

The background of the slide features a large, light-colored watermark of the University of Toronto crest. The crest is a shield divided into four quadrants. The top-left quadrant shows a building, the top-right shows a stag's head with a cross on its forehead, the bottom-left shows a three-masted sailing ship on the water, and the bottom-right shows a beaver. Above the shield is a crown with four maple leaves. Below the shield is a banner with the motto 'ANNE FOR A'.

Agenda Item 5

**Referral from Corporate
Partnership Forum**

Falkirk Council

Title: Referral from Corporate Partnership Forum
Meeting: Executive
Date: 10 March 2020
Submitted By: Director of Corporate & Housing Services

1. Purpose of Report

1.1 The purpose of this report is to ask the Executive to approve the changes to a policy which were considered by the Corporate Partnership Forum on 05 February 2020.

2. Recommendations

2.1 The Executive is asked to approve the immediate implementation of changes to the Family Leave policy.

2.2 The Executive is also asked to note the likely legislative changes for Bereaved Parents and Neonatal Parents as outlined in paragraph 4.4, and agree that the flexibility set out in paragraph 4.4 is implemented once the legislation is passed.

3. Background

3.1 The Corporate Partnership Forum considered the Family Leave policy on 05 February 2020 and agreed to refer this to the Executive for approval.

4. Considerations

Family Leave Policy

4.1 The policy has been changed into the new style policy format; we have combined both the teaching and non-teaching policies into one which includes guidance documents.

4.2 Further clarity is included in relation to teachers' paternity leave during school holidays and confirmation that probationer teacher service is included in the calculation to qualify for maternity pay.

4.3 Updated information from pension legislation is included for LGPS unpaid leave.

4.4 There are legislative changes anticipated to come into effect in April 2020 that would impact on this policy. If this is the case the policy will be updated to reflect the new legislation in relation to:

- **Parental Bereavement Leave and Pay Act**
This will give all employed parents a day-one right to 2 weeks' leave if they lose a child under the age of 18, or suffer a stillbirth from 24 weeks of pregnancy. Employed parents will also be able to claim pay for this period, subject to meeting eligibility criteria.
- **Neonatal Leave and Pay**
The proposal is that parents receive one week of Neonatal Leave and Pay for every week that their baby is in neonatal care, up to a maximum number of weeks which is still to be determined. This would apply to parents of babies who had spent a minimum of two continuous weeks in neonatal care immediately after birth.

It is anticipated that this legislation may set the pay for any bereaved parents at a statutory level which for some employees will be lower than their normal earnings. If this is the case, Members are asked to agree that the Council makes such payments at the employee's normal rate of earnings. This is being suggested given the infrequency of such situations arising and the impact such a situation has on a bereaved parent. It is also suggested that the Council is flexible with the upper age limit which is likely to be set in legislation as 18. It is recognised that a bereaved parent of a child who is, for example, in their 20s, is equally as distressing for any parent. If Members agree these points, guidance will be developed on this basis, once the terms of the legislation are finalised.

5. Consultation

- 5.1 Services and Trade Unions have been consulted on the policy and comments considered, with changes made where appropriate. The Corporate Partnership Forum discussed the policy and agreed to refer this to Executive for approval.

6. Implications

Financial

- 6.1 There will be limited financial implications from the introduction of Parental Bereavement Leave and Neonatal leave however this will be managed as part of existing budgets.

Resources

- 6.2 There are no additional resource implications for implementing the revised Family Leave policy.

Legal

- 6.3 There are changes in pension legislation for SJC and Teaching employees which must be implemented within the revised Family Leave policy.

Risk

- 6.4 There are no risks arising from implementing the changes to the Family Leave policy.

Equalities

- 6.5 There are no equality issues arising from this referral.

Sustainability/Environmental Impact

- 6.6 There are no sustainability or environmental implications from this report.

7. Conclusions

- 7.1 The Executive is asked to consider and approve the changes within the Family Leave policy for immediate implementation.

Director of Corporate & Housing Services

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Date: 06 February 2020

APPENDICES

Appendix 1 – Family Leave policy

List of Background Papers:

None

Family Leave Policy

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We understand the need for time off to manage family/parental commitments and comply with or exceed statutory requirements.

Family leave is available to everyone within the Council whether you have a permanent or temporary contract and irrespective of your work pattern, as long as you meet the requirements for the specific leave you are applying for.

Any requests for leave in respect of IVF or foster care will be considered under the Council’s policies on flexible working or special leave.

Maternity Leave Entitlement

You will be entitled to up to 52 weeks leave regardless of your length of service. If you are entitled to maternity pay, it will start on the day your leave begins.

You must take compulsory maternity leave of 2 weeks starting on the day your baby is born.

Family Leave Policy

Health and safety

Once you confirm to your line manager that you are pregnant, they will carry out a [risk assessment](#) to identify any risks that could affect your health and safety at work.

The assessment will also apply if you have recently given birth or are breastfeeding. There is a separate [Breastfeeding Policy](#) in place and you should refer to this for further information.

