacher will accrue compensatory leave of 2 days for every 5 days of designated annual leave which cannot be taken. This is subject to a maximum credit of 8 such days in any one leave year but any such days are not in addition to statutory leave. The entitlement should normally be taken within the school session in which the teacher returns to work (subject to the overriding needs of the Service).

For Education Associated Professionals, where sickness coincides with any period of annual leave, this period should be regarded as sick leave when the appropriate self certificate or medical certificate is submitted. If absent through sickness on public holiday, the Sickness Allowance should be received on that day. A day off in lieu should also be granted to be taken, at the convenience of the Council.

Annual leave for term-time employees is not abated.

Carry Over of Leave Arrangements

Carry over of leave is normally limited to 5 days or more in exceptional circumstances at Head of Service/Director discretion in discussion with the Head of Human Resources & Business Transformation. However, where an employee has been absent for a 12 month period and has therefore been unable to take annual leave during the leave year, they will be entitled to carry over any outstanding leave from a maximum entitlement of 20 days to

the following year or be paid in lieu of such holidays if they are dismissed. Where the employee returned to work prior to the end of the relevant leave year and had the opportunity to take outstanding leave, there will be no entitlement to carry over this additional leave. The carry over of leave from one leave year to the next is limited to a maximum of the equivalent of 18 months entitlement.

For Teachers, any leave up to the statutory leave provision which remains untaken at the end of the leave year, shall be carried forward into the next leave year and shall be taken following the employee's return to work. The timing of this leave shall take account of the needs of the service and should normally be taken in the term in which the return to work takes place or within the following term.

Employees on long term sick leave can apply to take annual leave while they are on sick leave. This period will be treated as annual leave and will interrupt the sickness absence. That being the case, the resumption of sickness absence following the annual leave period will constitute an entirely separate period of sick pay linked only as set out below:

- For Occupational Sick Pay (OSP), the period of sickness absence will start afresh with the only link to the previous period being that entitlement to OSP will be reduced by the number of days in the year prior to the new period of absence.
- For Statutory Sick Pay (SSP), the period of sickness absence will start afresh with the only link to the previous period being where the new period is less than 56 days (i.e. it is linked for SSP purposes), in which case the entitlement to SSP will be reduced based on the balance of SSP due at the end of the previous period of absence.

Where an employee intends going on holiday during their sick leave or otherwise would normally have requested annual leave as they do not wish to be considered available for work, they are encouraged to contact their line manager to request annual leave. If an employee wishes to apply to take annual leave whilst they are on sick leave then they should write to their line manager with their request. The line manager should then contact Human Resources and the Payroll Manager using the memo attached at Appendix 10. Medical certificates should continue to be submitted during this period.

3.5 CAPABILITY DISMISSALS ON ILL HEALTH GROUNDS

The manager should arrange for an informal meeting or formal capability hearing to be convened, as appropriate, as per the Capability Policy in circumstances where:

1. the Council's Medical Adviser has advised that an employee's sickness absence is likely to continue long term, or
2. the employee is permanently unfit for the post, and all assistance (such as the provision of aids or adaptations, rehabilitation, redeployment, or supported employment) has been ruled out, or
3. redeployment has not been ruled out but no suitable post has been found within reasonable timescales (as per the Rehabilitation and Redeployment Policy), or
4. there are high levels of short term sickness absence.

Where consideration is being given to dismissing someone on the grounds of capability due to long term ill health managers must ensure that the following steps have been taken (and all documented) before the matter is referred to a hearing:

- Where the employee perceives that work has caused or contributed to the ill health the issue must have been fully explored and documented by the manager, taking reasonable steps to try and address them e.g. for a work related stress absence a Stress Risk Assessment questionnaire should have been completed and processed, followed by a meeting to discuss and a letter issued to confirm discussions.
- A medical report has been obtained in the previous 12 week period.
- There has been discussion with the employee and their representative, where appropriate.
- Where appropriate, alternative employment has been explored.
- Where reasonable, adjustments to the workplace and/or job and hours of work have been considered.
- The possibility of dismissal as a result of capability proceedings has been raised in at least one of the attendance meetings above and has been noted.
- The employee has been made aware of the impact of their absence upon the authority and service.
- All appropriate steps have been taken to comply with the Equality Act.
- Further medical opinion has been sought by from GP/specialists where appropriate.

Appendix 10 provides guidelines which should be made available to employees being ill-health retired or dismissed after a period of long-term sickness absence.

PART 4 IMPLEMENTATION

4.1 IMPLEMENTATION

The Chief Executive and Chief Officers of the Council are responsible for the effective operation of the policy across the Council as a whole and within the various Services respectively. The responsibilities of individual managers and employees are detailed at 2.3 above.

4.2 MONITORING & REVIEW

The Head of Human Resources & Business Transformation will review this policy as per the agreed Human Resources Policy Review timetable in conjunction with Service Directors/ Chief Officers and Trade Unions taking into consideration legislative amendments and best practice advice.

This Policy has been Equality Impact Assessed and no adverse impact has been identified.

FALKIRK COUNCIL

STATEMENT OF SHORT TERM SICKNESS ABSENCE

ALL EMPLOYEES

Please read the notes overleaf before completing this form. Please complete the form using black ink and capitals.

Name: _____ Employee No: _____

Home Address: _____

Work Location: _____

DAY	MON	TUES	WED	THURS	FRI	SAT	SUN
DATE							
REASON FOR ABSENCE			TICK ONE BOX ONLY			DESCRIPTION OF SYMPTOMS	
MINOR AILMENT (e.g. Cold, Headache, stomach upset, etc.)			Non-Work-related <input type="checkbox"/> (1)				
			Work-related <input type="checkbox"/> (10)				
RESPIRATORY (e.g. Chest infection, bronchitis, asthma, pleurisy, pneumonia, emphysema, lung cancer, etc.)			Non-Work-related <input type="checkbox"/> (2)				
			Work-related <input type="checkbox"/> (11)				
HEART/CIRCULATORY (e.g. Heart attack, MI, Stroke, TIA, Hypertension – high blood pressure etc.)			Non-Work-related <input type="checkbox"/> (3)				
			Work-related <input type="checkbox"/> (12)				
MUSCULO-SKELETAL (e.g. Back pain, lumbago, sciatica, sprain, strain, arthritis, tendonitis, spondylosis, frozen shoulder etc.)			Non-Work-related <input type="checkbox"/> (4)				
			Work-related <input type="checkbox"/> (13)				
INJURY (e.g. Broken bone, burn, scald, cuts, crushing, bruising etc.)			Non- Work-related <input type="checkbox"/> (5)				
			Work-related <input type="checkbox"/> (14)				
MENTAL WELLBEING (e.g. Stress, anxiety, depression, debility, ND – nervous debility, etc.)			Non-Work-related <input type="checkbox"/> (6)				
			Work-related <input type="checkbox"/> (15)				
INFECTION/VIRUS (e.g. Influenza, measles, mumps, chickenpox, shingles, jaundice, hepatitis etc.)			Non-Work-related <input type="checkbox"/> (7)				
			Work-related <input type="checkbox"/> (16)				
SKIN CONDITION (e.g. Eczema, psoriasis, dermatitis, rash etc.)			Non- Work-related <input type="checkbox"/> (8)				
			Work-related <input type="checkbox"/> (17)				
ANY OTHER CONDITION NOT COVERED ABOVE			Non-Work-related <input type="checkbox"/> (9)				
			Work-related <input type="checkbox"/> (18)				
WAS THIS ABSENCE AS A RESULT OF AN ACCIDENT AT WORK?			Yes <input type="checkbox"/> No <input type="checkbox"/>				
STATEMENT: In accordance with the Data Protection Act 1998, I declare that the above information is accurate and can be held for the purposes described overleaf. I can further confirm that a back to work interview has been completed.							
SIGNATURE:				DATE:			
LINE MANAGER:				DATE:			

Service/Department _____ Job Title: _____



COMPLETING A STATEMENT OF SHORT-TERM ABSENCE

This form supports the Health @ Work strategy by providing us with information about the reason for your absence. This will allow us to develop strategies and implement initiatives to improve the health and wellbeing of employees in the workplace.

We recognise that the national conditions vary for different employee groups in respect of when absence should start to be recorded. There are however a number of reasons why this information is required. It will be used for pay purposes to ensure that your pay is accurate and that you are not over or under paid whilst on sick leave and that you receive all relevant benefits at the appropriate time. In addition, it will be used to assess the council wide picture of sickness absence and ensure that the Council, as an employer committed to promoting good health at work and a healthy working environment, responds to the needs of employees.

Please, therefore, at the earliest opportunity, complete the Statement of Short-Term Sickness Absence form overleaf.

PLEASE NOTE:

- (i) **If you are returning to work after a period of short-term sickness absence (a period of 1-7 days including weekends and public holidays),** you will have a 'Return to Work Interview' with your Line Manager, where you will discuss your completed form. Please take this opportunity to discuss any issues of concern.
- (ii) **If your absence extends beyond this 7-day period,** you should complete the Statement of Short-term absence form and return it with your GP's medical certificate to your line Manager. (A Med3 medical certificate is required from the 8th day of absence.)
- (iii) Until you return to work, regular contact should be maintained between **yourself and your Line Manager.** A return to work interview will then be conducted.

A variety of work-related issues may have an impact on your health and, if they do, it is important that we know about them. These might include:

- Injury as a result of an accident or a violent attack in the course of your work
- Feeling under pressure following a violent attack, harassment, or bullying in the course of your work
- Feeling under pressure from work-related problems
- Back or neck pain; headaches; pain, stiffness or numbness in the hands or arms, which might develop over time and which may relate to your working environment
- An allergic reaction which might be triggered by something at work
- Any other condition which YOU think might relate to your work

PLEASE NOW COMPLETE THE FORM OVERLEAF ensuring that you have ticked one of the boxes indicating your reason for absence and giving a brief description of the symptoms

Thank You

GUIDANCE FOR MANAGERS ON CONDUCTING RETURN TO WORK INTERVIEWS

A Return to Work Interview (RTWI) must be adopted as regular practice for **each and every period** of sickness absence, to ensure an effective means of reducing absenteeism. It should (where possible) be completed on the day the employee returns to work and certainly within 72 hours of returning to work. Obviously, if an employee has been absent from work due to a musculo-skeletal problem and they carry out a physical job then their RTWI should be completed before they resume normal duties in case any adjustments to working practices need to be made. Where an employee is returning to work within one week, he/she should complete the self-certificate at this meeting.

The RTWI should be informal, always conducted sympathetically and held in private.

The WARM approach is useful to refer to when conducting RTWI's:-

The manager should **Welcome** the employee back to work, checking that they are fit enough to be back and where an employee is returning to work within one week, he/she should complete the self-certificate at this meeting. If the RTWI follows a period of long term absence then it will need to be more structured, to ensure that the employee is brought up-to-date on his/her duties, and any changes which have happened during the absence. It also provides an opportunity to agree how best to manage the employee's reintroduction to work.

Discuss the **Absence** with the employee, identify the cause and whether there is an underlying health problem, indicate to the employee that their absence was noted and discuss the employee's sickness record. In applying trigger levels, you should remember that each employee and his/her absence record is a unique case, and you should look at the circumstances of each period of absence leading up to the trigger. Where an employee's sickness absence exceeds the trigger level, and you have concerns about deterioration in attendance, or if a pattern is identified that has no reasonable explanation, consideration should be given to implementing a period of informal monitoring for a period of 6 months. This can be done at the Return to Work meeting, without the requirement for a separate meeting to commence monitoring.

Establish if their sickness absence was work-related and whether there are any health and safety issues that need to be addressed. If any injury has occurred, work-related or not, you should consider offering the employee the opportunity to be referred to Occupational Health for physiotherapy assessment and/or treatment. Other musculo-skeletal conditions may also be referred for physiotherapy. If any stress/depression/anxiety issues are raised, work-related or personal, you should consider offering the employee the opportunity to be referred to Occupational Health and/or the Employee Counselling Service. Advice about specific medical issues can be obtained by telephoning Occupational Health on 8757.

Explain and ensure the employee is aware of their **Responsibility** with regards notification of sickness absence and their responsibility to come to work unless unfit to do so. This may also be an opportune time to highlight to the employee the impact their absence has on service delivery and colleagues. Raise any concerns with the employee e.g. late notification, patterns of absence such as before or after weekends, etc. Explore whether the employee has a disability and whether the provisions of the Equality Act apply such as making reasonable adjustments.

Finally **Move on** and focus on getting the employee back to work. If not discussed previously then discuss any help you might provide to ease the employee's return to work e.g. phased return, restricted duties. Update the employee on any news they missed while they were off.



Employee Name:							
Job Title / Section:							
Absence Dates:	Start Date:			End Date:			
Reason[s] for Absence							
Work-related?	YES / NO		If YES, accident at work?		YES / NO		
Trigger reached?	YES / NO		If YES, which?				
		A. 3 absences in 3 months			B. 4 absences in 12 months		
		C. 10 days or more absence in 12 months			D. 2 or more absences equating to more than 15% absence in 2 out of previous 3 years.		
Pattern identified: [describe]							

- Consider support/phased return after longer absence.
- If stress-related - consider early referral to OH and/or for counselling.
- If musculo-skeletal - consider early referral to OH for physiotherapy.

Date:

**INFORMAL ABSENCE REVIEW MEETING
EMPLOYEE NAME
(DATE OF INTERVIEW)**

- Introductions
- Purpose of the meeting – to discuss attendance levels and mechanisms to improve attendance at work
- Currently viewed as a support mechanism as at informal stage
- View absence report – advise employee of occasions, patterns and number of days
- Triggers met – explain levels reached against council triggers
- Corporate reporting – refer to current climate and need for reduction in absence levels (Head of Service looking for action taken by managers)
- Explain that this level of attendance is unacceptable and cannot continue
- Ask the employee if there are any underlying reasons for poor attendance levels.
- Any workplace or personal matters that are impacting on attendance?
- Discuss potential referral to OH as support mechanism.
- Advise that informal absence monitoring will be invoked as of today's date i.e. from date of meeting for 6 months (specify end date) and will continually be reviewed.
- If further absences occur within informal monitoring period, a further meeting will be arranged. This could either lead to an extension of the informal monitoring period or progression straight to formal monitoring.
- If absence levels continue to deteriorate then may move to formal monitoring.
- Excessive and continued poor attendance may result in capability hearing being convened.

Enquiries to:
Direct Dial: 01324
Date:

Private and Confidential

Dear

RETURN TO WORK /INFORMAL ABSENCE REVIEW MEETING OUTCOME

Further to our meeting on . The meeting was convened in accordance with Falkirk Council's Managing Sickness Absence Policy and Procedure at your return to work following your recent absence.

The purpose of this informal meeting was to discuss your recent period of sickness absence and the triggers you have reached. It was also convened to discuss any mechanisms that will help us identify what action can be taken to improve your attendance at work and provide any additional support.

I explained that during the previous xx month period, you had separate occasions of absence which equated to xx days lost. These absences were due to [insert details of absence or attach document]. This level of attendance exceeds xx of the recommended triggers outlined in Falkirk Council's Sickness Absence Policy. This is noted below:-

Council Trigger

Employee Trigger

You said that [insert details of any mitigating circumstances or health conditions].

You also confirmed that there were not any personal or work related matters that were impacting on your attendance at work.

[If there any issues with not following absence reporting procedures these should be discussed with the employee at these meetings and the Calling in Sick Guide provided again and the acceptance signed and returned by the employee]

During our discussion, you said that you were hopeful that you would sustain a good level of attendance in the future.

On this basis, I advised you that your absence levels will be monitored on an informal basis for a 6 month period, i.e. untilIf you have further absences during the monitoring period, then a formal absence review meeting may be convened. I ensured that you were aware of the Managing Sickness Absence Policy and your responsibilities under this Policy.

You acknowledged that you understood my explanation.

Yours sincerely

TITLE

cc

Dear

Sickness Absence – Monitoring Procedure

I am writing regarding our previous discussions about your recent level of sickness absences and confirm that it is my intention to proceed to the formal monitoring procedure under the Council's Managing Sickness Absence policy.

This is because

you have had further absences during a period of informal monitoring.

OR

You have had frequent periods of informal / formal [delete as appropriate] monitoring in the past followed by short-term improvements in attendance.

I propose to meet with you at [time] on [date] in [venue]. Please confirm your attendance by telephoning [tel.no.].

[Name] Human Resources Adviser, will attend the meeting. You have the right to be accompanied by a representative of your choice, but I must emphasise that this is not a disciplinary meeting.

If you have any queries or concerns regarding this letter, please feel free to contact me on the extension given.

Yours sincerely

[Insert MANAGERS TITLE]

Cc: [Insert Name of HR Rep, Title]

Formal Absence Monitoring Meeting - Format

This meeting should be a constructive discussion with a view to encouraging an improvement in the employee's attendance record.

At the meeting the following points should be covered:

- That the meeting is being held under the Managing Sickness Absence Policy.
- The manager should check that the employee has received their written notification of the meeting and is happy to proceed (with/without representation).
- If the employee attends with representation the representative should be introduced and welcomed to the meeting.
- Refer to discussions held during informal monitoring process and explain the move to formal monitoring.
- The manager should confirm that the employee's level of attendance is unacceptable (referring to absence record and trigger levels met).
- Any underlying issues relevant to this absence pattern should be discussed, e.g., personal problems, work-related issues, health issues and any assistance which the manager could provide in order to over-come these problems.
- The impact of any conditions which may be covered by the disability provisions of the Equality Act should be discussed with the employee, taking into account advice obtained from Occupational Health and any other agencies as appropriate. The manager should discuss any reasonable adjustments which they consider could be implemented to assist the employee improving their attendance at work and seek the employee's views on these. (See Appendix I of the Capability Policy for further guidance on the Equality Act)
- All the points raised by the employee should be noted and considered by the manager and appropriate support provided where necessary.
- The employee should be advised that his/her absence will be closely monitored and reviewed at regular intervals and given a clear target for improvement. The formal review period will be driven by service needs, but should be up to a maximum of 6 months.
- If it is considered that further Occupational Health advice is necessary, this should be discussed with the employee and arrangements made to meet again once this advice has been obtained.
- The employee should be advised that continued persistent absence could lead to referral to a capability hearing and possible termination of their employment.
- The meeting should be followed up in writing confirming discussions.

MEDICAL REFERRAL PROCESS

- Manager holds meeting with employee and then completes electronic referral form
- Medical referral form should then be password protected following protocol and sent by e-mail to HR
- HR will read over form and forward to Occupational Health
- The referral will then be assessed by an Occupational Health Nurse and an appointment sent to the employee (copy of letter sent to manager)
- Where appropriate, manager should contact employee to remind them that their Occupational Health appointment is coming up
- At the appointment, Occupational Health will ask the employee to complete a mandate if they require to obtain a GP's report
- Following the employee's appointment, a report will be sent by e-mail to the manager within one week
- Managers may contact Occupational Health direct with specific queries about appointments or reports
- Manager to meet with employee to discuss content of report



Falkirk Council

OCCUPATIONAL HEALTH MEDICAL REFERRAL/PHYSIOTHERAPY REFERRAL

THIS FORM SHOULD BE COMPLETED AFTER YOU HAVE DISCUSSED THE REFERRAL PROCESS WITH THE EMPLOYEE.

(REMEMBER – THE BOXES WILL EXPAND FURTHER TO INCLUDE MORE INFORMATION)

EMPLOYEE DETAILS		EMPLOYMENT DETAILS	
Surname:		Service:	
Forename:		Division:	
DoB:		Job Title:	
NI No:		Place of work:	
Home address:		Hours of Work:	
		Work pattern:	<input type="checkbox"/> Days <input type="checkbox"/> Nights <input type="checkbox"/> Shifts
Tel No:		Length of Service:	
Member of pension scheme:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Other information (include any scheduled Annual Leave dates for the employee):	

REASON FOR REFERRAL:	
ABSENCE: <input type="checkbox"/> Long Term <input type="checkbox"/> Short Term <input type="checkbox"/> Persistent <input type="checkbox"/> Fitness for duties e.g. after accident or illness <input type="checkbox"/> Physiotherapy Referral <input type="checkbox"/> Consideration for Ill Health Retiral <input type="checkbox"/> Advice on Rehabilitation and/or Redeployment <input type="checkbox"/> LGV/PCV Licence Referral	
ABSENCE DETAILS:	
Absence details attached?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please attach a copy of the Absence Record over last 2 years	
Is employee currently on sick leave?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Date current sick leave commenced:	
Current medical certificate expiry date:	
Anticipated return date: If known	
Reason for current absence: (If stress then Stress Risk Assessment should be completed and sent to OH with this referral)	
Has the employee indicated that the absence is work related? If yes, give a brief description of how the employee thinks work is contributing to ill health or provide details of accident/incident, attaching a copy of HR14 form.	<input type="checkbox"/> Yes <input type="checkbox"/> No

Has the employee previously been absent with a similar / same condition or problem? If yes, please state dates and action taken at the time.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Additional Information: Please include any information which you feel may assist the Occupational Health Department in making an assessment of the case, along with any relevant documentation. If short term absence – please describe the pattern and any other useful information. If physiotherapy referral please complete the section below.	

PHYSIOTHERAPY REFERRAL DETAILS:			
Please tick appropriate boxes:			
The employee did not wish to divulge their symptoms			<input type="checkbox"/>
The employee has advised they are experiencing the below symptoms:			
<input type="checkbox"/> Pain <input type="checkbox"/> Pins & Needles (tingling) <input type="checkbox"/> Numbness (loss of sensation) <input type="checkbox"/> Stiffness (difficulty moving)			
<input type="checkbox"/> Swelling <input type="checkbox"/> Bruising/Redness (skin discolouration) <input type="checkbox"/> Loss of function/Range of joint movement			
<input type="checkbox"/> Loss of bladder/bowel control (If yes, please advise the employee to visit A&E immediately)			
The symptoms are felt in the	<input type="checkbox"/> Spine / Pelvis	<input type="checkbox"/> Upper Limb/Arm	<input type="checkbox"/> Lower Limb/Leg
The symptoms have been present for	<input type="checkbox"/> Less than 2 weeks	<input type="checkbox"/> 2 – 6 weeks	<input type="checkbox"/> More than 6 weeks
The employee HAS suffered from these symptoms/this condition before/in the past			<input type="checkbox"/>
The employee HAS NOT suffered from these symptoms/this condition before/in the past			<input type="checkbox"/>
The employee is off work due to this condition			<input type="checkbox"/>
The employee is experiencing difficulty at work due to these symptoms			<input type="checkbox"/>
OTHER RELEVANT INFORMATION:			

THE DUTIES OF THE POST INCLUDE:	
<input type="checkbox"/> Shift working/overtime/standby duties	<input type="checkbox"/> Bending/kneeling/squatting/crouching
<input type="checkbox"/> Standing/sitting for prolonged periods	<input type="checkbox"/> Regular use of ladders/steps
<input type="checkbox"/> Working in awkward postures/confined spaces	<input type="checkbox"/> Working at heights
<input type="checkbox"/> Regular lifting/handling	<input type="checkbox"/> Regular walking/climbing
<input type="checkbox"/> Regular over-arm stretching	<input type="checkbox"/> Repetitive hand/arm action
<input type="checkbox"/> Electrical/technical/safety critical work	<input type="checkbox"/> Regular computer/VDU use
<input type="checkbox"/> Regular use of machinery/power tools	<input type="checkbox"/> Regular front line customer contact
<input type="checkbox"/> Lone working	<input type="checkbox"/> Noise hazard area
<input type="checkbox"/> Working with respiratory irritants or sensitisers	<input type="checkbox"/> Working with skin irritants/sensitisers
<input type="checkbox"/> Working with biological agents	<input type="checkbox"/> Working with chemicals
<input type="checkbox"/> Other hazards (<i>please state below</i>)	

OTHER INFORMATION OR DESCRIPTION OF TASKS INVOLVING ANY HAZARDS:

--

DRIVING A PART OF THE JOB:

- ☐ Cars/Vans (not LGV)
 ☐ Forklift Trucks
 ☐ Large Goods Vehicles (LGV)
- ☐ Passenger Service Vehicles (PSV) (not LGV)
 ☐ Agricultural Vehicles

REFERRAL REQUEST DETAILS:**Questions for Occupational Health Service**

Please tick appropriate boxes:

Does the employee have the existence of an underlying medical condition which, may contribute to unsatisfactory attendance, performance or safety?	<input type="checkbox"/>
What is the employee's current level of fitness to work and when will he /she be fit to return?	<input type="checkbox"/>
What effect will his / her illness / injury have on the employee's ability to carry out his / her occupation?	<input type="checkbox"/>
Could work be affecting the employee's health / making condition worse?	<input type="checkbox"/>
If a condition exists, could it be defined as a disability as per the disability provisions of the Equality Act?	<input type="checkbox"/>
Are there any work modifications which would alleviate the condition or facilitate rehabilitation?	<input type="checkbox"/>
Please advise on return to work plan.	<input type="checkbox"/>

Other advice sought. Please detail below:

--

REQUEST FROM PENSIONS SECTION:

- ☐ Deferred Benefits
 ☐ Fitness re Purchase of Added Years
- ☐ Other, Describe:

REPORT TO BE RETURNED TO:

Contact Name:	Address:
Contact Tel No:	
Service:	

Signature:*[to be signed by referring manager]***Date:**

Please confirm that the employee has been advised of this referral and its purpose by ticking this box ☐

(It is good practice to provide the employee with a copy of this completed referral form).

Please return completed form (password protected) by email to hr.support@falkirk.gov.uk

EXPLANATORY NOTES FOR EMPLOYEES - INFORMATION ABOUT YOUR OCCUPATIONAL HEALTH ASSESSMENT

What Is Occupational Health (OH)?

Occupational Health (OH) is a specialist branch of healthcare concerned with the *effects of work upon health* and the *effects of health upon work*. OH can advise on issues such as fitness for work, sickness absence, disability, rehabilitation, ill-health retirement, travel health, health promotion, or indeed any health and work issue.

What Is An OH Assessment?

An OH assessment provides independent, impartial advice to you and Falkirk Council as your employer about your health and work. The assessment may be performed by an OH Adviser (a nurse trained in OH) or an Occupational Physician (a doctor trained in occupational medicine).

Why Do I Need An OH Assessment?

Your line manager will usually have referred you for the OH assessment. The benefit of attending the OH assessment is that it gives you the opportunity to discuss your medical history with an OH professional, and how it impacts on your work. The OH professional can review with you all the circumstances relating to your referral, thereby providing your manager and you with fair and objective advice about your health and fitness for work, both in the short and longer term.

Do I Have To Attend An OH Assessment?

Yes. You are expected to comply with a management referral and attend OH, but we can only conduct the assessment with your consent. It is important to understand that it is usually very much in an employees' interests to participate in an OH assessment. If you do not attend for an assessment, Falkirk Council will have to make decisions about your employment without the benefit of any health advice.

If you are unhappy about why you have been referred, or if you don't wish to attend, then you should discuss this further with your manager. You must also advise OH as soon as possible if, for whatever reason, you are unable to attend your appointment. Our contact details are at the foot of this guidance.

Now That I Am Attending An OH Assessment – What Happens Next?

Your consultation is likely to last around 30 – 60 minutes. The OH professional will ensure that you understand the purpose of the assessment and his/her role in providing independent, impartial advice. Your consent will be sought for the assessment to proceed and for an OH report to be sent to your manager. If an examination is necessary, your permission to proceed with this will also be sought.

What Information Will Be Passed To My Manager?

The OH professional will provide a report to the referring manager about your health and work. This is likely to include advice about your fitness for work and any workplace adjustments that

might help you. The aim is to help you and your employer to protect your health at work. Clinical information is kept to a minimum to maintain medical confidentiality.

Can I Find Out What Will Be In My OH Report?

Yes you can, in several ways. It is important that the OH report contains “no surprises” for you. First, the OH professional will outline to you, at the end of the assessment, what will be in the report. Second, we will routinely send you a copy of your OH report at the same time as we send it to your manager, unless you indicate that you don’t want to see it. If you so wish, we can also make arrangements to send you a copy of your report a few days before we send the report to your manager. The options are summarized as follows:

1. You can elect not to receive a copy of the OH report.
2. You can elect to have a copy of the report at the same time that it is sent to your manager.
3. You can elect to have a copy of the report a few days before it is sent to your manager.

We will also outline these options at the end of your assessment.

Can I Ask For Changes To Be Made To My OH Report?

Doctors and Nurses are not able to change their professional opinion in a report. They can only make changes to a report to correct a factual inaccuracy; e.g. if we have made an error regarding your DOB or job title. If you identify a factual error that you want us to correct, you should contact us as soon as possible. If you do so within a few days we will be able to amend the error before the report is sent to your employer, sending you a revised copy. Any comments you send us will be placed on your confidential file. Finally, don’t forget that if you have any queries or comments, as a result of the OH report, the best thing is to raise these with your manager; this is often a very useful step for employees.

How Are My Confidential OH Records Maintained?

Your OH records are maintained to the same high standard of confidentiality as hospital or GP records, in accordance with the Data Protection Act (DPA) 1998. Your OH record will not be disclosed to anyone else outside of OH without your consent.

Will There Be Any Need For You To Contact My GP Or Hospital Specialist?

Occasionally the OH professional will seek (with your written consent) a medical report from your GP or hospital specialist. This is usually necessary if the OH professional requires further clinical information about your health, (e.g. information regarding your diagnosis, results of investigations, treatment, prognosis etc.) prior to advising you/your manager. The process is subject to the *Access to Medical Reports Act 1988*. This gives you certain rights (including a right to see your doctor’s report, if you wish, before it is sent to us).

Under some circumstances the OH professional may write to your GP, with your consent, giving information about the outcome of your assessment. This can be particularly helpful to you where there are clinical findings or work arrangements that the OH professional believes your GP should be informed of.

What Should I Bring With Me To The Assessment?

- Your appointment letter
- Proof of your identity; your company ID pass will do
- Any medication or a list of medication that you have been taking
- Glasses and/or contact lenses, if worn, and if you are attending for a medical examination
- Any other information that you think may be relevant to your assessment.

Our telephone number: **01324 508757**

Our address: **Office 7, Grangemouth Enterprise Centre, Falkirk Road,
Grangemouth, FK3 8XS**

E-mail: admin.occhealth@falkirk.gov.uk

If you have any questions regarding this process, you should talk to your manager in the first instance. Otherwise, you may contact Human Resources in confidence at:

Corporate & Neighbourhood Services
Municipal Buildings, Falkirk, FK1 5RS
Tel: 01324 506222

GUIDELINES FOR EMPLOYEES BEING CONSIDERED FOR ILL-HEALTH RETIRAL AND DISMISSAL ON THE GROUNDS OF ILL-HEALTH

1. Introduction

Where the Council's Medical Adviser has reported that your absence is likely to continue for the foreseeable future, or that you are no longer capable of carrying out the duties of your post, and all assistance, such as the provision of aids or adaptations, redeployment, alternative employment, or supported employment has been ruled out, the only option available may be to terminate your employment. This is called a dismissal ill-health capability grounds. Where a Certificate of Permanent Incapacity has been issued by the Council's Medical Adviser, it is also known as ill-health retiral.

The term "dismissal" is not intended in any way to suggest disciplinary action against you, but is the technical term used to describe the termination of the employment contract by the employer.

2. The Meeting

Your manager/Head of Service will meet with you, either informally or formally depending on circumstances, to discuss the outcome of your medical referral. Where a formal hearing takes place, this will be conducted in line with the Council's Capability Policy. You can be accompanied at such meetings by a representative of your choice e.g. trade union representative or family member.

Your manager/ Head of Service will go over with you the facts of your case, and you will have the opportunity to respond to this and may ask questions. Please take time to think about what is being said, and discuss it with your representative if you wish. Your manager/ Head of Service will then consider this information and confirm their decision.

If it is decided that you will be dismissed, your manager/Head of Service will go over with you the details of what the dismissal involves, covering your entitlement to pay in lieu of notice, holiday pay, pension and lump sum where appropriate, and the official date of termination. He/she should also give you time to go through this guidance, in case you have any queries. A letter will be sent to you shortly after the meeting/ hearing, confirming the details given at the meeting/hearing.

3. General Information

3.1 Pay and Pension Entitlements [Local Government Pension Scheme]

If your employment is being terminated as a dismissal on capability grounds, you are entitled to pay in lieu of notice up to a maximum of 12 weeks, depending on your length of service. Pay in lieu of notice is taxable. You may also be entitled to some holiday pay. This will have been explained to you by your manager at the hearing.

Your pay in lieu of notice and holiday pay will be paid at the next available pay day following your agreed termination date and your P45 will be issued. This also applies if

you are being retired early on ill-health grounds but you are not a member of the Local Government Pension Scheme.

If you are being retired early on ill-health grounds, and you have contributed to the Local Government Pension Scheme and meet certain service requirements, you will be entitled to a pension and a lump sum benefit from the scheme in addition to the pay in lieu of notice and any holiday pay payable.

Ill Health Retirement

In order to qualify for ill health retirement, you have to be permanently incapable of efficiently discharging the duties of your employment as a result of ill health or infirmity of mind or body. The assessment as to your state of health for ill health retirement purposes has to be undertaken by a doctor who holds a qualification in occupational health medicine and who has been approved by the Pension Fund to provide medical opinions for the Council. The doctor who makes the ill health assessment must not have previously been involved with your medical referral.

The doctor will only deem you to be permanently unfit, if, in their opinion, it is more than likely that you will be unable to return to your duties before age 65.

If you are deemed permanently unfit for your Council duties, then the doctor will next consider if you are unfit for all employment or fit for some employment. This is important since the ill health category that you fall into will determine the level of scheme benefit you receive. Bear in mind that it is the role of the doctor to give an opinion regarding your state of health. It remains the role of the Council to determine the date and reason for your cessation.

If you are granted ill health retirement and fall into the more serious category (the “upper tier”), then your benefits will be based on the pensionable membership you would have accumulated by age 65. Alternatively, if you fall into the less serious category (the “lower tier”), then your benefits will be based on your pensionable membership to date of retirement plus 25% of the period from your date of retirement to age 65. If you were a member of the Local Government Pension Scheme before 1st April, 2009, your benefits cannot be less than that which would have been payable had you retired under the pre 1st April, 2009 scheme rules.

If you have any concerns such as being refused ill health retirement or being required to take ill health retirement, you have a right of appeal under the rules of the Local Government Pension Scheme. Details of your right of appeal should be provided to you by your employer. If this does not occur, you can contact the Pension Section for appeal information.

Ill health retirement benefits from the pension scheme consist of an annual pension and, in most cases, a lump sum.

Under current tax rules the lump sum benefit is not taxable, whereas the annual pension is taxable. However, the extent to which you actually pay any tax will depend on the amount of your pension, whether or not you receive any State benefits and whether you have any other income.

When you leave, the Pension Section will retain your P45 so that your current tax code can be applied to your pension. This is to provide continuity of your tax position once your pension comes into payment.

