

**FALKIRK COUNCIL**

**Subject: REFERRAL FROM JOINT CONSULTATIVE COMMITTEE**  
**Meeting: EXECUTIVE**  
**Date: 29 SEPTEMBER 2015**  
**Author: DIRECTOR OF CORPORATE & HOUSING SERVICES**

**1. INTRODUCTION**

- 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 11 August 2015.

**2. POLICIES FOR APPROVAL**

- 2.1 At its meeting on 11 August 2015, the Joint Consultative Committee agreed to refer the following policies to the Executive for approval.

**2.2 Overseas Criminal Record Checks Policy**

The policy has been reviewed and updated to reflect a number of minor changes including an update of the useful contact details and changes to the arrangements for payment of checks. The policy has also been changed to reflect the Disclosure and Barring Service (DBS) replaced the Criminal Records Bureau on 1st December 2012.

**2.3 Family Leave Policies**

The Teachers and non-teachers policies have been updated in accordance with new regulations, effective from April 2015, which introduced the option for employees to take Shared Parental Leave.

- 2.4 The policies incorporate relevant procedures for notification of entitlement and intention to take Shared Parental Leave as well as the process for booking shared leave. All other terms and conditions relating to employees taking Shared Parental Leave mirror what is already included in the policy for Maternity, Adoption and Surrogacy Leave and these therefore remain unchanged.

**3. RECOMMENDATION**

- 3.1 It is recommended that the Executive approves the immediate implementation of the policies as noted in section 2 above.

.....  
**DIRECTOR OF CORPORATE & HOUSING SERVICES**

Author: T Gillespie, ext 6239, K Algie, ext 6223  
Date: 18/08/15

**FALKIRK COUNCIL**

**Subject: OVERSEAS CRIMINAL RECORDS CHECKS POLICY**  
**Meeting: JOINT CONSULTATIVE COMMITTEE**  
**Date: 11 AUGUST 2015**  
**Author: DIRECTOR OF CORPORATE & HOUSING SERVICES**

**1. INTRODUCTION**

- 1.1 The Overseas Criminal Records Checks Policy has been reviewed to ensure that the Policy continues to meet legislative requirements and remains fit for purpose. The purpose of this report is to advise Committee of updates to the Policy.

**2. OVERSEAS CRIMINAL RECORDS CHECKS POLICY**

- 2.1 A number of changes have taken place and the policy has been updated to reflect these changes. The main changes are noted below:
- The Disclosure and Barring Service (DBS) replaced the Criminal Records Bureau on 1<sup>st</sup> December 2012;
  - The Disclosure Checking Policy referred to has changed to PVG & Criminal Conviction Checking Policy;
  - Arrangements for the payment of checks have now changed;
  - A number of the useful contacts have changed and web sites detailed no longer in use.
- 2.2 A copy of the revised policy is attached for Committee's consideration.

**3. RECOMMENDATION**

- 3.1 Members of the Joint Consultative Committee are invited to agree the amendments to the Overseas Criminal Record Checks Policy and refer the policy to the Executive for approval.

.....  
**DIRECTOR OF CORPORATE & HOUSING SERVICES**

Date: 01/07/15

Ref: W:/Committee Reports/JCC.11.08.15/OverseasCriminalRecordsChecksPolicy

Contact Name: Sharon Ricketts, ext 6268

**LIST OF BACKGROUND PAPERS**

None



# **FALKIRK COUNCIL**

## **OVERSEAS CRIMINAL RECORD CHECKS POLICY**



## INDEX

			<u>PAGE NUMBER</u>
PART 1	1.1	POLICY STATEMENT	3
PART 2	2.1	Introduction	3
	2.2	Scope	3
PART 3	3.1	Disclosure Certificates	4
	3.2	References	4
	3.3	Professional Registration	4 & 5
	3.4	Existing Employees Temporarily Residing Abroad.	5
	3.5	Timescale	5 & 6
	3.6	Translation	6
	3.7	Scrutiny	6
	3.8	Risk Assessment	6 & 7
	3.9	Costs	7
PART 4	4.1	Review	7
		APPENDIX 1 – USEFUL CONTACTS	8 & 9