You and your line manager should avoid any risks and should consider other ways of working if necessary. This can be through adjusting hours, conditions or temporary redeployment. Your line manager should always discuss this with the Service HR Business Partner before speaking to you. Any changes should only be made following a full consultation with you. You should be given the opportunity to have Trade Union or colleague representation at any discussion.

Ante-natal care

You will be allowed reasonable time off with pay for ante-natal care including parentcraft classes and dental appointments. Your manager might need to see evidence of the appointments. Where possible, these appointments should be arranged outwith working hours or to suit your department.

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. Your manager might need to see evidence of the appointment and, if required, evidence of a qualifying partnership which relates to:

- The baby's father or
- The expectant mother's spouse, her civil partner, or partner (of either sex) in a continuing relationship or
- 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.

You can find out more on how to apply in [Maternity, Adoption and Surrogacy Leave Guidance](#).

Adoption & Surrogacy Leave Entitlement

Where the policy refers to adoption pay or leave, this includes surrogacy leave and pay.

You will be entitled to up to 52 weeks leave regardless of your length of service. If you are entitled to adoption pay, it will start on the day your leave begins.

The leave can start:

- From the date of the child's placement **or**
- From an agreed date up to 14 days before the expected date of the placement.

Family Leave Policy

Where a couple jointly adopts a child, the couple must choose one person only to take leave under this policy (the adopter). The partner of the adopter may be entitled to adoption support leave, paternity leave or shared parental leave. Only the adopter will receive the entitlements outlined in this section, including leave and pay.

If more than one child is placed as part of the same adoption/surrogacy arrangement, only one period of leave will be granted.

Adoption only: 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 carer where there is no placement.

If you are an SJC/Craft employee and are required to attend pre-adoption meetings/training courses relating to the adoption processes, you will be granted 50% of this time as paid special leave and you will need to take annual leave or flexi time for the rest of the time.

If you are a teaching employee who is adopting and are required to attend pre-adoption meetings/training courses you will be allowed to take reasonable paid time off for these.

Your manager might need to see evidence of appointments.

You can find out more on how to apply in [Maternity, Adoption and Surrogacy Leave Guidance](#).

Payments for Maternity, Adoption & Surrogacy Leave

Payments made for maternity, adoption and surrogacy leave vary depending on your length of service and earnings. Payments are normally made up of Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) or Statutory Adoption Pay (SAP) and Occupational Adoption Pay (OAP).

The term "a week's pay" for employees whose pay 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 pay in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no pay was earned.

The Expected Week of Childbirth (EWC) is the period of seven days in which the childbirth is expected to take place.

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The table below shows the different levels of entitlement.

Service: If you have	Entitlement: You are	Additional Information
Less than 41 weeks' continuous service at the beginning of your EWC (26 weeks service at the beginning of the 15 th week before the EWC)	<ul style="list-style-type: none"> Entitled to up to 52 weeks unpaid leave Not entitled to payments of SMP/SAP or OMP/OAP from us 	<p>Maternity only: You may be entitled to Maternity Allowance (MA). You should submit your application form and Mat B1 form to Human Resources.</p> <p>We will provide you with an SMP1 form when we confirm your entitlement.</p> <p>You should take the SMP1 form to your local Jobcentre or Benefits Agency who will provide you more information on MA.</p>
41 weeks' continuous service at the beginning of your EWC or week matching is notified (SJC & Craft)	<ul style="list-style-type: none"> Entitled to 39 weeks paid leave plus up to 13 weeks unpaid leave Weeks 1- 6 Paid at 90% of earnings Weeks 7 - 18 Half pay plus SMP Weeks 19 - 39 SMP only Weeks 40 – 52 Unpaid 	If you do not intend to return to work, payments during weeks 7-39 will be at the current rate of SMP/SAP only.
41 weeks' continuous service (including probationary periods) at the beginning of your EWC or week matching is notified (Teachers)	<ul style="list-style-type: none"> Entitled to 39 weeks paid leave plus up to 13 weeks unpaid leave Weeks 1 – 13 OMP plus SMP. These payments together will equal normal salary. Weeks 14-39 SMP only Weeks 40 – 52 Unpaid 	
41 weeks' continuous service at the beginning of your EWC or week matching is notified but earnings are below the lower earnings limit for National Insurance	<ul style="list-style-type: none"> May not be entitled to SMP from us 	If your average weekly earnings are below the current rate of SMP/SAP then we will pay 90% of your weekly earnings for the full 39 weeks
41 weeks' continuous service at the beginning of your EWC or week matching is notified and are on a temporary contract that is due to end after the 15 th week prior to your EWC	<ul style="list-style-type: none"> May be entitled to SMP 	You may not be eligible for the half pay element unless your temporary contract has an end date of 3 months after your latest return date (52 weeks).

Other than for keeping in touch days, if you return to work before the end of the 52 weeks maternity, adoption or surrogacy leave, you will not be entitled to any balance of maternity, adoption or surrogacy leave or maternity, adoption or surrogacy pay. You will receive your normal salary from the date you return to work. If you work term time or in a teaching post, your salary may be adjusted to accommodate your actual working days in the year.