The Pensions Section should be advised by your manager/Head of Service of your impending ill-health retirement as soon as this is agreed. The Pensions Section will subsequently receive a copy of the Certificate of Permanent Incapacity from Human Resources.

Your manager/Head of Service should have obtained an estimate of the amounts of your pension and lump sum, but the Pension Section will write out to you with final details once they have been notified of your termination date. You will be sent a Pension Enrolment Form to complete, and you will be asked to let the Pension Section see your birth certificate (as well as marriage certificate and spouse's birth certificate, if appropriate). If you send the certificates by post, please use the Recorded Delivery service or send photocopies.

Once the Pensions Section have received notification of your retiral, and seen the certificates, they will normally issue the lump sum payment within seven working days. Your pension will be paid into your bank account on the 15th of each month, and you will be sent a monthly payslip. It may not be possible for the first pension payment to be in your account on the first 15th of the month following your retiral, but if this happens you will get the full amount backdated to the date of your retiral on the next 15th of the month.

Example: if you were retired on 30 November, you would probably not receive your first pension on 15 December, but the pension paid on 15 January would cover the period from 1 December. You would have received your lump sum benefit probably in mid-December, depending upon the date the Pension Section saw your birth certificate and received the notification of your retirement.

If you have any queries, call the Council's Pensions Section on 01324 506325.

3.2 Pension Entitlements [Scottish Public Pensions Agency - Teachers' Scheme]

For teachers, pensions are governed by the Teachers' Superannuation [Scotland] Regulations, and ill health retirals are at the discretion of the SPPA. If you have any queries, call the Pensions Administrator at the SPPA, 7 Tweedside Park, Tweedbank, Galashiels TD1 3TE, Tel: 01896 893000.

3.3 Statutory Sick Pay and Employment & Support Allowance

When you first go off sick, you receive Statutory Sick Pay (SSP) as part of your normal sick pay. If your absence goes over 28 weeks, you may be eligible to claim Employment & Support Allowance via JobCentre Plus.

3.4 Welfare Benefits Advice

If you need any help at all with any forms, or with any benefits issue, you can get private and confidential advice from the Council's Welfare Benefits Advice Service. They will help you if you are trying to claim benefits, or if you have been refused benefits. They

will even represent you at appeal tribunals. It would be sensible to get in touch with an Adviser, so that you can be sure you are getting all the benefits you are entitled to.

Call the ***Benefits Hotline*** on **01324 501404**.

Or you can call in to any Council One-Stop-Shop, or to any Social Work Office.

If you live outwith the Falkirk Council area, you should contact your local Council, who will probably have a similar service.

The Disability Information Service can also provide specialist information, advice and advocacy. They have a wide range of information on charitable grants, transport, education, housing, welfare benefits, and aids and adaptations.

Call **01324 504304** [Answer phone operates out of hours and weekends.]

3.5 **Getting out and about - Where to get help**

If you have problems getting about, or have to rely on family and friends to take you out and about, there are several schemes in the area which might help you.

1. *Concessionary Travel Pass*

You may be entitled to reduced fares on trains and buses. Ask at the Concessions Unit, Falkirk Council, Abbotsford House, David's Loan, Falkirk FK2 7YZ, Telephone 01324 506420. If you live outwith the Falkirk Council area, then contact your local Council for information.

2. *Dial-A-Journey*

If you are unable to use ordinary buses due to mobility problems, you may be able to use the Dial-A-Journey door-to-door transport service. Telephone 01786 465355 for further information. This service covers Falkirk, Stirling and Clackmannanshire Council areas.

3. *Taxicard Scheme*

This scheme allows people who are unable to use buses to travel in taxis at reduced rates. Telephone the Transport Planning Unit on 01324 504964, or the Disability Information Service on 01324 506420 for an application form and/or further information.

4. *Central Shopmobility*

This is a scheme which offers free loan of powered and manual wheelchairs to make shopping easier in the town centres of Falkirk, Grangemouth, Stirling and Alloa. Escorts may also be available. Contact the Central Shopmobility office at Callendar Square Shopping Centre, Falkirk, Telephone 01324 630500.

These schemes, and many others are available free of charge to people who have health problems, disabilities or mental health problems, which affect their ability to get out and about. Contact the addresses given, or get in touch with the Disability Information Service on 01324 504304.

MEMO

To: Payroll Manager

Cc: Human Resources

From: Manager Ext

Date:

**SUBJECT: APPLICATION FOR ANNUAL LEAVE WHILST ON SICK LEAVE,
EMPLOYEE NAME, EMPLOYEE NUMBER**

Please find attached a letter applying for annual leave whilst on sick leave from the above named employee.

I would appreciate if you could make arrangements for the adjustment to their pay to be made to reflect annual leave between START DATE and END DATE.

Should you have any queries as to the content of this memo please do not hesitate to contact me on the number above.

TITLE

Falkirk Council

Title: Extra-Mural Employment Policy
Meeting: Joint Consultative Committee
Date: 9 November 2016
Submitted By: Director of Corporate & Housing Services

1. Purpose of Report

- 1.1 The Extra-Mural Employment Policy was previously reviewed and submitted for consideration in accordance with the HR policy review timetable. Following further discussion with Trade Unions, this policy has now been further reviewed to incorporate clarification regarding the definition of extra-mural employment. The purpose of this report is to advise Committee of updates to the Extra-Mural Employment Policy.

2. Recommendation(s)

- 2.1 It is recommended that Committee agree the undernoted changes to the Extra-Mural Employment Policy and refers it to the Executive for approval.

3. Background

- 3.1 The Council's Extra-Mural Employment Policy is intended to assist Services to prevent as far as is practicable, conflicts of interest arising, however unintentional, in relation to the employment of all permanent and temporary employees.

4. Considerations

- 4.1 The policy has been revised as follows:
- The Policy now covers individuals setting up their own business or becoming an officeholder with a charitable/ voluntary organisation, Parent Council, or other similar body where their extra-mural role has the potential to conflict with their Council employment;
 - The policy now provides greater clarity on the process for reporting and recording extra-mural employment or activities from the recruitment and selection process onwards;
 - The Record of Extra-Mural Employment Form has been amended to include the declaration of any extra-mural activities not regarded as employment e.g. voluntary work.
- 4.2 A copy of the revised policy is attached for Committee's consideration.

5. Consultation

- 5.1 This policy has been subject to consultation with Services and relevant trade unions.

6. Implications

Financial

- 6.1 There are no financial implications from the proposal.

Resources

- 6.2 There are no resource implications from the proposal.

Legal

- 6.3 There are no legal implications from the proposal..

Risk

- 6.4 There are no risks from the proposal.

Equalities

- 6.5 No additional equality and poverty impact assessment is required.

Sustainability/Environmental Impact

- 6.6 Not applicable.

7. Conclusions

- 7.1 The proposed changes to the Extra-Mural Employment Policy are recommended to help streamline the approval processes required and also to provide greater clarity in relation to activities covered by the Policy.

Director of Corporate & Housing Services

**Author – Kathleen Docherty, Senior HR Adviser – 01324 506234,
Kathleen.Docherty@falkirk.gov.uk**

Date: 18/07/2016

APPENDICES

Extra Mural Employment Policy

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

None



FALKIRK COUNCIL

**EXTRA-MURAL
EMPLOYMENT POLICY**



INDEX

PART			Page No.
1		POLICY STATEMENT	
	1.1	Policy Statement	3
2		Policy	3
	2.1	Introduction	3
	2.2	Scope	3
	2.3	Definition	3
3		Procedure	4
	3.1	Declaring Extra-Mural employment	4
	3.2	Identifying potential conflicts of interest	4
	3.3	Where no conflict of interest is identified	5
	3.4	Where a potential conflict of interest is identified	6
	3.5	Recording	7
	3.6	Reviewing Extra-Mural employment	7
	3.7	Casual employment	7
4		Review	8
		Appendices	
	1	Record of Extra-Mural employment	9
	2	Working Time Directive	11
	3	Service Based Register	13

PART 1

1.1 POLICY STATEMENT

Falkirk Council aims to recruit and retain high calibre employees and ensure a commitment to equal opportunities. The Council recognises that on occasion, employees may wish to take on additional employment or voluntary work and this policy is intended to allow employees this flexibility while fulfilling it's obligations in relation to the Working Time Directive, relevant legislation and Falkirk Council's Code of Conduct for Officers.

PART 2

2.1 INTRODUCTION

Employees must not undertake any form of employment additional to their current employment with Falkirk Council which is potentially in conflict or is of such a nature, timing or duration that it may have an adverse effect upon the proper performance of their duties.

2.2 SCOPE

This policy is intended to assist Services to prevent, as far as is practicable, conflicts of interest arising, however unintentional, in relation to the employment of all permanent and temporary employees. It is not intended that this policy apply to casual workers within the Council.

2.3 DEFINITION

Extra-mural employment relates to any paid or unpaid employment undertaken by an employee which is additional to their substantive post with Falkirk Council, including self employment and employment elsewhere within or outwith the Council. It is noted that an employee's substantive post may be with another organisation and that their employment with the Council may be secondary.

This policy also relates to extra-mural activities not regarded as employment but only where such activities may conflict with the proper performance of an employee's duties. This is not intended to refer to adhoc charitable or voluntary work but rather where an individual is an officeholder with a charitable/ voluntary organisation, Parent Council, or other similar body and their extra-mural role has the potential to conflict with their Council employment. For example, a conflict may occur where an employee is involved in issuing grants on behalf of Falkirk Council and also holds a position such as Treasurer or Secretary of a voluntary group applying for financial assistance from the Council. It is not the intention of the policy to prevent employees from undertaking such extra-mural activities but simply to identify the need for such activities to be discussed with the relevant line manager to avoid any conflict of interest arising.

Employees will only be permitted to engage in other employment or business activity provided that it does not interfere with, or adversely affect either the Council's interests or the employees' ability to meet contractual requirements and does not breach any statutory obligation (eg Working Time Regulations). Any additional employment or business requires the prior written consent of an employee's line manager.

PART 3

3.0 PROCEDURE

3.1 DECLARING EXTRA-MURAL EMPLOYMENT

Any employee, who is considering undertaking additional employment, starting up a business or becoming an officeholder of a charity or other similar body, must discuss this in advance with their line manager to explore the potential for any conflict of interest to arise and complete a Record of Extra Mural Employment/ Activities form (Appendix 1).

Equally, any employee currently undertaking such extra-mural employment or activities, which have not been notified to their line manager, must complete this form and discuss the impact of this upon their substantive post with their Line Manager immediately.

3.2 IDENTIFYING POTENTIAL CONFLICTS OF INTEREST

If an employee is considering or is currently undertaking extra-mural employment, the employee's line manager should consider the potential for a conflict of interest to arise between the employee's extra-mural employment/ activities and his/her post. This should be considered in consultation with the employee concerned. Where no conflict of interest is identified this should be recorded as detailed in section 3.3.

When recruiting individuals already employed by Falkirk Council it should be established at interview stage whether the employee intends to retain their current post if successful in their application. If an employee intends to retain their current post then a discussion will need to take place with the successful candidate as to whether/ how this may impact on their Council post and an extra-mural employment/ activities form should be completed to reflect this discussion and record any limitations required.

Where a potential conflict of interest is identified, this must be recorded, as detailed in Section 3.4 below and the decision as to whether this is approved or not would lie with the Service Director/ relevant Chief Officer in consultation with Human Resources and Governance.

Areas to be considered, when determining whether a conflict of interest is likely to arise, include:

Hours of Work

Consideration requires to be given generally to whether the hours involved in the employment/business, in terms of their frequency and timing, are liable to affect an employee's capacity at work.

Falkirk Council has a responsibility under the Working Time Directive (WTD) to ensure that employees receive appropriate rest breaks, daily rest periods, and weekly rest periods. Falkirk Council also has a responsibility to ensure that employees do not exceed the maximum weekly working hours of 48 hours in any 7 day period averaged over 52 weeks (as per workplace agreement).

Consideration should therefore be given to the employee's working hours arrangements in the other employment and also to the potential impact of those commitments on their Council duties. For example, would the employee's extra-mural employment impinge upon any requirement for them to work shifts or flexible hours on behalf of the Council? The extra-mural employment needs to be assessed against the WTD to ensure adequate rest periods are available and the additional time does not contravene any of the regulations. See Appendix 2 for WTD entitlements.

External Contractors

If an employee involved in the award of contracts has or is likely to have a business relationship outwith their Council duties with existing or potential external contractors, this may be perceived as a conflict of interest. Advice in this regard may be sought from the Council's Monitoring Officer, who is based within the Governance Section.

Dealings with the Council

Consideration should also be given to whether the employee is likely to have dealings with the Council in the course of their extra-mural employment. For example, could the employee or his/her other employer gain financially or otherwise through decisions or actions taken by the employee in the course of Council employ or as a result of his/her knowledge of confidential Council matters?

General Impact

Consideration requires to be given more generally to whether the extra mural employment or activities concerned is likely to detrimentally impact on public confidence in the Council or has the potential to bring the Council into disrepute.

3.3 WHERE NO CONFLICT OF INTEREST IS IDENTIFIED

Where no conflict of interest is identified, the employee's line manager should confirm his/her knowledge of the employee's extra-mural employment/activities by ensuring that a Record of Extra Mural Employment/ Activities Form (as attached at Appendix 1) is completed and this information is recorded within a Service-based Register (as described in Section 3.5 below).

Thereafter, it is the responsibility of the employee concerned to advise his/her line manager of any change in circumstances relating to their extra-mural employment. The line manager should however, review this on a regular basis, at least annually.

3.4 WHERE A POTENTIAL CONFLICT OF INTEREST IS IDENTIFIED

Where the potential for a conflict of interest to arise is identified, the line manager should discuss this with the employee, taking into consideration the details provided in the Record of Extra Mural Employment/ Activities form, to consider methods of preventing such a conflict arising.

For example:

- Limiting the hours worked in the extra mural employment;
- Taking advice if there is to be a business relationship with the Council in the extra mural employment;
- Ensuring that the employee or his/her other employer does not gain financially or otherwise through decisions or actions taken by the employee in the course of their Council employ or as a result of his/her knowledge of confidential Council matters.

This list is not exhaustive.

The Record of Extra-Mural Employment/ Activities form, as attached at Appendix 1, should be completed, indicating areas of concern and any mechanisms proposed to prevent a conflict of interest arising, and sent to the relevant Service Director/ Chief Officer for consideration.

The Service Director/ Chief Officer, in consultation with Human Resources and Governance, will either:

- (a) Approve the extra-mural activities/employment on the basis of information provided;
- (b) Approve the extra-mural activities/employment with some specified limitations in order to prevent a conflict of interests arising; or
- (c) Where a clear conflict of interest exists, refuse consent for the employee to undertake the extra-mural employment/activities detailed whilst maintaining their Council employment. In such circumstances, the employee concerned should be made aware that undertaking such extra-mural employment/activities could lead to disciplinary action being taken against him/her under the Council's Disciplinary Policy & Code of Practice. Further advice in this regard will be available from Human Resources.

If an employee disagrees with the decision to refuse consent for extra mural employment or activities then they may submit a grievance in accordance with the Grievance Policy.

3.5 RECORDING

In order to assist managers in the systematic review of all declared extra-mural employment undertaken by employees within their section/Service, a register of such activities should be maintained by a nominated individual centrally within each Service.

This register should contain a record of Extra-Mural Employment/ Activities forms and record:

- (a) The nature of the extra-mural employment/activities being undertaken
- (b) The name of any external employer/organisation
- (c) Average hours worked and the timing of such hours
- (d) Whether employment is temporary and if so, the duration of such employment
- (e) Any comments recorded by line manager following meeting with employee
- (f) Any conditions/limitations agreed with employee in relation to their extra-mural employment/activities
- (g) Review date where applicable.

A template Register is attached for information (appendix 3)

The Council's Monitoring Officer should be provided with a copy of this Register and advised of any amendments as required.

3.6 REVIEWING EXTRA-MURAL EMPLOYMENT

The appropriate Manager should arrange to meet with the employee concerned by the agreed review date to consider whether the circumstances surrounding his/her extra-mural employment have altered and to ensure, where applicable, that any condition(s) placed upon such activities are being adhered to.

If at this stage, or at any point during the employee's employment, it becomes apparent that an employee's extra-mural employment is having an adverse effect upon the performance of their Council duties or have resulted in a conflict of interest arising, this matter should be investigated. The Service will in such circumstances have the right to withdraw approval for the extra mural employment with immediate effect. Equally, if any limitations or conditions were in place and are not being adhered to, or other such issues have arisen, disciplinary action may be taken against the employee concerned in accordance with the Council's Disciplinary Policy & Code of Practice.

3.7 CASUAL EMPLOYMENT

Whilst it is not intended that this formal procedure be applied to individuals employed on a casual basis by Falkirk Council, managers should be aware of other employment undertaken by casual employees and should refrain from employing individuals on a casual basis in areas, or undertaking duties, where a potential conflict of interest may arise.

PART 4

4 REVIEW

The Head of Human Resources & Business Transformation, in conjunction with Service Directors and Trade Unions, will monitor and review this policy and procedure as required.

This Policy has been Equality Impact Assessed and no adverse impact has been identified.

APPENDIX 1

RECORD OF EXTRA-MURAL EMPLOYMENT/ ACTIVITIES	
SECTION 1: (To be completed by employee)	
Name:	Employee No:
Address:	
Falkirk Council Employment:	
Post:	Service:
Location:	No of Hours:
Status: Permanent/ Temporary	
Working Pattern:	Monday:
Tuesday:	Wednesday:
Thursday:	Friday:
Saturday:	Sunday:
Extra-Mural Employment Details	
Type of Employment: Perm/ Temp/ Casual	
If temporary, please specify duration:	
Employer/ Agency:	
Address:	
Post:	No. of Hours:
Working Pattern:	Monday:
Tuesday:	Wednesday:
Thursday:	Friday:
Saturday:	Sunday:
Description of duties:	
Description of non-employment extra-mural activities – e.g. officeholder of voluntary organisation, Parent Council or similar body:	
Declaration:	
I confirm that the above is accurate and agree to advise my line manager immediately of any changes to this information	
Signed:	Date:

SECTION 2: (To be completed by line manager)	
Areas of Concern/Potential Areas of Conflict Identified:	
Suggested Conditions/ Restrictions relating to extra-mural employment/ activities:	
Comments:	
Review Date:	
Conflict of Interest Identified: Yes/ No If YES- forward to Service Director/Chief Officer for review If NO- forward for inclusion on service register	
Signed:	Date

SECTION 3: (To be completed by Service Director/ Chief Officer)	
This request is (✓ as appropriate):	
Approved:	
Not Approved:	
Approved with conditions :	
Conditions:	
Date of liaison with Monitoring Officer (where appropriate):	
Signed:	Date:

SECTION 4: REVIEW				
<u>Review Date</u>	<u>Change to Extra Mural</u>	<u>Conditions to apply</u>	<u>Comment</u>	<u>Signed</u>

WORKING TIME DIRECTIVE

Rest Break – where the working day exceeds 6 hours an employee is entitled to a 20 minute break. For young workers (under the age of 18) where the working day exceeds 4.5 hours an employee is entitled to a 30 minute break. Lunch breaks qualify as a rest break.

Daily Rest Period – entitlement to a minimum rest period of 11 consecutive hours in every 24 hours. For young workers there is a minimum rest period of 12 consecutive hours in every 24 hours. Some employees e.g. shift workers are excluded from this provision. This can be calculated over 14 days.

Weekly Working Hours – maximum weekly working hours of 48 hours in any 7 day period (Averaged over 52 weeks by Falkirk Council collective agreement). If employees wish to opt out of this, then an agreement must be signed and this is subject to review.

Weekly Rest Period – entitlement to a minimum rest period of 24 consecutive hours per week (or 48 hours per fortnight). For young workers the minimum rest period is 48 consecutive hours in every 7 day period, which cannot be averaged.

For workers with more than one job:

The limits on the working week apply only between **a** worker and **an** employer, and there is no duty on the employer to take into account the existence of a second job in the exercise of the duty to ensure that the worker's average working time does not exceed the permitted limit.

However employers are obliged under the WTR 1998 (Reg 4) to take all reasonable steps to ensure that the 48 hour limit on weekly working hours is complied with. This means that where an employee has 2 jobs both employers will be obliged to ensure that the employees total working hours in the 2 jobs combined do not exceed the limit unless the individual has chosen voluntarily to sign an opt out. If a manager knows or suspects that one of their employees has another job, they should make reasonable enquiries of the employee to ascertain how many hours a week in total he or she is working. If, following such enquiries, it transpires that the employee is working more than an average of 48 hours a week in total, the manager should, in order to comply with the Working Time Regulations 1998, ask the employee whether he or she wishes to sign an opt-out agreement. The manager should point out that, if the employee declines to do so, action will have to be taken to ensure that he or she does not work in excess of 48 hours a week on average. More importantly, if in the manager's view the number of hours being worked might threaten the health or safety of the employee (or of others), the manager must take all reasonable steps to remove the health or safety risk. This might mean instructing the employee to give up the other job, or reduce the number of hours being worked there (if that is reasonable). The priority should be to protect the health and safety of all workers by ensuring that no individual works such long hours as to be a danger to him- or herself or to others.

Rest periods are treated under the WTR as entitlements which the employer must not refuse the worker and as such it is possible for employees to choose to take a second job during his or her 11 hour daily rest period or on his or her weekly rest day. However, Falkirk Council recognises that it is good practice to ensure that the impact of any extra-mural employment on an individual's substantive post is assessed and taken into consideration. Under the general duty on Falkirk Council to ensure the safety and health of employees, the rest periods should be maintained/adhered to.

In the case of young workers, under the age of 18, specific provision is made that the maximum working day and week is for all employments combined and that entitlement to a rest break is to be calculated by reference to hours worked for all employers. If there is more than one; this reflects the different wording of the Young Workers' Directive.

Managers should be aware that if an employee takes on public duties such as becoming a magistrate, legislation may allow such duties to be undertaken. The Employment Rights Act 1996, section 50 permits time off for matters such as serving as a Justice of the Peace, or a member of a local authority, tribunal or school governing body. There are also rights to time off for trade union duties. Managers should take advice before a request is refused.

SERVICE BASED REGISTER

Name and employee Number	Job Title	Current Hours	Name of other employer	Nature of extra-mural employment/ activities being undertaken	Extra-Mural Hours	Duration (if temporary)	Comments	Conditions or limitations agreed with employee	Review date where applicable

Falkirk Council

Title: **Grievance Policy**
Meeting: **Joint Consultative Committee**
Date: **9 November 2016**
Submitted By: **Director of Corporate & Housing Services**

1. Purpose of Report

- 1.1 Committee will recall that, in April 2016, the Council's Grievance Policy was updated to include greater emphasis on informal mechanisms, including mediation, for resolving grievance concerns. The purpose of this report is to advise Committee of a further update to the Grievance Policy.

2. Recommendation(s)

- 2.1 It is recommended that Committee note the undernoted change to the Grievance Policy and refer it to the Executive for approval.

3. Background

- 3.1 Under the previously approved Grievance Policy, a Legal representative was required to attend any grievance appeal hearing as an adviser to the Chairperson together with an Human Resources Adviser.
- 3.2 Subsequent to the recent review of this Policy, the requirement for legal attendance at Appeal hearings was reviewed as part of a review of service provision within the Governance Division of Corporate & Housing Services linked to the ongoing budget implementation process. In future, it is proposed that a representative from Human Resources only will be present at all levels of a formal grievance and they will provide advice to the Chairperson on the correct procedures to be adopted, precedents and to address the employee relations implications arising from the grievance itself. Where necessary, however, the hearing may be adjourned to allow the Chairperson to seek legal advice on specific points/ issues raised.
- 3.3 A legal adviser will continue to be available for appeals considered by the Appeals Committee of the Council.

4. Considerations

- 4.1 As indicated, this change is linked to changes within the Governance Division of Corporate & Housing Services. It is not anticipated that this will have a significant impact on the grievance process as legal advice can still be accessed by the Chairperson on specific points/ issues.

5. Consultation

- 5.1 The revised Grievance Policy was previously the subject of consultation at Joint Consultative Committee in April 2016, and Trade Unions have been consulted on this further change.

6. Implications

Financial

- 6.1 There are no financial implications arising from this change to the Policy.

Resources

- 6.2 As above, the proposed change has enabled the Governance structure to be streamlined.

Legal

- 6.3 Nil. Legal advice will continue to be available as required.

Risk

- 6.4 Nil. Legal advice will continue to be available as required.

Equalities

- 6.5 No additional equality and poverty impact assessment is required.

Sustainability/Environmental Impact

- 6.6 Not applicable.

7. Conclusions

- 7.1 This change to the Grievance Policy is recommended as it enables the Governance Division to streamline their structure with no detrimental impact on the Grievance process and no significant additional risk to the Council resulting from this change given the ongoing availability of legal support where required.

**Author – Kathleen Docherty, Senior HR Adviser – 01324 506234,
Kathleen.Docherty@falkirk.gov.uk
Date: 18/07/2016**

APPENDICES
Grievance Policy

List of Background Papers:

**The following papers were relied on in the preparation of this report in terms of
the Local Government (Scotland) Act 1973:**

None



FALKIRK COUNCIL

**GRIEVANCE POLICY
AND
PROCEDURE**

*(For all employees including
Teachers)*



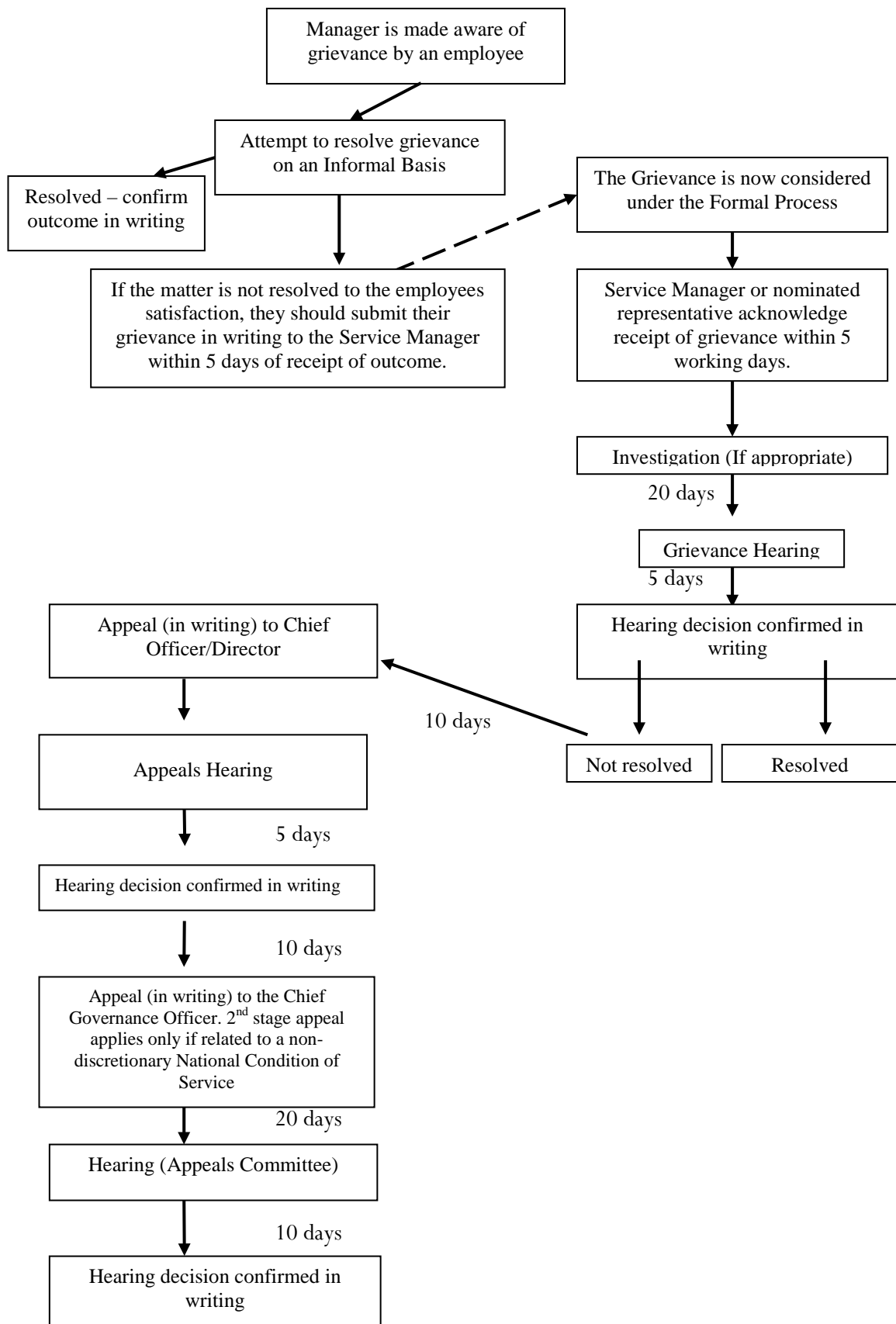
August 2016

INDEX

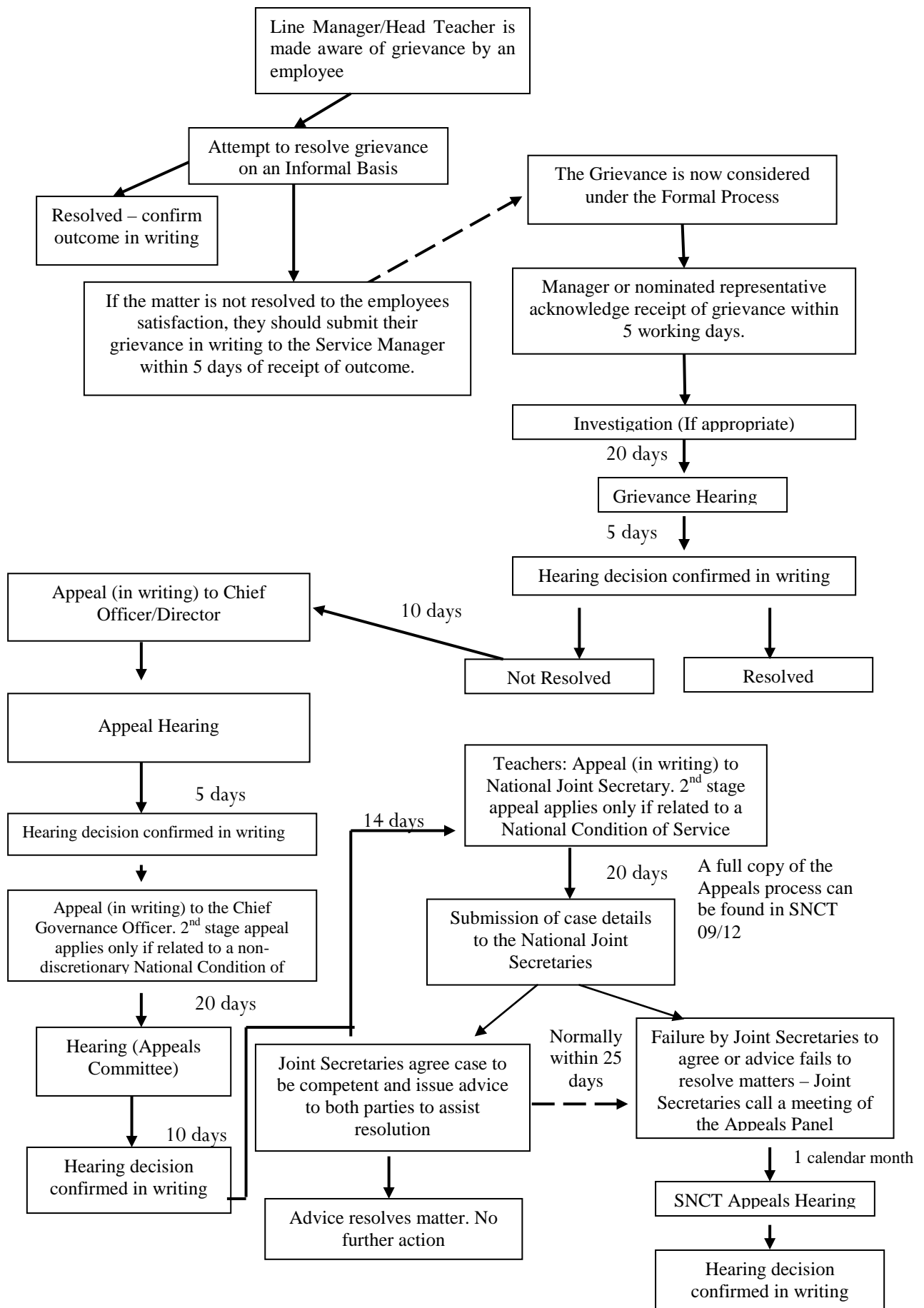
	PAGE
Flowchart – Grievance Handling (all employees excluding Teachers)	2
Flowchart – Grievance Handling (Teachers)	3
PART 1	POLICY STATEMENT
	4
PART 2	PROCEDURE
2.1	Introduction 5
2.2	Scope 5
2.3	Definition 5
2.4	Roles and Responsibilities 6
2.5	Informal Resolution 6
2.6	Formal Procedure 7
2.5.1	Stage 1 7
2.5.2	Stage 2 7
2.5.3	Stage 3 8
2.7	Teacher’s Appeals Procedure 8
2.8	NGT Failure to Agree 9
2.9	Grievance Relating to Disciplinary Matter 9
2.10	Grievance Procedures – Chief Officer 9
2.11	Grievance Procedures – Chief Executive 9
2.12	Ex Employees 9
PART 3	GUIDANCE FOR MANAGERS & EMPLOYEES
3.1	Role of Human Resources and Legal Advisers 10
3.2	Employee Representation 10
3.3	Witnesses 11
3.4	Timescale 11
3.5	Natural Justice and Equity 11
3.6	Arranging a Grievance Hearing/Appeal 11
3.7	Format of the Hearing 12
3.8	Process at the Hearing 12
3.9	Conclusion 13
3.10	Making the Decision 13
3.11	Reconvening the Hearing 13
3.12	Review of Procedures 14
	APPENDICES
	Notification of Grievance/Grievance Appeal Form 15

GRIEVANCE HANDLING

(ALL EMPLOYEES EXCLUDING TEACHERS)



GRIEVANCE HANDLING (TEACHERS ONLY)



PART 1

1.0 POLICY STATEMENT

1.1 Falkirk Council places great emphasis in having a well-motivated workforce and encourages open and honest communication at all levels. It recognises, however, that there will be occasions when an employee may feel aggrieved either about a condition of employment matter or the way in which he/she has been treated.

1.2 The Grievance Policy and Procedure aims to encourage open communication between employees and their managers to ensure that problems arising during the course of employment can be raised and, where possible, resolved quickly and to the satisfaction of all concerned.

The key objectives are: -

- To achieve a fair and equitable method of resolving an employee's grievance.
- To provide consistency in the treatment of employees.
- To assist in the efficient and effective operation of the Council.
- To comply with employment legislation and ACAS guidelines.