## **PART 1**

### **1.1 POLICY STATEMENT**

Falkirk Council is committed to ensuring the safe recruitment and continued employment of individuals in posts working with children and protected adults. The Council is also committed to ensuring the fair treatment of individuals including those who have previous convictions. The Baseline Personnel Security Standard (BPSS) is a set of guidelines followed for the effective pre employment screening of personnel. We will follow the BPSS guidelines to ensure the identity and integrity of employees with access to official information or systems.

This policy should be read in conjunction with Falkirk Council's Recruitment and Selection Policy, PVG & Criminal Conviction Checking Policy and Equal Opportunities Policy.

## **PART 2**

### **2.1 INTRODUCTION**

This policy outlines the process for conducting criminal record and related background checks for applicants who have lived or worked abroad. The process also relates to existing employees who have lived or worked abroad during their employment with Falkirk Council, e.g. following a career break. The process covers periods abroad in excess of 3 months or more, for the preceding 5 year period from the date the disclosure certificate is required.

Applications from suitably qualified people who are from or have lived abroad are encouraged, although eligibility to work in the UK must always be verified. Permission to work in the UK however, does not mean that the person is suitable for all jobs working with protected groups. There is always the need for criminal conviction checking, which is a separate process.

### **2.2 SCOPE**

The policy applies to:

- applicants currently living abroad and applicants currently living in the United Kingdom who have lived abroad for 3 months or more within the previous 5 years;
- existing employees, as part of the retrospective disclosure process who have lived abroad for 3 months or more within the previous 5 years;
- existing employees, in circumstances where they spend time abroad before returning to work with the Council, e.g. through:  
Career break or sabbatical e.g. to undertake voluntary work or travel;  
Secondment to a foreign organisation where the workplace is outside the UK;  
International exchange – i.e. teachers' exchanges.

## **PART 3**

### **3.1 DISCLOSURE INFORMATION**

Where the post requires a Disclosure or Protection of Vulnerable Groups (PVG) Check, this should be obtained as a matter of good practice, even if the applicant claims never to have lived in the UK before. There may be occasions where an overseas applicant has visited the UK on holiday and may have committed an offence.

Where relevant, it is the responsibility of the applicant to provide a separate overseas criminal record check. The check should come from the police or judicial authority, government department, or embassy of the country or countries concerned and be an official statement confirming that the individual does not have any history of or pending criminal record proceedings.

The Disclosure and Barring Service (DBS) which provides a disclosure service for England and Wales, offers advice about obtaining criminal record information from a number of countries and how an individual can obtain his or her criminal record or certificate of good conduct from overseas. (see appendix 1 for contact details). The *London Diplomatic List*, on the Foreign and Commonwealth Office (FCO) web site provides a list of embassies and consulates (see appendix 1 for contact details).

Applicants should be advised that checks may be carried out to authenticate any documents.

### **3.2 REFERENCES**

In addition to the standard reference checking that should be completed for all candidates, in accordance with Falkirk Council's Recruitment and Selection Policy, additional reference checking may be appropriate for candidates who have spent 3 months or more abroad.

In particular, this may be of use where, despite the best efforts of the candidate, it has not been possible for him or her to obtain an overseas criminal conviction check. In such circumstances, additional references may be useful in assessing his or her suitability for the post.

Examples of additional reference checking that would be appropriate might include seeking a reference from an academic institution if the applicant claims to have been studying abroad, or seeking references from all employers where the normal practice is only to seek references from the most recent employers.

If it is considered appropriate to request additional references, permission from the candidate should be sought. Although refusal may raise suspicions this should not be a reason to automatically reject the candidate without further investigation.

### **3.3 PROFESSIONAL REGISTRATION**

It should not be assumed that because an applicant has a UK professional registration that the person has had a UK or an overseas criminal record check. A professional registration

may, however, be a factor to take into account when assessing other information provided.