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Maternity & Adoption Support Leave

This leave is designed to help support the mother at or around the time of the birth or placement of the child (adoption or surrogacy).

You are entitled to this leave if you are:

- the child's father or
- the mother's partner (including civil partner) or
- a nominated carer or support partner

and

- have 41 weeks' continuous service (including probationary periods for teachers) at the the beginning of the EWC or date of placement

In the absence of the child's father or mother's partner, the nominated carer/support partner is the main support provider at or around the time of the birth/placement.

Leave consists of up to a maximum of 5 days paid leave (pro-rated for part time employees) which can be taken between the 11th week before the EWC and the 13th week after the birth/placement. The leave may be taken as half working days, full working days or block periods as appropriate.

Notification Requirements

You should request this leave from your line manager in the same way you request annual leave. They will need to see a copy of the MATB1 certificate or matching certificate, confirming the expected date of childbirth/placement. If you are not the father, you will be required to produce a statement from the expectant mother confirming you are the nominated carer/support partner. This will also be the case if the mother is unable to produce a MATB1 certificate.

In the event of a stillbirth, the 5 days' maternity support leave will still be available.

You will be entitled to return to the same job after maternity or adoption support leave.

Paternity Leave

In addition to maternity and adoption support leave described above, if you are a father or partner of an expectant mother or person taking adoption or surrogacy leave and have 41 weeks' continuous service at the the beginning of the EWC or date of placement, you are entitled to a further week's Statutory Paternity Leave. Paternity leave must be taken as a 1 week block. If you also choose to take Maternity Support Leave then you must take your paternity leave and maternity support leave as a 2 week block.

For teachers, where paternity leave is before and during a period of annual leave or school closure period, the paternity leave comes first and the whole period of annual leave and any unpaid leave follows. 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. For example, if a birth occurs during the October week, the employee would

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be entitled to take their paternity leave during the school week and then take the leave days they have missed immediately after this.

Leave can be taken any time from the child's birth/placement. Leave can start on any day of the week but must be taken and end within 56 days of the actual birth or placement even if the birth is early.

You are entitled to this 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.

Only 1 period of leave (up to 2 weeks including maternity/adoption support leave) is available, regardless of whether more than one child is placed for adoption or in the case of multiple births.

Payment during paternity leave

You will be paid statutory paternity pay (SPP) or 90% of average weekly earnings if this is less.

If your average earnings are below the lower earnings limit for national insurance contributions you will not qualify for SPP. In this situation you may obtain information on additional financial support from the Jobcentre or Benefits Agency.

Notification requirements

You must tell your line manager and HR about your intention to take paternity leave by the 15th week before the EWC, unless you're not able to do this. In the case of adoption, you must tell us about your intention to take paternity leave within 7 days of you being notified by your adoption agency that you have been matched with a child, unless this is not practical.

You must use the [application form](#) and provide a copy of the Mat B1 or adoption placement paperwork.

You can change the date on which your leave starts by giving 28 days' notice in writing where this is practical.

You will be entitled to return to the same job after paternity leave.

Shared parental leave (SPL)

Shared parental leave (SPL) 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 up to 37 weeks of pay between both parents during the child's first year. You 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 whether you are the mother/adopter or the partner.

The amount of SPL which an individual is entitled to will depend on when the mother curtails (puts on hold) her maternity/adoption leave period. The first 2 weeks following birth are the compulsory maternity leave period and are reserved for the mother.

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This means that the mother cannot curtail her maternity leave to take SPL until 2 weeks after the birth and the maximum period that the parents could take as SPL is 50 weeks between them (although it will be less than this if the mother/adopter has taken maternity or adoption leave before the birth or adoption placement).

The mother's partner can begin a period of SPL at any time from the date of the child's birth/placement if the correct booking notification has been given.

The partner must ensure that they use up any paternity leave or maternity/adoption support leave prior to taking shared parental leave. If maternity/adoption support leave or paternity leave is not taken before shared parental leave it will be lost.

If you have 2 or more posts with the Council, you are required to take shared leave for all posts. If you are the mother, you are required to curtail your maternity leave for all posts.

Eligibility for shared parental leave

SPL 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

For you to be able to take SPL, **both** parents must meet certain eligibility requirements.

Eligibility for the mother/adopter

The mother/adopter of the child must:

- be entitled to maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance
- have curtailed their entitlement to maternity/adoption leave (or maternity/adoption pay or maternity allowance period) before they have taken their full entitlement
- share the main responsibility for the care of the child with the child's father or their partner
- have been employed by the same employer for 41 continuous weeks at the the beginning of their EWC or date of placement of a child and remain employed by that employer at the start of the week in which shared parental leave is to be taken

An employee who is entitled to SMP or SPP is likely to meet the continuity of employment test for shared parental leave.

Eligibility for the other parent

The other parent must be the partner of the employee (the mother's/adopter's partner or the child's father – even if the father is not in a relationship with the mother). There is an employment and earnings test which requires that, in the 66

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weeks leading up to the week in which the child is due (or the date when the adopter is notified of a match),:

- they have worked in the UK for at least 26 weeks
- 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.