1.3 The Grievance Procedure is designed to address individual grievances. It should be recognised however, that while the Policy and Procedure incorporates mechanisms to appeal the outcome of the grievance at appropriate stages, there is no opportunity to raise the same grievance twice. Two or more employees who share a common grievance arising from the same circumstances can pursue a collective grievance, either by using the Grievance Procedure, or the Disputes Procedure, a copy of which may be obtained from line managers or Trade Union Representatives or Human Resources. In the event of registration of a grievance within the formal procedures, in the interests of good employee relations, no alteration will be made to the existing Conditions of Employment which gave rise to the grievance, or to the established working practices, until the grievance has been suitably resolved and the procedure itself exhausted. In circumstances however, where the issue involves service users/clients or a matter affecting the Health and Safety of an individual, the appropriateness of this arrangement will be discussed.

1.4 The employee can at any stage withdraw from the Grievance Procedure by giving notice in writing. In these circumstances the employee will be considered to have abandoned the grievance.

PART 2

2.0 PROCEDURE

2.1 INTRODUCTION

This Procedure outlines the stages to be followed within a specified time frame. It also sets out the roles of Managers/Head Teachers to assist in the early resolution of an employee's grievance. If an employee or Manager/Head Teacher is unsure of the correct procedure to follow they should obtain the appropriate advice and guidance from Human Resources.

2.2 SCOPE

This Policy applies to all Falkirk Council employees.

2.3 DEFINITION

The ACAS Code of Practice relating to Grievance at Work refers to Grievances as 'concerns, problems or complaints that employees raise with their employers'. Issues which grievances may relate to include:

- Terms & Conditions of Employment;
- Health & Safety;
- Work Relations;
- New Working Practices;
- Working Environment;
- Organisational Change;
- Discriminatory Practices.

Issues likely to fall outside the scope of the grievance policy include:

- grievances raised by an ex-employee;
- matters over which the Council has no control;
- grading issues;
- grievances that are the subject of, or may be considered under, a collective dispute which will be dealt with in line with the Council's Disputes Policy;
- where an employee raises a concern as a 'protected disclosure' under the Council's Confidential Reporting Policy;
- allegations of bullying, harassment or victimisation which should be considered under the Council's Dignity at Work Policy;
- counter complaints during/ following a disciplinary process which should be considered as part of the Disciplinary process;
- Matters for which there is a separate right of appeal e.g. appeal against disciplinary action or actions taken under the Council's Capability Policy; and

- Complaints relating to the right to request access to information requests..

In circumstances in which an employee is unclear whether the issue they wish to raise or have addressed would fall under the scope of the policy, advice should be sought from Human Resources in the first instance.

2.4 ROLES AND RESPONSIBILITIES

Managers are expected to:-

- deal personally with any grievance lodged with them or, if not within their authority to resolve, to pass it to the appropriate senior manager;
- deal with grievances :
 - confidentially, considering carefully what information relating to the grievance should be shared, and with whom;
 - Informally, wherever possible;
 - fairly, with an open mind and in a non discriminatory way;
 - in a timely way, adhering to the prescribed timescales where possible; and
 - seeking advice from Human Resources as appropriate.

Employees are expected to:-

- attempt to resolve grievances informally through discussion with their manager or the person concerned;
- lodge a formal grievance with their line manager, if the informal discussions fail (if the grievance is against the immediate manager, it may be lodged with the manager at the level above);
- have a clear and realistic view of what they wish to achieve from the grievance
- co-operate with arrangements to consider the grievance and not misuse the provisions of this policy by making malicious or groundless complaints; and.
- attend any meetings to which they are invited.

2.5 INFORMAL RESOLUTION

The successful resolution of an informal grievance will depend upon the employee and the manager seeking positively to resolve the grievance as speedily and effectively as possible. Whilst recognising that the nature of an employee's grievance can be very wide, in many instances it can best be resolved in an informal manner in open discussion with his/her Line Manager, or in writing. Addressing a grievance in an informal manner encourages effective management and good communication between the employee and the Line Manager.

In some cases informal resolution may involve a Line Manager from the same Service but external to the grievance seeking a resolution without recourse to a formal hearing. This option would be facilitated by Human Resources, with a view to agreeing a resolution.

Another option where the manager and employee have been unable to resolve the issue in the workplace, is to consider the use of an independent third party to help resolve the issue. This may involve an independent mediator. Should the parties concerned wish to

make use of third party intervention, this should be notified to the Human Resources who will be responsible for making appropriate arrangements. This is not appropriate for grievances relating to contractual terms and conditions.

If the grievance is not resolved on an informal basis, the employee may be able to progress to the formal grievance procedure.

2.6 FORMAL PROCEDURE

To ensure fair treatment, where an employee has raised a grievance informally with his/her Line Manager and is still dissatisfied, he/she can raise the grievance to the next level of line management as outlined below.

2.6.1 Stage 1

If despite any informal attempt to resolve the grievance, the employee remains dissatisfied, he/she has the right to submit the grievance to an appropriate more senior Manager within 5 working days of receipt of the outcome. This must be in writing and must specify the employee's reasons for raising the grievance, confirming whether informal approaches have been unsuccessful or were not practicable and indicating the resolution sought.

The Manager shall formally acknowledge receipt of the grievance and will either:

- a) determine that, depending on the nature of the grievance, an investigation is required prior to any hearing. In such circumstances, the employee should be advised in writing if this is the case;
- b) consider it appropriate to explore whether there is an opportunity to resolve the grievance by informal means. In such circumstances, they should contact the employee and/ or his/ her representative to agree a way forward; or
- c) arrange for a hearing normally within 5 working days of receipt of the employee's letter. The employee will be formally notified of the outcome of the hearing within 5 working days.

2.6.2 Stage 2

If the matter is not resolved to the employee's satisfaction then he/she has the right of appeal to their Chief Officer/Director within 10 working days of the receipt of the written outcome of Stage 1. This must be in writing and specify the grounds of the appeal. Any appeal received after this time scale will not be considered, unless good cause is shown for the appeal being made late. The Service Director or Chief Officer will make arrangements for the appeal to be heard. Where this cannot be done within the Division concerned, the chairperson will be determined by Human Resources. Where the grievance appeal relates to the application of a non-discretionary national condition of Service, the appeal chair will be Chief Officer/Director level.

Prior to the appeal being heard, if it is expressly agreed between the parties, Human Resources will arrange a meeting to mediate the matter. This process should occur within 10 days, unless there are exceptional circumstances. If this process is unsuccessful, then the appeal will proceed.

Following from the appeal hearing/mediation the employee will be formally notified in writing of the outcome within 5 working days.

This is the end of the grievance process unless the matter is related to the application of a non-discretionary National Condition of Service.

2.6.3 Stage 3

Generally an employee has the opportunity to progress his/her appeal to the Appeals Committee of the Council providing the grievance is in connection with a non-discretionary National Condition of Service.

Employees only progress to this stage if they have pursued either or both the mediation and the hearing outlined in Stage 2.

The appeal must be submitted to the Chief Governance Officer within 10 working days of written notification of the outcome at Stage 2 and must clearly specify; a) the reasons for the appeal and b) the appropriate Clause of the National Conditions of Employment giving rise to the appeal.

The Appeals Committee of the Council will normally hear the grievance within 20 working days following receipt of the appeal or as soon as the Committee can be convened.

The decision of the Appeals Committee will be notified to the appellant either at the conclusion of the Hearing or alternatively within 10 working days and in any event will be confirmed in writing. With the exception of teachers (see section 6), this is the end of the Grievance process. The matter will not be reconsidered by the Council should the employee raise this issue.

2.7 TEACHER'S APPEALS PROCEDURE

When a teacher or other associated professional has exhausted the Council's grievance/appeals procedure and remains dissatisfied, they may refer their case to the Joint Secretaries of the Scottish Negotiating Committee for Teachers (SNCT) which has put in place a conciliation and appeals mechanism for grievances relating to National Conditions of Service Matters. Any such appeal will only be considered where it relates to the interpretation or implementation of a national agreement promulgated by the SNCT. Teachers cannot appeal matters devolved to the Local Negotiating Committee for Teachers (LNCT). A full detailed copy of the Appeals procedure can be found in SNCT 09/12.

Notice of an appeal to the SNCT must be lodged by the appellant or representative with the Joint Secretary (Employers' side) and the Joint Secretary (Teachers' side) within 20 working days of the outcome of the local appeal. The Joint Secretaries will consider whether the appeal is competent. Where the appeal is held to be competent the Joint Secretaries can issue advice to both parties to assist resolution. Such advice cannot be binding.

Where advice is issued but does not resolve matters or there is failure by the Joint Secretaries to agree on advice to resolve matters, the case will be referred to an Appeals Panel of the SNCT.

The decision of the Appeals Panel will be final and binding.

2.8 LNCT FAILURE TO AGREE

Where Conditions of Service matters are devolved to the LNCT and where there is a failure to agree at school level on any relevant matter, the Council and the unions will seek to resolve matters without delay through discussion in the LNCT.

Where agreement between the two sides of the LNCT is not possible, either side may refer the failure to agree to the Joint Chairs of the SNCT for conciliation, where there is no conflict of interest. If the conciliation is unsuccessful the Joint Chairs of the SNCT may recommend further procedures for resolution of the difference, including external conciliation, mediation or arbitration. Before a failure to agree is reached a joint approach can be made to the Joint Secretary (Teacher's side) and the Joint Secretary (Employer's side) for advice. Such advice is not binding.

2.9 GRIEVANCE RELATING TO DISCIPLINARY MATTER

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

2.10 GRIEVANCE PROCEDURE – CHIEF OFFICER

If a grievance is raised by a Chief Officer or a Director the matter should be referred, in the first instance, to the Head of Human Resources & Business Transformation who will make the appropriate arrangements. If this course of action is not appropriate, the matter should be referred to the Chief Governance Officer.

If a grievance is submitted by a Chief Officer against a decision or actions of the Chief Executive, written notification should be submitted to the Head of Human Resources & Business Transformation who, in conjunction with the Chief Governance Officer, will make appropriate arrangements to deal with the complaint.

Thereafter, if the Chief Officer is still dissatisfied, Stage 3 of the grievance procedures will apply (as detailed at paragraph 2.5.3 above).

2.11 GRIEVANCE PROCEDURE – CHIEF EXECUTIVE

Should the Chief Executive wish to raise a grievance, written notification will be submitted to the Chief Governance Officer who will consult with the Leader of the Council. Thereafter arrangements will be made for the grievance to be appropriately addressed by mutually agreed arrangements with the Leader of the Council. . Any appeal, which requires to be considered at a hearing, will be considered by the Appeals Committee of the Council.

2.12 EX - EMPLOYEES

Where the employment has already terminated, an individual has the right to raise a complaint in writing in accordance with Falkirk Council's Complaints Procedure.

PART 3

3.0 GUIDANCE – FOR MANAGERS & EMPLOYEES

3.1 ADVISORY SUPPORT

To ensure a consistency of approach, fairness throughout and to comply with the principles of natural justice, it is essential that suitable advice and guidance is obtained by managers from Human Resources.

With these objectives in mind, a representative from Human Resources will be present at all levels of a formal grievance. Human Resources will provide advice to the Chairperson of the Grievance/Appeal Panel on the correct procedures to be adopted, precedents and to address the employee relations implications arising from the grievance itself. . Where necessary, the hearing may be adjourned to allow the Chairperson to [seek legal advice on specific points/ issues raised](#).

During the hearing Advisers will only advise on procedural issues in relation to the grievance and raise questions to seek clarification of the facts and will not be party to any decisions.

Advice regarding the grievance can also be provided generally and outwith the context of the formal hearing by Human Resources or Legal Services.

3.2 EMPLOYEE REPRESENTATION

Employees have the right to be accompanied at a formal grievance hearing by a trade union representative or colleague. Employees must be given the right to have such a representative present. It would, however, not normally be reasonable for an employee to request to be accompanied by a representative whose presence may prejudice the hearing e.g. where there is a potential conflict of interest.

If the employee attends the hearing without a representative, it must be confirmed first of all that he/she has been advised of the right to be accompanied. If the employee advises that he/she has not, the Chairperson should ask if the employee wants representation. If the employee advises that he/she does not want to be accompanied, this should be recorded prior to the hearing starting. Should the employee confirm that he/she does want to be accompanied, agreement should be made to adjourn in order that representation can be arranged. Should the employee turn up at the hearing having not been able to arrange representation in time, again an adjournment should be made in order that the employee can organise suitable representation. If the employee's representative cannot attend on a proposed date the employee can suggest an alternative time and date as long as it is reasonable and it is within 5 working days of the original proposed date. Should the employee be unable to arrange for the representative of their

choice to be available, it is reasonable to suggest that arrangements are made for a substitute.

3.3 WITNESSES

Employees have the right to call witnesses in support of their grievance and are personally responsible for arranging these. The chairperson of the hearing must be notified of any witnesses attending on behalf of the employee as soon as possible but at least 3 working days before the grievance hearing. Council employees called as witnesses will receive full pay and on the production of appropriate receipts, reasonable travelling expenses.

Witnesses should be asked not to discuss the matter with any other colleagues.

3.4 TIMESCALE

Where it is not possible to reach agreement within the specified time period, it may be necessary, by mutual consent, to extend the timescales. This should be confirmed in writing stating the reasons for the delay and the agreed extension to the timescale. In the event that there is no prior agreement, or a manager fails to meet the extended timescale, the employee may register a “failure to agree” and opt to proceed to the next stage in the grievance procedure.

3.5 NATURAL JUSTICE AND EQUITY

If, in exceptional circumstances, due to the nature of the grievance, it is decided that the Line Manager is not the most appropriate person to deal with the matter, discussions should take place with Human Resources to determine a suitable alternative. The employee will be notified in writing of this decision not later than 5 working days after the formal submission of the grievance. Thereafter, the grievance will be heard in accordance with Stage 1 in the first instance.

In the event that the grievance is considered to be about or to involve the immediate Line Manager then the grievance should be addressed to the Service Manager or Head Teacher. If however the grievance relates to the Service Manager or Head Teacher, the matter should be referred to the appropriate Head of Service who will confirm how the matter will be progressed.

No Officer or Elected Member who has been party to an earlier decision will take part in any further stages in the grievance/appeal procedure.

3.6 ARRANGING A GRIEVANCE HEARING/APPEAL

Following formal confirmation being received that an employee wishes to pursue a grievance/appeal it is essential that the hearing runs smoothly and to do so requires a number of considerations:

- It must be established that there is a genuine basis for the employee’s grievance/appeal and a mutual understanding of the reasons why it has arisen.
- It falls within the terms of the Grievance Policy and Procedure.
- It is being heard at the correct management level.

- Witness statements, as appropriate, have been received.

Once it has been confirmed that there are grounds for a grievance/appeal the employee must be formally advised at each stage of:

- The date, time and location of the hearing.
- The name, designation of the Chairperson.
- Where appropriate, who will be presenting the management case.
- Who will be present as an adviser to the chairperson.

It is also important to clearly establish:

- Who will represent the employee.
- If there are any witnesses to be called and if so who they are.

The employee must take all reasonable steps to attend the meeting.

The Chairperson convening the hearing is responsible for writing to the employee. All parties should be made aware that they are personally responsible for contacting any witnesses they may wish to call during the hearing.

In advance of the date of the hearing, the Chairperson should make sure that a room is available which is large enough to accommodate everyone in comfort and without interruption. Separate rooms should be available for each party to use prior to the hearing and during any possible adjournments.

3.7 FORMAT OF THE HEARING

It is important that the hearing should be conducted in as relaxed a manner as possible as it can be a distressing experience for all involved in the process. The Chairperson will open the hearing, introduce the parties and be as welcoming and friendly as possible.

The Chairperson will explain the format of the proceedings and advise that it is only points raised in connection with the grievance/appeal that will be relevant and any other issues will be excluded. The HR Adviser will assist to ensure that only the relevant issues are addressed.

3.8 PROCESS AT THE HEARING

The following outlines the process to be followed at the hearing:

The Chairperson asks the employee or his/her representative, to present his/her case outlining specifically the reasons giving rise to the grievance/appeal.

At this point the opportunity is given to call witnesses to support the employee's evidence.

Thereafter, the Chairperson invites questions from the management representative, following on from which he/she may seek any point(s) of clarification. Human Resources may also ask questions but restricted to points of clarification.

Once satisfied that there are no further matters to be raised the Chairperson invites the management representative to put forward his/her case.

At this point the opportunity is given to call witnesses to support management's case.

The employee or his/her representative will have the right to question the management representative, after which again, the Chairperson can seek any point(s) of clarification. Human Resources may also ask questions to clarify any matters.

The Hearing can be adjourned, where necessary, to clarify any point of detail of the grievance. If this happens, the Chairperson must state the period of adjournment.

Following completion of the submissions the Chairperson will invite the management representative in the first instance, to summarise his/her case, followed thereafter by the employee or his/her representative.

3.9 CONCLUSION

The Chairperson then summarises the hearing and the main points of both presentations. The employee should be asked if he/she has been given a fair and reasonable opportunity to present their case. If the response is 'no' then the Chairperson must ask for a further explanation and take the stated concern into account when giving the decision. If the procedures have been followed this is highly unlikely to happen.

The hearing is then adjourned to allow the Chairperson to come to the decision. Even if during the course of the hearing the Chairperson has an idea of what the decision may be, it is advisable that the adjournment is used to allow the opportunity to consider the facts and seek advice from any Adviser present. It should be remembered that if a decision cannot be made during an adjournment, it can be put in writing within the agreed timescales.

3.10 MAKING THE DECISION

All the facts of the case should be reviewed as they have been presented. The role of the Human Resources Representative is to provide advice on the case (but not on its merits which is a matter for the Chairperson) and details of any relevant case law, legislation, precedents and terms and conditions of the contract of employment, which can be taken into account.

3.11 RECONVENING THE HEARING

If the decision is being made immediately, the employee should be clearly advised of the decision and the reasons why it has been reached. This should be confirmed in writing within 5 working days. If more time is required a decision should be confirmed in writing within 5 working days once it has been reached. The decision letter should outline the conduct of the grievance hearing, the decision taken and the reasons for this.

The employee must also be made aware of their right to appeal against the decision within 10 working days of receiving the written confirmation of the decision.

When an independent Chairperson has heard a grievance/appeal from another Service a copy of his/her decision must be forwarded to the employee's Service.

3.12 REVIEW OF PROCEDURES

The Head of Human Resources & Business Transformation will review this policy as per the agreed Human Resources Policy Review Timetable in conjunction with Service Directors and Trade Unions taking into consideration legislative amendments and best practice advice.

This Policy has been Equality Impact Assessed and no adverse impact has been identified.

GRIEVANCE PROCEDURES NOTIFICATION OF GRIEVANCE/GRIEVANCE APPEAL

N.B if completing in by hand please do so clearly and in black ink.

If you require any assistance in completing this form, please contact Human Resources.

PERSONAL DETAILS

Name	Job Title
Service	Location
Home Address	
Trade Union Details (You are advised to contact your Trade Union before submitting this form.) Including name of Trade Union and Representative	

INFORMAL RESOLUTION

Please specify any informal steps taken to resolve your grievance or why you did not consider this appropriate:

Grounds of Grievance/Grievance Appeal

Please state the grounds of your grievance or appeal, in your own words.

Title: Learning & Development Policy
Meeting: Joint Consultative Committee
Date: 9 November 2016
Submitted By: Director of Corporate & Housing Services

1. Purpose of Report

- 1.1 The Learning & Development Policy has been revised regularly over the previous years to take account of legislative changes and best practice. The purpose of this report is to advise of the most recent proposed changes.

2. Recommendation

- 2.1 It is recommended that Committee agree the changes to the Learning & Development Policy and refer it to the Executive for approval and immediate implementation.

3. Background

- 3.1 The proposed amendments to the Learning & Development Policy are:
- A change of name of the responsible team from Employee Development to Organisational Development to reflect the current Council structure;
 - A change in arrangements for The Learning Resource Centre;
 - The Organisational Development team no longer keep a database of acceptable External Providers as individual Divisions and Services are much more knowledgeable of the acceptable providers in their area of expertise;
 - A change of responsibilities from Head of Service to Chief Officer to capture recent organisational changes;
 - The section on Investors in People (IiP) has been removed as Services are no longer aiming to achieve IiP accreditation due to the financial and resource implications in the application process. Services are however, continuing to work to the IiP standards without the formal accreditation;
 - Equality monitoring of training applications has been added to the learning & development policy to aid with capturing information required by legislation.

4. Considerations

- 4.1 The policy has been reviewed and consulted on to take account of legislative changes and best practice. The changes made provide an improvement to the policy and improve efficiency where possible.

5. Consultation

- 5.1 Consultation was carried out with Services and Trade Union representatives. Comments were considered and changes made where appropriate.

6. Implications

Financial

- 6.1 There are no financial implications from the proposal.

Resources

- 6.2 There are improvements to processes therefore reducing administration time.

Legal

- 6.3 The policy has been changed to aid the capture of information resulting from changes in legislation.

Risk

- 6.4 There are no risk implications from the proposal.

Equalities

- 6.5 An EIA was previously carried out. An EPIA is not required due to the nature of the proposed changes to the policy. The EIA demonstrated that the policy is robust; there is no potential for discrimination with the proposed amendments and opportunities to promote equality have been taken.

Sustainability/Environmental Impact

- 6.6 Not applicable.

7. Conclusions

- 7.1 A number of changes have been proposed to improve the process and increase efficiency. In addition, the amendments are in line with legislation. Full consultation has taken place with Services and Trade Unions and no adverse issues have been identified.

Director of Corporate & Housing Services

**Author – Doug Maden Senior Organisational Development Adviser – 01324
501289, doug.maden@falkirk.gov.uk**

Date: 18/07/2016

APPENDICES

Learning & Development Policy

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

None



FALKIRK COUNCIL

LEARNING AND DEVELOPMENT POLICY



JUNE 2015

PART 1		PAGE
	1.1 Policy Statement	3
PART 2		
	2.1 Introduction	3
	2.2 Scope	3
	2.3 The Achievement and Personal Development Scheme (APDS)	4
	2.4 The Training Planning System	5
	2.5 Leadership Framework	5
	2.6 Leadership and Management Development	5
	2.7 Elected Member Development	6
	2.8 The Continuous Professional Development (CPD) Framework for Elected Members	
	2.9 Induction	6
	2.10 Evaluating Learning and Development	6
	2.11 Methods of Learning and Development	7
	2.12 Coaching	7
	2.13 Health, Safety and Care	8
	2.14 Approved Learning and Qualifications	8
	2.15 Developmental Learning/Qualifications	9
	2.16 Repayment of Learning/Qualification Costs	11
	2.17 Continuous Professional Development	12
	2.18 Customer Service, Charter and Standards	12
	2.19 Equal Opportunities Monitoring of Training Requests	12
	2.20 Application of Policy	1313
	2.21 Roles and Responsibilities	
PART 3		
	3.1 Monitoring and Review	17
	Sample letter – Support of Application for Funding of Developmental Qualification	18
	Sample letter – Unable to Support Application for Funding of Developmental Qualification	19
	Sample form – Employee Request for Training – Equality Legislation Form	20

PART 1

1.1 POLICY STATEMENT

Falkirk Council is committed to Learning and Development. The Council recognises that the Learning & Development of its employees and Elected Members has a key role to play in ensuring they have the necessary knowledge and skills to deliver a high quality and cost effective service to the community the Council serves.

Falkirk Council recognises the need for lifelong learning to gain new skills, improve performance, develop careers and maximise the potential of every employee and Elected Member. The Council aims to provide the highest standard of learning and development and is committed to providing a wide variety and range of opportunities. This will allow employees and Elected Members to acquire the skills, knowledge and qualifications necessary to perform efficiently and effectively in their roles and thus provide a high standard of service delivery.

PART 2

2.1 INTRODUCTION

The purpose of this policy is to ensure best practice in enabling the learning and development of employees and Elected Members to deliver Service and Organisational objectives. The policy aims to ensure equality of access to learning and development opportunity, the achievement of Best Value in all learning and development activities and to outline the support available to employees and Elected Members.

2.2 SCOPE

Falkirk Council is committed to equality of opportunity for all employees and Elected Members as described in its Equal Opportunities Policy. This will be reflected by systematic and planned development for all employees and Elected Members. Appropriate learning and development opportunities will be available to, and accessible by, all employees and Elected Members and will address individual, Service and Organisational needs. Falkirk Council will monitor training applications and learning undertaken to ensure equality of access.

2.3 THE ACHIEVEMENT AND PERSONAL DEVELOPMENT SCHEME (APDS)

The APDS for employees provides a framework and process to ensure that, in line with LiP, learning is linked to business plans and performance.

The purpose of Falkirk Council's APDS is to:

- ensure everyone knows what is expected of them;
- improve individual, team and service performance;
- develop leadership and management effectiveness through regular communication.

The key stages for the APDS are:

1. An APDS Planning meeting between the manager and employee to discuss individual objectives and development needs/opportunities, linked to team and Service plans;
2. The production of an APD Plan, which includes SMART business objectives and personal development objectives;
3. An APDS Review meeting where achievements and progress are discussed and evaluated.

Every employee will have a current and active personal development plan as a result of participating in the APDS. Full guidance is provided in the scheme booklet which is available to all managers and accessible on the intranet.

2.4 THE TRAINING PLANNING SYSTEM

Training Planning ensures that the right people undertake the right learning at the right time to ensure that individuals are sufficiently skilled to meet service and organizational objectives and deliver a quality service. Training Planning also ensures the identification of learning needs and the effective planning of resources to meet these needs at Team, Service and Corporate levels. Following an APDS meeting training may be required to provide the employee with the knowledge and skills to deliver service objectives. The Falkirk Council Training Planning System provides a framework for the identification and planning of individual and team learning needs and is available on the intranet.

In addition, the Training Planning System may be used during an employee's induction period, or when an individual's job role changes. The Training Planning System should be considered in conjunction with the Achievement and Personal Development Scheme and Line Managers should undertake Training Planning interviews with each member of staff at least once a year.

2.5 LEADERSHIP FRAMEWORK

The Falkirk Council Leadership Framework details the behaviours and competences required of effective leaders and managers within the Council. Every line manager should carry out an assessment of their own behaviors and competences using this framework, on an annual basis, in conjunction with the APDS. The development needs identified from this assessment should be entered onto the line manager's APD plan. The Leadership Framework is available on the intranet. Chief Officers also have a framework which details the behaviours and competences required of them. Chief Officers are also expected to carry out an annual assessment of their own behaviours and competences. Chief Officers will also receive 360 degree feedback on an annual basis.

2.6 LEADERSHIP AND MANAGEMENT DEVELOPMENT

Falkirk Council recognises that Line Managers have a key role in ensuring effective delivery of quality services through the employees whom they manage. The Council will ensure that all line managers have the opportunity to attend accredited and non-accredited management/leadership learning, at a level appropriate to their role, to allow them to maximise individual, team and organisational performance.

2.7 ELECTED MEMBER DEVELOPMENT

Falkirk Council recognises that the role of Elected Members is integral to achieving the strategic goals, vision and values of the Council. Falkirk Council is committed to supporting the development of all Elected Members to enable them to perform effectively in their current role and to develop to meet future challenges.

2.8 THE CONTINUOUS PROFESSIONAL DEVELOPMENT (CPD) FRAMEWORK FOR ELECTED MEMBERS

The CPD Framework for Elected Members in Scottish Local Government has been developed by the Improvement Service in consultation with local authorities. The Framework is based on 14 political skills which are underpinned by 73 behaviours. It is flexible enough to accommodate the different levels of experience and seniority of members and focuses on behaviours ie. the way in which Elected Members display and practice the skills that they have. Behaviours can be learned or acquired by virtue of increasing experience, gaining knowledge and participating in development opportunities. The CPD Framework delivers enhanced, focussed and structured support arrangements to allow Elected Members to lead local government through a period of considerable change.

The key stages for the CPD Framework for Elected Members are:

- Completion of an on-line development profile which involves self assessment against each of the 73 behaviours. There is also the opportunity to participate in 360 degree feedback;
- Production of a development report which summarises the self assessment and, where relevant, 360 degree feedback, and which highlights strengths and development areas;
- A personal development planning meeting to develop a Personal Development Plan;
- Access to the CPD Framework Development Programme containing a range of development resources;
- A CPD Framework review meeting to discuss progress.

2.9 INDUCTION

Falkirk Council recognises the importance of providing appropriate Induction to every new employee to allow them to become effective in their role at the earliest opportunity. Falkirk Council will ensure that every new employee receives Induction appropriate to their role, in line with the Corporate Induction programme. To assist with the Induction process, every new employee will be appointed a “Mentor” who will be an experienced member of the relevant team.

Falkirk Council managers will ensure that every new employee receives a specific Induction programme appropriate to their job role, which will include learning about their own Service, health, safety and care matters, as well as the tasks of the job.

Elected Members will also receive Induction appropriate to their role.

2.10 EVALUATING LEARNING AND DEVELOPMENT

All learning and development activities will be evaluated to measure their contribution to the achievement of the Council’s objectives and to ensure Best Value. The Organisational

Development team will evaluate learning and development activities in line with the Corporate Evaluation Strategy. A copy of this is available on the intranet. Learning and development activity will be evaluated against the following criteria:

- How the learning and development activity met the needs of the individual on the day;
- The amount of learning that occurred as a result of the training;
- The impact of the learning on individual performance;
- How learning and development contributes to the achievement of Council goals.

Directors, Heads of Service and Line Managers will contribute to the evaluation process by ensuring that the APD Scheme and the Training Planning System are implemented and that pre and post course briefings are undertaken as appropriate.

2.11 METHODS OF LEARNING AND DEVELOPMENT

The Council is committed to providing a variety of methods by which employees at all levels can learn and develop. This increases accessibility and opportunities to learn, which not only suit the learners' style but also supports the time and resource constraints of Services. The Council will provide:

- A Learning Resource Centre (LRC) offering books, CDs and DVDs;
- A number of on-line Courses which all employees can access;
- Learning that can be undertaken as on-the job-instruction, which can be tailored specifically to the employees needs and can be delivered by team members, managers or experts from other departments;
- Coaching as a method of learning;
- An Employee and Organisational Development Bulletin which offers a variety of skills and knowledge courses and events throughout the year.

Elected Members will also have access to a range of learning opportunities appropriate to their role including access to the CPD Framework for Elected Members Development Programme.

2.12 COACHING

Coaching is a 1-1 process that helps produce results for employees and for the organisation. Through the process of coaching employees deepen their learning and improve their performance. Coaching is forward looking and goal orientated. It assumes that all employees have the necessary ability to find and use the resources they require to do their job. The purpose of coaching is to help the employee define for themselves what they want, discover options, develop strategies and move towards these outcomes.

Falkirk Council recognises the importance of coaching in the development of the leaders and managers of the Council to improve performance and deliver objectives. Coaching will develop the knowledge and skills of our leaders and managers. The Council is committed to developing a coaching culture throughout the organisation. We will do this by:

- Providing a coaching service to all line managers;
- Developing the skills of our managers to enable them to coach employees.

2.13 HEALTH, SAFETY & CARE

Falkirk Council is committed to protecting and promoting the health, safety and wellbeing of all employees and Elected Members and the delivery of safe services. The Council will ensure that every employee and Elected Member receives appropriate Health and Safety training relevant to their role.

Falkirk Council will ensure that any learning and development activity undertaken on its behalf is undertaken in accordance with the Health, Safety & Care Policy, and reflects the aims of the Health Safety & Care Strategic Plan.

2.14 APPROVED LEARNING AND QUALIFICATIONS

Approved learning can be defined as:

“Any job-related learning which is necessary to allow the employee to perform effectively in their current role”

This includes any learning required by an employee to allow them to develop their knowledge, skill or attitude to assist them to perform their current role to the required standard.

Employees will be entitled to receive time off to travel to and attend approved learning. Where the learning takes place outwith the employee’s normal working hours, the employee will be entitled to time off in lieu at plain time. Where the line manager deems that time off in lieu does not meet operational requirements, payment at plain time may be made.

Falkirk Council will pay all costs associated with approved learning including the cost of course fees and course materials. Subsistence and excess travel costs will be paid as per current Conditions of Service.

Approved qualifications can be defined as:

“Any qualification which has been identified as essential, as opposed to desirable, for the employee in their current role”

Employees will be entitled to receive time off to travel to and undertake any learning assessment or examination leading to an approved qualification. Where the activity takes place outwith the employee’s normal working hours, the employee will be entitled to time off in lieu at plain rate.

Falkirk Council will pay all costs associated with approved qualifications including the cost of learning assessment, examinations and course materials. Subsistence and excess travel costs will be paid as per current Conditions of Service

Employees who are required to sit formal examinations as a result of undertaking approved learning or qualifications will be granted up to half a day study leave per examination. This will apply to examinations of 2 hours and above.

This section applies to Elected Members to the extent that any necessary learning or essential qualifications are those required by statute or determined by a decision of Council.

2.15 DEVELOPMENTAL LEARNING/QUALIFICATIONS

Developmental learning /qualifications can be defined as:

“Any learning /qualification which, although completion may assist the employee develop personally and/or professionally, is not required to allow the employee to perform effectively in their current role”

This includes:

- Learning /qualifications which will assist an individual to gain the knowledge, skills or attitude required of a role other than their current role
- Learning/qualifications which allow an individual to develop personally and/or professionally and, although it may improve their performance in the current role, it is not required to allow them to perform the current role to the required standard.

The amount of financial support offered to individuals for Developmental learning/qualifications is at the discretion of the Line Manager. The Line Manager, when determining this, will consider the business case for the learning including:

- The amount of budget available
- The business benefit of the learning
- The motivations of the individual applying for the learning
- Associated recruitment and retention issues

Line Managers will ensure that the employee is advised whether the learning/training is classed as “Approved” or “Developmental” before the learning/training commences and will ensure fairness and equality of opportunity in making these decisions.

The amount of time off to attend training offered to individuals for Developmental learning/qualifications is also at the discretion of the line manager, subject to the following:

The Employee Rights Act 1996, section 63D provides that, from April 2010, employees have the right to request “time to train”. Employees can make requests for time to undertake any training which they believe will improve both their effectiveness at work and team/division/service performance. There is no limit on the amount of time, study or training that an employee can request, however employees do not have the right to be paid for the time spent training when requests of this nature are made.

EMPLOYEE ACTION

To request time off to attend training in line with the legislation employees must:

- Submit the request in writing to their line manager, stating that it is an “application under section 63D of the Employment rights Act 1996”;
- Provide the following information;
 - the subject matter of the proposed training or study
 - where and when the proposed training or study would take place
 - who would provide or supervise it
 - what qualification it would lead to (if any)
 - how the employee thinks the proposed training or study would improve their effectiveness at work and team/division/service performance
 - the date of the application
 - the date and method - eg email or letter - that their last application (if any) was submitted.

MANAGER ACTION

Where an employee has made a request for Developmental learning/qualifications outwith the Employee Rights Act 1996, section 63D, the amount of time off and financial support offered to individuals is at the discretion of the Line Manager, as stated above.

