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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

Version 2 – July 2020
Maternity, Adoption and Surrogacy Leave Guidance

Maternity leave

Telling your manager that you’re pregnant
You must tell your 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 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 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 a copy of your MATB1 so that your maternity pay and entitlements are processed. This can be sent by email or by post.

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 before your EWC (29 weeks pregnant) 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 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 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 your manager and HR 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 your manager and HR 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.
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. More information on your options if you are in the childcare voucher scheme is detailed below.

**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 before 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** before 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/](https://www.mygov.scot/best-start-grant/)

**Return to work**
You must inform HR of your return to work date using the return to work form we will send you or by email to [hrhelpdesk@falkirk.gov.uk](mailto: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 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 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.