Eligibility for statutory shared parental pay (ShPP)

For employees to be eligible for ShPP, both parents must meet certain eligibility requirements.

The mother/adopter must:

- have at least 41 weeks' continuous service at the the beginning of the EWC or date of placement and remain in continuous employment with their employer until the week before any period of shared parental pay that they get
- also be entitled to statutory maternity pay in respect of the child. The maternity/adoption pay period must be curtailed to enable the partner to take the shared leave.

The partner must:

- 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 EWC/placement
- have normal weekly earnings for a period of 8 weeks ending with the 15th week before the EWC/placement of at least the lower earnings limit for national insurance contribution purposes
- have, at the date of the child's birth/placement, the main responsibility, apart from the mother/partner, for the care of the child
- be absent from work and intend to care for the child during each week in which they receive ShPP

During SPL, all terms and conditions of your contract, except normal pay, will continue. Salary will be replaced by ShPP if you are eligible for it.

Both 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 SPL 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 SPL are handled as smoothly as possible.

You can find out more in [Shared Parental Leave Guidance](#).

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General information – terms and conditions (relating to maternity, adoption, surrogacy and shared parental leave)

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

Keeping in touch days (KIT)

You can work up to 10 KIT days (pro rated if you work part time) without bringing your maternity, adoption or surrogacy leave to an end. There is no requirement for you to work during maternity, adoption or surrogacy leave, or for the Council to provide work. However, the option is in place for you and your manager to discuss KIT days. These days do not have to be consecutive and can be used to attend training or other work related activity. You should discuss and agree any KIT days in advance with your line manager.

You cannot, in any circumstances, undertake a KIT day within 2 weeks of childbirth.

If you are a member of the Local Government Pension Scheme or the Scottish Teachers Pension Scheme both employee and employer pension contributions would be payable for any KIT days worked.

KIT days are paid at your normal rate of pay. This payment is inclusive of any maternity pay you may be in receipt of at the time.

Shared parental leave in touch days (SPLIT)

You can agree to work or to attend training for up to 20 days during SPL without that work bringing the period of your SPL 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. KIT days, if used, must be used before curtailing maternity leave.

We have no right to require employees to carry out any work and employees have no right to undertake any work during their SPL. Any work undertaken on SPLIT days, is entirely a matter for agreement between you and your manager. You will be paid the equivalent of your normal pay for time worked on a SPLIT day which will be inclusive of ShPP.

Where you are a member of the Local Government Pension Scheme or Teachers Pension Scheme both employee and employer pension contributions would be payable in respect of any SPLIT days worked.

Returning to the same role

Maternity only:

You cannot, in any circumstances, return to work within 2 weeks of childbirth.

All types of leave:

You must inform Human Resources of your return to work date using the return to work form we will send you or by email to hrhelpdesk@falkirk.gov.uk

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You will be advised of your latest expected return date before going on maternity, adoption or surrogacy leave. If you choose to return to work before this date, you must give 8 weeks notice (SJC & Craft)/ 28 days notice (Teachers) to HR to make sure you are paid correctly.

If you change your mind about the agreed return to work date, and wish to return to work earlier or later, you must give HR and your line manager 8 weeks notice (SJC/Craft)/28 days notice (Teachers) before the previous agreed date and 8 weeks (SJC/Craft)/28 days notice (Teachers) before the new date you wish to return to work.

If you return to work early without giving the appropriate notice, we may postpone your return by up to 21 days to a date no later than the end of the 52 weeks period.

You have the right to return to the same job, in the same location as you had before starting maternity/adoption/surrogacy leave. Any changes to your job or location must be in accordance with the normal consultation procedures, and not in any way related to your maternity/adoption/surrogacy leave.

In exceptional circumstances it may not be practical for the Council to allow you to return to work in your job as described above (such as a restructure) and therefore you will be entitled to be offered a suitable alternative vacancy. 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 you had been able to return to the job in which you were employed before your maternity leave. You 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.

If you are on a temporary contract, you will not have the right to return to work where your contract would have expired during the maternity/adoption/surrogacy leave but will be entitled to all other provisions within the Policy, as long as you meet the eligibility criteria where these are stated.

You may apply for a further period of 4 weeks unpaid leave under the parental leave option immediately after your maternity leave. You should make an application using the information provided on parental leave in this policy.

Failure to return to work

SJC/Craft only - If you have received OMP/OAP or any allowances during your maternity, adoption or surrogacy leave you will have to repay these, unless you return to work for 3 months. You will not have to repay SMP/SAP.

For the purposes of the 3 month period, the return must be a physical return unless normal sickness absence management procedures are followed and supported by appropriate medical certificates. Periods of authorised annual leave and public holidays will also count towards the 3 month period.

Termination of placement (adoption only)

Where the placement ends during the adoption period, the adopter will be entitled to remain on adoption leave for up to 8 weeks after the end of the placement. In this circumstance you must tell your manager about this as soon as possible.