Where an employee has made a request for time off for training for Developmental learning/qualifications under the Employee Rights Act 1996, section 63D, the following applies:

Managers are only required under the act, to consider one request from an employee in any twelve month period unless the employee has requested that they ignore an earlier request. Within 28 days of receiving a valid request the manager must either:

- accept the request on the basis of the information set out in the individual's written request and inform the employee of the decision in writing
- meet with the employee to discuss their request - then within 14 days of that meeting, inform the employee of their decision in writing

If the manager who would normally deal with training requests is absent from work on the day the application is received, the period within which a meeting must be held is automatically extended. A 28 day extension period will begin on the day the manager comes back to work. This automatic extension can last no longer than 28 days.

The timescales for holding meetings and issuing notices of decisions on applications and appeals can be extended by agreement with the individual who has made the request. Such an agreement must be recorded in writing and a copy given to the employee.

The record of agreement to extend these timescales must:

- specify what period the extension relates to
- specify the date on which the extension is to end
- be dated

The manager may only refuse an employee's request for time to train for one of the following business reasons:

- the proposed study or training would not improve the employee's effectiveness at work
- the proposed study or training would not improve team/division/service performance
- the additional financial costs of allowing the employee time off
- agreeing to the request would have a detrimental effect on the ability to meet customer demand
- the manager would be unable to reorganise work among existing staff
- the manager would be unable to recruit additional staff to cover
- agreeing to the request would have a detrimental impact on quality
- agreeing to the request would have a detrimental impact on performance
- there would be an insufficiency of work during the periods the employee proposes to work
- there are planned structural changes during the proposed study or training period

Further guidance on application of the legislation is available from Human Resources

In respect of Elected Members, they will have access to developmental learning/qualifications approved by the Executive (and any similar successor body) following submission of a relevant business case.

2.16 REPAYMENT OF LEARNING /QUALIFICATION COSTS

There will be no requirement for an employee to repay any costs paid by Falkirk Council associated with:

- Approved learning
- Approved qualifications
- Developmental learning

Where an employee leaves the service of the Council or fails to complete a Developmental Qualification, the line manager may, if it is considered appropriate, demand repayment of costs paid by the Council as follows:

- **Employee fails to complete qualification** - repayment by employee of all costs paid by Falkirk Council excluding travel costs and time off
- **Employee leaves the service of the Council whilst undertaking the qualification** – repayment by employee of all costs paid by Falkirk Council excluding travel costs and time off
- **Employee leaves the service of the Council within 12 months of completion of the qualification** - repayment by employee of all costs paid by Falkirk Council excluding travel costs and time off
- **Employee leaves the service of the Council within 13-24 months of completion of the qualification** - repayment by employee of 50% of costs paid by Falkirk Council excluding travel costs and time off
- **Employees will be made aware of the repayment request at the time of application.**

Sample letters can be found in Appendix 1.

If managers have any queries they should contact the Organisational Development Team.

Elected Members will require to repay costs of Developmental qualifications paid by the Council in line with the conditions and process approved by the Executive (and any similar successor body).

2.17 CONTINUOUS PROFESSIONAL DEVELOPMENT

Falkirk Council is committed to Continuous Professional Development (CPD) and will encourage and provide appropriate support to employees to allow them to fulfill the CPD requirements of their professional body.

2.18 CUSTOMER SERVICE, CHARTER AND STANDARDS

Falkirk Council is committed to providing a high quality customer service and has a Customer Charter and Standards which it uses as a framework for delivering its Services. The Council will ensure that appropriate Customer Service learning and development is available relevant to the Charter and Standards for all employees, to allow them to deliver a consistent and high standard of service to both internal and external customers. The standards can be found on the underground in the learning zone section.

2.19 EQUAL OPPORTUNITIES MONITORING OF TRAINING APPLICATIONS

As part of the duty under the Equality Act, Falkirk Council is required to take steps to gather and collate information on the composition of its workforce, as well as statistical analysis on matters such as training and development. The collation of this information, specifically the breakdown of the relevant characteristics in each category, is used to better perform the general equality duty.

The specific areas relating to training which are monitored by the Council for all protected characteristics include:

- Those refused training, comparable to the make up of the workforce;
- Those who have applied for training, comparable to the make up of the workforce;
- Those who have attended training, comparable to the make up of the workforce.

Managers are therefore requested to ensure employees complete a training request form when applying for training. Once completed this information should be recorded in resourcelink by the relevant administrator within each service.

This form should only be completed for training requests and not training required as part of the job/role and requested by the line manager.

An example of a Request for Training Application form is found in Appendix 3.

2.20 APPLICATION OF POLICY

Employees may refer questions of interpretation or problems related to the provisions or to the application of this policy, in the first instance, to the relevant Director/Head of Service, who if necessary, will consult with the Head of Human Resources & Business Transformation. Such consultation may include representation by the employee's trade union. If this procedure fails to produce a satisfactory result to the employee concerned, recourse may then be made to the Council's Grievance Procedure.

2.21 ROLES AND RESPONSIBILITIES

Organisational Development Manager

The Organisational Development Manager is responsible for the direction and approach of learning and development provision and for ensuring that this is in line with the Council's objectives. The Organisational Development Manager will ensure that the general approach to learning adopted by all Services is consistent with the Council's Learning and Development Policy and its commitment as an equal opportunities employer.

The Organisational Development Manager is responsible for:

- Formulating, implementing and monitoring a Falkirk Council Learning and Development Policy;
- Annually planning Corporate Learning and Development activities which integrate the learning and development needs of all Council Services;
- Ensuring the provision of support to Services in the creation of annual learning plans which bring together the strategic development needs of the Service with the personal development needs of individuals and specific groups;
- Ensuring the development of systems which will monitor and evaluate the learning and development of Council employees and Elected Members;

- Ensuring the development of systems which will monitor and evaluate the effectiveness of learning and development provision;
- Developing effective partnerships to promote the sharing of learning and development resources ;
- Ensuring the provision of support to Services as they seek Investors in People status;
- Ensuring the development and delivery of workshops for managers and employees to support the Achievement and Personal Development Scheme;
- Ensuring the provision of a 1-1 coaching service to employees. The coaching will be based on the individuals learning objectives;
- Providing advice to Service regarding applications for time off to attend training under the Employee Rights Act 1996, section 63D

Organisational Development Team

The Organisational Development Team will assist Services by providing an internal learning and development consultancy service to meet team and Service training needs that cannot be met by Corporate training events.

The Organisational Development team will:

- Provide support to Services to achieve IiP status;
- Provide support to Services to implement the APDS;
- Provide guidance to Line Managers on effective application of the Corporate Training Planning System, including prioritising learning needs and formulating a Plan;
- Provide guidance to Line Managers to allow them to undertake pre and post course briefing interviews;
- Develop and deliver accredited in-house Leadership and Management Development Programmes;
- Develop and deliver appropriate personal effectiveness programmes;
- Source appropriate external learning providers to deliver Corporate learning programmes;
- Provide a comprehensive internal consultancy service to teams and Services;
- Support the development of management skills, behaviours and processes through the development of Leadership and Management frameworks;
- Develop and undertake evaluation activities to ensure learning and development provides Best Value for the Council;
- Provide support to Services as they seek Investors in People status;
- Develop and deliver workshops for managers and employees to support the Achievement and Personal Development Scheme;
- Provide a 1-1 coaching service to employees. The coaching will be based on the individuals learning objectives.

Directors, Chief Officers & Head Teachers

Directors and Heads of Service are responsible for ensuring that their employees are aware of their commitment to ensuring individuals receive the learning & development

necessary to allow them to carry out their jobs effectively and for ensuring that appropriate resources are made available to allow the learning and development to be undertaken. They are also responsible for ensuring that employees are kept informed of the Council's Learning and Development Policy and the opportunities available to them for personal and professional development.

It is the responsibility of each Director/Chief Officer to ensure that:

- The LiP standard is achieved within their Service;
- The APDS is implemented within their Service;
- Employees are aware of the learning and development opportunities available to them;
- The learning and development needs of individuals and teams are identified and plans formulated to meet these needs;
- Adequate resources are made available to allow the learning and development needs to be met;
- A Service Plan is formulated annually to take account of learning needs in line with Corporate and Service objectives, budgeting provision, and individual learning and development needs;
- Where a Service-based learning function exists, resources are co-ordinated effectively with those of the Organisational Development Team to maximise use of resources and available expertise to achieve Best Value;
- Learning statistics are provided to the Organisational Development Manager for inclusion in the Corporate Training Plan;
- Any facilitators or providers of learning working within their Services are fully aware of and adhere to this policy.

Line Managers and Supervisors

Line Managers and Supervisors have a key role in achieving the Council's objectives through maximising the contributions and efforts of their employees.

It is the responsibility of each Line Manager/Supervisor to:

- Implement processes and procedures within their division/team to meet the requirements of LiP;
- Implement the APDS within their division/team;
- Discuss with employees their performance in their jobs and identify areas where learning intervention can improve their effectiveness;
- Allow each employee access to appropriate learning and development opportunities;
- Undertake pre and post course briefings with individuals to discuss the objectives of the learning and the desired outcomes and to discuss whether the desired outcome has been achieved, what personal benefits were gained and how the new knowledge can best be utilized to improve performance;
- Ensure each employee has a personal development plan;
- Maintain records of learning applications and the result;
- Advise employees of the reason for refusal of any learning;

- Consider and respond to requests for time off to attend training under the Employee Rights Act 1996, section 63D;
- Ensure each new employee receives a specific Induction programme suitable to their job role.

Individual Employees

The Council believes that employee development is a two way process. Each employee has responsibility for taking ownership of their own learning and development in order to maximise use of opportunities available to them.

Each employee has responsibility for:

- Alerting their line manager to any learning needs which they identify;
- Participating in appropriate learning and development activities;
- Participating in pre and post course briefings with their line manager to discuss the objectives of the learning and the desired outcomes and to discuss whether the desired outcome has been achieved, what personal benefits were gained and how the new knowledge can best be utilized to improve performance;
- Participating in the APDS and contributing to the development of an annual personal development plan.

Facilitators

Facilitators both internal and external to the organisation have a responsibility to offer choice and opportunity and practise in a safe and careful way in the work place, to meet specific learning and development needs. They will do this by:

- Providing events on a variety of dates, times and venues, to include part-time, shift, term time and flexible working arrangements;
- Ensuring access/mobility and sensory requirements are provided where identified;
- Adhering to the Falkirk Council Health Safety and Care Policy.

Trade Union Learning Reps

Employees who are members of a trade union can seek information and advice about learning or training matters from their Trade Union Learning Representative. Further information in this regard can be found in the Time off for Trade Union Duties & Activities Policy & Procedure.

Induction Mentors

Experienced employees nominated as mentors to new employees to help with their induction are responsible for:

- Helping these employees to acquire knowledge, skills and understanding;
- Helping with the induction of these new employees to the Council;
- Helping these employees deal with new or difficult situations.

PART 3

3.1 MONITORING AND REVIEW

The Head of Human Resources & Business Transformation will review this policy as per the agreed HR Policy review timetable in conjunction with Service Directors and Trade Unions taking into consideration legislative amendments and best practice advice.

SAMPLE LETTER- SUPPORT OF APPLICATION FOR FUNDING OF DEVELOPMENTAL QUALIFICATION

Dear

APPLICATION FOR FUNDING – *Insert name of qualification here*

I am pleased to support you in your continuing professional development through study of *insert name of qualification here*. The purpose of this letter is to confirm the terms and conditions of the financial support to be provided.

Payment of Costs

Insert name of Service / division will, on receipt of invoice(s), pay the following costs:

Detail costs to be paid e.g.

Tuition fees plus course materials

Exam fees

Quality Assurance license fee

Total

Repayment of Costs

You will be required to make repayment of costs paid, to *insert name of Service / division*, in the following circumstances:

CIRCUMSTANCE	AMOUNT TO BE REPAYED
Failure to complete the qualification	Repayment of all costs detailed above
If you leave the service of Falkirk Council whilst undertaking the qualification	Repayment of all costs detailed above
If you leave the service of Falkirk Council within 12 months of completion of the qualification	Repayment of all costs detailed above
If you leave the service of Falkirk Council within 13-24 months of completion of the qualification	Repayment of 50% of all costs detailed above

Please confirm your acceptance of these terms and conditions by signing one copy of this letter and returning it to me by *insert date*.

May I take this opportunity to wish you every success with your studies?

Yours sincerely,

MANAGER

.....

I accept the terms and conditions as stated.

Signature.....

Date

SAMPLE LETTER – UNABLE TO SUPPORT APPLICATION FOR FUNDING OF
DEVELOPMENTAL QUALIFICATION

Dear

APPLICATION FOR FUNDING – *Insert name of qualification here*

I refer to your application for funding support for the above named qualification. I now write to advise you that I am unable to provide funding support for the following reasons:

Insert reasons for refusal to support request

You have the right to appeal against my decision through the Council's Grievance Procedure and, if you wish to exercise this right, you should submit your grievance in writing to *Insert name and address of Chief Officer* within 14 days of receipt of this letter.

Yours sincerely

MANAGER

Employee Request for Training – Equality Legislation Form

This form is to enable Falkirk Council to comply with Equality Legislation monitoring; the details below must be recorded in Resourcelink.

Employee's wishing to apply for any training should complete this form with their manager.

Employee to complete

Employee No.

Employee Name

Date of Application

 / /

Course Title

Line manager to complete

Has employee requested this training? ☐ (Only process this form if ticked)

Application Accepted ☐ Application Rejected ☐

*If application accepted, please follow normal booking procedure

Reason for Rejection

No Budget

☐

Course not applicable to current post

☐

Sponsored on more suitable course

☐

Manager Name: _____

Signature: _____ Date: _____

Falkirk Council

Title: Accident and Incident Reporting Policy
Meeting: Informal Joint Consultative Committee
Date: 9 November 2016
Submitted By: Director of Corporate & Housing Services

1. Purpose of Report

- 1.1 The purpose of the report is to advise Committee of updates to the Accident and Incident Policy.

2. Recommendation(s)

- 2.1 Committee is asked to agree the changes to the Accident and Incident Policy and refer to Executive for approval.

3. Background

- 3.1 The Accident and Incident Policy has been adapted to include a revised Accident Incident reporting form. The new form provides for a more robust investigation process which should help identify causes and related actions to help reduce the risk of future accidents occurring.
- 3.2 Additionally with the move towards mobile and flexible working, the new policy minimises the use of paperwork, with documentation being sent and recorded electronically.
- 3.3 Additional information and guidance has also been provided on the process of reporting and investigating accidents or incidents.

4. Considerations

- 4.1 More robust investigation of accidents and incidents is required, which supports defending Employee and Public Liability claims. The reporting form has been extended to include investigation and helps guide managers through this process.

5. Consultation

- 5.1 A pilot of the new form was carried out at an early stage which involved key Services, with the aim of improving the structure of the form and guidance provided on the investigation process.
- 5.2 Services and Trade unions have been consulted on the Policy, with comments considered and incorporated where appropriate.

6. Implications

Financial

- 6.1 There are no financial implications.

Resources

- 6.2 Additional software at a limited cost will be required to process the electronic forms within the Health, Safety & Care team.

Legal

- 6.3 There are no legal implications arising from the revised Policy.

Risk

- 6.4 The risk of future accidents may be reduced and more robust information may be available to defend any claims received.

Equalities

- 6.5 There is no adverse impact on any protected characteristics.

Sustainability/Environmental Impact

- 6.6 The revised policy adopts an electronic process, reducing paper and physical storage.

7. Conclusions

- 7.1 The amended policy includes a more robust recording and investigation process and improves efficiency by moving to an electronic process.

Chief Executive/Director of Service

**Author – Rob Edward, Senior Health, Safety & Care Adviser 01324 506245,
rob.edward@falkirk.gov.uk**

Date: 03/10/2016

Appendices

Accident and Incident Reporting Policy

List of Background Papers:

None

FALKIRK COUNCIL

ACCIDENT / INCIDENT REPORTING POLICY



October 2016

INDEX

PART 1	POLICY STATEMENT	PAGE NUMBER
	1.1 Policy Statement	3
	1.2 Definition	3
PART 2	POLICY	
	2.1 Introduction	3
	2.2 Scope	4
	2.3 Reporting of Incidents	4
PART 3	IMPLEMENTATON	
	3.1 Responsibilities	4
	3.2 Monitoring & Review	5
Appendices		
	1 HR14(4) Accident/ incident Reporting Form	9
	2 Guidance	15

PART 1

1.1 POLICY STATEMENT

Falkirk Council aims to provide a safe and healthy working environment for all employees and service users.

The Council accepts that our employees should have a safe working environment whilst at work and will take all reasonably practicable steps to minimise accidents/incidents at work. The Council is committed to accident/incident reporting and investigation to assist in this process.

This Accident/Incident Reporting Policy complies with the requirements of Health & Safety Regulations as defined in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)..

1.2 DEFINITION

For the purpose of this policy an accident or incident is:

“Any event(s) or activity(s), arising at work which has resulted in, or had a potential to cause, personal injury or damage to property, plant or equipment”.

This will include any acts of violence to employees as described within the Violence at Work Policy and harassment of an employee by a third party as defined by the Dignity at Work Policy. It is a requirement that all such accidents or incidents are reported by the employee to their manager on the day of the accident, where practicable.

PART 2

2.1 INTRODUCTION

Falkirk Council is committed to the health and safety of employees and will take all reasonable steps to ensure that the work environment is safe.

The Council will ensure that working practices are designed to ensure that any risks are minimised. Any potential risks will be subject to Risk Assessments and these will be regularly reviewed. It is accepted, however, that accidents/incidents may occur as a result of a wide range of potential human errors.

2.2 SCOPE

This policy encompasses all employees of Falkirk Council and complements the Violence at Work Policy, the Risk Management by Risk Assessment Policy and Dignity at Work Policy

2.3 REPORTING & INVESTIGATING ACCIDENTS/INCIDENTS

The Council aims to ensure that all accidents/incidents involving employees, clients and service users that arise from our activities are reported and investigated. This will include vehicle accidents and near miss incidents in which no person was injured but where a dangerous situation was identified. All accidents/incidents will be investigated to establish what lessons can be learned to reduce the risk and/or prevent such accidents/incidents re-occurring in the future.

2.3.1 Initial Reporting

Accidents must be reported by the injured party, immediately to the line manager/most senior person on the site of the accident.

The manager must firstly establish if the injured party is still at the scene of the accident and if the scene of the accident is safe to approach. If it is not safe to approach the injured party or the area, the manager must take steps to make the area safe and ensure appropriate First Aid is made available as required.

If the accident is very serious e.g. multiple injured persons or life changing injuries, the line manager must ensure that the scene of the accident/incident is untouched. The manager must contact the Health, Safety & Care Team who will determine if the accident/incident requires to be notified to the HSE which may, in turn, require an HSE investigation of the site of the accident. In such circumstances the scene may require to be cordoned off pending more detailed investigations by the Health, Safety & Care Team, the HSE or the Police.

2.3.2 HR14 (4) Form

The Accident/Incident Reporting form HR14 (4), should be used to report all accidents/incidents involving employees, pupils, residents, service users, members of the public and contractors, whilst on Council premises.

The HR14 (4) is attached as Appendix 1 and can also be accessed from Inside Falkirk:

[http://inside.falkirk.gov.uk/employee/forms/docs/health_safety_care/Accident%20and%20Incident%20reporting%20form%20-%20HR14%20\(V4\).doc?v=201602041047](http://inside.falkirk.gov.uk/employee/forms/docs/health_safety_care/Accident%20and%20Incident%20reporting%20form%20-%20HR14%20(V4).doc?v=201602041047)

Guidance on completion of the form is provided at Appendix 2.

http://inside.falkirk.gov.uk/employee/forms/docs/health_safety_care/Accident%20and%20Incident%20reporting%20form%20guidance%20for%20Line%20or%20Unit%20Managers.pdf?v=201602031436

The form can be completed by hand or completed electronically. Additional documents may be added to the HR14 report together with relevant photographs. Once complete, the original copy(s) should be electronically sent to the Health, Safety and Care Team (health.safety@falkirk.gov.uk). The manager should retain the original form and additional information for 12 months, except where there is an injury sustained by the injured party, then it should be held for 24 months.

Accidents/ Incidents to non-employees that occur in our Premises, on our grounds or as a direct result of Falkirk Council activities should be subject to the full reporting/investigation procedures.

The HR 14(4) form allows for recording of the names etc. of non employees. The most senior employee at the scene of the accident/incident must ensure that this is reported to the relevant management team for further investigation.

If there is to be a delay in the completion of the accident/ incident form, an interim report should be sent so the Health, Safety & Care Team with an e-mail message identifying the reason for the delay.

2.3.3 Investigation

The investigation of the accident/ incident must occur as soon as possible after the notification, Dependant to the seriousness of the situation, photographs and further details of the scene should be taken to ensure sufficient detailed description and evidence is available.

Where the accident/incident is serious, or could have been more serious, a more detailed investigation must be considered. The line manager should consult with their Manager or the Council Health, Safety & Care Team to determine the extent of the investigation that may be required.

The purpose of the investigation is to identify the root causes of accidents/incidents;

- Identify if accidents/incidents are reportable to the HSE;
- Investigate ways to reduce future accidents/incidents;
- Review the relevant Risk Assessments with a view to making them more robust;
- Identify the costs of accidents/incidents.

Where appropriate, Section 4 (a) of the accident/incident report form should be completed when the injured person has any time off work or attends hospital for treatment as a result of this workplace accident/ incident. If there were no injuries, however the accident has had serious consequences, then the investigation must still be conducted. The questions may not cover all areas, so there may be additional investigation notes and outcomes added to the report as required

Guidance on the investigation of accident/ incidents are available at Appendix 2 and on the intranet site;

http://inside.falkirk.gov.uk/employee/forms/docs/health_safety_care/Accident%20and%20Incident%20reporting%20form%20guidance%20for%20Line%20or%20Unit%20Managers.pdf?v=201602031436

2.3.4 RIDDOR

There is a legal requirement under the Reporting Accidents and Incidents at Work Regulations 2013, to notify the HSE of specific accidents arising from a work activity. These are as follows:

- a fracture, other than to fingers, thumbs and toes;
- amputation of an arm, hand, finger, thumb, leg, foot or toe;
- permanent loss of sight or reduction of sight;
- crush injuries leading to internal organ damage;
- serious burns (covering more than 10% of the body, or damaging the eyes,
- scalpings (separation of skin from the head) which require hospital treatment;
- unconsciousness caused by head injury or asphyxia;

- ***Over-seven-day injuries to workers***, This is where an employee, or self-employed person, is away from work or unable to perform their normal work duties for more than seven consecutive days (not counting the day of the accident).
- Fatalities,

Fatalities must be reported to the relevant Service Management Team and to the Health, Safety & Care team immediately.

The requirement to report these accidents / incidents to the HSE as RIDDOR reports apply with different thresh-holds for reporting, these are;

- non-fatal accidents requiring hospital treatment;
- accidents resulting in the death of any person.

It should be noted that if the visit to the hospital is for treatment and no treatment is given, it does require to be reported. Additionally injuries received as a result of sports activities are not reportable.

There are also a range of Occupational Health diseases that may affect employees that are reportable to the HSE, these include:

- Noise induced deafness;
- Hand Arm Vibration Syndrome;
- Repetitive Strain injury;
- Carpal Tunnel Syndrome;
- Occupational Dermatitis;
- Occupational Asthma.

These diseases may be identified by the employees GP however all cases should be referred to Occupational Health who will provide advice to the Health, Safety and Care Team who will carry out an initial investigation before reporting to the HSE.

Persons not at work who receive an injury as a result of a work related accident will require to be reported where a injured party is taken directly from your place of work to hospital for medical treatment.

PART 3

3.1 RESPONSIBILITIES

3.1.1 The Chief Executive and Directors

The Chief Executive and Directors of the Council are responsible for the effective operation of the policy across the Council as a whole and for ensuring that the relevant procedures are implemented within Services. They are also responsible for ensuring that adequate resources are made available to implement appropriate protective measures, where these have been identified as required as a result of risk assessment or accident/incident investigation.

3.1.2 Chief officers and Headteachers

Chief Officers and Head Teachers are responsible, so far as is reasonably practicable, for ensuring the health, safety and care at work of all employees and others in their respective services and must ensure:

- The development, implementation and regular review of accident/incident reporting procedures and ensure that all investigations into these reports are appropriate to the risks;
- That where more serious accidents/incidents are reported the investigation is led by an appropriate manager and is supported by others if required e.g. Health & Safety Advisers/Officer;
- That all relevant accidents/incidents are reported timeously to the HSE and to the Health, Safety & Care team;
- The operation and management of effective follow up procedures resulting from any investigation are implemented;
- The adequate support including debriefing is provided to employees in the event of a serious accident occurring;
- That all relevant employees are aware of appropriate risk assessments and related procedures.

3.1.3 Service Managers

All managers who have operational responsibility for employees and for implementing systems and procedures of work will be specifically responsible for ensuring that:

- The policy is effectively implemented and monitored;
- Adequate investigation, debriefing and support is put in place where required to support those who may have been involved in an accident/incident
- Safe systems of work, risk assessments and procedures relating to accidents/incidents at work are implemented and all working procedures and practices are properly documented and adhered to;
- All relevant accident reports are reported timeously to the HSE and the Health, Safety and Care Team.

3.1.4 Line Managers, Team Leaders, Supervisors

All Supervisory staff will:

- Ensure all employees are aware of the procedures to be followed and encourage employees to report all accidents/incidents at work as soon as possible and ensuring that these are recorded on the HR14 (4) form.
- Where an employee reports that they are off sick as a result of an accident at work ensure that the reason for any injury is recorded and an HR14 (4) is completed;
- Identify and report relevant accidents under RIDDOR to the HSE and Health, Safety & Care Team within the appropriate timescales;
- Ensure that Trade Unions are informed of accidents in the areas of representation;
- Undertake a detailed investigation of any accident/incidents and take appropriate action to prevent recurrence;
- Ensure, where appropriate, debriefing and support to employees in the event of a traumatic accident/incident occurring;
- Ensure copies of the relevant paperwork and HR14 (4) forms are sent to the Health, Safety & Care Team.
- If there is to be a delay in the completion of the accident form, provide an interim report to the Health, Safety and Care Team with the e-mail message identifying the reason for the delay and if the accident is suspected to be a RIDDOR accident.
- In serious cases, report the accident immediately to the Health, Safety & Care team by telephone. The relevant Chief Officer within the Service must also be notified.
- Ensure risk assessments are in place and employees are aware of risks and safe systems of work

3.1.5 Employees

Employees are responsible for reporting all accidents/incidents to their line manager immediately, or as soon as practicable following the accident/incident. They will give a full and accurate account of details leading to the accident/incident and of the accident/incident itself.

The employee will co-operate with the Line Manager's investigation into any accident/incident including provision of written witness testimony where appropriate.

3.1.6 Human Resources & Business Transformation

The Human Resources & Business Transformation Division of Corporate and Housing Services will provide advice, guidance and support to managers and employees in respect of accidents/incidents at work via the Health, Safety and Care team

3.2 MONITORING AND REVIEW

The Head of Human Resources & Business Transformation will review this policy as per the agreed Human Resources Policy Review Timetable in conjunction with Service Directors and Trade Unions taking into consideration legislative amendments and best practice advice.

This Policy has been Equality Impact Assessed and no adverse impact has been identified.

FALKIRK COUNCIL ACCIDENT / INCIDENT/ VIOLENCE REPORT FORM

Section 1: Personal Details (of person involved in Accident/Incident/Violence)	
Name:	D.o.B.
Employee <input type="checkbox"/>	Non Employee <input type="checkbox"/>
Employee no: Work telephone no:	Pupil <input type="checkbox"/> Resident <input type="checkbox"/> Service user <input type="checkbox"/> Member of public <input type="checkbox"/> Contractor <input type="checkbox"/>
Job title:	Home address (to include post code)
Place of work:	Home telephone no:

Section 2: Details of Accident/ Incident /Violence			
When did Accident/ Incident occur:	Time:	Date:	
What Type of Accident /Incident:	Accident <input type="checkbox"/> Dangerous Occurrence <input type="checkbox"/> Violence <input type="checkbox"/> Near Miss <input type="checkbox"/>		
Violence Incident, what category best describes the type of Violence;			
Physical : Assault <input type="checkbox"/>	Physical : Posturing <input type="checkbox"/>	Verbal <input type="checkbox"/>	Harassment (Type).....
Name of Perpetrator:		Any other information available on perpetrator:	
Where did the accident /Incident occur?	Location:		
Details of the accident /Incident:			

Section 3: Details of injury where applicable			
Description of the injury/ impact on the individual:			
Details of First Aid provided			
Signature of Injured Party: Where possible.		Date :	
Supervisor/ Manager	Name:	Signature :	Date :
Job title:			

Section 4 Accident Investigation:	
Section 4 (a) Investigation Checklist: This Section 4 (a) to be completed when injured person has any time off work or attends Hospital for treatment as a result of this workplace accident. If there were no injuries, however the accident has had serious consequences e.g. damage to scaffolding, then the investigation must be conducted. Where no time has been lost nor has employee visited hospital go to Section 4(b).	
LOCATION OF ACCIDENT/INCIDENT	
Mandatory fields:	
Was the accident/incident caused by defects in the premises? Yes <input type="checkbox"/> No <input type="checkbox"/>	Have the defects been reported? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, when?
Have regular health and safety inspections been carried out? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, are records of these inspections available? Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the Injured person working at height? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, what safety precautions have been put in place to prevent falls of persons, equipment and material?
RISK ASSESSMENT/TASK	
Mandatory fields:	
Was a risk assessment available for the activity involved in the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	Is the risk assessment available and up to date for the activity being carried out during the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>
Were all control measures required by the risk assessment in place at the time of the accident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If not please give details of discrepancies and reasons for the non-compliances.
Is there a procedure for the activity being carried out? Yes <input type="checkbox"/> No <input type="checkbox"/>	Was the correct procedure followed? Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the injured person trained to carry out the task? Yes <input type="checkbox"/> No <input type="checkbox"/>	Was the task simple or repetitive?
Was training required for the task Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, what training was given and what records are available.
MANUAL HANDLING	
To be completed for Manual Handling activities only:	
If manual handling was a contributory factor to the accident was this identified in the risk assessment? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, had the injured person received manual handling training? Yes <input type="checkbox"/> No <input type="checkbox"/> Are records available? Provide details.
Were manual handling/lifting aids available? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, were they used? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, give reasons why.
HAZARDOUS SUBSTANCES	
To be completed where hazardous chemicals involved in activities only:	
Were hazardous substances involved in the accident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details of the substance(s) involved.
Has a COSHH assessment been carried out? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, was the injured person made aware of the control measures required? Yes <input type="checkbox"/> No <input type="checkbox"/>
PERSONAL PROTECTIVE EQUIPMENT (PPE)	
To be completed where PPE required only:	
Was the person who was involved in the accident issued with and wearing the correct PPE as identified in the risk assessment? Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, had the person involved in the accident been instructed in what PPE was required for the task and how it should be used. Yes <input type="checkbox"/> No <input type="checkbox"/>

Was the PPE defective in any way? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details.
Has Respiratory Protective Equipment been identified as a control measure? Yes <input type="checkbox"/> No <input type="checkbox"/>	Has a face fit test been carried out for the injured person? Yes <input type="checkbox"/> No <input type="checkbox"/> Are records available? Yes <input type="checkbox"/> No <input type="checkbox"/>
MACHINERY/EQUIPMENT	
To be completed where accidents involves machinery or equipment only:	
Was machinery/equipment a contributing factor to the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details of machinery involved in the accident/incident.
Has the machinery/equipment been maintained? Yes <input type="checkbox"/> No <input type="checkbox"/>	Are records of maintenance available? Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the machinery/equipment defective i.e. any electrical problems or missing guards at the time of the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details.
Do employees carry out pre-use checks on the machinery/equipment? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes are there records of pre-use checks? Yes <input type="checkbox"/> No <input type="checkbox"/>
Are statutory insurance inspections required for the machinery/equipment? Yes <input type="checkbox"/> No <input type="checkbox"/>	Are the required records and certificates for the machinery/equipment? Yes <input type="checkbox"/> No <input type="checkbox"/>
Attached documentation	
Any other issues Identified during Investigation:	
Are there photographs, pictures, diagrams and measurements of the site and machinery involved in the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	Attached to form. Yes <input type="checkbox"/> No <input type="checkbox"/>

Section 4 (b): Action Taken To Prevent Recurrence of Accident/ Incident			
Mandatory field:			
General actions:			
Action Plan			
Action to be taken	By Whom	Date to be completed	Date completed
Supervisor/ Manager	Name:	Signature :	Date :
Job title:			

Section 5 – Absence Details As A Result Of Accident/Incident to Employee

Was time taken off work? YES ☐ NO ☐ If No; Report is complete.

Was absence greater than 3 days? YES ☐ NO ☐ If less than 7: Report is complete.

Was absence greater than 7 days? YES ☐ NO ☐ If Yes then go to Section 6.

N.B. * If absence lasts for more than 7 days (not counting the day of the accident), the Line Manager MUST notify the HSE within 15 days. (See details below on how to report to HSE)

Section 6 - Report to Health and Safety Executive (HSE)

Reporting of Injuries, Diseases & Dangerous Occurrence Regulations (RIDDOR)

Section 6a: Main categories of RIDDOR reports.

Employee RIDDOR accidents:

- ☐ Fatality/serious incident; In case of a fatality contact Health Safety & Care Team and your Director Immediately
- ☐ A fracture, other than to fingers, thumbs and toes;
- ☐ Amputation of an arm, hand, finger, thumb, leg, foot or toe;
- ☐ Unconsciousness caused by head injury or asphyxia;
- ☐ An employee is absent from work or is unable to perform their normal work for more than 7 consecutive days, not including the day of the accident, days that the employee would not normally work i.e. rest days or weekends are to be counted;

Non-employee RIDDOR accidents:

Resulted in non-employee being taken to hospital from scene of accident for treatment as a result of

- ☐ Injured as a result of Council Activities;
- ☐ Injured as a result of faulty equipment/premises. (See Accident/Incident Reporting Policy section 3.2)

Section 6b: REPORTING TO THE HSE

- All of the above should be reported within 10 days on line to HSE.
- Where an absence is over 7 days as a result of an accident it must be reported to the HSE within 15 days.

REPORT VIA: INTERNET: <http://www.hse.gov.uk/riddor/report.htm> ☐ Printed form to be attached to accident/Incident form HR14(4)

DATE REPORTED TO H.S.E:

Name of Person reporting accident to HSE:

Date:

*Note: Copy of the report form the H.S.E. to be attached to this accident/incident reporting form for recording purposes.

Section 7- Witness Statement(s)

Witness Report of Accident/Incident

Page of

N.B. If more than one witness statement, please photocopy this page and attach it to the form.

Did you witness the actual accident/incident taking place?

YES ☐

NO

Did you attend the scene after the accident/incident took place?