For jobs where no professional registration is required this should also be considered as part of the risk assessment. In addition it may be necessary to take additional care in verifying qualifications and educational certificates if not issued within the UK. Further information can be provided for relevant posts by Scottish Social Services Council.

### **3.4 EXISTING EMPLOYEES TEMPORARILY RESIDING ABROAD**

Before agreeing to any contractual change involving an employee who has resided abroad for a 3 month period or more, i.e. those in scope in section 2.2 above, managers should ensure that the employee is aware that the Council will require the employee to complete a Disclosure/PVG check prior to return to work and how this will be done. Checks should also be carried out to include any other countries of residence for 3 months or over during the break, exchange or secondment. It will usually be the employee's responsibility to source the necessary documents, although in some situations, e.g. exchanges or secondment, it may be sufficient to agree with the host organisation that the employee will remain bound by the Council's disciplinary procedure and that arrest, charge, or conviction while abroad should be made known to the Council.

Other possible approaches include:

- Seeking a reference from the host organisation upon return;
- Making it a condition of permission to take leave that the employee should obtain an overseas criminal conviction check upon return;
- Seeking a report on the employee's performance during secondment from the host organisation.

It is the manager's responsibility to identify and complete any relevant checks. If an employee is about to return from work overseas and these arrangements have not been agreed in advance managers must contact Human Resources for advice.

### **3.5 TIME SCALE**

Where possible, a reasonable period should be allowed to obtain the information. After six weeks, if no information has been obtained by the individual, managers should consider whether to:

- allow more time;
- make a risk assessment on the partial information already obtained; or,
- reject the applicant.

For existing employees, advice should be sought from Human Resources.

The Council appreciates that obtaining an overseas criminal record check can be difficult and differs from country to country. In some cases it will prove impossible for an applicant/employee to obtain the required statement, particularly where the country is experiencing political difficulties. Political refugees may find it very difficult to obtain the required statement. The accuracy of the information received may also be

questionable. There may be concerns that such a request could put the individual's personal safety in jeopardy.

When deciding how to proceed, the responsible manager should consider what action has been taken to try and obtain the check and seek evidence of the dates and actions the applicant has taken. This evidence should be considered along with anecdotal information such as whether similar difficulties have been encountered by other candidates applying to the same source. It may also be useful to consult HR colleagues or other Local Authorities to provide further information.

### **3.6 TRANSLATION**

Some countries offer a certificate in English or the option of a translated duplicate. Many countries do not. This also applies to references. It should not be assumed that referees can read English. In some circumstances it may be necessary to send a translation of the reference request letter or form.

If a translation is required this must be carried out by a Falkirk Council approved source. Falkirk Council have a contract with a recognised provider and further information can be found at

<http://underground.falkirk.gov.uk/work/communications/accessinginterpretingservices.pdf>

### **3.7 SCRUTINY**

Extra rigor should be used to check references, the dates of previous employment and any other biographical information supplied by the applicant. It is the recruiting manager's responsibility to question any gaps in the application form/employment records received and to check where the applicant/employee has been employed during such gaps. The manager should cross reference documentation and check for consistency between information in the passport, work permits, references, and work history in the application form. Inspect closely the overseas documents produced for issue date, certificate numbers, etc, to ensure they are authentic.

Original documents should be provided. If a translation has been required, ensure that the original document and the translation are inspected.

While you are not expected to be an expert in recognising forged documents, check for evidence of tampering. Be suspicious of plausible explanations for missing or damaged originals; e.g. where the applicant claims a document has been damaged by liquid spillage or has accidentally been laundered.

Verification of authenticity of certificates provided may be available from the embassy or consulate of the country of origin.

It is important to take care with documents confirming identity for foreign nationals. Documents to confirm suitability are likely to differ to those which confirm permission to work in the UK.

The Centre for the Protection of National Infrastructure (CPNI) may be able to provide further information and intelligence on checking identity and related issues (see appendix 1 for contact details).