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Return to work when you have ended employment (maternity only)

If you have ended your employment due to pregnancy or childbirth, but in the unfortunate circumstances that your child does not live immediately after birth, you may be entitled to return to work. There is no right to return to the same post with the same grade and salary. You must provide a doctors statement stating that you are medically fit to return to work and give 8 weeks notice of when you want to return. A redeployment search will be carried out to identify any suitable vacancies.

Reasonable contact

You and your line manager should maintain reasonable contact during maternity, adoption or surrogacy leave to discuss your return to work and to keep you informed of other issues, such as workplace developments and training opportunities. This does not count as work or keeping in touch days. This contact will not bring your leave period to an end.

Annual leave – SJC & Craft

Wherever possible, prior to going on maternity, adoption, surrogacy or shared parental leave, any outstanding proportional annual leave should be taken.

You will accrue full annual leave entitlement during the period of maternity, adoption, surrogacy or shared parental leave, as long as you return to work as agreed.

Wherever possible, and by mutual agreement, most of the accrued leave should be taken at the end of the maternity, adoption, surrogacy or shared parental leave period and if the leave covers two annual leave periods, this will be carried forward.

Public holidays – SJC and Craft

As long as you return to work, a day in lieu of each public holiday will be given for each day which fell during your period of maternity, adoption, surrogacy or shared parental leave taken, up to a maximum of 52 weeks (pro-rated to hours worked).

Annual leave – Teachers and Associated Professionals

You will accrue annual leave during your maternity, adoption or surrogacy leave in line with your national conditions of service. The arrangements for taking your accrued leave are in line with national conditions.

For teachers and music instructors - Once you confirm your return to work date, your accrued leave will be calculated and notified to you. The maximum annual leave per year for a full time teacher is 40 days, and you cannot be given more than this amount.

Excess travel costs

Excess travel costs will automatically stop when maternity, adoption, surrogacy or shared parental leave starts.

Pension scheme – SJC and Craft

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 yourself or the Council during the unpaid period of leave. You will not be able to pay optional contributions to buy back

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the lost pension during the period of unpaid leave. You will however have the option to buy back this period on your return to work.

If you wish to buy back any unpaid periods of pension you can make a Shared Cost Additional Pension Contribution within 30 days of the end of your maternity leave (not 30 days after any accrued leave is taken). The Council will pay 2/3 rds of the cost. Your contribution can be paid as a lump sum or in regular payments over a period of time. If you don't meet this timescale and want to buy back your pension you will be liable for the full cost of both employee and employer contributions.

Please contact payroll (payroll@falkirk.gov.uk) to get the amount of lost pensionable pay. Once you have this you can then input this figure to the online calculator (<http://www.scotlgps2015.org/apc/lost.php>) in order to work out how much pension you have lost and the cost of buying it back. You can then print this form and send it to payroll fully completed to start your repayments.

Pension scheme – Teachers and Associated Professionals

Employees on maternity, adoption or surrogacy leave, who are members of the Scottish Teachers Pension Scheme, will continue to accrue pension during the paid period of leave (up to 39 weeks).

Any period of unpaid leave is regarded as non-pensionable, therefore you'll not be eligible to pay scheme contributions during this period - or to cover any 'missed' contributions by paying extra when you return to work. Any pension you have accrued will be preserved and, while on authorised leave, you'll continue to remain covered for death in service benefits.

Flexible benefit schemes

If you are a member of any Flexible Benefit Scheme (for example, Childcare Vouchers, Cycle to Work or Purchased Annual Leave), you should contact the HR Helpdesk on 01324 506222 as soon as possible to discuss your payments.

Childcare voucher scheme

The scheme is closed to new joiners.

If you are in the Childcare Voucher Scheme you are required to confirm whether or not you wish to stay in or leave the scheme before maternity, adoption or surrogacy payments are calculated as your pay will be based on your salary after the Childcare Vouchers Salary Sacrifice deduction, which will reduce the amount of cash paid whilst on maternity, adoption surrogacy or shared parental leave.

If you stay in the scheme during maternity, adoption, surrogacy or shared parental leave, you will be responsible for salary sacrifice payments during any period of OMP/OAP.

Salary sacrifice payments cannot be deducted from SMP/SAP or when you are on nil pay. During the SMP/SAP/Nil pay period, HR will arrange for your amount to be reduced to zero and your vouchers will stop.

If you want to restart your vouchers, you will need to do this using your online account on your return to work. You must have a deduction within 12 months of stopping deductions to stay in the scheme.

Family Leave Policy

You must contact the HR Helpdesk **no later** than 28 weeks before starting maternity, adoption, surrogacy or shared parental leave to discuss your options. This allows appropriate calculations of SMP/SAP to be carried out by Payroll within legislative timescales (the 8 week period prior to 15 weeks before the EWC or placement).

No manual adjustments will be made if you decide at a later date to leave the scheme or change your voucher amount and your SMP/SAP will be calculated at the lower (salary sacrifice) salary.

You should seek advice from any relevant agencies in relation to tax credit implications or ongoing childcare costs before making a decision.