YES ☐

☐

Are you a council employee

YES ☐

NO

☐

NO

☐

NAME OF WITNESS

Address/ or place of work

Telephone number:

WITNESS STATEMENT:

Witness:

Printed Name: Signed Date

Job description:.....

Employee number:

Falkirk Council will process information recorded on this form, including personal data, for recording and monitoring purposes in relation to our Health & Safety Policy and Procedures and, where necessary, for the purpose of pursuing or defending claims. In order to comply with Health & Safety legislation and information legislation (including the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002), Falkirk Council may have to disclose details of this accident/incident to other parties.

Health, Safety & Care: Official Use Only			
Change Authorisation sheet for HR14 form: HR14 (3) Modified text for R/L input in defined fields.			
External No: ResourceLink No: DATE:		Employee: Resident: Service User: Pupil:	
Section 3 of Accident Report			
Sect 3a - Description of Acc/Inc		RL Section: Details	
Type:	Code:	Kind:	Code:
Insert <u>brief description</u> of information given at Sect 3a.			
Description of Injury		RL Section: Details Con't.	
Cause:	Code:	Status:	Code:
RIDDOR	YES NO	RIDDOR DATE:	
Insert information given as a <u>longer description</u> of injury Section 3a.			
Section 4, Managers Investigation.			
Immediate Action Taken to prevent recurrence of Acc/Inc		RL Section: Notes:	
Insert any information given			
Proposed Further Action to prevent recurrence of Acc/Inc.		RL Section: <u>Notes Con't</u>	
Insert any/action taken by Manager.			
Section 8: Witness Statement			
Input any names given at this section.			
Any other Comments:			

Accident Incident Report Form: Guidance on Completion of the HR14(4)

Introduction

The HR14 should be used to record accidents involving employees, pupils, residents, clients, service users and members of the public.

The HR14 (4) can be copied from Underground/ Health Safety & Care page. The form can then be completed by hand or completed as a Word document. Once completed the original copy should be scanned and sent to the Health, Safety and Care Team health.safety@falkirk.gov.uk The original shall be kept by the manager.

If there is to be a delay in the completion of the accident form, an interim report should be sent so the Health, Safety & Care Team with the e-mail message identifying the reason for the delay.

The HR (4) comprises of 7 sections:

- Section 1 – Personal Details
- Section 2 – Details of Accident/Incident/Violence
- Section 3 – Details of Injury
- Section 4 – Accident Investigation
- Section 5 – Absence Details
- Section 6 – Report to HSE
- Section 7 – Witness Statement(s)

Initial Reporting

As soon as possible after an accident/incident, this must be reported by telephone to the most senior person on the site of the accident. Initial details of the accident must be established as soon as possible, and recorded on the HR14 (4) form .

The manager or the person investigating the accident must establish if the injured party is still at the scene of the accident and if the scene of the accident is safe to approach. If it is not safe to approach the injured party, the manager must take steps to make the scene safe. This may include:

- isolation of electrical source;
- contact emergency services;
- removal of overhead material if it is safe to do so.

The manager should also establish if a First Aider or Ambulance Service is required.

If the accident is very serious, the line managers must ensure that the scene of the accident/incident is untouched. The manager must contact the Council Health, Safety & Care Team who will determine if the accident/incident requires to be notified to the HSE which may, in turn, require an HSE investigation of the site of the accident. In such circumstances the scene may require to be cordoned off pending more detailed investigations by the Corporate Health, Safety & Care team, the HSE or the Police.

Section 1: Personal Details

The line manager should complete the personal details of the person involved in the accident. Where the accident involves a non-employee then the senior person on site (or a nominated responsible person) should complete the personal details.

Section 1: Name of Person involved in Accident/ Incident / Violence	
Name:	D.o.B.
Employee <input type="checkbox"/>	Non Employee <input type="checkbox"/>
Employee no:	Pupil <input type="checkbox"/> Resident <input type="checkbox"/> Service user <input type="checkbox"/>
Work telephone no:	Member of public <input type="checkbox"/> Contractor <input type="checkbox"/>
Job title:	Home address (to include post code)
Place of work:	Home telephone no:

Step 1 Enter full name of person involved
D.o.B of person involved

Step 2
Employee – Check box
Enter - employee number ,works telephone no, Job title and place of work

Non Employee – Check box, select appropriate category.
Enter – Home address and Home telephone no.

Section 2 – Details of Accident/Incident/Violence

Section 2: Details of Accident/ Incident /Violence	
When did Accident / Incident occur:	Time: Date:
What Type of Accident / Incident:	Accident <input type="checkbox"/> Dangerous Occurrence <input type="checkbox"/> Violence <input type="checkbox"/> Near Miss <input type="checkbox"/>
Violence Incident, what category best describes the type of Violence;	
Physical : Assault <input type="checkbox"/> Physical : Posturing <input type="checkbox"/> Verbal <input type="checkbox"/> Harassment (Type).....	
Name of Perpetrator:	Any other information available on perpetrator:
Where did the accident / Incident occur?	Location:
Details of the accident / Incident:	

Step 1
When did Accident occur?
Insert – Time and Date

Step 2
Select type of incident

Step 3
If violence select the type of violence

Step 4
Details of Perpetrator, additional info i.e. pupil, service user, parent etc

Step 5
Give details of location accident.

Step 6
Give details of the accident.

Section 3 – Details of Injury

Section 3: Details of injury where applicable	
Description of the injury/ impact on the individual:	
Details of First Aid provided	
Signature of Injured Party:	Date :
Where possible. Supervisor/ Manager	Name: Signature : Date :
Job title:	

Step 1
Give details of injuries received as a result of the accident

Step 2
Give details of first aid given and by whom.

Step 3
Injured person to sign and date if possible

Step 4
Supervisor/Manager to sign and date

Section 4 – Accident Investigation

The purpose of the investigation is to establish basic facts. As explained above and if possible do not alter the scene of the accident if the incident involves a:

- serious injury;
- unsafe equipment.

Where an investigation is required: (when injured person has any time off work or attends hospital for treatment as a result of this workplace accident) an investigation should be conducted. If there are no injuries, however the accident has had serious consequences, then the investigation must be conducted. Guidance can be given by the Health, Safety & Care team if necessary on ext 6245 to agree appropriate action to be taken. The investigation should be carried out as soon as possible after the accident is reported. The purpose of an accident investigation is to find the root cause of the accident, and to take measures to prevent a reoccurrence of such an accident. The questions contained within the investigation section should help determine the main cause of most accidents; however they may not always provide sufficient information to understand the reasons for all accidents. Further questions should be considered by the manager where necessary to ensure a thorough and robust investigation is carried out.

The investigation will require managers to examine procedures currently in use, assess existing risk assessment(s) along with employee training records. The conclusion of the investigation shall be recorded in the accident form. Consideration should be given to copying all documentation examined in the investigation and keeping this on file in case any future claim arises.

The following should however be considered:

- Photographs: depending on the seriousness of the incident, photographs of the scene should be taken to provide evidence of findings;
- Witnesses: identify if there were any witnesses and ensure they record their recollection of events as soon as possible after the accident. This should be done immediately after your arrival at the scene if possible. Section 7 of the HR14(4) has a copy of a Witness Statement Report form that should be completed by each witness;
- Complete the form with the basic facts along with any detailed information that may be required from a more detailed investigation;
- The accident should be notified to the Health, Safety and Care Team as soon as possible after the accident. In some circumstances, the Health, Safety & Care Team may request an initial copy of the draft form.
- The manager should also ensure that the incident is reported to a relevant Senior Manager within their Service.

If you have any problems in the investigation stage of the accident, then contact the Health, Safety & Care Team who will provide assistance in your investigation.

Step 1

Determine if the accident has required the injured person to have any time off work or attend hospital for treatment. If so the Accident Investigation checklist Section 4 (a) must be completed. If there were no injuries, however the accident has serious consequences, then the investigation must be conducted. If no time has been lost nor has the employee visited hospital then go to Section 4 (b).


Section 4 Accident Investigation	
Section 4 (a) Investigation Checklist: This Section 4 (a) to be completed when injured person has any time off work or attends Hospital for treatment as a result of this workplace accident. If there were no injuries, however the accident has had serious consequences, then the investigation must be conducted. Where no time has been lost nor has employee visited hospital go to Section 4(b).	
LOCATION OF ACCIDENT/INCIDENT	
Mandatory fields	
Was the accident/incident caused by defects in the premises? Yes <input type="checkbox"/> No <input type="checkbox"/>	Have the defects been reported? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, when?
Have regular health and safety inspections been carried out? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, are records of these inspections available? Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the Injured person working at height? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, what safety precautions have been put in place to prevent falls of persons, equipment and material?
RISK ASSESSMENT/TASK	
Mandatory fields:	
Was a risk assessment available for the activity involved in the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	Is the risk assessment available and up to date for the activity being carried out during the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>
Were all control measures required by the risk assessment in place at the time of the accident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If not please give details of discrepancies and reasons for the non-compliances.
Is there a procedure for the activity being carried out? Yes <input type="checkbox"/> No <input type="checkbox"/>	Was the correct procedure followed? Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the injured person trained to carry out the task? Yes <input type="checkbox"/> No <input type="checkbox"/>	Was the task simple or repetitive?
Was training required for the task Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, what training was given and what records are available.

Step 2

The Investigation Checklist comprises of 7 sections which must be completed

MANUAL HANDLING To be completed for Manual Handling activities:	
If manual handling was a contributory factor to the accident was this identified in the risk assessment? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, had the injured person received manual handling training? Yes <input type="checkbox"/> No <input type="checkbox"/> Are records available? Provide details.
Were manual handling/lifting aids available? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, were they used? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, give reasons why.
HAZARDOUS SUBSTANCES Hazardous chemicals involved in activities only:	
Were hazardous substances involved in the accident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details of the substance(s) involved.
Has a COSHH assessment been carried out? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, was the injured person made aware of the control measures required? Yes <input type="checkbox"/> No <input type="checkbox"/>
PERSONAL PROTECTIVE EQUIPMENT (PPE) PPE required to be worn in activities only:	
Was the person who was involved in the accident issued with and wearing the correct PPE as identified in the risk assessment? Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, had the person involved in the accident been instructed in what PPE was required for the task and how it should be used. Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the PPE defective in any way? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details.
Has Respiratory Protective Equipment been identified as a control measure? Yes <input type="checkbox"/> No <input type="checkbox"/>	Has a face fit test been carried out for the injured person? Yes <input type="checkbox"/> No <input type="checkbox"/> Are records available? Yes <input type="checkbox"/> No <input type="checkbox"/>

Step 2 Cont'd

MACHINERY/EQUIPMENT Accidents involving Machinery or Equipment only:	
Was machinery/equipment a contributing factor to the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details of machinery involved in the accident/incident.
Has the machinery/equipment been maintained? Yes <input type="checkbox"/> No <input type="checkbox"/>	Are records of maintenance available? Yes <input type="checkbox"/> No <input type="checkbox"/>
Was the machinery/equipment defective i.e. any electrical problems or missing guards at the time of the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, give details.
Do employees carry out pre-use checks on the machinery/equipment? Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes are there records of pre-use checks? Yes <input type="checkbox"/> No <input type="checkbox"/>
Are statutory insurance inspections required for the machinery/equipment? Yes <input type="checkbox"/> No <input type="checkbox"/>	Are the required records and certificates for the machinery/equipment? Yes <input type="checkbox"/> No <input type="checkbox"/>
Attached documentation	
Any other issues Identified during Investigation: 	
Are there photographs, pictures, diagrams and measurements of the site and machinery involved in the accident/incident? Yes <input type="checkbox"/> No <input type="checkbox"/>	Attached to form. Yes <input type="checkbox"/> No <input type="checkbox"/>

Step 3

Record any issues identified that may be relevant to the investigation not covered by the checklist should be listed. Copies of any relevant documentation should be attached as they may be required at a later date.

Section 4 (b): Action Taken To Prevent Recurrence of Accident/ Incident			
Mandatory field:			
General actions:			
Action Plan			
Action to be taken	By Whom	Date to be completed	Date completed
Supervisor/ Manager	Name:	Signature :	Date :
Job title:			

Step 1
 Give details of any action to be taken to prevent a reoccurrence.

Step 2
 Ensure action plan is developed and completed actions updated.

Step 3
 Manager to sign and date action plan.

Section 5 – Absence Details

Section 5 – Absence Details As A Result Of Accident/Incident to Employee	
Was time taken off work?	YES <input type="checkbox"/> NO <input type="checkbox"/> If No, Report is complete.
Was more than 3 days taken off?	YES <input type="checkbox"/> NO <input type="checkbox"/> If less than 7: Report is complete.
Was more than 7 days taken off?	YES <input type="checkbox"/> NO <input type="checkbox"/> If Yes then go to Section 6.
N.B. * If absence lasts for more than 7 days (not counting the day of the accident), the Line Manager MUST notify the HSE within 15 days. (See details below on how to report to HSE)	

Step 1
 Indicate if lost time due to Accident
 Indicate category of time lost. If over 7 days complete Section 6

Section 6 – Report to HSE

Section 6 - Report to Health and Safety Executive (HSE)	
Reporting of Injuries, Diseases & Dangerous Occurrence Regulations (RIDDOR)	
Section 6a: Main categories of RIDDOR reports.	
Employee RIDDOR accidents:	
<input type="checkbox"/> Fatality/serious incident; In case of a fatality contact Health Safety & Care Team and your Director Immediately <input type="checkbox"/> A fracture, other than to fingers, thumbs and toes; <input type="checkbox"/> Amputation of an arm, hand, finger, thumb, leg, foot or toe; <input type="checkbox"/> Unconsciousness caused by head injury or asphyxia; <input type="checkbox"/> An employee is absent from work or is unable to perform their normal work for more than 7 consecutive days, not including the day of the accident, days that the employee would not normally work i.e. rest days or weekends are to be counted;	
Non-employee RIDDOR accidents:	
Resulted in non-employee being taken to hospital from scene of accident for treatment as a result of <input type="checkbox"/> Injured as a result of Council Activities; <input type="checkbox"/> Injured as a result of faulty equipment/premises. (See Accident/Incident Reporting Policy section 3.2)	
Section 6b: REPORTING TO THE HSE	
➤ All of the above should be reported within 10 days on line to HSE. ➤ Where an absence is over 7 days as a result of an accident it must be reported to the HSE within 15 days.	
REPORT VIA: INTERNET: http://www.hse.gov.uk/riddor/report.htm <input type="checkbox"/> Printed form to be attached to accident/Incident form HR14(4)	
DATE REPORTED TO H.S.E.:	
Name of Person reporting accident to HSE:	Date:
*Note: Copy of the report form the H.S.E. to be attached to this accident/incident reporting form for recording purposes.	

Step 1
 Indicate the category of accident

Step 2
 Indicate the category for Non-employee

Step 3
 Ensure that accident is reported via the internet to HSE and attach printed form to the HR14. (If Record date reported, person reporting and date.

Section 7 – Witness Statement(s)

Section 7- Witness Statement(s) Witness Report of Accident/Incident

Page of

N.B. If more than one witness statement, please photocopy this page and attach it to the form.

Did you witness the actual accident/incident taking place?
Did you attend the scene after the accident/incident took place?
Are you a council employee

YES ☐ NO ☐
YES ☐ NO ☐
YES ☐ NO ☐

NAME OF WITNESS

Address/ or place of work

Telephone number:

WITNESS STATEMENT:

Step 1

All witnesses should check the relevant box. Complete their – Name, Address/place of work and telephone number.

Step 2

Witness should give details of what they saw. Witness to Sign, Date, enter Job description and employee number.

Witness:

Printed Name: Signed Date

Job description:.....

Employee number:

Falkirk Council will process this data for recording and monitoring purposes in relation to our Health & Safety Policy and Procedures. In order to comply with Health & Safety Legislation, Falkirk Council may have to disclose details of this accident/incident to other parties.

Title: Family Leave Policy
Meeting: Joint Consultative Committee
Date: 9 November 2016
Submitted By: Director of Corporate & Housing Services

1. Purpose of Report

- 1.1 The Family Leave Policy has been revised regularly over the previous years to take account of changing legislation and best practice. The purpose of this report is to advise of the most recent proposed changes.

2. Recommendation(s)

- 2.1 It is recommended that Committee agree the changes to the Family Leave Policy and Family Leave Policy (Teachers and Associated Professionals) and refer it to Executive for approval and immediate implementation.

3. Background

- 3.1 Following a recent landmark court case, HMRC has written to the Childcare Voucher Providers Association (CVPA) to confirm that employers will no longer be required to provide childcare vouchers (CCV) during an employee's maternity or adoption leave. Currently, in line with previous advice Falkirk Council pay for employees' childcare vouchers whilst they are in receipt of statutory maternity and adoption pay (SMP & AMP) and this continues until the employees returns to work. Based on the above new HMRC advice, it is proposed that Falkirk Council will no longer pay for childcare vouchers whilst an employee is on maternity or adoption leave.

4. Considerations

- 4.1 The policy has been amended to take account of HMRC advice.

5. Consultation

- 5.1 Consultation was carried out with Services and Trade Union representatives. Comments were considered and changes made where appropriate.

6. Implications

Financial

- 6.1 The financial implications from the proposal will generate a saving to the Council; the cost varies but is currently c£3150 per month.

Resources

- 6.2 This will reduce administration within Payroll and HR.

Legal

- 6.3 The policy has been changed to take account of recent case law and HMRC advice.

Risk

- 6.4 There are no risks from the proposal.

Equalities

- 6.5 An EPIA was carried out. The EPIA demonstrates that the proposal is robust; there is no potential for discrimination and opportunities to promote equality have been taken.

Sustainability/Environmental Impact

- 6.6 Not applicable.

7. Conclusions

- 7.1 The policy change is in line with HMRC advice and reduces indirect employee related costs. Full consultation has taken place with Services and Trade Unions and no major adverse issues have been identified.

Chief Executive/Director of Service

**Author – Claire Simpson, HR Assistant – 01324 506222,
clairea.simpson@falkirk.gov.uk**

Date: 03/10/2016

APPENDICES

Family Leave Policy
Family Leave Policy (Teachers & Associated Professionals)

List of Background Papers:

The following papers were relied on in the preparation of this report in terms of the Local Government (Scotland) Act 1973:

None



FALKIRK COUNCIL

FAMILY LEAVE POLICY

All Employees except Teachers



AUGUST 2016

CONTENTS

PART

PAGE NUMBER

1		POLICY STATEMENT	5
2		INTRODUCTION	5
	2.1	Introduction	5
	2.2	Scope	5
3		MATERNITY LEAVE	5
	3.1	Maternity Leave	5
	3.1.1	Maternity Leave Entitlement	6
	3.1.2	Health and Safety	6
	3.1.3	Definitions	6
	3.1.4	Ante-Natal Care	7
	3.1.5	Maternity Pay Entitlement	7
	3.1.6	Commencement of Maternity Leave	8
	3.1.7	Notification Procedures – Start of Maternity Leave	8
	3.1.8	Sick Leave and Maternity Leave	9
	3.1.9	Notification of Childbirth	9
	3.1.10	Right to Return to Work	9
	3.1.11	Exercise Right to Return to Work	10
	3.1.12	Failure to Return to Work	10
	3.1.13	Return to Work when employee terminates employment	10
	3.2	ADOPTION LEAVE	11
	3.2.1	Adoption Leave Entitlement	11
	3.2.2	Pre-Adoption Meetings/Training Courses	11
	3.2.3	Adoption Pay Entitlement	12
	3.2.4	Notification Requirements	12
	3.2.5	Termination of Placement	13
	3.2.6	Right to Return to Work	13
	3.2.7	Exercise Right to Return to Work	13
	3.2.8	Failure to return to work	14
	3.3	SURROGACY LEAVE	14
	3.3.1	Surrogacy Leave Entitlement	14
	3.3.2	Surrogacy Pay Entitlement	14
	3.3.3	Notification Procedures – Initial Obligations	15
	3.4	PATERNITY LEAVE	15
	3.4.1	Paternity Leave Entitlement	15
	3.4.2	Payment during Paternity Leave	16
	3.4.3	Notification Requirements	16
	3.4.4	Return to Work	16

	3.5	SHARED PARENTAL LEAVE	17
	3.5.1	What is Shared Parental Leave?	17
	3.5.2	Eligibility for Shared Leave	17

	3.5.2.1	Who is eligible?	17
	3.5.2.2	Eligibility Criteria	17
	3.5.3	Shared Parental Leave Entitlement	18
	3.5.4	Shared Parental Leave Options	18
	3.5.5	Notice Requirements for Shared Parental Leave	19
	3.5.5.1	Curtailment Notice	19
	3.5.5.2	Notice of Entitlement and Intention	19
	3.5.5.3	Booking Notice	20
	3.5.5.4	Variation or Cancellation of a Booking Notice	20
	3.5.6	Limit on number of requests for leave	20
	3.5.7	Continuous Period of shared parental leave	21
	3.5.8	Discontinuous periods of shared parental leave	21
	3.5.9	Shared Parental Pay	21
	3.5.10	Eligibility for Shared Parental Pay	22
	3.5.11	Terms and Conditions during shared parental leave	22
	3.5.12	Shared Parental Leave in Touch Days (SPLIT)	22
	3.6	MATERNITY & ADOPTION SUPPORT LEAVE	23
	3.7	GENERAL INFORMATION – TERMS AND CONDITIONS (RELATING TO MATERNITY, ADOPTION, SURROGACY AND SHARED PARENTAL LEAVE)	23
	3.7.1	Keeping in Touch Days	23
	3.7.2	Reasonable Contact	24
	3.7.3	Annual Leave	24
	3.7.4	Public Holidays	24
	3.7.5	Payment of benefits and allowances	24
	3.7.6	Telephone Allowance	25
	3.7.7	Excess Travel Costs	25
	3.7.8	Pension Scheme	25
	3.7.9	Flexible Benefit Schemes	25
	3.7.10	Childcare Voucher Scheme	25
	3.8	PARENTAL LEAVE	26
	3.8.1	Notification Requirements	27
	3.8.2	Postponement of Leave	27
	3.8.3	Return to Work	27
	3.9	CARER'S AND DEPENDANTS LEAVE	28
	3.9.1	Definitions	28
	3.9.2	Leave Provisions	28
	3.9.3	Roles and Responsibilities	29

	3.10	RIGHT TO APPLY TO WORK FLEXIBLY	29
	3.11	UNPAID LEAVE	30
4		IMPLEMENTATION AND REVIEW	30
	4.1	Implementation and Review	30
		APPENDICES	
	A1	Application for Maternity Leave	31
	A2	Application for Adoption Leave	32
	A3	Application for Surrogacy Leave	33
	A4	Application for Paternity Leave	34
	A5	Application for Maternity/Adoption Support Leave	35
	A6	Curtailment Notice for Shared Parental Leave	36
	A7	Notice of Entitlement and Intention (Shared Leave)	37
	A8	Booking Notice for Shared Parental Leave	38
	A9	Application for Parental Leave	41
	A10	Application Guidance Notes	42

PART 1

1.1 POLICY STATEMENT

Falkirk Council aims to recruit and retain high calibre employees and ensure a commitment to equal opportunities. The Council recognises the need to allow its employees time off in certain circumstances to fulfill family/parental commitments, as well as the need to meet its statutory requirements in this regard. Family Leave provides options for employees to balance work with other personal commitments.

PART 2

2.1 INTRODUCTION

Falkirk Council is committed to helping working parents and employees with caring responsibilities meet their obligations in this respect. This Policy provides information to managers and employees on the options available.

The Policy takes into account provisions which are in place for maternity, adoption, paternity, surrogacy, shared parental, parental and carer's leave.

Teachers have separate arrangements for family leave in accordance with nationally agreed terms and conditions which can be accessed in the Family Leave Policy for Teachers and Associated Professionals.

2.2 SCOPE

Family leave is available to all employees of the Council whether permanent or temporary and irrespective of their work pattern, provided they meet the service requirements for the leave for which they are applying.

The Policy is designed to cover leave in respect of maternity, adoption, paternity, surrogacy, shared parental, parental, maternity support and carer's leave only. Other requests for leave in respect of IVF or Foster Care will be considered under the Council's policies on flexible working or special leave.

All periods of maternity, adoption, paternity, surrogacy, shared parental, parental, maternity support and carer's leave count towards continuous service.

PART 3

3.1 MATERNITY LEAVE

Maternity leave will apply to all pregnant employees regardless of length of service or the number of hours they work. Teachers and other associated professionals, however, have their own specific Policy. This is available in the Employee section of the intranet or they can contact Human Resources for further information.

3.1.1 Maternity Leave Entitlement

Employees, regardless of their length of service, will have an entitlement of up to 52 week's leave.

Payment breakdown during maternity leave will vary depending on length of service. This is outlined in Paragraph 3.1.5.

Maternity leave will commence no earlier than 11 weeks before the Expected Week of Childbirth (EWC) or from the date of childbirth if that is earlier. EWC is defined as "the period of seven days in which the childbirth is expected to take place".

Employees will start their maternity pay on the day their leave begins. An employee is required to take compulsory maternity leave of 2 weeks starting on the day on which childbirth occurs.

3.1.2 Health and Safety

On being advised of an employee's pregnancy, the line manager will make an assessment of any risks which may affect her health and safety in the working environment, following the Council's Risk Assessment procedures.

The assessment will also extend to women who have recently given birth, and to those who are breast-feeding. There is a separate Breastfeeding Policy in place and employees should refer to this for further information. This is available in the Employee section of the intranet.

Where necessary, measures should be taken to avoid risks by adjusting hours, or conditions, or possibly through redeployment. This should always be discussed with the Service HR Adviser in the first instance before raising it with the employee. Any such changes should only be made following full consultation with the employee concerned. Employees should be given the opportunity to have Trade Union or colleague representation at such discussions.

3.1.3 Definitions

- A Week's Pay - The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period is the amount payable by the Council to the employee under the current contract of employment for working their normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.
- Childbirth - "Childbirth" means the live birth of a child, or a stillbirth after a pregnancy lasting at least 24 weeks. In the event of a stillbirth after 24 weeks of pregnancy, an employee is entitled to maternity leave and pay provisions.

3.1.4 Ante-Natal Care

Where possible, ante-natal appointments should be arranged outwith working hours or with minimum disruption to service delivery.

Where this is not possible, a pregnant employee will be allowed reasonable time off with pay to receive ante-natal care including relaxation classes and dental appointments, on production of appropriate evidence of appointments.

Fathers and partners of pregnant women are entitled to time off to attend two ante-natal appointments with the expectant mother. This time off is unpaid and time off on each occasion is a maximum of six and a half hours. The Council is entitled to request proof of the appointment and, if require, evidence of a qualifying partnership which related to:

- The baby's father;
- The expectant mother's spouse, her civil partner, or partner (of either sex) in an enduring relationship;
- Intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of that child.

3.1.5 Maternity Pay Entitlement

Payments made to employees on maternity leave can vary depending on individual circumstances in respect of service and earnings. Payments will normally consist of Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP).

- Employees who have less than 26 weeks' continuous service at the beginning of the 15th week before the EWC are not entitled to payments of SMP or OMP by the Council. They may, however, be entitled to Maternity Allowance (MA). After application for maternity leave, employees within this group will be issued an SMP1 form by Payroll Services which should then be taken to their local Jobcentre or Benefits Agency who can provide further information on the maternity allowance.
- Payment for employees who have completed 26 weeks' continuous service or more at the 15th week before the EWC will be paid as follows:
 - (i) For the first 6 weeks of maternity leave an employee will be entitled to 9/10th of pay during which any entitlement to SMP is offset.
 - (ii) For employees intending to return to work, for each of the subsequent 12 weeks they will be paid 5/10th of a week's pay without deduction except by the extent to which the combined pay and SMP exceeds full pay. For the subsequent 21 weeks the employee will be entitled to SMP only (or 90% of their average weekly earnings if this is less than the current rate of SMP).

Payments made by the Council during maternity leave under (ii) above will be made on the understanding that the employee will return to employment with the Council for a period of at least 3 months. In the event of the employee not doing so, she will be asked to repay the amount of maternity pay paid at 5/10th of normal pay. Payments made to the employee by way of SMP will not be reclaimed.

- (iii) An employee earning less than the current rate of SMP will receive 90% of her average weekly earnings for the entire 39-week pay period.
- (iv) For employees not intending to return to work, payments during the last 33 weeks will be at the current rate of SMP only.

Employees whose average earnings are below the Lower Earnings Limit for National Insurance contributions will not qualify for SMP. Employees in this group may obtain information on additional financial support from the Jobcentre or Benefits Agency

Temporary employees whose contract is due to end after the 15th week prior to their Expected Week of Childbirth may be entitled to statutory maternity pay. However, employees in these circumstances will not have an automatic entitlement to return and will not be entitled to occupational maternity pay unless their fixed term contract runs for 3 months beyond their expected date of return.

Other than for “Keeping in Touch Days”, as described in paragraph 3.7.1 below, when an employee returns to work before the end of the full Maternity Leave period then her entitlement to any balance of maternity leave and maternity pay ceases. The employee will receive her normal salary from the date of her return to work.

3.1.6 Commencement of Maternity Leave

Maternity leave cannot commence earlier than the 11th week before the EWC unless childbirth occurs prior to this date. The latest date is the day before the expected date of delivery.

Maternity leave cannot commence unless the employee has given proper notification of her intentions to take leave, and whether or not she will return to work, in accordance with paragraph 3.1.7. The exception to this is where there is an early birth (see paragraph below).

Maternity leave shall commence on the date agreed between the employee and their manager, which can be any time from the 11th week before the EWC. In cases where maternity leave is triggered by an early birth or pregnancy related sickness during the last 4 weeks of pregnancy, maternity leave will start from the date of birth or the first day of sickness (see paragraph 3.1.8).

3.1.7 Notification Procedures - Start of Maternity Leave

The employee must notify the Council in writing by the 15th week before her EWC, unless this is not reasonably practicable:

- That she is pregnant, indicating her EWC, and
- That she intends to take maternity leave, highlighting the date on which she expects this to begin.

Employees must complete the Application for Maternity Leave (Appendix 1) and also submit a maternity certificate (form MATB1) issued by a midwife or medical practitioner which states the EWC.

An employee may amend her maternity leave start date by giving 28 days’ notice. The Council will respond within 28 days of receipt of the above notification, setting out in writing the date on which the employee is expected to return to work if she takes her full entitlement of maternity leave.

When confirming her maternity leave start date, the employee must also declare in writing whether or not she intends to return to work and that she will return for a period of not less than 3 months. This is also included within the pro-forma (Appendix 1).

3.1.8 Sick Leave and Maternity Leave

Where an employee is absent before the start of the maternity leave period due to “non pregnancy related” sickness, the absence will be treated as sickness absence. This includes absence due to miscarriage (that is, prior to the 24th week of pregnancy).

If, however, an employee is absent from work through a “pregnancy related” sickness after the beginning of the 4th week before the EWC she will be deemed to have commenced maternity leave from that date.

Occupational sick pay cannot be paid from the notified date of commencement of maternity leave until the notified date of return to work or, if no return date is provided, the end of the Additional Maternity Leave (AML) period.

Where an employee is unfit to return to work on completion of maternity leave as a result of sickness, the normal sickness notification and certification apply.

An employee who falls sick after the end of the maternity pay period (i.e. max 39 weeks) may, in certain circumstances, and in accordance with Benefits Agency regulations, be entitled to SSP.

3.1.9 Notification of Childbirth

The employee must notify the Council in writing of the actual date of childbirth as soon as is reasonably practicable and in any event within 4 weeks of the birth.

3.1.10 Right to Return to Work

An employee cannot, in any circumstances, return to work within 2 weeks of childbirth.

An employee has the right to return to the same job, in the same location as she had prior to commencing maternity leave. Any changes to the employee’s job or location must be in accordance with the normal consultation procedures, and not in any way related to maternity absence.

In exceptional circumstances it may not be reasonably practicable for the Council to permit the employee to return to work in her job as defined above (e.g. restructure) and therefore she will be entitled to be offered a suitable alternative vacancy. In accordance with Redeployment Procedures, any post offered will be suitable and appropriate to the circumstances, and the capacity and place of employment and terms and conditions of employment will not be substantially less favourable than if the employee had been able to return to the job in which she was employed prior to her absence. The employee will be consulted as soon as the Council becomes aware of this situation at the same time as any other employees involved in the restructure.

A temporary employee will not have the right to return to work where her contract would have expired during the leave period but will be entitled to all other provisions within the Policy, provided she meets the criteria where these are stated.

3.1.11 Exercise Right to Return to Work

The employee will have been advised of her latest return date prior to going onto maternity and adoption leave. This should include the unpaid Additional Maternity Leave period.

Employee(s) should, however, give 8 weeks' notice of their intention to return if this is before the end of the Additional Maternity Leave period.

If an employee changes her mind about the date she intends to return, for example where she has already notified an early return date and wants to return even earlier, she must give 8 weeks' notice before the new date. If an employee wants to postpone her early return, she will also have to give 8 weeks' notice before the original early return date.

If the employee returns to work early without giving the appropriate notice, the Council may postpone her return by up to 21 days to a date no later than the end of the Additional Maternity Leave period.

An employee may apply for a further period of 4 weeks unpaid leave under the Parental Leave option immediately after maternity leave. Applications should be made following the guidance within section 3.6.

If because of an interruption of work (whether due to industrial action or some other reason) it is unreasonable to expect an employee to return on the notified day, she may instead return when work resumes, or as soon as reasonably practicable thereafter.

3.1.12 Failure to Return to Work

An employee who, having declared her intention to return to work, fails to return, or does not return for a period of at least 3 months, shall be asked to repay the amount of occupational maternity pay paid at 5/10^{ths} of normal pay. Repayment of any allowances, such as mobile phone, car leasing or car allowance, will also have to be repaid.

For the purposes of the 3-month period, the return must be a physical return unless normal sickness absence management procedures are adhered to and supported by appropriate medical certificates. Periods of authorised annual leave and public holidays will also count towards the 3-month period. An employee can return to work on reduced or amended hours in agreement with their line manager.

3.1.13 Return to Work When Employee Terminates Employment

Where an employee has terminated her employment due to pregnancy or childbirth, but the child does not live immediately after birth, they may be entitled to return to work. There is no right to return to the same post with the same grade and salary as applied immediately prior to the termination of their employment unless the Council determines that this is practicable.

An employee will not, however, be entitled to return to employment with the Council in accordance with this paragraph unless:

- A suitable vacancy exists, which will be determined following a Redeployment search, and
- She is medically fit to return, as per Med 3 statement or Occupational Health advice, and
- She satisfies the requirements of paragraph 3.1.11 above in respect of the timing of her return to work.

Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

3.2 ADOPTION LEAVE

3.2.1 Adoption Leave Entitlement

Employees, regardless of their length of service, will have an entitlement of up to 52 weeks' leave.

The leave may begin:

- From the date of the child's placement **or**
- From an agreed date up to 14 days before the expected date of the placement.