### 3.8 RISK ASSESSMENT

It is particularly important that decisions taken on the suitability of individuals to work in regulated activity relating to children and, or protected adults, are consistent, that risks are managed and BPSS guidelines followed for security reasons. Further information on BPSS guidelines can be found at the cabinet office website detailed at Appendix 1.

If no overseas criminal record check or only partial checks have been obtained, this should not be a reason to automatically reject the applicant. Consider the reasons why the candidate claims to have been unable to obtain the information. Consider whether other information, such as information from references (see reference section), means that the lack of a comprehensive authenticated criminal record check is less important. The decision on whether to confirm employment should be verified by the appropriate recruiting manager in consultation with the Head of Human Resources & Customer First.

Further information is available on the underground:

[http://underground.falkirk.gov.uk/employee/strategies\\_policies\\_procedures\\_guidance/recruitment\\_selection/09\\_guidance\\_for\\_references.pdf](http://underground.falkirk.gov.uk/employee/strategies_policies_procedures_guidance/recruitment_selection/09_guidance_for_references.pdf)

[http://underground.falkirk.gov.uk/employee/strategies\\_policies\\_procedures\\_guidance/recruitment\\_selection/08\\_border\\_agency\\_requirements.pdf](http://underground.falkirk.gov.uk/employee/strategies_policies_procedures_guidance/recruitment_selection/08_border_agency_requirements.pdf)

The assessment of suitability should consider the completeness, quality and authenticity of evidence provided. If the check reveals a criminal record, this should be assessed using the same risk assessment criteria that would be applied to similar information from Disclosure Scotland.

Offences in different jurisdictions may not be directly comparable to offences committed in Scotland. This means that certain crimes may be described or categorised differently. In addition the record may include convictions for activities that would not be regarded as crimes in Scotland and vice versa. Governance or Police Scotland may be able to provide advice on what a foreign conviction equates to in Scottish law. The Apex Scotland Disclosure Helpline offers advice on what UK convictions mean and may also be able to advise on foreign convictions (refer to Appendix 1).

If it is not possible to confirm the appointment, either because conviction history is incompatible with the duties of the post or because insufficient information has been obtained, the reasons should be discussed with the applicant. The applicant must have the opportunity to raise concerns about how the evidence provided has been interpreted, to allow for simple issues, such as an error in translation, to be brought to the attention of the Council.

### 3.9 COSTS

The application process, issuing authority, and costs incurred vary from country to country. Paying for checks and certificates is the responsibility of the applicant/employee. Certificates and other original documents obtained remain the property of the individual and may be used for future employment purposes.

## **PART 4**

### **4.1 REVIEW**

The Head of Human Resources and Business Transformation will review this policy as per the agreed HR Policy Review timetable in conjunction with Service Directors and Trade Unions.

This policy is effective from ..... This policy has been Equality Impact Assessed and no adverse impact has been identified.

## APPENDIX 1 – USEFUL CONTACTS

A list of useful sources is given below. The list was correct at the time of writing. Note that these external resources may change or move unexpectedly. Please let the authors of this document know about any links that need to be added, removed or updated.

Phone numbers for the agencies below have not been given. Where contact by phone is possible the number can generally be found on the “home” page or “contact us” page of the web site.

The Disclosure Scotland web site is a useful source for many of these links and other relevant advice.

This table may be updated independently from the rest of this procedure.