Parental leave

Parental leave is a right for all employees who are registered as the parent or have parental responsibility for the child and who have at least one year's continuous service to take time off work to look after or make arrangements for their child's welfare. Parental leave is unpaid.

The leave is 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.

You are entitled to a maximum of 18 weeks per child until the child is 18 years old. The minimum amount of leave to be taken at any time is 1 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 leave year is 4 weeks per child. In exceptional circumstances applications exceeding 4 weeks will be considered at the discretion of the Chief Officer.

You are not entitled to parental leave for a child after the date of their 18th birthday.

Notification requirements

You must give a minimum of 21 days' notice of your intention to take a period of parental leave using the [application form](#). If you are not able to give 21 days' notice, you must notify us as soon as possible.

Postponement of leave

The Chief Officer may postpone parental leave for up to 6 months if the absence would disrupt service provision but not in the case of leave required following the birth or adoption of a child.

Notification of postponement arrangements should be issued to you no later than 7 days following your notice to take leave. This should be discussed with HR in the first instance.

Alternative dates for postponed leave should be agreed between yourself and the Chief Officer.

Return to work

You have the right to return to the same job, in the same location as you had before starting parental leave.

Family Leave Policy

Any changes to your job or location must be in accordance with the normal consultation procedures, and not in any way related to your parental leave absence.

Carer's and dependants' leave

We rely 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.

Definitions

A dependent 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.

Leave provisions

Carer's leave is available to all employees of the Council irrespective of their length of service as covered by the definitions above.

You should request carer's leave from your line manager by following the current absence or annual leave notification procedure. All requests for carer's leave should be recorded on MyView or annual leave cards.

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 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. When normal care arrangements break down, you will be expected to make alternative arrangements as soon as possible.

For any leave requests in excess of 5 days, you should discuss the reasons for this request in more detail with your line manager. Requests for additional leave must be approved by the Chief Officer in consultation with 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 needs of the Service.

Planned leave

Planned carer's leave is to deal with situations where reasonable advance notice is available. This leave is to cover pre-planned occurrences such as hospital or dental appointments, legal meetings or residential care meetings.

This leave is unpaid although you may request annual and flexi leave or for extended periods parental leave can be requested for childcare issues only.

Family Leave Policy

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 you and alternative options considered.

Where the leave is due to a bereavement, the provisions for compassionate leave will apply.

Right to apply to work flexibly

While legislation provides for employees with caring responsibilities for children and relevant adults all Falkirk Council employees have the right to apply to work flexibly.

You will be required to make your request for flexible working using the [application form](#) and in line with the [Flexible Working Policy](#). We will ensure that full consideration is given to your request 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.

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 31 days or less - pension contributions will be collected automatically from pay on your return to work
- periods of more than 30 days – If you wish to buy back any unpaid periods of pension you can make a Shared Cost Additional Pension Contribution within 30 days of your return to work. The Council will pay 2/3rds of the cost. Your contribution can be paid as a lump sum or in regular payments over a period of time. If you don't meet this timescale and want to buy back your pension you will be liable for the full cost of both employee and employer contributions.

Please contact payroll (payroll@falkirk.gov.uk) to get the amount of lost pensionable pay. Once you have this you can then input this figure to the online calculator (<http://www.scotlgps2015.org/apc/lost.php>) in order to work out how much pension you have lost and the cost of buying it back. You can then print this form and send it to payroll fully completed to start your repayments.

Enquiries about the LGPS should be made to (01324) 506329.

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These guidelines are for all employees of Falkirk Council to let you know about your rights and explain what maternity, adoption and surrogacy leave and pay is available. If you have any queries after reading these guidelines and the Family Leave Policy, please contact the HR Helpdesk on 01324 506222 or hrhelpdesk@falkirk.gov.uk

Maternity, Adoption and Surrogacy Leave Guidance

Maternity leave

Telling your manager that you're pregnant

You must tell your line manager that you're pregnant as soon as possible so that risk assessments can be carried out to assess your health and safety at work. If any adjustments are needed, this will only happen after it has been discussed with you.

If you have any concerns over your health, safety or welfare you should discuss this with your line manager.

Time off for ante-natal care

You will be allowed reasonable time off with pay for ante-natal care including parentcraft classes and dental appointments. Your manager might need to see evidence of the appointments. Where possible, these appointments should be arranged out of working hours or to suit your department.

Applying for maternity leave and pay

You must tell your line manager and HR about your intention to take maternity leave by the 15th week before your EWC, unless you're not able to do this.

You must complete the [application for maternity leave form](#) and send it to the HR Helpdesk with your MATB1 so that your maternity pay and entitlements are processed.

Once we receive this, HR will send you a letter confirming your dates and entitlement.

You can't start your maternity leave earlier than 11 weeks (29 weeks pregnant) before EWC unless your baby is born before this date. The latest date you can start your leave is the day before the expected date of delivery. You must agree your maternity start date with your manager.

Sick leave and maternity leave

If you are absent before the start of your maternity leave due to a non pregnancy related sickness, your absence will be treated as sickness absence.