Where a couple jointly adopts a child, the couple must choose one person to take leave under this Policy (the adopter). The partner may be entitled to Adoption Support Leave and Paternity Leave.

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

Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.

3.2.2 Pre-Adoption Meetings/Training Courses

Where an employee is required to attend the pre-adoption meetings/training courses associated with progressing through the adoption processes, they will be granted half (50%) of this time as special leave and the rest of the time will be made up by the employee through either annual leave or flexi time.

3.2.3 Adoption Pay Entitlement

An employee who has less than 26 weeks' continuous service prior to the week in which they are notified of being matched with a child for adoption is entitled to Adoption Leave without pay.

An employee who has 26 weeks' continuous service prior to the week in which they are notified of being matched with a child for adoption is entitled to a maximum period of 39 weeks of adoption pay from the date the adoption leave commences. Payments will be as follows:

- (i) For the first 6 weeks of adoption leave an employee will be entitled to 9/10th of pay during which any entitlement to Statutory Adoption Pay (SAP) is offset.
- (ii) For employees intending to return to work, for each of the subsequent 12 weeks they will be paid 5/10th of a week's pay without deduction except by the extent to which the combined pay and SAP exceeds full pay. For the subsequent 21 weeks they will be entitled to SAP only (or 90% of their average weekly earnings if this is less than the current rate of SAP).

Payments made by the Council during adoption leave under (ii) above will be made on the understanding that the employee will return to employment with the Council for a period of at least 3 months. In the event of the employee not doing so, they will be asked to repay the amount of adoption pay paid at 5/10th of normal pay. Payments made to the employee by way of SAP are not refundable.

- (iii) An employee earning less than the current rate of SAP will receive 90% of their average weekly earnings for the entire pay period (39 weeks).
- (iv) For employees not intending to return to work, payments during the last 33 weeks will be the employee's entitlement to SAP.

NB Adopters whose average earnings are below the Lower Earnings Limit for National Insurance contributions will not qualify for SAP.

Other than for "Keeping in Touch Days", as described in paragraph 3.7.1 below, when an employee returns to work before the full Adoption Leave period then their entitlement to any balance of adoption leave and adoption pay ceases. The employee will receive their normal salary from the date of their return to work.

3.2.4 Notification Requirements

The adopter must inform the Council using the pro-forma available from HR (Appendix 2) of their intention to take adoption leave within 7 days of being notified by the adoption agency that they have been matched with a child for adoption, where this is reasonably practicable.

Notification should include:

- the expected date of the placement;
- the date on which they intend to start their adoption leave;
- a matching certificate from the adoption agency.

Adopters who wish to change the date on which their adoption leave commences must give the Council 28 days' written notice where this is reasonably practicable.

The Council will respond in writing to the adopter within 28 days advising the latest date on which the adopter is expected to return to work.

3.2.5 Termination of Placement

Where the child or children's placement ends during the adoption period, the adopter will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement. In this respect employees are required to advise their manager of this at the earliest opportunity. In the case of an earlier return, paragraph 3.2.7 refers.

3.2.6 Right to Return to Work

An employee has the right to return to the same job, in the same location as they had prior to commencing adoption leave. Any changes to the employee's job or location must be in accordance with the normal consultation procedures, and not in any way related to adoption absence.

In exceptional circumstances it may not be reasonably practicable for the Council to permit the employee to return to work in their job as defined above (e.g. restructure) and therefore they will be entitled to be offered a suitable alternative vacancy. In accordance with Redeployment

Procedures any post offered will be suitable and appropriate to the circumstances, and the capacity and place of employment and terms and conditions of employment will not be substantially less favourable than if the employee had been able to return to the job in which they were employed prior to their absence. The employee will be consulted as soon as the Council becomes aware of this situation at the same time as any other employees involved in the restructure.

3.2.7 Exercise Right to Return to Work

Employees will have been advised of their expected return date prior to going on adoption leave and are not required to advise the Council that they will be returning at the end of their full entitlement. However, notification of the return to work would be appreciated and will ensure a return to payroll in a timely manner.

Employees must, however, give 8 weeks' notice of their intention to return if this is before the end of the Additional Adoption Leave period. This means that, if an employee wishes to return at the end of the Ordinary Adoption Leave period instead, they must give 8 weeks' written notice.

If an employee changes their mind about the date they intend to return, for example where they have already notified an early return date and want to return even earlier, they must give 8 weeks' notice before the new date. If an employee wants to postpone their early return they will also have to give 8 weeks' notice before the original early return date.

3.2.8 Failure to Return

An employee who, having declared their intention to return to work, fails to return, or does not return for a period of at least 3 months, shall be asked to repay the amount of adoption pay paid at 5/10th of normal pay. Repayment of any allowances, such as mobile phone, car leasing or car allowance, will also have to be repaid.

For the purposes of the 3-month period, the return must be a physical return unless normal sickness absence management procedures are adhered to and supported by appropriate medical certificates. Periods of authorised annual leave and public holidays will also count towards the 3-month period.

3.3 SURROGACY LEAVE

3.3.1 Surrogacy Leave Entitlement

Employees, regardless of their length of service, will have an entitlement of up to 52 weeks' leave.

The leave may begin:

- From the date of the child's placement **or**
- From an agreed date up to 14 days before the expected date of the placement.

Where a couple jointly enters a surrogacy agreement, the couple must choose one person to take leave under this Policy. The partner may be entitled to Adoption Support Leave and Paternity Leave.

Where more than one child is placed as part of the same surrogacy arrangement, only one period of leave will be granted.

NB: Where the policy refers to adoption pay or leave, this equally applies to Surrogacy leave and pay.

3.3.2 Surrogacy Pay Entitlement

Employees who have less than 26 weeks' continuous service prior to the week in which they receive the child are entitled to 52 weeks' Leave without pay.

Employees who have 26 weeks' continuous service prior to the week in which they receive the child will be paid:

- (i) For the first 6 weeks of surrogacy leave an employee will be entitled to 9/10th of pay during which any entitlement to Statutory Adoption Pay (SAP) is offset.
- (ii) For employees intending to return to work, for each of the subsequent 12 weeks they will be paid 5/10th of a week's pay without deduction except by the extent to which the combined pay and SAP exceeds full pay. For the subsequent 21 weeks they will be entitled to SAP only (or 90% of their average weekly earnings if this is less than the current rate of SAP).

Payments made by the Council during surrogacy leave under (ii) above will be made on the understanding that the employee will return to employment with the Council for a period of at least 3 months. In the event of the employee not doing so, they will be asked to repay the amount of adoption pay paid at 5/10th of normal pay. Payments made to the employee by way of SAP are not refundable.

- (iii) An employee earning less than the current rate of SAP will receive 90% of their average weekly earnings for the entire pay period (39 weeks).
- (iv) For employees not intending to return to work, payments during the last 33 weeks will be the employee's entitlement to SAP.

These payments are subject to the employee's average weekly earnings not being less than the lower earnings for National Insurance contribution liability. Employees whose average earnings are below the Lower Earnings Limit for National Insurance contributions will not qualify for SAP.

Other than for "Keeping in Touch Days", as described in paragraph 3.7.1, when an employee returns to work before the full Surrogacy Leave period then their entitlement to any balance of adoption leave and adoption pay ceases. The employee will receive their normal salary from the date of their return to work.

3.3.3 Notification Procedures – Initial Obligations

To qualify for surrogacy leave and pay an employee must notify the Council in writing of their intention to take surrogacy leave giving at least 28 days' notice. Notification should include:

- the expected date of placement; and
- the date on which they intend to start their surrogacy leave.

The employee should provide the Council with a copy of the MATB1 which the birth mother obtains from their GP or midwife.

Employees should also provide the Council with a copy of the Parental Order which they can apply for from a Sheriff Court. Applications for a Parental Order can only be made after the baby is 6 weeks old and before they are 6 months old.

3.4 PATERNITY LEAVE

3.4.1 Paternity Leave Entitlement

In addition to the Maternity/Adoption Support Leave described in section 3.6 fathers or partners of an expectant mother, or spouse or partner of a person taking adoption or surrogacy leave, who have 26 weeks' continuous service with this Authority at the start of the 15th week before the EWC or adoption placement are entitled to a further week's Statutory Paternity Leave.

Leave can be taken anytime from the child's birth or from placement for adoption or surrogacy. Leave can start on any day of the week but must be taken within 56 days of the actual birth or placement of the child. If the birth is early, leave must be taken within the period from the actual date of birth, up to 56 days after the expected week of birth.

An employee shall be entitled to this provision in circumstances where the child is stillborn after 24 weeks or has died immediately after birth or where the child's mother has died within the period of leave.

There can only be one period of leave. Where an employee elects to take two weeks' leave (Maternity or Adoption Support Leave plus Paternity Leave), it must be taken consecutively. Where an employee elects to take only one week of leave, this can be taken as at 3.6.

Only one period of leave (up to two weeks) is available to employees, irrespective of whether more than one child is placed for adoption or in the case of multiple births.

3.4.2 Payment during Paternity Leave

Employees will be paid Statutory Paternity Pay (SPP) at the same rate as Statutory Maternity Pay or 90% of average weekly earnings if this is less.

Employees whose average earnings are below the Lower Earnings Limit for National Insurance contributions will not qualify for SPP. Employees in this group may obtain information on additional financial support from the Jobcentre or Benefits Agency.

3.4.3 Notification Requirements

Employees are required to inform the Council of their intention to take paternity leave by the 15th week before the EWC, where practicable. In the case of adoption, the employee must inform the Council of their intention to take Paternity leave within 7 days of the employee being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable.

The employee must state in writing, using the appropriate pro-forma which is available from Human Resources (Appendix 3):-

- the week in which the child is due or when the child is expected to be placed for adoption;

- when they wish the leave to start;
- that they are the biological father, spouse, partner or, where relevant, the nominated support person of the mother or adopter;
- that they will take part in caring for the child.

Employees may alter the date on which their leave starts by giving 28 days' notice in writing where this is reasonably practicable.

3.4.4 Return to Work

Employees will be entitled to return to the same job after paternity leave.

3.5 SHARED PARENTAL LEAVE (ShPL)

3.5.1 What is Shared Parental Leave?

Shared Parental Leave (ShPL) is designed to give parents/adopters more flexibility in how to share the care of their child in the first year following birth or adoption. If you are eligible you can share up to 50 weeks leave, and can decide to be off work at the same time and/or take turns to have periods of leave to look after your child.

This option applies to employees, whether they are the mother or the partner. For an employee to be eligible for shared parental leave, both parents need to meet certain qualifying criteria (as noted in 3.5.2 below).

Parents are responsible for notifying their own employer of their entitlement and intention to take Shared Parental Leave. For example, if the mother is employed by the Council, she should submit her notification to the Council and her partner must submit any notifications to take ShPL to their own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for ShPL are handled as smoothly as possible.

3.5.2 Eligibility for Shared Parental Leave

3.5.2.1 Who is eligible?

ShPL can only be used by 2 people:

- The mother/adopter, and
- One of the following:
 - The father of the child (in the case of birth) or,
 - The spouse, civil partner or partner of the child's mother/adopter.

Working parents who share the main responsibility for caring for their child are able to opt into the shared parental leave system.

Both parents must share the responsibility for the care of the child at the time of the birth/placement for adoption.

If an employee has 2 or more posts with the Council they are required to take shared leave in respect of all posts. In the case of the mother, they are required to curtail their maternity leave for all posts.

3.5.2.2 Eligibility Criteria

For employees to be able to take ShPL, **both** parents must meet certain eligibility requirements.

Maternity Entitlements

The mother of the child must be entitled to maternity leave or (if she is not entitled to maternity leave) to statutory maternity pay or maternity allowance. In addition, she must have curtailed her entitlement to maternity leave (or her maternity pay or maternity allowance period) before she has taken her full entitlement. See section 3.1.1 to determine eligibility to maternity leave.

Care of the child – the mother must be sharing the main responsibility for the care of the child with the child's father or partner.

Continuity of employment – an employee must meet a continuity of employment test. This means that the employee must have been employed by the same employer for 26 weeks at the end of the 15th week before the expected week of childbirth and remain employed by that employer at the start of the week in which shared parental leave is to be taken.

The continuity of employment test is similar to that for statutory maternity pay and paternity pay. So an employee who is entitled to SMP or SPP is likely to meet the continuity test for shared parental leave (see section 3.1.5).

Eligibility for the other parent – “employment and earning test” – the other parent, who must be the partner of the employee (i.e. the mother's/adopter's partner or the child's father – even if the father is not in a relationship with the mother) must satisfy an employment and earnings test and must make a declaration that they meet this test.

The employment and earnings test requires that in the 66 weeks leading up to the week in which the child is due (or in the case of adoption, the date when the adopter is notified of a match), they have worked in the UK for at least 26 weeks and in 13 weeks during the 66 week period they have earned the nationally agreed minimum level and would have paid class 1 national insurance contributions.

3.5.3 Shared Parental Leave Entitlement

Employees are entitled to take up to 50 weeks ShPL during the child's first year. The amount of ShPL which an individual is entitled to will depend on when the mother brings her maternity leave period to an end (i.e. curtails her leave – see para 3.5.5.1) and the amount of leave that the other parent takes in respect of the child.

The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail her maternity leave to take ShPL until two weeks after the birth and the maximum period that the parents could take as ShPL is 50 weeks between them (although it will normally be less than this if the mother/adopter has taken leave before the birth or adoption placement).

The mother's partner can begin a period of ShPL at any time from the date of the child's birth if the correct booking notification has been given (see para 3.5.5.3). **Note:** the partner must ensure that they use up any paternity leave or maternity/adoption support leave prior to taking shared parental leave. See sections 3.4 and 3.6 for information on this leave. If paternity leave is not taken before Shared Parental Leave it will be lost.

3.5.4 Shared Parental Leave Options

It is up to the parents how they share the parental leave – they can take it in turns or take time off together, provided no more than 50 weeks of shared leave is taken in total.

An employee wishing to take ShPL is encouraged to contact their line manager to arrange an informal discussion as early as possible regarding their leave request. A line manager upon receiving a formal request should arrange a meeting with the employee to talk about their intentions and how they currently expect to use their ShPL entitlement. The purpose of any

meeting is to discuss the leave proposed and what will happen when the employee is away from work.

Employees have the option to take leave in one continuous block (see para 3.5.7 – Continuous Leave) or as separate blocks of leave (see para 3.5.8 – Discontinuous Leave). Particularly in cases of requests for separate blocks of leave, the employee should discuss this in detail with their line manager to determine if the request can be granted and if necessary discuss other options that would be agreeable to both the employee and the Council.

A maximum of three requests for leave per pregnancy can normally be made by each parent.

3.5.5 Notice requirements for shared parental leave

The notices that the parents must give to the relevant employer to be able to take ShPL are made up of the following elements. They are

- Curtailment notice (mother only)
- Notice of entitlement and intention
- Booking Notice
- Variation or cancellation Notice

This is explained in more detail below and the relevant forms are available (Appendices 6-9).

3.5.5.1 Curtailment Notice

Before the mother/adopter or partner can take ShPL, the mother/adopter must return to work before the end of their maternity/adoption leave. This will be done by giving the required eight weeks' notice of her planned return and providing the Council with a curtailment notice.

A 'maternity/adoption leave curtailment notice' from the **mother/adopter** sets out when they propose to end their maternity/adoption leave (**see Appendix 6**).

The mother/adopter must provide the curtailment notice at the same time as the notice of entitlement and intention (Appendix 7) to take ShPL or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention (see para 3.5.5.2).

Revocation of maternity leave curtailment notice

The curtailment notice can be withdrawn in limited circumstances. The withdrawal of a curtailment notice must be in writing and can be given only if the mother/adopter has not returned to work. The curtailment notice can be withdrawn if:

- it is discovered that neither the mother/adopter nor the partner are entitled to ShPL or statutory shared parental pay and the mother withdraws her curtailment notice within eight weeks of the date on which the notice was given;
- the curtailment notice was given before the birth of the child and the curtailment notice is withdrawn within six weeks of the child's birth; or
- the partner has died.

If a mother and her partner have already started a period of shared leave or agreed a period of shared leave which is due to start within 8 weeks following the revocation, they may be required to be absent from work on unpaid leave for some or all of this period. The Council is under no obligation to accept an employee back to work with no notice.

3.5.5.2 Notice of entitlement and intention

This notice is from the employee (whether they are the mother/adopter or partner) giving an initial, non-binding indication of their entitlement to, and intention to take, shared parental leave. This is a one-off notification and is only to inform the Council of their intention to take shared parental leave (**See Appendix 7**).

A separate notice to book leave is required once an employee wishes to request specific dates of leave (see para 3.5.5.3).

Adoption or Surrogacy Notice of Entitlement

In addition to the notice of entitlement and intention, adoptive parents 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; and
- a declaration from the parents and consent to the amount of time the other parent intends to take.

Evidence of eligibility in this case will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.

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 'primary' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto ShPL .

3.5.5.3 Booking Notice

The employee's notice to book shared parental leave, must be in writing and be provided at least eight weeks before the start date of the first period of ShPL to be taken by the employee (**see Appendix 8**). However, the earlier an employee informs the Council of their intentions, the more likely it is that the Council will be able to accommodate the employee's wishes, particularly if they want to take periods of discontinuous leave.

Within 14 days of receiving a booking notice from the employee, whether the mother or partner, the Council can request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice or a copy of the MATB1); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the Council the required information.

3.5.5.4 Variation or cancellation of notice of entitlement and intention

The employee can vary or cancel their proposed ShPL dates following the submission of a Booking Notice. They must provide the Council with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence (**see Appendix 9**). The written notice can:

- vary the start date or the end date of any period of ShPL or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

Any indication of leave intended to be taken by the employee as notified by them in a Variation Notice, is non-binding, until they provide a Booking Notice in relation to the new period of leave being requested.

3.5.6 Limit on number of requests for leave

The employee can provide a total of up to three Booking Notices per pregnancy (including the original request).

3.5.7 Continuous period of shared parental leave

If the employee submits a Booking Notice requesting one continuous period of leave, they will be entitled to take that period of leave provided they have followed the correct notification process. Discussions should however take place with the employee's line manager prior to any leave requests.

3.5.8 Discontinuous periods of shared parental leave

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

If the employee submits notice requesting discontinuous periods of leave, the Council, in the two weeks beginning with the date the notice was submitted, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested. If the decision is taken to refuse the leave, the employer must provide clear reasons for this to the employee.

Any response to the employee should be in writing. If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the leave notice was originally submitted. The employee must notify the Council of that date 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 of the first period of leave originally requested.

Alternatively, if the Council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw their Booking Notice requesting discontinuous periods of leave. The employee can withdraw this at any time on or before the 15th day after the notice was submitted. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make (maximum 3 requests).

3.5.9 Shared Parental Pay

Only statutory shared parental pay is payable to either party for the duration of the ShPL period. Statutory shared parental pay is available for eligible parents to share between them while on ShPL. The number of weeks' statutory shared parental pay available to the parents will depend on when the mother has ended her maternity leave and how much statutory maternity pay or maternity allowance the mother/adopter has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory pay is available to the mother/adopter. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

It is up to the parents to identify the period(s) of leave they are taking as shared parental leave in order that the appropriate rate of statutory shared parental pay is paid.

In all cases shared parental leave will be paid at the statutory shared parental rate only (maximum 37 weeks). Only the mother is eligible for any enhanced provision (i.e. 90% or 50%).

3.5.10 Eligibility for statutory shared parental pay

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that they get;
Or in the case of the partner, have been employed by the Council or another employer or be a self-employed earner during at least 26 of the 66 weeks immediately before the expected week of childbirth.
- have normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth/adoption placement of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of the child's birth, the main responsibility, apart from the mother/partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which they receive statutory shared parental pay; and

The mother must also be entitled to statutory maternity pay in respect of the child, but the maternity/adoption pay period has been curtailed to enable the partner to take the shared leave.

3.5.11 Terms and Conditions during shared parental leave

During ShPL, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. Please see Section 3.7 for all details relating to Terms and Conditions during ShPL.

3.5.12 Shared Parental Leave in Touch days (SPLIT)

An employee can agree to work for the Council (or to attend training) for up to 20 days during ShPL without that work bringing the period of his/her ShPL and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days. These will be in addition to the 10 keeping in touch (KIT) days already available for women on statutory maternity leave (as per paragraph 3.7.1).

The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their ShPL. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and the Council. 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.

Where an employee is a member of the Local Government Pension Scheme both employee and employer pension contributions would be payable in respect of any SPLIT days worked.

3.6 MATERNITY & ADOPTION SUPPORT LEAVE

The purpose of Maternity or Adoption Support Leave is to help the mother at or around the time of the birth or placement of the child in respect of Adoption or Surrogacy arrangements. This leave is available to employees who have a minimum of 26 weeks' continuous service at the start of the 15th week before the EWC or date of placement of a child and who meet the following criteria.

Maternity and Adoption Support Leave is available to employees who are:

- the child's father; or
- the mother's partner (including civil partner); or

In the absence of the child's father or mother's partner, a nominated carer or support partner can request Maternity & Adoption Support Leave. The nominated carer/support partner is the main support provider at or around the time of the birth and will usually be the child's father or the mother's partner.

Leave consists of up to a maximum of 5 days' paid leave (pro-rated for part time/week workers) which can be taken between the 11th week prior to the expected week of childbirth and the 13th week after the birth. The leave may be taken as half working days, full working days or block periods as appropriate.

Application for maternity or adoption support leave should be made to the employee's manager in the same way as that for annual leave and the employee will require to produce for inspection form MATB1, confirming the expected date of childbirth. If the employee is not the father, they will be required to produce a statement from the expectant mother declaring the applicant as the nominated carer. This will also be the case if the mother does not work and is unable to produce a MATB1 certificate.

In the event of a stillbirth, the five days' maternity support leave will still be available.

Employees will be entitled to return to the same job after maternity or adoption support leave.

NB: Fathers or partners of an expectant mother or partners of adopters are also entitled to an additional week's Statutory Paternity Leave (see section 3.7 below).

3.7 GENERAL INFORMATION – TERMS AND CONDITIONS (RELATING TO MATERNITY, ADOPTION, SURROGACY AND SHARED PARENTAL LEAVE)

3.7.1 Keeping in touch days

Employees on maternity, adoption or surrogacy leave are entitled to Keeping in Touch Days. They may undertake up to 10 days' work (Keeping in Touch Days) during their leave period without bringing their leave to an end.

Keeping in Touch Days are paid at normal pay. Normal pay is the amount an employee would have been paid if they had returned to work, this will be inclusive of any SMP, Maternity Allowance or SAP payments as appropriate. Where an employee is a member of the Local Government Pension Scheme both employee and employer pension contributions would be payable in respect of any Keeping in Touch Days worked.

There is no requirement for an employee to undertake work during maternity, adoption or surrogacy leave, nor is there a requirement for the Council to provide such work. However, the option is in place for an employee and their manager to discuss Keeping in Touch Days. These days do not have to be consecutive and can be used for training or any other activity which enable the employee to keep in touch with the place of employment.

Keeping in Touch Days can only be taken in agreement between the employer and the employee to both the activity and timing. An employee cannot, in any circumstances, undertake a Keeping in Touch Day within 2 weeks of childbirth.

3.7.2 Reasonable Contact

An employer and employee are allowed to make reasonable contact during maternity, adoption, surrogacy or shared parental leave, to discuss such issues as the return to work. This does not constitute “work” and does not therefore count towards the 10 days “Keeping in Touch” or 20 SPLIT days. Such contact will not bring the leave period to an end.

Apart from discussing the return to work, the manager should ensure that an employee is kept informed of other issues, such as job vacancies, significant workplace developments and training opportunities.

3.7.3 Annual Leave

Wherever possible, prior to going on maternity, adoption, surrogacy or shared parental leave, any outstanding proportional annual leave should be taken.

Employees will accrue full annual leave entitlement during the period of maternity, adoption, surrogacy or shared parental leave, providing they return to work as agreed.

Wherever possible, and by mutual agreement, most of the accrued leave should be taken at the end of the leave period and, in any event, where the leave covers two annual leave periods, normal “carry over” arrangements should apply.

3.7.4 Public Holidays

Provided the employee returns to work, a day in lieu of each public holiday will be granted for each day which occurred during the period of maternity, adoption, surrogacy or shared parental leave taken, up to a maximum of 52 weeks (pro-rated to hours worked).

3.7.5 Payment of benefits and allowances

An employee who, having declared her intention to return to work, fails to return, or does not return for a period of at least 3 months, shall be asked to repay the amount of allowances paid during AML/AAL period.

For the purposes of the 3-month period, the return must be a physical return unless normal sickness absence management procedures are adhered to and supported by appropriate medical certificates. Periods of authorised annual leave and public holidays will also count towards the 3-month period. An employee can return to work on reduced or amended hours in agreement with their line manager.

3.7.6 Telephone Allowance

Employees on maternity, adoption, surrogacy or shared parental leave who are entitled to receive a telephone allowance or have use of Council mobile phones will continue to be paid telephone rental costs only, during the period of leave. Employees are still responsible for the payment of personal calls made during this time.

3.7.7 Excess Travel Costs

Excess travel costs will automatically stop when maternity, adoption, surrogacy or shared parental leave starts.

3.7.8 Pension Scheme

Employees on maternity, adoption or surrogacy leave, who are members of the Local Government Pension Scheme, will continue to accrue pension during the paid period of leave (up to 39 weeks).

No pension contributions will be made by either the employee or the Council during the unpaid period of leave. Employees will not be able to pay optional contributions to buy back the lost pension during the period of unpaid leave. Employees will however have the option to “buy back” this period on their return to work.

Employees can “buy back” this period of service by making written application to the Head of HR and Customer First and agreeing to pay the calculated amount by (a) lump sum, (b) authorising double contribution to be deducted from pay or (c) some other “mutually agreed” arrangement. This must be done within 30 days of returning to work from leave for the cost to be shared by the Council. If the application is made after 30 days the employee will be required to pay the full cost.

3.7.9 Flexible Benefit Schemes

Employees who are taking maternity, adoption, surrogacy or shared parental leave and are members of any Flexible Benefit Schemes (for example, Childcare Vouchers), should contact Human Resources (01324 506012) as soon as possible to discuss their payments.

3.7.10 Childcare Voucher Scheme

Childcare vouchers are a government led initiative which allows employees to purchase vouchers directly from their salary to pay for registered childcare. These are subject to a maximum deduction from gross pay and are exempt from Tax and National Insurance contributions. The voucher scheme is open all year.

Further information is available on the Intranet or on the Childcareplus website at www.salary-plus.co.uk/falkirk.

Childcare Vouchers: What are the options when pregnant or wishing to adopt?

Salary sacrifice payments cannot be deducted from SMP/SAP to which the employee is entitled.

Employees can remain in the scheme during maternity, adoption, surrogacy or shared parental leave and will be responsible for salary sacrifice payments during any period of Occupational Maternity or Adoption Pay. During the SMP/SAP period, HR will arrange for Childcare Voucher contributions to be reduced to zero. The employee will be required to complete a change of amount form to reinstate their voucher contributions, if required, on their return to work.

However, employees in the Childcare Voucher Scheme are required to confirm whether or not they wish to remain in or leave the scheme prior to maternity, adoption or surrogacy payments being calculated as their pay will be based on their salary AFTER the Childcare Vouchers Salary Sacrifice deduction, which will reduce the amount of cash paid whilst on maternity or adoption leave.

It is the employee’s responsibility to contact Human Resources **no later** than 28 weeks prior to commencing maternity or adoption leave to discuss their options. It is important to adhere to this timescale in order to allow appropriate calculations of SMP/SAP to be carried out by

Payroll within legislative timescales (i.e. the 8 week period prior to 15 weeks before the EWC or placement).

If this timescale is not adhered to, no manual adjustments will be made should an employee decide at a later date to withdraw from the Scheme or change their voucher amount and their SMP/SAP will be calculated at the lower (salary sacrifice) salary.

Employees should seek advice from any relevant agencies in relation to tax credit implications or ongoing childcare costs prior to making a decision.

Employees should ensure they contact Human Resources (01324 506222) at the earliest opportunity to enable additional guidance to be provided.

3.8 PARENTAL LEAVE

Parental leave is a right for all employees who are parents, and who have at least one year's continuous service, to take time off work to look after or make arrangements for their child's welfare. Parental leave is unpaid.

The purpose of the leave is to look after the welfare of the child for reasons such as: to spend more time with the child, to accompany a child during a stay in hospital, to check out new schools, to settle a child into new childcare arrangements or to enable the family to spend more time together.

To be eligible, an employee must be registered as the parent or have parental responsibility for the child.

Employees are entitled to a maximum of 18 weeks in respect of each individual child. The minimum amount of leave to be taken at any one time is one week, except for parents of a disabled child who can take parental leave in individual days.

The maximum amount of leave to be taken within any one leave year is four weeks. In exceptional circumstances applications exceeding four weeks will be considered at the discretion of the Head of Service.

An employee may not exercise any entitlement to parental leave in respect of a child after the date of the child's 18th birthday.

3.8.1 Notification Requirements

Employees must give a minimum of 21 days' notice of their intention to take a period of parental leave. If it is not possible to give 21 days' notice, they must give the notice as soon as is reasonably practical.

Applications for parental leave should be made on a pro forma available from Human Resources (Appendix 5).

3.8.2 Postponement of Leave

The Director/Head of Service may postpone parental leave for up to 6 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 or service provision.

Notification of postponement arrangements should be issued to the employee no later than 7 days following the employee's notice to take leave. This should be discussed with HR in the first instance.

Alternative dates for postponed leave should be agreed between the employee and the Director/Head of Service.

3.8.3 Return to Work

Employees have the right to return to the same job, in the same location as they had prior to commencing parental leave.

Any changes to the employee's job or location must be in accordance with the normal consultation procedures, and not in any way related to parental leave absence.

3.9 CARER'S AND DEPENDANTS' LEAVE

The Council relies on people with personal caring responsibilities for both adults and children to provide its services and accepts that there may be the need for these employees to take a break from work or alter their working arrangements to deal with such caring commitments.

3.9.1 Definitions

A dependant carer is responsible for caring for their partner, child (or partner's child), parent (or legal guardian) or someone who lives in the same household as the employee (other than by reason of being an employee, tenant, boarder or lodger).

An adult carer is an employee who is, or expects to be, caring for an adult who they are married to or are the civil partner of, is a near relative or lives at the same address. The care they provide is long term and unpaid.

3.9.2 Leave Provisions

Carer's leave is available to all employees of the Council irrespective of their length of service as covered by the definition in 3.8.1 above.

Authorisation for carer's leave should be obtained by an employee from their line manager in the first instance. This can be done by following the current absence or annual leave notification procedure. All requests for carer's leave should be recorded on the employee's annual leave card as well as on Resourcelink.

Unplanned Leave

Unplanned carer's leave is to deal with emergency obligations such as illness, injury or where normal care arrangements break down. This leave is primarily intended to cover unforeseen matters and should not be used for pre-planned occurrences, for example hospital and dental appointments.

Carer's leave consists of **up to** a maximum of 5 days paid leave (pro-rated for part time) in any one leave year to deal with emergency obligations and may be taken in half days, single days or block periods. Notwithstanding, when normal care arrangements break down, employees will be expected to make alternative arrangements as soon as possible.

For any leave requests in excess of 5 days, employees should discuss the reasons for this request in more detail with their line manager. Requests for additional leave must be approved by the Director/Head of Service in consultation with the Head of Human Resources. This leave may be paid or unpaid, and, in exceptional circumstances, unpaid leave may be extended (up to a maximum of 3 months), subject to the exigencies of the Service.

Planned Leave

Planned carer's leave is to deal with situations where reasonable advanced notification is available. This leave is primarily intended to cover pre-planned occurrences such as hospital or dental appointments, legal meetings or residential care meetings.

This leave is unpaid although employees may request annual and flexi leave or for extended periods, parental leave can be requested (for childcare issues only).

It is an over-riding principle that service provision will not suffer and, whilst every effort will be made to support employees in relation to pre-planned leave requests, there may be occasions where, due to other circumstances, such as office cover or service provisions, requests may be refused. This will be discussed with the employee and alternative options considered.

Where the leave is in respect of bereavement, the provisions for Compassionate Leave within the relevant Conditions of Service will apply.

3.9.3 Role & Responsibilities

Managers:

- Maintain regular contact with individual employees;
- Consider requests for individual working arrangements;
- Ensure requests are recorded on Resourcelink;
- Provide reasonable notice if overtime or working away is required;
- Provide access to telephone if required.

Employees:

- Follow the appropriate absence or annual leave notification procedures;
- Provide as much notice as possible in relation to any planned appointments. Time off should be agreed in advance between an employee and their line manager;
- Provide supporting evidence of appointments, etc;
- Ensure requests are recorded on annual leave cards and approved by manager.

3.10 RIGHT TO APPLY TO WORK FLEXIBLY

All employees have the right to apply to work flexibly.

In practice, this may mean changing the number or pattern of hours worked. Employees will be required to put all requests for the right to work flexibly in writing in accordance with the relevant procedures. Although there is no requirement to agree to all requests, the Council will ensure that full consideration is given to such requests and that any reasons for refusal will be provided in writing.

Advice is available from Human Resources to support managers in assessing and responding to requests to work flexibly.

N.B. The right to apply to work flexibly is a legislative right specifically for people with child and adult caring responsibilities. Employees who do not meet the criteria for this option should be aware that a variety of flexible working options are available including job share, part time or compressed working etc.

3.11 UNPAID LEAVE

Unpaid leave granted under this Policy will be treated as unpaid leave of absence for the purposes of holiday and sick pay entitlement and will not affect the calculation of the period of continuous employment. For employees, who are members of the Local Government Pension Scheme, periods of unpaid leave will be treated as follows:

- periods of 30 days or less - pension contributions will be collected automatically from pay on return to work; and
- periods of more than 30 days - pension contributions for the first 30 days will be collected automatically from pay on return to work and the employee will then elect whether or not to pay contributions for the remaining period of the leave.

Enquiries about the pension scheme should be made to (01324) 506326.

PART 4

4.1 IMPLEMENTATION & REVIEW

The provisions within this document are effective for children born after 5th April 2015.

The Head of Human Resources and Business Transformation in conjunction with Service Directors/Heads of Services and Trade Unions will monitor and review the policy as necessary.

Application for Maternity Leave

Please refer to the Family Leave Policy on the intranet before completing this form.

Name:	
Home Address:	
Post Code:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

☐

I enclose my MAT B1 Certificate confirming I am pregnant (please tick)

I wish to commence my Maternity Leave on _____ and am intending/not intending* to return to work.

*** Delete as appropriate**

RETURN WITH YOUR ORIGINAL MATB1 TO HUMAN RESOURCES MUNICIPAL BUILDINGS, FALKIRK FK1 5RS

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Adoption Leave

Please refer to the information guidance on the intranet before completing this form.

Name:	
Home Address:	
Postcode:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I confirm that I have worked continuously for Falkirk Council for a period of no less than 26 weeks prior to the week in which I have been matched for adoption.