What	Web site or page
Disclosure Scotland	<a href="http://www.disclosurescotland.co.uk">www.disclosurescotland.co.uk</a>
Disclosure and Barring Service (DBS)	<a href="http://www.gov.uk/government/organisations/disclosure-and-barring-service">www.gov.uk/government/organisations/disclosure-and-barring-service</a> Criminal record checks: guidance for employers Criminal record checks and referrals DBS Criminal record checking guidance
Foreign and Commonwealth Office (FCO)	<a href="http://www.gov.uk/government/organisations/foreign-commonwealth-office">www.gov.uk/government/organisations/foreign-commonwealth-office</a>
Apex Scotland	<a href="http://www.apexscotland.org.uk">www.apexscotland.org.uk</a>
Disclosure Helpline	0870 909 0811 <a href="mailto:customerservices@db.s.gsi.gov.uk">customerservices@db.s.gsi.gov.uk</a>
Centre for the Protection of National infrastructure (CPNI)	<a href="http://www.cpni.gov.uk">www.cpni.gov.uk</a>
CPNI Pre-employment screening	<a href="http://www.cpni.gov.uk/advice/personnel-security/screening">http://www.cpni.gov.uk/advice/personnel-security/screening</a>
The Protection of Vulnerable Groups(Scotland) Act 2007	<a href="http://www.gov.scot/Publications/2008/09/29114859/2">http://www.gov.scot/Publications/2008/09/29114859/2</a>
External resources from Disclosure Scotland website	<a href="http://www.disclosurescotland.co.uk">www.disclosurescotland.co.uk</a> (see publications section)
BPSS Checks Cabinet Office	<a href="http://www.cabinetoffice.gov.uk/media/45160/hmg_bpss.pdf">http://www.cabinetoffice.gov.uk/media/45160/hmg_bpss.pdf</a>
ISA	<a href="http://www.isa.homeoffice.gov.uk">www.isa.homeoffice.gov.uk</a>
Safer pre and post employment checks (NHS Scotland document)	<a href="http://www.disclosurescotland.co.uk/publications.htm">www.disclosurescotland.co.uk/publications.htm</a> (see miscellaneous section)

What	Web site or page
Visas and Immigration (UKVI)	<a href="http://www.bia.homeoffice.gov.uk">www.bia.homeoffice.gov.uk</a>

**FALKIRK COUNCIL**

**Subject: FAMILY LEAVE POLICY**  
**Meeting: JOINT CONSULTATIVE COMMITTEE**  
**Date: 11 AUGUST 2015**  
**Author: DIRECTOR OF CORPORATE & HOUSING SERVICES**

**1. INTRODUCTION**

- 1.1 Committee will be aware that the Family Leave Policy has been revised regularly over the past few years to take account of ongoing legislative changes and best practice.
- 1.2 New legislation is now in place, effective from April 2015, which introduces the option for employees to take Shared Parental Leave. The Family Leave Policy (All employees except teachers) has been updated to reflect this new legislation.
- 1.3 The Teachers policy has also been updated to reflect the inclusion of Shared Parental Leave as part of changes to SNCT conditions of service.
- 1.4 This report explains the amendments required and recommends referral to Executive Committee for approval and immediate implementation.

**2. FAMILY LEAVE POLICY**

- 2.1 Shared Leave has been introduced with the purpose of giving parents/adopters more flexibility in how to share the care of their child in the first year following birth or adoption.
- 2.2 The Shared Parental Leave guidance within the Family Leave policies outlines the relevant eligibility, pay and leave entitlements for employees.
- 2.3 In addition, the policies have been updated to provide employees with the relevant procedures for notification of their entitlement and intention to take Shared Parental Leave as well as the process for booking shared leave.
- 2.4 In summary, eligible parents 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 their child.
- 2.5 In addition, an employee can agree to work for the Council (or to attend training) for up to 20 days during Shared Parental Leave without that work bringing the period of his/her Shared Parental Leave and pay to an end. This is 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 employees on statutory maternity, adoption and surrogacy leave.
- 2.6 All other terms and conditions relating to employees taking Shared Parental Leave mirror what is already included in the policy for Maternity, Adoption and Surrogacy Leave and these therefore remain unchanged.

**3. RECOMMENDATION**

- 3.1 It is recommended that Committee agree the changes to the Family Leave Policies and refer both to the Executive for approval and immediate implementation.