If you are absent from work for a pregnancy related reason in the 4 weeks before your EWC, your maternity leave will automatically start from that date. You or your line manager should notify HR as soon as possible to ensure your pay can be amended.

We cannot pay you sick pay while you are receiving maternity pay.

If you are sick at the end of your paid 39 weeks, in certain circumstances, you may be entitled to statutory sick pay. This would be in line with the benefits agency regulations.

If you are unfit to return to work after your maternity leave has ended, you must follow the normal sickness absence reporting procedures.

Maternity, Adoption and Surrogacy Leave Guidance

Miscarriage / stillbirth

In the unfortunate circumstance that you miscarry, or your baby is stillborn, within the first 24 weeks of your pregnancy you will not be entitled to maternity leave or pay but you will be eligible for sick leave and pay.

If your baby is born but dies, or is stillborn, on or after the 25th week of your pregnancy you will be entitled to maternity leave and pay. You will be required to take compulsory maternity leave of 2 weeks.

Early birth

If your baby is born early, your maternity leave will start the day after your baby is born. Please contact HR and your line manager as soon as possible to let them know that your baby has been born to allow your maternity leave and pay to be recalculated.

Notification of childbirth

You must notify HR of the actual date of birth of your child within 4 weeks.

Adoption leave

You must tell us about your intention to take adoption leave within 7 days of being notified by the adoption agency that you have been matched with a child for adoption using the [application form](#) or as soon as possible after this.

You must attach a matching certificate from the adoption agency and agree your adoption leave start date with your manager.

Once we receive this, HR will send you a letter confirming your dates and entitlement.

Surrogacy leave

You must tell us about your intention to take surrogacy leave 28 days before you wish to start your surrogacy leave using the [application form](#).

You must provide us with a copy of the MATB1 which the birth mother will receive from their GP or midwife. You must agree your surrogacy leave start date with your manager.

You should also provide us with a copy of the parental order which you can apply for from the Sheriff Court.

Once we receive the necessary paperwork, HR will send you a letter confirming your dates and entitlement.

General information for all types of leave

Your maternity/adoption/surrogacy leave and pay will start after your last day worked. For example, if you finish work on the Wednesday your maternity leave will begin on the Thursday. You can change this date by giving 28 days written notice.

Maternity, Adoption and Surrogacy Leave Guidance

HR will send you a letter confirming the latest date you are expected to return to work.

Flexible benefits

If you are currently a member of any Flexible Benefit Scheme (including Childcare Vouchers, Cycle to Work or Purchased Annual Leave) you should contact the HR Helpdesk to discuss how your maternity leave affects this.

Childcare vouchers

If you are a current member of the childcare voucher scheme you need to consider the impact this will have on your maternity benefits before your maternity pay is calculated. There are 2 options:

- **Stay in the scheme**

If you choose to continue to receive childcare vouchers (CCV's) this will impact on your maternity pay (the calculation undertaken to determine maternity pay will be based on your salary minus your salary sacrifice amount, so maternity pay will be reduced). You will be able to continue to buy CCV's while you are in receipt of OMP but these will be suspended when your pay drops to SMP rate or you are on unpaid maternity leave. If you do not restart your vouchers within 12 months of your last salary deduction, you will no longer be able to participate in the scheme.

Suspend your scheme membership

If you choose to suspend your CCV deductions your maternity pay will be based on your full salary. However you will be unable to buy any more CCV's from 28 weeks prior to your EWC until you return to work after your maternity leave. If you do not restart your vouchers within 12 months of your last salary deduction, you will no longer be able to participate in the scheme. If this is your preferred option you **must** advise the HR Helpdesk no later than **28 weeks** prior to your EWC.

Best start grant

The best start grant is 3 cash payments that you can apply for from the Scottish Government if you're a parent or a carer.

You can find out more information at <https://www.mygov.scot/best-start-grant/>

Return to work

You must inform Human Resources of your return to work date using the return to work form we will send you or by email to hrhelpdesk@falkirk.gov.uk

You cannot, in any circumstances, return to work within 2 weeks of childbirth.

You will be advised of your latest expected return date before going on maternity, adoption or surrogacy leave. If you choose to return to work before this date, you must give 8 weeks notice (SJC & Craft)/ 28 days notice (Teachers) to HR to make sure you are paid correctly.

Maternity, Adoption and Surrogacy Leave Guidance

Not returning to work

If you decide, whether now or later, that you do not intend to return to work, you must give your contractual notice in writing.

SJC/Craft only - If you have received OMP/OAP or any allowances during your maternity, adoption or surrogacy leave you will have to repay these, unless you return to work for 3 months. You will not have to repay SMP/SAP.

Return to work when you have ended employment (maternity only)

If you have ended your employment due to pregnancy or childbirth, but in the unfortunate circumstances that your child does not live immediately after birth, you may be entitled to return to work. There is no right to return to the same post with the same grade and salary. You must provide a doctors statement stating that you are medically fit to return to work and give 8 weeks notice of when you want to return. A redeployment search will be carried out to identify any suitable vacancies.