I confirm I am the main adopter as per section 3.2.1 of the Family Leave Policy.

I also confirm that the child has been newly placed for adoption and that I am not the step-parent or the child's existing foster carer.

My expected date of placement is:

I wish to commence my Adoption Leave on _____
and I am * intending / not intending to return to work.

* Delete as appropriate



Leave may begin from the date of the child's placement or from a date up to 14 days before the expected date of placement.

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

☐

I enclose my Matching certificate confirming my Adoption Placement (please tick)

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Surrogacy Leave

Name:	
Home Address:	
Postcode:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I confirm that I meet the requirements for Surrogacy Leave as per section 3.3 of the Family Leave Policy.

My expected date of placement is: _____

I wish to commence my Surrogacy Leave on _____ and I am *
intending / not intending to return to work.

* Delete as appropriate



Leave may begin from the date of the child's placement or from a date up to 14 days before the expected date of placement.

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

☐

I enclose a copy of the Mother's MATB1 confirming my Surrogacy arrangements (please tick)

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Ordinary Paternity Leave

Please refer to the information guidance on the intranet before completing this form

Name:	
Home Address:	
Service:	
Job Title:	
Employee Number:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

The Expected Week of Childbirth (EWC) is: _____

I wish to start my Paternity Leave on: _____

I intend to take (please tick as appropriate):

☐

One week Paternity leave and one week Maternity Support Leave (*To be taken as a two week block after the baby is born*)

☐

One week Maternity Support Leave only (*To be taken after the baby is born*)

I confirm that I have continuous service a period of no less than 26 weeks prior to the 15th week before the EWC.

I also confirm that I, as required for Paternity leave:

- Have or expect to have responsibility for the child's upbringing and
- Am the child's biological father or the mother's husband or partner
- I will take time off work to support the mother or care for the child

Signed: _____ Date: _____

Application approved by: (Line Manager)

Please notify Payroll with the actual date of birth in order that the appropriate salary deductions can be made

Signed: _____ Date: _____

Name (print): _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Maternity and Adoption Support Leave

This form should be completed and sent to your Manager/Headteacher only

Please note that there is a separate form for Paternity Leave

Name:	
Home Address:	
Postcode:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I intend to take One Week Maternity and Adoption Support Leave (*Maternity and Adoption Support Leave can be taken before or after the baby is born and recorded on Annual Leave card*).

The Expected Week of Childbirth (EWC) is: _____

I wish to start my Maternity and Adoption Support Leave on: _____
and I wish to take the leave as: (please tick as appropriate)

☐

1 week block

☐

Separate days

☐

I have enclosed a copy of the Mother's MatB1 certificate (please tick)

I confirm that I have worked continuously for Falkirk Council for a period of no less than 26 weeks prior to the 15th week before the EWC.

I confirm that I am:

- The child's father; or
- The mother's partner (including civil partner); or
- A nominated carer or support partner as per section 3.6 of the Family Leave Policy.

Signed: _____ Date: _____

Application approved by: (Line Manager)

Please notify Payroll with the actual date of birth in order that the appropriate salary deductions can be made from employees salary

Signed: _____ Date: _____

Name (print): _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

CURTAILMENT NOTICE

To be completed by the Mother only.

Please complete and return this form to your manager.

This form is to inform the Council that you wish your maternity leave/pay to end in order that the person who shares the main responsibility to care for your child can take shared parental leave. You must give at least 8 weeks' notice of your curtailment date. If you are entitled to maternity leave, the curtailment date must be at least two weeks after the birth of your child.

I wish my maternity/adoption leave to end on:(insert date)

Name	
Employee No	
Job Title(s)	
Signature	
Date	

Please note: This form is only notification that you wish to curtail your maternity leave. You are required to complete a Notice of Entitlement and Intention Form. This form can be completed and handed in at the same time as your curtailment notice.

(*) If you have 2 or more jobs either with the Council (or with the Council and another employer) you are required to curtail your maternity leave in all posts. Please ensure that all your job titles are noted in this Curtailment Notice .

Notice of Entitlement and Intention to Take Shared Parental Leave

If you wish to take shared parental leave, then you must submit this form to your manager at least **8 weeks** before the start of the first period of shared parental leave. If you are the mother, you must also complete a curtailment notice confirming you are bringing your maternity leave to an end.

In order to calculate the amount of shared parental leave you are eligible for please complete the following.

Employee Name:	
Employee No:	
Job Title(s):	
Date on which maternity / adoption leave commenced / will commence	

Declaration:

☐ I confirm that I am the mother/main adopter of the child;

Or

☐ I confirm that I am the partner of the mother/main adopter of the child:

And

☐ I confirm that I meet the eligibility criteria for shared parental leave (as per Section 3.5.2 of the Policy).

Signed:	Date:
---------	-------

Note (Mother only): If you have 2 or more jobs either with the Council (or with the Council and another employer) you are required to curtail your maternity leave in all posts.

Note (Partner only): If you have 2 or more jobs with the Council you are required to give notice for shared leave in both posts. If you have one post with the Council and one with another employer you can decide if you wish to take shared leave from all posts.

(*) You are required to highlight details of all your posts in the Curtailment Notice.

SHARED PARENTAL LEAVE BOOKING NOTICE

This form should be completed should you wish to book shared parental leave. You must give at least 8 weeks' notice of any dates in which you wish to take as shared leave.

Name	
Employee No	

A. Date in which you (or the mother/adopter) has curtailed their maternity leave		
B. Number of weeks maternity or adoption leave taken by the mother/adopter.	<u>Start Date</u>	<u>End Date</u>
C. Remaining number of weeks of shared parental leave available (52 weeks minus the number of weeks taken according to the above dates) (<i>e.g. 52 – B above</i>)		
D. Maximum number of weeks of shared parental pay available (39 weeks minus the number of weeks taken according to the above dates) (<i>e.g. 39 – B above</i>)		
E. Total number of shared parental leave/pay you intend to take	<u>Shared Parental Pay</u>	<u>Shared Parental Leave</u>
F. Total Number of weeks of Shared parental leave/pay the other parent intends to take.	<u>Shared Parental Pay</u>	<u>Shared Parental Leave</u>

Requested Shared Parental Leave / Pay Dates

Start date	End date	Number of weeks leave	Number of weeks pay (if applicable)

Declarations

By the Employee

Please confirm your eligibility by ticking the appropriate boxes below and signing the form

- ☐ I am the mother, father or main adopter of the child and will share the care of the child with my partner named below
- ☐ I meet the eligibility criteria for shared parental leave

If appropriate:

- ☐ I meet the eligibility criteria for shared parental pay
- ☐ I am the mother or main adopter and have completed the **notice of curtailment of maternity / adoption leave** section and understand that this is **binding** subject to certain conditions outlined in the policy
- ☐ I consent to you retaining and processing the information contained in this form

Signed: _____ Date: _____

For completion by the Employee's Partner

Name	
Address	
Name and Address of Employer	
National Insurance Number	

I confirm that I meet the following criteria for eligibility for shared parental leave:

- ☐ I have worked either directly, for an agency or self-employed, for 26 weeks in the 66 weeks leading up to the due date.
- ☐ I have earned above the maternity allowance threshold of £30 a week in 13 of the 66 weeks leading up to the due date.
- ☐ I consent to your employee taking shared parental leave and shared parental pay as detailed above.

If appropriate:

- ☐ I am the mother / main adopter and confirm I have curtailed my maternity / adoption leave and pay with my employer (or will have done so by the time your employee takes shared parental leave).
- ☐ I consent to you retaining and processing the information contained in this form.

Signed: _____ Date: _____

Notice to Vary a Period of Shared Parental Leave

You should complete this form if you wish to vary a previously approved period of shared parental leave. You must have previously submitted a **Booking Notice for Shared Parental Leave** (Appendix 8) and have had your eligibility for shared parental leave confirmed.

Name	
Employee No: <i>(if employed by Council)</i>	
Name of Partner	

Request to Vary Previously Requested Parental Leave / Pay Dates

Previously Approved Start date	Previously Approved End date	Detail the change you would like to request (Including start and end dates)

We confirm that we agree to the request as per the variation outlined above.

Signed: (Employee)_____ Date:_____

Signed: (Employee's Partner)_____ Date:_____

Application for Parental Leave

Please refer to the information guidance on the intranet before completing this form.

Name:	
Home Address:	
Service:	
Job Title:	
Employee Number:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I wish to commence my Parental Leave on: _____



Minimum of 21 days notice is required for any parental leave requests. Your manager may postpone parental leave for a period no greater than 6 months.

I wish my Parental Leave to last for: _____



Maximum leave to be taken in any 1 year is 4 weeks. Minimum amount of leave to be taken at any one time is 1 week (except in the case of a disabled child where individual days can be taken).

I can confirm that I have worked continuously for Falkirk Council for a period of no less than 1 year.

I also confirm that, as per requirements of Statute,

- My child is under 18 years of age I am registered as the child's parent or
- I have parental responsibility for the child

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Please send this form to your Line Manager for authorisation

Line Manager Checklist

☐

Payroll have received a copy of this form

☐

A copy has been placed in the employees personal file

GUIDANCE NOTES

MATERNITY/ADOPTION SUPPORT LEAVE

Maternity or Adoption Support Leave is available to all employees, who have a minimum of 26 weeks continuous service at the start of the 15th week before the expected week of childbirth (EWC) or date of placement of a child.

Maternity or Adoption support leave may be taken by the father or other support person nominated by the mother. It is anticipated that the nominated support person, other than the father, will normally fall under the definition of dependant.

Leave consists of up to a maximum of 5 days paid leave (pro-rated for part time/week workers) which can be taken between the 11th week prior to the expected week of childbirth and the 13th week after the birth. The leave may be taken as half working days, full working days or block periods as appropriate.

Application for maternity or adoption support leave should be made to the manager in the same way as that for annual leave and the employee will require to produce for inspection form MAT B1, confirming the expected date of childbirth. If the employee is not the father, they will be required to produce a statement from the expectant mother declaring the applicant as the nominated support person. This will also be the case if the mother does not work and is unable to produce a MATB1 certificate declaring the applicant as the nominated support person.

PATERNITY LEAVE

In addition to the Maternity & Adoption Support Leave described above, fathers or partners of an expectant mother or an adopter who have 26 weeks continuous service at the start of the 15th week before the expected week of childbirth (EWC) or adoption placement are entitled to a further week's Statutory Paternity Leave.

Leave can start from any day of the week from the actual date of birth up to 56 days after the EWC and must be taken as a complete week.

Payment of Statutory Paternity Leave is as follows:

You will be paid Statutory Paternity Pay (SPP) which is the same rate as Statutory Maternity Pay or 90% of average weekly earnings if this is less. The rate of Statutory Paternity Pay is set by the Government and increases each year by the rate of inflation. Exact rates are available from HR or Payroll.

If your average earnings are below the Lower Earnings Limit for National Insurance contributions you will not qualify for SPP. Employees in this group may obtain information on additional financial support from the Jobcentre or Benefits Agency.

Notification Requirements

You are required to inform the Council of your intention to take paternity leave by the 15th week before the EWC, where practicable. Employees may alter the date on which their leave starts by giving 28 days notice in writing where this is reasonably practicable.

COMPLETION OF FORM

As noted above, if you have the relevant qualifying service, you are entitled to one week Maternity/Adoption Support Leave and one week Paternity Leave. The form overleaf should only be completed if you intend to request Paternity Leave, this leave is for one full week and is paid at the current rate of S.P.P. This form should be authorised by your line manager and then forwarded to Human Resources, Room 325, Municipal Building, Falkirk. Following receipt of this form HR will write to you to confirm your entitlement and will inform Payroll.



FALKIRK COUNCIL

FAMILY LEAVE POLICY

Teachers and Associated Professionals



AUGUST 2016

CONTENTS

PART			PAGE NUMBER
1		POLICY STATEMENT	4
2		INTRODUCTION	
	2.1	Introduction	4
	2.2	Scope	4
3		MATERNITY LEAVE	
	3.1	Maternity Leave	5
	3.1.1	Maternity Leave Entitlement	5
	3.1.2	Health and Safety	5
	3.1.3	Definitions	5
	3.1.4	Ante-Natal Care	6
	3.1.5	Maternity Pay Entitlement	6
	3.1.6	Commencement of Maternity Leave	7
	3.1.7	Notification Procedures – Start of Maternity Leave	7
	3.1.8	Sick Leave and Maternity Leave	8
	3.1.9	Notification of Childbirth	8
	3.1.10	Right to Return to Work	8
	3.1.11	Exercise Right to Return to Work	9
	3.1.12	Return to Work when employee terminates employment	9
	3.2	ADOPTION LEAVE	9
	3.2.1	Adoption Leave Entitlement	9
	3.2.2	Pre-Adoption Meetings/Training Courses	10
	3.2.3	Adoption Pay Entitlement	10
	3.2.4	Notification Requirements	10
	3.2.5	Termination of Placement	11
	3.2.6	Right to Return to Work	11
	3.2.7	Exercise Right to Return to Work	12
	3.3	SURROGACY LEAVE	12
	3.3.1	Surrogacy Leave Entitlement	12
	3.3.2	Surrogacy Pay Entitlement	12
	3.3.3	Notification Procedures – Initial Obligations	13
	3.4	PATERNITY LEAVE	13
	3.4.1	Paternity Leave Entitlement	13
	3.4.2	Payment during Paternity Leave	13
	3.4.3	Notification Requirements	14
	3.4.4	Return to Work	14
	3.5	SHARED PARENTAL LEAVE	14
	3.5.1	What is Shared Parental Leave?	14
	3.5.2	Eligibility for Shared Leave	15
	3.5.2.1	Who is eligible?	15
	3.5.2.2	Eligibility Criteria	15

	3.5.3	Shared Parental Leave Entitlement	16
	3.5.4	Shared Parental Leave Options	16
	3.5.5	Notice Requirements for Shared Parental Leave	16
	3.5.5.1	Curtailment Notice	17
	3.5.5.2	Notice of Entitlement and Intention	17
	3.5.5.3	Booking Notice	18
	3.5.5.4	Variation or Cancellation of a Booking Notice	18
	3.5.6	Limit on number of requests for leave	19
	3.5.7	Continuous Period of shared parental leave	19
	3.5.8	Discontinuous periods of shared parental leave	19
	3.5.9	Shared Parental Pay	20
	3.5.10	Eligibility for Shared Parental Pay	20
	3.5.11	Terms and Conditions during shared parental leave	21
	3.5.12	Shared Parental Leave in Touch Days (SPLIT)	21
	3.6	MATERNITY & ADOPTION SUPPORT LEAVE	21
	3.7	GENERAL INFORMATION – TERMS AND CONDITIONS (RELATING TO MATERNITY, ADOPTION, SURROGACY AND SHARED PARENTAL LEAVE)	22
	3.7.1	Annual Leave	22
	3.7.2	Keeping in Touch	23
	3.7.3	Reasonable Contact	23
	3.7.4	Excess Travel Costs	23
	3.7.5	Pension Scheme	23
	3.7.6	Flexible Benefit Schemes	24
	3.7.7	Childcare Voucher Scheme	24
	3.8	PARENTAL LEAVE	24
	3.8.1	Notification Requirements	25
	3.8.2	Postponement of Leave	25
	3.8.3	Return to Work	25
	3.9	CARER’S AND DEPENDANTS LEAVE	26
	3.9.1	Definitions	26
	3.9.2	Leave Provisions	26
	3.9.3	Roles and Responsibilities	27
	3.10	RIGHT TO APPLY TO WORK FLEXIBLY	27
4		IMPLEMENTATION AND REVIEW	
	4.1	Implementation and Review	28
		APPENDICES	
	A1	Application for Maternity Leave	29
	A2	Application for Adoption Leave	30
	A3	Application for Surrogacy Leave	31
	A4	Application for Paternity Leave	32
	A5	Application for Maternity/Adoption Support Leave	33
	A6	Curtailment Notice for Shared Parental Leave	34

	A7	Notice of Entitlement and Intention (Shared Leave)	35
	A8	Booking Notice for Shared Parental Leave	36
	A9	Application for Parental Leave	39
	A10	Application Guidance Notes	40

PART 1

1.1 POLICY STATEMENT

Falkirk Council aims to recruit and retain high calibre teachers and ensure a commitment to equal opportunities. The Council recognises the need to allow its teachers time off in certain circumstances to fulfill family/parental commitments, as well as the need to meet its statutory requirements in this regard. Family Leave provides options for employees to balance work with other personal commitments.

PART 2

2.1 INTRODUCTION

Falkirk Council is committed to helping working parents with caring responsibilities meet their obligations in this respect. This Policy provides information to managers/head teachers, teachers and associated professionals on the options available.

The Policy takes into account provisions which are in place for maternity, adoption, paternity, surrogacy, parental, maternity support and carers leave in line with the Employment Act 2002 and Work and Families Act 2006 and the Additional Paternity Leave Regulations 2010.

2.2 SCOPE

Family leave is available to all teachers, associated professionals and employees on teaching conditions of the Council, whether permanent or temporary and irrespective of their work pattern, provided they meet the necessary criteria for the leave being applied for.

Temporary employees whose contract is due to end after the 15th week prior to their Expected Week of Childbirth or the date of the adoption placement may be entitled to statutory maternity pay. A temporary employee will not have the right to return to work where her contract would have expired during the maternity leave period but will be entitled to all other provisions within the Policy, provided they meet the criteria where these are stated.

The Policy is designed to cover leave in respect of Maternity, Adoption, Paternity, Surrogacy, Parental and Carer's Leave only. Other requests for leave in respect of IVF or Foster Care will be considered under the Council's policies on flexible working or special leave.

All periods of maternity, adoption, paternity and maternity support leave count towards continuous service.

PART 3

3.1 MATERNITY LEAVE

The maternity leave scheme will apply to all pregnant employees regardless of length of service or the number of hours they work.

3.1.1 Maternity Leave Entitlement

Employees, regardless of their length of service, will have an entitlement of up to 52 week's leave. The 52 weeks comprises of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave.

Payment breakdown during maternity leave will vary depending on length of service and this is outlined in paragraph 3.1.5.

Maternity leave can commence no earlier than 11 weeks before the Expected Week of Childbirth (EWC) or from the date of childbirth if that is earlier.

Employees will start their maternity pay on the day their leave begins. An employee is required to take compulsory maternity leave of 2 weeks starting the day on which childbirth occurs.

3.1.2 Health and Safety

On being advised of an employee's pregnancy, the manager/head teacher will make an assessment of any risks, which may affect her health and safety in the working environment, following the Council's Risk Assessment procedures.

The assessment will also extend to women who have recently given birth, and to those who are breast-feeding. There is a separate Breastfeeding Policy in place and employees should refer to this for further information. This is available in the Employee section of the intranet.

Where necessary, measures should be taken to avoid risks, e.g. by adjusting hours, or conditions, or possibly redeployment. This should always be discussed with the Service HR Adviser in the first instance before raising this with the employee. Any such changes should only be made following full consultation with the employee concerned. Occupational Health advice is recommended on these occasions. Employees should be given the opportunity to have Trade Union representation at such discussions.

3.1.3 Definitions

- EWC (Expected Week of Childbirth) - The period of seven days in which the childbirth is expected to take place.
- A Week's Pay - The term a week's pay for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working their normal hours in a week. Where there are no normal working hours a week's pay is the average remuneration in the period of 12 weeks

preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

- Childbirth - Childbirth means the live birth of a child, or a stillbirth after a pregnancy lasting at least 24 weeks. In the event of a stillbirth after 24 weeks of pregnancy, an employee is entitled to maternity leave and pay provisions.

3.1.4 Ante-Natal Care

Where possible, ante-natal appointments should be arranged outwith working hours or with minimum disruption to service delivery.

Where this is not possible, a pregnant employee will be allowed reasonable time off with pay to receive ante-natal care including relaxation classes and dental appointments, on production of appropriate evidence of appointments.

Qualifying partners of expectant mothers have a statutory right to attend two antenatal appointments with the expectant mother. This time off is unpaid. While the statutory provisions allow for each appointment to be for a maximum of six and a half hours the time off request should normally be for a half day but, upon request, a longer period should be granted taking into account location and travel as well as the nature of appointment.

The Council is entitled to ask for evidence of a qualifying partnership which relates to:

- The baby's father;
- The expectant mother's spouse, her civil partner, or partner (of either sex) in an enduring relationship; and
- Intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of that child.

The Council can also ask the individual to confirm in writing that:

- The existence of a qualifying relationship
- The request for time off to accompany the pregnant woman at an antenatal appointment
- The appointment is made on the advice of a GP, midwife or nurse

3.1.5 Maternity Pay Entitlement

Payments made to employees on maternity leave can vary depending on individual circumstances in respect of service and earnings. Payments will normally consist of Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP).

- Employees who have less than 26 weeks' continuous service at the beginning of the 15th week before the EWC will have no entitlement to maternity pay from the Council. They may, however, be entitled to Maternity Allowance (MA) through the Department of Work and Pensions. After application for maternity leave, employees within this group will be issued an SMP1 form by Payroll Services which should then

be taken to their local Jobcentre or Benefits Agency who can provide further information on the maternity allowance.

- Employees who have completed 26 weeks' continuous service or more at the 15th week before the EWC are entitled to be paid:
 - (i) OMP (Occupational Maternity Pay) and SMP (Statutory Maternity Pay) for the first 13 weeks' of absence. Taken together these payments will be equal to their normal salary, and where eligible;
 - (ii) SMP for the remaining 26 week period, providing their average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.

Other than for "Keeping in Touch Days", as described in paragraph 3.5.2 below, when an employee returns to work before the end of the full Maternity Leave period then her entitlement to any balance of maternity leave and maternity pay ceases. The employee will receive her normal salary from the date of her return to work.

3.1.6 Commencement of Maternity Leave

Maternity leave cannot commence earlier than the 11th week before the EWC unless childbirth occurs prior to this date. The latest date is the day before the day of expected delivery.

Maternity leave cannot commence unless the employee has given proper notification of her intentions to take leave, and whether or not she will return to work, in accordance with 3.1.7. The exception to this is where there is an early birth (see paragraph below).

Maternity leave shall commence on the date agreed between the employee and their manager/head teacher, which can be any time from the 11th week before the EWC up to the actual date of EWC. In cases where maternity leave is triggered by an early birth or pregnancy related sickness during the last 4 weeks of pregnancy, maternity leave will start from the date of birth or the first day of maternity related sickness (see paragraph 3.1.8).

3.1.7 Notification Procedures – Initial Obligations

To qualify for maternity leave and pay an employee must notify the Council in writing of:

- The fact that she is pregnant;
- The expected week of childbirth or the actual date of the birth if this has already occurred;
- The date she wishes maternity leave to commence (the notified leave date).

The notification date set out above must be given to the Council no later than 21 days before maternity leave commences, or as soon as is reasonably practicable.

Employees must complete the Application for Maternity Leave (Appendix 1) and also submit a maternity certificate (form MATB1) issued by a midwife or medical practitioner which states the EWC.

3.1.8 Sick Leave and Maternity Leave

Where an employee is absent before the start of the maternity leave period due to “non pregnancy related” sickness, the absence will be treated as sickness absence. This includes absence due to miscarriage (that is, prior to the 24th week of pregnancy).

If, however, an employee is absent from work through a “pregnancy related” sickness and there are fewer than 4 weeks before the EWC she will be deemed to have commenced maternity leave from that date.

Occupational sick pay cannot be paid from the notified date of commencement of maternity leave until the notified date of return to work, if no return date is provided, the end of the AML period.

Where an employee is unfit to return to work on completion of maternity leave as a result of sickness, the normal sickness notification and certification procedures as set out in Section 6 of the Terms and Conditions of Employment (Sickness Allowances and Notification Arrangements) apply.

3.1.9 Notification of Childbirth

The employee must notify the Council in writing of the actual date of childbirth as soon as is reasonably practicable.

3.1.10 Right to Return to Work

An employee cannot, in any circumstances, return to work within 2 weeks of childbirth.

An employee has the right to return from maternity leave to the post in which she was employed. This will be under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her had she not been on maternity leave.

In exceptional circumstances it may not be reasonably practicable for the Council to permit the employee to return to work in her job as defined above (e.g. restructure) and therefore they will be entitled to be offered a suitable alternative vacancy. In accordance with Redeployment Procedures any post offered will be suitable and appropriate to the circumstances, and the capacity and place of employment and terms and conditions of employment will not be substantially less favourable than if the employee had been able to return to the job in which she was employed prior to her absence. The employee will be consulted as soon as the council becomes aware of this situation at the same time as any other employees involved in the restructure.

A temporary employee will not have the right to return to work where her contract would have expired during the leave period but will be entitled to all other provisions within the Policy, provided she meets the criteria where these are stated.

3.1.11 Exercise Right to Return to Work

The employee will have been advised of her latest return date prior to going onto Maternity Leave and includes the unpaid Additional Maternity Leave period. In total this will be 52 weeks.

The employee need only advise the Council of her actual date of return to work if she wishes to return to work earlier than the latest return date (52 weeks). In these circumstances, she must give 28 days notice of her intention to return to her head teacher and Human Resources if this is before the end of the 52 week period.

If appropriate notice is not given, the Council may postpone her return for up to 28 days (but not to a date later than the end of her maternity leave period).

Employees may apply for a further period of 4 weeks unpaid leave under the Parental Leave Scheme immediately after maternity leave. Applications should be made following the guidance within Paragraph 3.7.

If because of an interruption of work (whether due to industrial action or some other reason) it is unreasonable to expect an employee to return on the notified day, she may instead return when work resumes, or as soon as reasonably practicable thereafter.

3.1.12 Return to Work When Employee Terminates Employment

Where an employee has terminated her employment due to pregnancy or childbirth, but the child does not live immediately after birth, they may be entitled to return to work. There is no right to return to the same post with the same grade and salary as applied immediately prior to the termination of their employment unless the Council determines that this is practicable.

An employee will not be however, entitled to return to employment with the Council in accordance with this paragraph unless:

- A suitable vacancy exists, which will be determined following a Redeployment search, and
- She submits in writing a doctor's statement that she is medically fit to return, as per Med 3 statement or Occupational Health advice, and
- She satisfies the requirements of paragraph (3.1.11) above in respect of the timing of her return to work.

Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

3.2 ADOPTION LEAVE

3.2.1 Adoption Leave Entitlement

Employees, regardless of their length of service, will have an entitlement of up to 52 weeks leave which comprises of 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave.

The leave may begin:

- From the date of the child's placement **or**
- From an agreed date up to 14 days before the expected date of the placement.

Where a couple jointly adopts a child, the couple must choose one person to take leave under this Policy (the adopter). The partner may be entitled to Adoption Support Leave and Paternity Leave.

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

Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.

3.2.2 Pre-Adoption Meetings/Training Course

Employees who are adopting will be allowed to take such reasonable time off without loss of pay as is required to attend pre-adoption meetings/training courses, on production, if required by the Council, of evidence of appointments.

3.2.3 Adoption Pay Entitlement

Employees who have less than 26 weeks continuous service prior to the week in which they are notified of being matched with a child for adoption is entitled to 52 weeks Adoption Leave without pay.

Employees who have 26 weeks continuous service prior to the week in which they are notified of being matched with a child for adoption is entitled to be paid:

- (i) Occupational Adoption Pay (OAP) and Statutory Adoption Pay (SAP) for the first 13 weeks. Together these payments will be equal to their normal salary; and where eligible;
- (ii) Statutory Adoption Pay for the remaining 26 weeks, provided that the employee's average weekly earnings are not less than the lower earnings for National Insurance contribution liability.

Adopters whose average earnings are below the Lower Earnings Limit for National Insurance contributions will not qualify for SAP.

Other than for "Keeping in Touch Days", as described in paragraph 3.5.2 below, when an employee returns to work before the full Adoption Leave period then their entitlement to any balance of adoption leave and adoption pay ceases. The employee will receive their normal salary from the date of their return to work.

3.2.4 Notification Requirements – Start of Adoption Leave

The adopter must inform the Council using the pro-forma available from HR (Appendix 2) of their intention to take adoption leave within 7 days of being notified by the adoption

agency that they have been matched with a child for adoption, where this is reasonably practicable.

Notification should include:

- the expected date of the placement;
- the date on which they intend to start their adoption leave;
- a matching certificate from the adoption agency.

Adopters who wish to change the date on which their adoption leave commences must give the Council 28 days written notice where this is reasonably practicable.

The Council will respond in writing to the adopter within 28 days advising the latest date on which the adopter is expected to return to work.

3.2.5 Termination of Placement

Where the adoption placement ends, for any reason, during the adoption leave, the employee will notify the Council. Where the adoption placement ends within the first 26 weeks of the adoption leave the employee will be entitled to remain absent from work until the end of the 26 week period.

Where the adoption placement ends after the 26th week of adoption leave the employee will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement or until the end of the adoption leave period, whichever is sooner.

Notification of the intended date of return should be given in accordance with paragraph 3.2.7.

3.2.6 Right to Return to Work

An employee has the right to return from adoption leave to the post in which they were employed. This will be under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them had they not been on adoption leave.

In exceptional circumstances it may not be reasonably practicable for the Council to permit the employee to return to work in their job as defined above (e.g. restructure) and therefore they will be entitled to be offered a suitable alternative vacancy. In accordance with Redeployment Procedures any post offered will be suitable and appropriate to the circumstances, and the capacity and place of employment and terms and conditions of employment will not be substantially less favourable than if the employee had been able to return to the job in which they were employed prior to their absence. The employee will be consulted as soon as the council becomes aware of this situation at the same time as any other employees involved in the restructure.

A temporary employee will not have the right to return to work where her contract would have expired during the leave period but will be entitled to all other provisions within the Policy, provided they meet the criteria where these are stated.

3.2.7 Exercise Right to Return to Work

Adopters wishing to return to work prior to the end of the adoption leave period must give the Council 28 days notice. If the appropriate notice is not given, the Council may postpone their return for up to 28 days or to the end of the adoption leave period if this is earlier.

3.3 SURROGACY LEAVE

3.3.1 Surrogacy Leave Entitlement

Employees, regardless of their length of service, will have an entitlement of up to 52 weeks leave.

The leave may begin:

- From the date of the child's placement **or**
- From an agreed date up to 14 days before the expected date of the placement.

Where a couple jointly enters a surrogacy agreement, the couple must choose one person to take leave under this Policy. The partner may be entitled to Adoption Support Leave and Paternity Leave.

Where more than one child is placed as part of the same surrogacy arrangement, only one period of leave will be granted.

NB: Where the policy refers to adoption pay or leave, this equally applies to Surrogacy leave and pay.

3.3.2 Surrogacy Pay Entitlement

Employees who have less than 26 weeks continuous service prior to the week in which they receive the child is entitled to 52 weeks Leave without pay.

Employees who have 26 weeks continuous service prior to the week in which they receive the child will be paid:

- 13 weeks at normal salary and
- 26 weeks at a sum equivalent to Statutory Adoption Pay.

These payments are subject to the employee's average weekly earnings not being less than the lower earnings for National Insurance contribution liability. Employees whose average earnings are below the Lower Earnings Limit for National Insurance contributions will not qualify for SAP.

Other than for "Keeping in Touch Days", as described in paragraph 3.5.2, when an employee returns to work before the full Surrogacy Leave period then their entitlement to any balance of adoption leave and adoption pay ceases. The employee will receive their normal salary from the date of their return to work.

3.3.3 Notification Procedures – Initial Obligations

To qualify for surrogacy leave and pay an employee must notify the Council in writing of their intention to take surrogacy leave giving at least 28 days notice. Notification should include:

- the expected date of placement;
- the date on which they intend to start their surrogacy leave

The employee should provide the Council with a copy of the MATB1 which the birth mother obtains from their GP or midwife.

Employees should also provide the Council with a copy of the Parental Order which they can apply for from a Sheriff Court. Applications for a Parental Order can only be made after the baby is 6 weeks old and before they are 6 months old.

3.4 PATERNITY LEAVE

3.4.1 Paternity Leave Entitlement

In addition to the Maternity/Adoption Support Leave described in section 3.4, fathers or partners of an expectant mother, or spouse or partner of a person taking adoption or surrogacy leave, who have 26 weeks continuous service with this Authority at the start of the 15th week before the EWC or adoption placement are entitled to a further week's Ordinary Paternity Leave (OPL).

Leave can be taken anytime from the child's birth or from placement for adoption. Leave can start on any day of the week but must be taken within 56 days of the actual birth or placement of the child. If the birth is early, leave must be taken within the period from the actual date of birth, up to 56 days after the expected week of birth.

An employee shall be entitled to this provision in circumstances where the child is stillborn after 24 weeks or has died immediately after birth or where the child's mother has died within the period of leave.

There can only be one period of leave. Where an employee elects to take 2 weeks leave (Maternity or Adoption Support Leave plus Paternity Leave), it must be taken consecutively. Where an employee elects to take only one week of leave then this will be taken as a complete week of leave.

An employee shall accrue leave in accordance with Section 5 contained within the SNCT conditions.

Only one period of leave (up to two weeks) is available to employees, irrespective of whether more than one child is placed for adoption or in the case of multiple births.

3.4.2 Payment during Ordinary Paternity Leave

The paternity provisions allow for up to two weeks leave and pay for employees who meet the criteria. Where an employee takes two weeks leave, the first week will be

considered as maternity and/or adoption support leave and paid at full pay and the second week will be paternity leave and Statutory Paternity Pay (SPP) will be paid.

3.4.3 Notification Requirements

Employees are required to inform the Council of their intention to take paternity leave by the 15th week before the EWC, where practicable. In the case of adoption, they must inform the Council of their intention to take Paternity leave within 7 days of the employee being notified that they have been matched with a child, unless this is not reasonably practicable.

The employee must state in writing:

- the week in which the child is due or when the child is expected to be placed for adoption;
- when they wish the leave to start and end;
- they are the biological father, spouse, partner or nominated support person of the mother or adopter;
- that they will take part in caring for the child.

Employees may alter the date on which their leave starts by giving 28 days notice in writing where this is reasonably practicable. A pro-forma is available from Human Resources (Appendix 3).

3.4.4 Return to Work

Employees will be entitled to return to the same job after paternity leave.

3.5 SHARED PARENTAL LEAVE (ShPL)

3.5.1 What is Shared Parental Leave?

Shared Parental Leave (ShPL) is designed to give parents/adopters more flexibility in how to share the care of their child in the first year following birth or adoption. If you are eligible you can share up to 50 weeks leave, and can decide to be off work at the same time and/or take turns to have periods of leave to look after your child.

This option applies to employees, whether they are the mother or the partner. For an employee to be eligible for shared parental leave, both parents need to meet certain qualifying criteria (as noted in 3.5.2 below).

Parents are responsible for notifying their own employer of their entitlement and intention to take Shared Parental Leave. For example, if the mother is employed by the Council, she should submit her notification to the Council and her partner must submit any notifications to take ShPL to their own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for ShPL are handled as smoothly as possible.

3.5.2 Eligibility for Shared Parental Leave

3.5.2.1 Who is eligible?

ShPL can only be used by 2 people:

- The mother/adopter, and
- One of the following:
 - The father of the child (in the case of birth) or,
 - The spouse, civil partner or partner of the child's mother/adopter.