.....  
**DIRECTOR OF CORPORATE & HOUSING SERVICES**

Date: 07 July 2015

Contact Name: Tracey Gillespie, extension 6239

**LIST OF BACKGROUND PAPERS**

None



# FALKIRK COUNCIL

## FAMILY LEAVE POLICY

*Teachers and Associated Professionals*



## CONTENTS

<b>PART</b>			<b>PAGE NUMBER</b>
<b>1</b>		<b>POLICY STATEMENT</b>	
<b>2</b>		<b>INTRODUCTION</b>	
	2.1	Introduction	
	2.2	Scope	
<b>3</b>		<b>MATERNITY LEAVE</b>	
	3.1	Maternity Leave	
	3.1.1	Maternity Leave Entitlement	
	3.1.2	Health and Safety	
	3.1.3	Definitions	
	3.1.4	Ante-Natal Care	
	3.1.5	Maternity Pay Entitlement	
	3.1.6	Commencement of Maternity Leave	
	3.1.7	Notification Procedures – Start of Maternity Leave	
	3.1.8	Sick Leave and Maternity Leave	
	3.1.9	Notification of Childbirth	
	3.1.10	Right to Return to Work	
	3.1.11	Exercise Right to Return to Work	
	3.1.12	Return to Work when employee terminates employment	
	<b>3.2</b>	<b>ADOPTION LEAVE</b>	
	3.2.1	Adoption Leave Entitlement	
	3.2.2	Pre-Adoption Meetings/Training Courses	
	3.2.3	Adoption Pay Entitlement	
	3.2.4	Notification Requirements	
	3.2.5	Termination of Placement	
	3.2.6	Right to Return to Work	
	3.2.7	Exercise Right to Return to Work	
	<b>3.3</b>	<b>SURROGACY LEAVE</b>	
	3.3.1	Surrogacy Leave Entitlement	
	3.3.2	Surrogacy Pay Entitlement	
	3.3.3	Notification Procedures – Initial Obligations	
	<b>3.4</b>	<b>PATERNITY LEAVE</b>	
	3.4.1	Paternity Leave Entitlement	
	3.4.2	Payment during Paternity Leave	
	3.4.3	Notification Requirements	
	3.4.4	Return to Work	



	<b>3.5</b>	<b>SHARED PARENTAL LEAVE</b>	
	3.5.1	What is Shared Parental Leave?	
	3.5.2	Eligibility for Shared Leave	
	3.5.2.1	Who is eligible?	
	3.5.2.2	Eligibility Criteria	
	3.5.3	Shared Parental Leave Entitlement	
	3.5.4	Shared Parental Leave Options	
	3.5.5	Notice Requirements for Shared Parental Leave	
	3.5.5.1	Curtailed Notice	
	3.5.5.2	Notice of Entitlement and Intention	
	3.5.5.3	Booking Notice	
	3.5.5.4	Variation or Cancellation of a Booking Notice	
	3.5.6	Limit on number of requests for leave	
	3.5.7	Continuous Period of shared parental leave	
	3.5.8	Discontinuous periods of shared parental leave	
	3.5.9	Shared Parental Pay	
	3.5.10	Eligibility for Shared Parental Pay	
	3.5.11	Terms and Conditions during shared parental leave	
	3.5.12	Shared Parental Leave in Touch Days (SPLIT)	
	<b>3.6</b>	<b>MATERNITY &amp; ADOPTION SUPPORT LEAVE</b>	
	<b>3.7</b>	<b>GENERAL INFORMATION – TERMS AND CONDITIONS (RELATING TO MATERNITY, ADOPTION, SURROGACY AND SHARED PARENTAL LEAVE)</b>	
	3.7.1	Annual Leave	
	3.7.2	Keeping in Touch	
	3.7.3	Reasonable Contact	
	3.7.4	Excess Travel Costs	
	3.7.5	Pension Scheme	
	3.7.6	Flexible Benefit Schemes	
	3.7.7	Childcare Voucher Scheme	
	<b>3.8</b>	<b>PARENTAL LEAVE</b>	
	3.8.1	Notification Requirements	
	3.8.2	Postponement of Leave	
	3.8.3	Return to Work	
	<b>3.9</b>	<b>CARER'S AND DEPENDANTS LEAVE</b>	
	3.9.1	Definitions	
	3.9.2	Leave Provisions	
	3.9.3	Roles and Responsibilities	