Right to apply to work flexibly

You have the right to request to work flexibly. This may be returning on a part-time or job-share basis or changing the number or pattern of hours worked. Further information on the flexible working options within the Council can be found in the [Flexible Working Policy](#).

You must provide at least 3 months notice using the application form in the policy. Any reasons for refusal will be provided in writing.

Breastfeeding

Falkirk Council is committed to supporting you if you wish to continue breastfeeding on your return to work. Please see the [Breastfeeding Policy](#) and speak to your line manager or the HR Helpdesk to make arrangements.

Other leave options

Further details in relation to all leave options noted below are available in the Family Leave Policy

- **Shared parental leave**

This 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. More information is available in How to apply for shared parental leave.

- **Parental leave**

If you have a minimum of 1 year continuous service you are entitled to unpaid parental leave. This is a period of up to 18 weeks leave, which can be taken from the time your child is born until their 18th birthday. Parental leave must be agreed in advance with your line manager and a maximum of 4 weeks parental leave can be taken in any one leave year. More information is available in the Family leave policy

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Shared parental leave (SPL) is designed to give parents 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 up to 37 weeks of pay between both parents during the child's first year. You can take it in turns or take time off together to look after your child.

If you intend to take SPL you should contact your line manager to arrange an informal discussion as early as possible about your leave request. Your manager should arrange a meeting with you to talk about your intentions and how you expect to use your SPL entitlement. The purpose of any meeting is to discuss the leave proposed and what will happen when you are away from work.

Curtailment notice

The mother/adopter must give 8 weeks notice of when they wish to end (curtail) their maternity/adoption leave before the end of their maternity/adoption leave to allow SPL take place using the [curtailment notice](#)

Shared Parental Leave Guidance

The partner can start their SPL whilst the mother/adopter is on maternity/adoption leave, as long as she has confirmed the date she will curtail her maternity leave.

The mother/adopter must provide the curtailment notice at the same time as the [notice of entitlement and intention form](#) to take SPL.

Withdrawal of maternity leave curtailment notice

The withdrawal of a curtailment notice must be in writing. The curtailment notice can be withdrawn if:

- the mother/adopter has not returned to work
- it is discovered that neither the mother/adopter nor the partner are entitled to SPL or statutory shared parental pay (ShPP) 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 SPL or agreed a period of SPL which is due to start within 8 weeks following the withdrawal, they may be required to be absent from work on unpaid leave for some or all of this period. We are under no obligation to accept an employee back to work with no notice.

Notice of entitlement and intention

This is a one-off [notification](#) and is only to inform us of your intention to take SPL. This applies whether you are the mother/adopter or partner.

A separate notice to [book leave](#) is required once you wish to request specific dates of leave.

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 SPL.

Booking notice

You must use the [booking notice](#) to book SPL at least eight weeks before the start date of the first period of SPL to be taken by you. However, the earlier you inform your manager of your intentions, the more likely it is that they will be able to accommodate your wishes, particularly if you want to take periods of discontinuous leave.

Shared Parental Leave Guidance

Within 14 days of receiving a booking notice from you, whether the mother or partner, we can request the following information from you:

- 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)

You have 14 days from the date of the request to send us the required information.

You can provide a total of up to three booking notices per pregnancy (including the original request).

Variation or cancellation of notice of entitlement and intention

You can vary or cancel your proposed SPL dates after you have submitted a booking notice. You must provide us with [written notice](#) not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of SPL 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

If you indicate that you wish to take leave using a variation notice, this is non-binding until you provide a booking notice in relation to the new period of leave being requested.

Continuous period of shared parental leave

If you submit a booking notice requesting one continuous period of leave, you will be entitled to take that period of leave as long as you have followed the correct notification process. You should discuss this with your manager before you submit a leave request.

Discontinuous periods of shared parental leave

If you submit a notice requesting discontinuous periods of leave, we, 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, your manager must provide clear reasons for this to you.

Any response to you should be in writing. If agreement is reached within those two weeks, you are entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, you are entitled to take the leave as one continuous period of leave. In that event, you must choose a start date for the leave that is at least eight weeks from the date on which

Shared Parental Leave Guidance

the leave notice was originally submitted. You must notify us of that date within five days of the end of the two-week discussion period. If you do not choose a start date within this time frame, the period of continuous leave will start on the date of the first period of leave originally requested.

Alternatively, if your manager has refused the request or no agreement has been reached during the two-week discussion period, you may withdraw your booking notice requesting discontinuous periods of leave. You 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 you can make (maximum 3 requests).

Shared parental pay (ShPP)

Only ShPP is payable to either party for the duration of the SPL period.

ShPP is available for eligible parents to share between them while on SPL. The number of weeks' ShPP 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' ShPP with her partner.

It is up to the parents to identify the periods of leave they are taking as SPL in order that the appropriate rate of ShPP is paid. In all cases SPL will be paid at the ShPP only (maximum 37 weeks). If the mother ends her maternity leave before any occupational maternity/adoption pay has ended, this will be lost once the mother commences SPL.