Working parents who share the main responsibility for caring for their child are able to opt into the shared parental leave system.

Both parents must share the responsibility for the care of the child at the time of the birth/placement for adoption.

If an employee has 2 or more posts with the Council they are required to take shared leave in respect of all posts. In the case of the mother, they are required to curtail their maternity leave for all posts.

3.5.2.2 Eligibility Criteria

For employees to be able to take ShPL, **both** parents must meet certain eligibility requirements.

Maternity Entitlements

The mother of the child must be entitled to maternity leave or (if she is not entitled to maternity leave) to statutory maternity pay or maternity allowance. In addition, she must have curtailed her entitlement to maternity leave (or her maternity pay or maternity allowance period) before she has taken her full entitlement. See section 3.1.1 to determine eligibility to maternity leave.

Care of the child – the mother must be sharing the main responsibility for the care of the child with the child's father or partner.

Continuity of employment – an employee must meet a continuity of employment test. This means that the employee must have been employed by the same employer for 26 weeks at the end of the 15th week before the expected week of childbirth and remain employed by that employer at the start of the week in which shared parental leave is to be taken.

The continuity of employment test is similar to that for statutory maternity pay and paternity pay. So an employee who is entitled to SMP or SPP is likely to meet the continuity test for shared parental leave (see section 3.1.5).

Eligibility for the other parent – “employment and earning test” – the other parent, who must be the partner of the employee (i.e. the mother's/adopter's partner or the child's father – even if the father is not in a relationship with the mother) must satisfy an employment and earnings test and must make a declaration that they meet this test.

The employment and earnings test requires that in the 66 weeks leading up to the week in which the child is due (or in the case of adoption, the date when the adopter is notified of a match), they have worked in the UK for at least 26 weeks and in 13 weeks during the 66 week period they have earned the nationally agreed minimum level and would have paid class 1 national insurance contributions.

3.5.3 Shared Parental Leave Entitlement

Employees are entitled to take up to 50 weeks ShPL during the child's first year. The amount of ShPL which an individual is entitled to will depend on when the mother brings her maternity leave period to an end (i.e. curtails her leave – see para 3.5.5.1) and the amount of leave that the other parent takes in respect of the child.

The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail her maternity leave to take ShPL until two weeks after the birth and the maximum period that the parents could take as ShPL is 50 weeks between them (although it will normally be less than this if the mother/adopter has taken leave before the birth or adoption placement).

The mother's partner can begin a period of ShPL at any time from the date of the child's birth if the correct booking notification has been given (see para 3.5.5.3). **Note:** the partner must ensure that they use up any paternity leave or maternity/adoption support leave prior to taking shared parental leave. See sections 3.4 and 3.6 for information on this leave. If paternity leave is not taken before Shared Parental Leave it will be lost.

3.5.4 Shared Parental Leave Options

It is up to the parents how they share the parental leave – they can take it in turns or take time off together, provided no more than 50 weeks of shared leave is taken in total.

An employee wishing to take ShPL is encouraged to contact their line manager to arrange an informal discussion as early as possible regarding their leave request. A line manager upon receiving a formal request should arrange a meeting with the employee to talk about their intentions and how they currently expect to use their ShPL entitlement. The purpose of any meeting is to discuss the leave proposed and what will happen when the employee is away from work.

Employees have the option to take leave in one continuous block (see para 3.5.7 – Continuous Leave) or as separate blocks of leave (see para 3.5.8 – Discontinuous Leave). Particularly in cases of requests for separate blocks of leave, the employee should discuss this in detail with their line manager to determine if the request can be granted and if necessary discuss other options that would be agreeable to both the employee and the Council.

A maximum of three requests for leave per pregnancy can normally be made by each parent.

3.5.5 Notice requirements for shared parental leave

The notices that the parents must give to the relevant employer to be able to take ShPL are made up of the following elements. They are

- Curtailment notice (mother only)
- Notice of entitlement and intention
- Booking Notice
- Variation or cancellation Notice

This is explained in more detail below and the relevant forms are available (Appendices 6-9).

3.5.5.1 Curtailment Notice

Before the mother/adopter or partner can take ShPL, the mother/adopter must return to work before the end of their maternity/adoption leave. This will be done by giving the required eight weeks' notice of her planned return and providing the Council with a curtailment notice.

A 'maternity/adoption leave curtailment notice' from the **mother/adopter** sets out when they propose to end their maternity/adoption leave (**see Appendix 6**).

The mother/adopter must provide the curtailment notice at the same time as the notice of entitlement and intention (Appendix 7) to take ShPL or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention (see para 3.5.5.2).

Revocation of maternity leave curtailment notice

The curtailment notice can be withdrawn in limited circumstances. The withdrawal of a curtailment notice must be in writing and can be given only if the mother/adopter has not returned to work. The curtailment notice can be withdrawn if:

- it is discovered that neither the mother/adopter nor the partner are entitled to ShPL or statutory shared parental pay and the mother withdraws her curtailment notice within eight weeks of the date on which the notice was given;
- the curtailment notice was given before the birth of the child and the curtailment notice is withdrawn within six weeks of the child's birth; or
- the partner has died.

If a mother and her partner have already started a period of shared leave or agreed a period of shared leave which is due to start within 8 weeks following the revocation, they may be required to be absent from work on unpaid leave for some or all of this period. The Council is under no obligation to accept an employee back to work with no notice.

3.5.5.2 Notice of entitlement and intention

This notice is from the employee (whether they are the mother/adopter or partner) giving an initial, non-binding indication of their entitlement to, and intention to take, shared parental leave. This is a one-off notification and is only to inform the Council of their intention to take shared parental leave (**See Appendix 7**).

A separate notice to book leave is required once an employee wishes to request specific dates of leave (see para 3.5.5.3).

Adoption or Surrogacy Notice of Entitlement

In addition to the notice of entitlement and intention, adoptive parents 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; and
- a declaration from the parents and consent to the amount of time the other parent intends to take.

Evidence of eligibility in this case will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.

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 'primary' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto ShPL .

3.5.5.3 Booking Notice

The employee's notice to book shared parental leave, must be in writing and be provided at least eight weeks before the start date of the first period of ShPL to be taken by the employee (**see Appendix 8**). However, the earlier an employee informs the Council of their intentions, the more likely it is that the Council will be able to accommodate the employee's wishes, particularly if they want to take periods of discontinuous leave.

Within 14 days of receiving a booking notice from the employee, whether the mother or partner, the Council can request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice or a copy of the MATB1); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the Council the required information.

3.5.5.4 Variation or cancellation of notice of entitlement and intention

The employee can vary or cancel their proposed ShPL dates following the submission of a Booking Notice. They must provide the Council with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence (**see Appendix 9**). The written notice can:

- vary the start date or the end date of any period of ShPL or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

Any indication of leave intended to be taken by the employee as notified by them in a Variation Notice, is non-binding, until they provide a Booking Notice in relation to the new period of leave being requested.

3.5.6 Limit on number of requests for leave

The employee can provide a total of up to three Booking Notices per pregnancy (including the original request).

3.5.7 Continuous period of shared parental leave

If the employee submits a Booking Notice requesting one continuous period of leave, they will be entitled to take that period of leave provided they have followed the correct notification process. Discussions should however take place with the employee's line manager prior to any leave requests.

3.5.8 Discontinuous periods of shared parental leave

The employee may submit a Booking Notice requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities. The minimum block of time for a teacher or associated professional is normally 4 weeks and the employee should set out the pattern of discontinuous leave requested

If the employee submits notice requesting discontinuous periods of leave, the Council, in the two weeks beginning with the date the notice was submitted, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested. If the decision is taken to refuse the leave, the employer must provide clear reasons for this to the employee.

Any response to the employee should be in writing. If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period (10 working days), the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the leave notice was originally submitted. The employee must notify the Council of that date 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 of the first period of leave originally requested.

Alternatively, if the Council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw their Booking Notice requesting discontinuous periods of leave. The employee can withdraw this at any time on or before the 15th day after the notice was submitted. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make (maximum 3 requests).

3.5.9 Shared Parental Pay

Only statutory shared parental pay is payable to either party for the duration of the ShPL period.

Statutory shared parental pay is available for eligible parents to share between them while on ShPL. The number of weeks' statutory shared parental pay available to the parents will depend on when the mother has ended her maternity leave and how much statutory maternity pay or maternity allowance the mother/adopter has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory pay is available to the mother/adopter. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

It is up to the parents to identify the period(s) of leave they are taking as shared parental leave in order that the appropriate rate of statutory shared parental pay is paid.

In all cases shared parental leave will be paid at the statutory shared parental rate only (maximum 37 weeks). Only the mother is eligible for any enhanced provision (i.e. 90% or 50%).

3.5.10 Eligibility for statutory shared parental pay

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that they get;

Or in the case of the partner, have been employed by the Council or another employer or be a self-employed earner during at least 26 of the 66 weeks immediately before the expected week of childbirth.

- have normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth/adoption placement of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of the child's birth, the main responsibility, apart from the mother/partner, for the care of the child;

- is absent from work and intends to care for the child during each week in which they receive statutory shared parental pay; and

The mother must also be entitled to statutory maternity pay in respect of the child, but the maternity/adoption pay period has been curtailed to enable the partner to take the shared leave.

3.5.11 Terms and Conditions during shared parental leave

During ShPL, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. Please see Section 3.7 for all details relating to Terms and Conditions during ShPL.

3.5.12 Shared Parental Leave in Touch days (SPLIT)

An employee can agree to work for the Council (or to attend training) for up to 20 days during ShPL without that work bringing the period of his/her ShPL and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days. These will be in addition to the 10 keeping in touch (KIT) days already available for women on statutory maternity leave (as per paragraph 3.7.1).

The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their ShPL. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and the Council. 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.

Where an employee is a member of the Scottish Teachers Pension Scheme both employee and employer pension contributions would be payable in respect of any SPLIT days worked.

3.6 MATERNITY & ADOPTION SUPPORT LEAVE

The purpose of Maternity or Adoption Support Leave is to help the mother at or around the time of the birth or placement of the child in respect of Adoption or Surrogacy arrangements. This leave is available to employees who have a minimum of 26 weeks continuous service at the start of the 15th week before the EWC or date of placement of a child and who meet the following criteria.

Maternity and Adoption Support Leave is available to employees who are:

- the child's father; or
- the mother's partner (including civil partner); or

In the absence of the child's father or mother's partner, a nominated carer or support partner can request Maternity & Adoption Support Leave. The nominated carer/support

partner is the main support provider at or around the time of the birth and this will usually be the child's father or the mother's partner.

Leave consists of up to a maximum of 5 days paid leave (pro-rated for part time/week workers) which can be taken between the 11th week prior to the expected week of childbirth and the 13th week after the birth. The leave may be taken as half working days, full working days or block periods as appropriate.

Application for maternity or adoption support leave should be made to the employee's manager in the same way as that for annual leave and the employee will require to produce for inspection form MATB1, confirming the expected date of childbirth. If the employee is not the father, they will be required to produce a statement from the expectant mother declaring the applicant as the nominated carer. This will also be the case if the mother does not work and is unable to produce a MATB1 certificate

In the event of a stillbirth, the five days maternity support leave will still be available.

Employees will be entitled to return to the same job after maternity or adoption support leave.

NB: Fathers or partners of an expectant mother or partners of adopters are also entitled to an additional week's Statutory Paternity Leave (see section 3.7 below).

3.7 MATERNITY, ADOPTION & ADDITIONAL PATERNITY LEAVE – GENERAL INFORMATION

3.7.1 Annual Leave

Annual Leave shall accrue during the period of ordinary and additional maternity, adoption, paternity and surrogacy leave.

A teacher or music instructor will accrue annual leave, in accordance with provisions 5.3 to 5.5 contained in the SNCT conditions.

An Education Support Officer, Quality Improvement Officer or Educational Psychologist shall accrue leave from 1st January each year. This will be based on continuous service between 35 and 40 days per annum and in accordance with provisions 5.12 to 5.15 contained in the SNCT conditions.

The arrangements for taking accrued leave are in accordance with national conditions.

Teachers and Music Instructors are entitled to accrue leave (pro-rata for part-time), from the commencement of the annual leave year for teachers (1st September) to the day prior to the commencement of her maternity leave, calculated on the basis of 0.2051 of a day for each day worked in the school.

Leave will continue to be accrued on this basis during the maternity, adoption or additional paternity leave period. This accrued leave will be notified to employees once the teacher has confirmed the date of her intent to return to work. The maximum annual leave per year for a full time teacher is 40 days, and she cannot be given days in excess of this amount.

3.7.2 Keeping in Touch Days

Employees on maternity, adoption, surrogacy and additional paternity leave are entitled to Keeping in Touch Days. They may undertake up to 10 days work (keeping in touch days) during their maternity leave period without bringing their leave to an end.

Keeping in Touch Days are paid at normal pay. Normal pay is the amount an employee would have been paid if they had returned to work, this will be inclusive of any SMP, Maternity Allowance or SAP payments as appropriate. Where an employee is a member of the Scottish Teachers Pension Scheme both employee and employer pension contributions would be payable in respect of any Keeping in Touch Days worked.

There is no requirement for an employee to undertake work during their leave, neither is there a requirement for the Council to provide such work. However, the option is in place for the employee and their head teacher to discuss keeping in touch days. These days do not have to be consecutive and can be used for training or any other activity which enable the employee to keep in touch with the place of employment.

Keeping in Touch Days can only be taken in agreement between the employer and the employee in respect of both the activity and timing. The Code of Practice on Keeping in Touch Days found in appendix 2.10 of the SNCT Handbook should be the basis for arrangements for such days. An employee cannot, in any circumstances, undertake a Keeping in Touch Day within 2 weeks of childbirth.

3.7.3 Reasonable Contact

An employer and employee are allowed to make reasonable contact during maternity, adoption, surrogacy or additional paternity leave, to discuss such issues as the return to work. This does not constitute “work” and does not therefore count towards the 10 days “Keeping in Touch”. Such contact will not bring the maternity leave period to an end.

Apart from discussing the return to work, the manager should ensure that an employee is kept informed of other issues, such as job vacancies, significant workplace developments and training opportunities.

3.5.4 Excess Travel Costs

Excess travel costs will automatically stop when leave starts.

3.7.5 Pension Scheme

Employees on maternity, adoption or surrogacy leave, who are members of the Teachers Pension Scheme, will be required to continue pension contributions during their paid leave (up to 39 weeks). The Council will also continue to pay pension contributions during the paid leave period.

No pension contributions will be made by either the employee or the Council during the unpaid period of leave. In order to maintain reckonable service during the “no pay” period of maternity or adoption leave, an employee will have the option to “buy back” this period on return to work.

Employees should contact the Scottish Public Pensions Agency (01896 893000) to discuss options for any time when they are not in pay.

3.7.6 Flexible Benefit Schemes

Employees who are taking maternity, adoption, surrogacy or additional paternity leave and are a member of any Flexible Benefit Schemes (for example, Childcare Vouchers), should contact Human Resources (01324 506222) as soon as possible to discuss their payments.

3.7.7 Childcare Voucher Scheme

Salary sacrifice payments cannot be deducted from SMP/SAP to which the employee is entitled.

Employees can remain in the scheme during maternity, adoption, surrogacy or shared parental leave and will be responsible for salary sacrifice payments during any period of Occupational Maternity or Adoption Pay. During the SMP/SAP period, HR will arrange for Childcare voucher contributions to be reduced to zero. The employee will be required to complete a change of amount form to reinstate their voucher contributions, if required, on their return to work.

However, employees in the Childcare Voucher Scheme are required to confirm whether or not they wish to remain in or leave the scheme prior to maternity, adoption or surrogacy payments being calculated as their pay will be based on their salary AFTER the Childcare Vouchers Salary Sacrifice deduction, which will reduce the amount of cash paid whilst on maternity or adoption leave.

It is the employee's responsibility to contact Human Resources **no later** than 28 weeks prior to commencing maternity or adoption leave to discuss their options. It is important to adhere to this timescale in order to allow appropriate calculations of SMP/SAP to be carried out by Payroll within legislative timescales (i.e. the 8 week period prior to 15 weeks before the EWC or placement).

If this timescale is not adhered to, no manual adjustments will be made should an employee decide at a later date to withdraw from the Scheme or change their voucher amount and their SMP/SAP will be calculated at the lower (salary sacrifice) salary.

Employees should seek advice from any relevant agencies in relation to tax credit implications or ongoing childcare costs prior to making a decision.

Employees should ensure they contact Human Resources (01324 506222) at the earliest opportunity to enable additional guidance to be provided.

3.8 PARENTAL LEAVE

Parental leave is a right for all employees who are parents, and who have at least one year continuous service, to take time off work to look after or make arrangements for their child's welfare. Parental leave is unpaid.

The purpose of the leave is to look after the welfare of the child for reasons such as: to spend more time with the child, to accompany a child during a stay in hospital, to check out new schools, to settle a child into new childcare arrangements or to enable the family to spend more time together.

To be eligible, an employee must be registered as the parent or have parental responsibility for the child.

Employees are entitled to a maximum of 18 weeks in respect of each individual child.

The minimum amount of leave to be taken at any one time is one week, except for parents of a disabled child who can take parental leave in individual days.

The maximum amount of leave to be taken within any one leave year is four weeks. In exceptional circumstances applications exceeding four weeks will be considered at the discretion of the Head of Service.

An employee may not exercise any entitlement to parental leave in respect of a child after the date of the child's 18th birthday.

3.8.1 Notification Requirements

Employees must give a minimum of 21 days notice of their intention to take a period of parental leave. If it is not possible to give 21 days notice, they must give the notice as soon as is reasonably practical.

Applications for parental leave should be made on a pro forma available from Human Resources (Appendix 5).

3.8.2 Postponement of Leave

The Director/Head of Service may postpone parental leave for up to 6 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 7 days following the employee's notice to take leave. This should be discussed with HR in the first instance.

Alternative dates for postponed leave should be agreed between the employee and the Director/Head of Service.

3.8.3 Return to Work

Employees have the right to return to the same job, in the same location as they had prior to commencing parental leave.

Any changes to the employee's job or location must be in accordance with the normal consultation procedures, and not in any way related to parental leave absence.

3.9 CARERS AND DEPENDANTS LEAVE

The Council relies on people with personal caring responsibilities for both adults and children to provide our services and accept that there may be the need for these employees to take a break from work or alter their working arrangements to deal with such caring commitments.

3.9.1 Definitions

A dependant carer is responsible for caring for their partner, child (or partner's child), parent (or legal guardian) or someone who lives in the same household as the employee (other than by reason of being an employee, tenant, boarder or lodger).

An adult carer is an employee who is, or expects to be, caring for an adult who they are married to or are the civil partner of, is a near relative or lives at the same address. The care they provide is long term and unpaid.

3.9.2 Leave Provisions

Carers leave is available to all employees of the Council irrespective of their length of service as covered by the definition in 3.7.1 above.

Authorisation for carers leave should be obtained by an employee from their line manager in the first instance. This can be done by following the current absence or annual leave notification procedure. All requests for carers leave should be recorded on employee's annual leave cards as well as on Resourcelink.

Unplanned Leave

Unplanned carer's leave is to deal with emergency obligations such as illness, injury or where normal care arrangements break down. This leave is primarily intended to cover unforeseen matters and should not be used for pre-planned occurrences, for example to accompany dependants to hospital and dental appointments.

Carer's leave consists of **up to** a maximum of 5 days paid leave (pro-rated for part time/week workers) in any 1 leave year to deal with emergency obligations and may be taken in half days, single days or block periods. Notwithstanding, when normal care arrangements break down, employees will be expected to make alternative arrangements as soon as possible.

For any leave requests in excess of 5 days, employees should discuss the reasons for this request in more detail with their line manager. Requests for additional leave must be approved by the Director/Head of Service in consultation with the Head of Human Resources. This leave may be paid or unpaid, and, in exceptional circumstances, unpaid leave may be extended (up to a maximum of 3 months), subject to the exigencies of the Service.

Planned Leave

Planned carer's leave is to deal with situations where reasonable advanced notification is available. This leave is primarily intended to cover pre-planned occurrences such as hospital or dental appointments, legal meetings or residential care meetings.

This leave is unpaid although employees may request annual and flexi leave or for extended periods, parental leave can be requested (for childcare issues only).

It is an over-riding principle that service provision will not suffer and whilst every effort will be made to support employees in relation to pre-planned leave requests, there may be occasions where due to other circumstances, such as office cover or service provisions, that requests may be refused. This will be discussed with the employee and alternative options considered.

Where the leave is in respect of bereavement, the provisions for Compassionate Leave within the relevant Conditions of Service will apply.

3.9.3 Role & Responsibilities

Managers/Head Teachers:

- Maintain regular contact with individual employees;
- Consider requests for individual working arrangements;
- Ensure requests are recorded on Resourcelink;
- Provide reasonable notice if overtime or working away is required;
- Provide access to telephone if required.

Employees:

- Follow the appropriate absence or annual leave notification procedures;
- Provide as much notice as possible in relation to any planned appointments and time off should be agreed in advance between an employee and their line manager;
- Provide supporting evidence of appointments, etc;
- Ensure requests are recorded on annual leave card and approved by manager.

3.10 RIGHT TO APPLY TO WORK FLEXIBLY

Parents of children aged up to 18, or employees with long-term/unpaid caring responsibilities for an adult have the right to apply to work flexibly. The definition of a carer is as per section 3.7.1.

In practice this may mean changing the number or pattern of hours worked. Employees will be required to put all requests for the right to work flexibly in writing in accordance with the relevant procedures. Although there is no requirement to agree to all requests, the Council will ensure that full consideration is given to such requests and that any reasons for refusal will be provided in writing.

Advice is available from Human Resources to support managers in assessing and responding to requests to work flexibly.

N.B. The right to apply to work flexibly is a legislative right specifically for people with child and adult caring responsibilities. Employees who do not meet the criteria for this option should be aware that a variety of flexible working options are available including job share, part time, compressed working etc.

PART 4

4.1 IMPLEMENTATION & REVIEW

The provisions within this document are effective for children born after 5th April 2015.

The Head of Human Resources and Business Transformation in conjunction with Service Directors/Heads of Services and Trade Unions will monitor and review the policy as necessary.

Application for Maternity Leave

Please refer to the Family Leave Policy on the intranet before completing this form.

Name:	
Home Address:	
Post Code:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

☐

I enclose my MAT B1 Certificate confirming I am pregnant (please tick)

I wish to commence my Maternity Leave on _____ and
am intending/not intending* to return to work.

*** Delete as appropriate**

RETURN WITH YOUR ORIGINAL MATB1 TO HUMAN RESOURCES
MUNICIPAL BUILDINGS, FALKIRK FK1 5RS

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Adoption Leave

Please refer to the information guidance on the intranet before completing this form.

Name:	
Home Address:	
Postcode:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I confirm that I have worked continuously for Falkirk Council for a period of no less than 26 weeks prior to the week in which I have been matched for adoption.

I confirm I am the main adopter as per section 3.2.1 of the Family Leave Policy.

I also confirm that the child has been newly placed for adoption and that I am not the step-parent or the child's existing foster carer.

My expected date of placement is: _____

I wish to commence my Adoption Leave on _____
and I am * intending / not intending to return to work.

* Delete as appropriate



Leave may begin from the date of the child's placement or from a date up to 14 days before the expected date of placement.

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

☐

I enclose my Matching certificate confirming my Adoption Placement (please tick)

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Surrogacy Leave

Name:	
Home Address:	
Postcode:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I confirm that I meet the requirements for Surrogacy Leave as per section 3.3 of the Family Leave Policy.

My expected date of placement is: _____

I wish to commence my Surrogacy Leave on _____ and I am
* intending / not intending to return to work.

* Delete as appropriate



Leave may begin from the date of the child's placement or from a date up to 14 days before the expected date of placement.

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

☐

I enclose a copy of the Mother's MATB1 confirming my Surrogacy arrangements (please tick)

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Ordinary Paternity Leave

Please refer to the information guidance on the intranet before completing this form

Name:	
Home Address:	
Service:	
Job Title:	
Employee Number:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

The Expected Week of Childbirth (EWC) is: _____

I wish to start my Paternity Leave on: _____

I intend to take (please tick as appropriate):

☐

One week Paternity leave and one week Maternity Support Leave (*To be taken as a two week block after the baby is born*)

☐

One week Maternity Support Leave only (*To be taken after the baby is born*)

I confirm that I have continuous service a period of no less than 26 weeks prior to the 15th week before the EWC.

I also confirm that I, as required for Paternity leave:

- Have or expect to have responsibility for the child's upbringing and
- Am the child's biological father or the mother's husband or partner
- I will take time off work to support the mother or care for the child

Signed: _____ Date: _____

Application approved by: (Line Manager)

Please notify Payroll with the actual date of birth in order that the appropriate salary deductions can be made

Signed: _____ Date: _____

Name (print): _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Application for Maternity and Adoption Support Leave

This form should be completed and sent to your Manager/Headteacher only

Please note that there is a separate form for Paternity Leave

Name:	
Home Address:	
Postcode:	
Service:	
Job Title:	
Employee Number:	
Email Address:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I intend to take One Week Maternity and Adoption Support Leave (*Maternity and Adoption Support Leave can be taken before or after the baby is born and recorded on Annual Leave card*).

The Expected Week of Childbirth (EWC) is: _____

I wish to start my Maternity and Adoption Support Leave on: _____
and I wish to take the leave as: (please tick as appropriate)

☐

1 week block

☐

Separate days

☐

I have enclosed a copy of the Mother's MatB1 certificate (please tick)

I confirm that I have worked continuously for Falkirk Council for a period of no less than 26 weeks prior to the 15th week before the EWC.

I confirm that I am:

- The child's father; or
- The mother's partner (including civil partner); or
- A nominated carer or support partner as per section 3.6 of the Family Leave Policy.

Signed: _____ Date: _____

Application approved by: (Line Manager)

Please notify Payroll with the actual date of birth in order that the appropriate salary deductions can be made from employees salary

Signed: _____ Date: _____

Name (print): _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

CURTAILMENT NOTICE

To be completed by the Mother only.

Please complete and return this form to your manager.

This form is to inform the Council that you wish your maternity leave/pay to end in order that the person who shares the main responsibility to care for your child can take shared parental leave.

You must give at least 8 weeks' notice of your curtailment date. If you are entitled to maternity leave, the curtailment date must be at least two weeks after the birth of your child.

I wish my maternity/adoption leave to end on:(insert date)

Name	
Employee No	
Job Title(s)	
Signature	
Date	

Please note: This form is only notification that you wish to curtail your maternity leave. You are required to complete a Notice of Entitlement and Intention Form. This form can be completed and handed in at the same time as your curtailment notice.

**(*) If you have 2 or more jobs either with the Council (or with the Council and another employer) you are required to curtail your maternity leave in all posts.
Please ensure that all your job titles are noted in this Curtailment Notice .**

Notice of Entitlement and Intention to Take Shared Parental Leave

If you wish to take shared parental leave, then you must submit this form to your manager at least **8 weeks** before the start of the first period of shared parental leave. If you are the mother, you must also complete a curtailment notice confirming you are bringing your maternity leave to an end.

In order to calculate the amount of shared parental leave you are eligible for please complete the following.

Employee Name:	
Employee No:	
Job Title(s):	
Date on which maternity / adoption leave commenced / will commence	

Declaration:

☐ I confirm that I am the mother/main adopter of the child;

Or

☐ I confirm that I am the partner of the mother/main adopter of the child:

And

☐ I confirm that I meet the eligibility criteria for shared parental leave (as per Section 3.5.2 of the Policy).

Signed:	Date:
---------	-------

Note (Mother only): If you have 2 or more jobs either with the Council (or with the Council and another employer) you are required to curtail your maternity leave in all posts.

Note (Partner only): If you have 2 or more jobs with the Council you are required to give notice for shared leave in both posts. If you have one post with the Council and one with another employer you can decide if you wish to take shared leave from all posts.

(*) You are required to highlight details of all your posts in the Curtailment Notice.

SHARED PARENTAL LEAVE BOOKING NOTICE

This form should be completed should you wish to book shared parental leave. You must give at least 8 weeks' notice of any dates in which you wish to take as shared leave.

Name	
Employee No	

A. Date in which you (or the mother/adopter) has curtailed their maternity leave		
B. Number of weeks maternity or adoption leave taken by the mother/ adopter.	<u>Start Date</u>	<u>End Date</u>
C. Remaining number of weeks of shared parental leave available (52 weeks minus the number of weeks taken according to the above dates) (<i>e.g. 52 – B above</i>)		
D. Maximum number of weeks of shared parental pay available (39 weeks minus the number of weeks taken according to the above dates) (<i>e.g. 39 – B above</i>)		
E. Total number of shared parental leave/pay you intend to take	<u>Shared Parental Pay</u>	<u>Shared Parental Leave</u>
F. Total Number of weeks of Shared parental leave/pay the other parent intends to take.	<u>Shared Parental Pay</u>	<u>Shared Parental Leave</u>

Requested Shared Parental Leave / Pay Dates

Start date	End date	Number of weeks leave	Number of weeks pay (if applicable)

Declarations

By the Employee

Please confirm your eligibility by ticking the appropriate boxes below and signing the form

- ☐ I am the mother, father or main adopter of the child and will share the care of the child with my partner named below
- ☐ I meet the eligibility criteria for shared parental leave

If appropriate:

- ☐ I meet the eligibility criteria for shared parental pay
- ☐ I am the mother or main adopter and have completed the **notice of curtailment of maternity / adoption leave** section and understand that this is **binding** subject to certain conditions outlined in the policy
- ☐ I consent to you retaining and processing the information contained in this form

Signed:_____ Date:_____

For completion by the Employee's Partner

Name	
Address	
Name and Address of Employer	
National Insurance Number	

I confirm that I meet the following criteria for eligibility for shared parental leave:

- ☐ I have worked either directly, for an agency or self-employed, for 26 weeks in the 66 weeks leading up to the due date.
- ☐ I have earned above the maternity allowance threshold of £30 a week in 13 of the 66 weeks leading up to the due date.
- ☐ I consent to your employee taking shared parental leave and shared parental pay as detailed above.

If appropriate:

- ☐ I am the mother / main adopter and confirm I have curtailed my maternity / adoption leave and pay with my employer (or will have done so by the time your employee takes shared parental leave).
- ☐ I consent to you retaining and processing the information contained in this form.

Signed:_____ Date:_____

Notice to Vary a Period of Shared Parental Leave

You should complete this form if you wish to vary a previously approved period of shared parental leave.

You must have previously submitted a **Booking Notice for Shared Parental Leave** (Appendix 8) and have had your eligibility for shared parental leave confirmed.

Name	
Employee No: <i>(if employed by Council)</i>	
Name of Partner	

Request to Vary Previously Requested Parental Leave / Pay Dates

Previously Approved Start date	Previously Approved End date	Detail the change you would like to request (Including start and end dates)

We confirm that we agree to the request as per the variation outlined above.

Signed: (Employee)_____ Date:_____

Signed: (Employee's Partner)_____ Date:_____

Application for Parental Leave

Please refer to the information guidance on the intranet before completing this form.

Name:	
Home Address:	
Service:	
Job Title:	
Employee Number:	
Work Tel no:	Home Tel no:
Manager/Headteacher Name:	Manager/Headteacher Location:

I wish to commence my Parental Leave on: _____



Minimum of 21 days notice is required for any parental leave requests. Your manager may postpone parental leave for a period no greater than 6 months.

I wish my Parental Leave to last for: _____



Maximum leave to be taken in any 1 year is 4 weeks. Minimum amount of leave to be taken at any one time is 1 week (except in the case of a disabled child where individual days can be taken).

I can confirm that I have worked continuously for Falkirk Council for a period of no less than 1 year.

I also confirm that, as per requirements of Statute,

- My child is under 16 years of age (18 years in the case of a disabled child)
- I am registered as the child's parent or
- I have parental responsibility for the child

☐

Flexible Benefits (please tick)

(I am currently a member of a Flexible Benefits Scheme e.g. Childcare Vouchers or Cycle to Work)

Signed: _____ Date: _____



In accordance with the Data Protection Act 1998, you are advised that this information will be retained on file and used for Human Resources and Payroll purposes.

Please send this form to your Line Manager for authorisation

Line Manager Checklist

☐

Payroll have received a copy of this form

☐

A copy has been placed in the employees personal file

GUIDANCE NOTES

MATERNITY/ADOPTION SUPPORT LEAVE

Maternity or Adoption Support Leave is available to all employees, who have a minimum of 26 weeks continuous service at the start of the 15th week before the expected week of childbirth (EWC) or date of placement of a child.

Maternity or Adoption support leave may be taken by the father or other support person nominated by the mother. It is anticipated that the nominated support person, other than the father, will normally fall under the definition of dependant.

Leave consists of up to a maximum of 5 days paid leave (pro-rated for part time/week workers) which can be taken between the 11th week prior to the expected week of childbirth and the 13th week after the birth. The leave may be taken as half working days, full working days or block periods as appropriate.

Application for maternity or adoption support leave should be made to the manager in the same way as that for annual leave and the employee will require to produce for inspection form MAT B1, confirming the expected date of childbirth. If the employee is not the father, they will be required to produce a statement from the expectant mother declaring the applicant as the nominated support person. This will also be the case if the mother does not work and is unable to produce a MATB1 certificate declaring the applicant as the nominated support person.

PATERNITY LEAVE

In addition to the Maternity & Adoption Support Leave described above, fathers or partners of an expectant mother or an adopter who have 26 weeks continuous service at the start of the 15th week before the expected week of childbirth (EWC) or adoption placement are entitled to a further week's Statutory Paternity Leave.

Leave can start from any day of the week from the actual date of birth up to 56 days after the EWC and must be taken as a complete week.

Payment of Statutory Paternity Leave is as follows:

You will be paid Statutory Paternity Pay (SPP) which is the same rate as Statutory Maternity Pay or 90% of average weekly earnings if this is less. The rate of Statutory Paternity Pay is set by the Government and increases each year by the rate of inflation. Exact rates are available from HR or Payroll.

If your average earnings are below the Lower Earnings Limit for National Insurance contributions you will not qualify for SPP. Employees in this group may obtain information on additional financial support from the Jobcentre or Benefits Agency.

Notification Requirements

You are required to inform the Council of your intention to take paternity leave by the 15th week before the EWC, where practicable. Employees may alter the date on which their leave starts by giving 28 days notice in writing where this is reasonably practicable.

COMPLETION OF FORM

As noted above, if you have the relevant qualifying service, you are entitled to one week Maternity/Adoption Support Leave and one week Paternity Leave. The form overleaf should

only be completed if you intend to request Paternity Leave, this leave is for one full week and is paid at the current rate of S.P.P. This form should be authorised by your line manager and then forwarded to Human Resources, Room 325, Municipal Building, Falkirk. Following receipt of this form HR will write to you to confirm your entitlement and will inform Payroll.