	<b>3.10</b>	<b>RIGHT TO APPLY TO WORK FLEXIBLY</b>	
<b>4</b>		<b>IMPLEMENTATION AND REVIEW</b>	
	4.1	Implementation and Review	
		<b>APPENDICES</b>	
	A1	Application for Maternity Leave	
	A2	Application for Adoption Leave	
	A3	Application for Surrogacy Leave	
	A4	Application for Paternity Leave	
	A5	Application for Maternity/Adoption Support Leave	
	A6	Curtailment Notice for Shared Parental Leave	
	A7	Notice of Entitlement and Intention (Shared Leave)	
	A8	Booking Notice for Shared Parental Leave	
	A9	Application for Parental Leave	
	A10	Application Guidance Notes	

## **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 15<sup>th</sup> 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 Underground.

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 15<sup>th</sup> 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 15<sup>th</sup> 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 11<sup>th</sup> 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 24<sup>th</sup> 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 26<sup>th</sup> 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 15<sup>th</sup> 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 15<sup>th</sup> 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 15<sup>th</sup> 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 15<sup>th</sup> 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 1<sup>st</sup> 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 (1<sup>st</sup> 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 506012) 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. The cost of the vouchers will be met by the Council during any period of SMP/SAP payments.

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 SMP/SAP 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. If an employee chooses to remain in the scheme they cannot change the amount of their vouchers after this period as this is the amount in which their SMP/SAP payment will be based on.

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 and their SMP/SAP will be calculated at the lower (salary sacrifice) salary.

**Note:** To be eligible for continued payment of Childcare Vouchers during their leave, employees must already be a member and have a qualifying child already in the scheme.

Employees should also 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 506012) 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 and must be taken before the child's 16<sup>th</sup> birthday or 18<sup>th</sup> birthday if the child is disabled.

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 16<sup>th</sup> birthday except in cases where the child is disabled (up to 18<sup>th</sup> birthday) or has been adopted (until 5 years from date of adoption has lapsed).

#### **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 5<sup>th</sup> 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.



# **FALKIRK COUNCIL**

## **FAMILY LEAVE POLICY**

**All Employees except  
Teachers**



## CONTENTS

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

	<b>3.5</b>	<b>SHARED PARENTAL LEAVE</b>	
	3.5.1	What is Shared Parental Leave?	
	3.5.2	Eligibility for Shared Leave	
	3.5.2.1	Who is eligible?	
	3.5.2.2	Eligibility Criteria	
	3.5.3	Shared Parental Leave Entitlement	
	3.5.4	Shared Parental Leave Options	
	3.5.5	Notice Requirements for Shared Parental Leave	
	3.5.5.1	Curtailment Notice	
	3.5.5.2	Notice of Entitlement and Intention	
	3.5.5.3	Booking Notice	
	3.5.5.4	Variation or Cancellation of a Booking Notice	
	3.5.6	Limit on number of requests for leave	
	3.5.7	Continuous Period of shared parental leave	
	3.5.8	Discontinuous periods of shared parental leave	
	3.5.9	Shared Parental Pay	
	3.5.10	Eligibility for Shared Parental Pay	
	3.5.11	Terms and Conditions during shared parental leave	
	3.5.12	Shared Parental Leave in Touch Days (SPLIT)	
	<b>3.6</b>	<b>MATERNITY &amp; ADOPTION SUPPORT LEAVE</b>	
	<b>3.7</b>	<b>GENERAL INFORMATION – TERMS AND CONDITIONS (RELATING TO MATERNITY, ADOPTION, SURROGACY AND SHARED PARENTAL LEAVE)</b>	
	3.7.1	Keeping in Touch Days	
	3.7.2	Reasonable Contact	
	3.7.3	Annual Leave	
	3.7.4	Public Holidays	
	3.7.5	Payment of benefits and allowances	
	3.7.6	Telephone Allowance	
	3.7.7	Excess Travel Costs	
	3.7.8	Pension Scheme	
	3.7.9	Flexible Benefit Schemes	
	3.7.10	Childcare Voucher Scheme	
	<b>3.8</b>	<b>PARENTAL LEAVE</b>	
	3.8.1	Notification Requirements	
	3.8.2	Postponement of Leave	
	3.8.3	Return to Work	
	<b>3.9</b>	<b>CARER'S AND DEPENDANTS LEAVE</b>	
	3.9.1	Definitions	
	3.9.2	Leave Provisions	
	3.9.3	Roles and Responsibilities	

	<b>3.10</b>	<b>RIGHT TO APPLY TO WORK FLEXIBLY</b>	
	<b>3.11</b>	<b>UNPAID LEAVE</b>	
<b>4</b>		<b>IMPLEMENTATION AND REVIEW</b>	
	4.1	Implementation and Review	
		<b>APPENDICES</b>	
	A1	Application for Maternity Leave	
	A2	Application for Adoption Leave	
	A3	Application for Surrogacy Leave	
	A4	Application for Paternity Leave	
	A5	Application for Maternity/Adoption Support Leave	
	A6	Curtailment Notice for Shared Parental Leave	
	A7	Notice of Entitlement and Intention (Shared Leave)	
	A8	Booking Notice for Shared Parental Leave	
	A9	Application for Parental Leave	
	A10	Application Guidance Notes	

## **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 Underground or they can contact their HR Adviser 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 Underground.

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 15<sup>th</sup> 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 15<sup>th</sup> week before the EWC will be paid as follows:
  - (i) For the first 6 weeks of maternity leave an employee will be entitled to 9/10<sup>ths</sup> 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 5/10<sup>ths</sup> 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 5/10<sup>th</sup> 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 15<sup>th</sup> 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 11<sup>th</sup> 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 15<sup>th</sup> 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 24<sup>th</sup> week of pregnancy).

If, however, an employee is absent from work through a “pregnancy related” sickness after the beginning of the 4<sup>th</sup> 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<sup>th</sup>s 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 9/10<sup>th</sup> 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 5/10<sup>th</sup> 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 5/10<sup>th</sup> 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 5/10<sup>th</sup> 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:

- (ii) For the first 6 weeks of surrogacy leave an employee will be entitled to 9/10<sup>th</sup> of pay during which any entitlement to Statutory Adoption Pay (SAP) is offset.
- (iii) For employees intending to return to work, for each of the subsequent 12 weeks they will be paid 5/10<sup>th</sup> 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 5/10<sup>th</sup> 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 15<sup>th</sup> 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.

##### **3.4.1.1 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.

##### **3.4.1.2 Notification Requirements**

Employees are required to inform the Council of their intention to take paternity leave by the 15<sup>th</sup> 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.

#### **3.4.1.3 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 15<sup>th</sup> 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 15<sup>th</sup> 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.

**Note:** For employees who remain in the Childcare Voucher Scheme, the Council will continue to pay pension contributions during the full period of leave (paid and unpaid).

### **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](http://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. The cost of the vouchers will be met by the Council during any period of SMP/SAP payments.

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 SMP/SAP 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. If an employee chooses to remain in the scheme they cannot change the amount of their vouchers after this period as this is the amount in which their SMP/SAP payment will be based on.

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 and their SMP/SAP will be calculated at the lower (salary sacrifice) salary.

**Note:** To be eligible for continued payment of Childcare Vouchers during their leave, employees must already be a member and have a qualifying child already in the scheme.

Employees should also 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 506012) 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 and must be taken before the child's 16<sup>th</sup> birthday or 18<sup>th</sup> birthday if the child is disabled.

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 16<sup>th</sup> birthday except in cases where the child is disabled (up to 18<sup>th</sup> 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 5<sup>th</sup> 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.