**Produced by:**

***OD, Policy & Communications***

Inverclyde Council

Municipal Buildings

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Family Friendly Policy and Guidelines



**INVERCLYDE COUNCIL IS AN EQUAL OPPORTUNITIES EMPLOYER**

**THIS POLICY BOOKLET IS AVAILABLE ON REQUEST,**

**IN LARGE PRINT, BRAILLE,ON AUDIOTAPE, OR CD.**

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PART 1 – Family Friendly Policy

1. INTRODUCTION
   * 1. At Inverclyde Council, we believe that people should both be able to work and have a quality family life and that the ability to balance life inside and outside of work is key to attracting and retaining the best employees. It is for this reason we are committed to providing a range of family friendly benefits to both parents and carers.
     2. In addition to your holiday entitlement, we offer a range of additional options to help you balance your work with your family life:

* Maternity Leave and Pay
* Maternity Support/Paternity Leave and Pay
* Adoption Leave and Pay
* Shared Parental Leave and Pay
* Parental Leave
* Special/Emergency Dependant Leave
* Flexible Working
  + 1. The schemes outlined in this handbook, are designed to offer flexibility to employees at particular stages of their lives. They aim to get a best match between the needs and aspirations of employees, regardless of position, and the needs of running an efficient, customer focused organisation.

1. LEGAL FRAMEWORK
   1. The Council is committed to meeting the requirements of the Equality Act 2010 which simplifies, streamlines and strengthens existing equality legislation. The Equality Act 2010 protects people from discrimination on the basis of ‘protected characteristics’. The protected characteristics are:

* Age
* disability
* gender reassignment
* marriage and civil partnership
* pregnancy and maternity
* race (including ethnic or national origins, colour and nationality)
* religion and belief
* sex
* sexual orientation

1. SCOPE OF POLICY
   * 1. The provisions of this handbook apply to all employees, permanent and temporary, who have a contract of employment with the Council. Sessional (casual) workers who have no contract of employment will normally only be entitled to limited benefits, providing certain qualifying criteria are met.
2. RATES FOR STATUTORY ALLOWANCES
   * 1. As at April 2016 the current rate of Statutory Maternity, Adoption, and Paternity Pay is £139.58 or 90% of your average weekly earnings (whichever is lower). Please note that these rates are subject to revision by the Department of Work and Pensions each April.
3. MATERNITY SCHEME 
   1. Maternity Leave Entitlement
   2. Irrespective of their length of service, all pregnant employees are entitled to take 26 weeks' ordinary maternity leave, followed by 26 weeks' additional maternity leave. All pregnant employees are therefore entitled to a total period of up to 52 weeks' maternity leave.
   3. ***Maternity Pay Entitlement***
      1. Maternity Pay is normally made up of two parts - Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP). OMP is what Inverclyde Council pays to an employee on maternity leave in addition to SMP, providing the qualification criteria are met. The qualifying criteria for SMP and OMP are different. Therefore, if you qualify for SMP this does not necessarily mean you will qualify for OMP, and vice versa.
      2. To qualify for the **SMP** element of your maternity pay, the following criteria needs to be met:
4. be employed continuously with **Inverclyde Council** for a period of at least 26 continuous weeks into the qualifying week (15th week before the Expected Week of Childbirth (EWC)). This period must include at least one day's employment in the qualifying week; and
5. still be employed during that week, i.e. have not resigned or been dismissed before the beginning of that week; and
6. have average weekly earnings in the 8 weeks up to and including the qualifying week (i.e. the 15th week before the EWC) not less than the lower earnings limit for national insurance contributions.

If you do not qualify for SMP, you will be sent an SMP1 Form, which you should take to the Benefits Agency. Under most circumstances, you will be entitled to Maternity Allowance (MA), which is paid directly by the Benefits Agency at the current SMP rate (or 90% of average weekly earnings, if this is less) for a maximum of 39 weeks.

* + 1. The SMP element of maternity pay is payable whether or not you intend to return to work or actually return to work after your maternity leave. To qualify for the **OMP** element of your maternity pay, you need to have completed at least 26 weeks’ continuous service into the qualifying week (the 15th week before the Expected Week of Childbirth (EWC)).
    2. For Non-Teaching employees OMP will be as follows:

|  |  |
| --- | --- |
| **Week** | **Entitlement** |
| 1 – 6: | nine-tenths of a week’s pay (OMP) offset against payments made by way of SMP or Maternity Allowance (MA) where eligible.  Where you are not entitled to SMP, the Council will assume that you are entitled to MA and will make the appropriate deductions from Maternity Pay, unless evidence is provided to the contrary. |
| 7 – 18: | ***For employees returning to work for at least 3 months:***  half a week’s pay (OMP) plus SMP or MA where eligible except by the extent to which the combined pay and SMP (or MA and any dependants’ allowances if you are not eligible for SMP) exceeds full pay.  ***For employees not returning to work for at least 3 months:***  SMP or MA only, where eligible |
| 19 – 39: | SMP or MA only, where eligible |
| 40 – 52: | No pay |

* + 1. For Teaching employees OMP will be as follows:

|  |  |
| --- | --- |
| **Week** | **Entitlement** |
| 1 – 13: | Full normal salary (OMP) offset against payments made by way of SMP or Maternity Allowance (MA) where eligible.  Where you are not entitled to SMP, the Council will assume that you are entitled to MA and will make the appropriate deductions from Maternity Pay, unless evidence is provided to the contrary. |
| 14 – 39: | SMP or MA only, where eligible |
| 40 – 52: | No pay |

* + 1. Payments made by the Council to you during weeks 7 to 18 (i.e. 12 weeks at half pay) will be made on the understanding that you will return to Council employment for a period of at least 3 months. In the event of you not doing so, you will refund the monies paid, or such part thereof, if any, as the Council may decide. In exceptional circumstances, this may be varied by the Council.
    2. For OMP purposes, continuous service will include continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.
    3. For OMP purposes, a week’s pay is defined as the amount payable by the Council under your current contract of employment for working your normal hours in a week. Where there are no normal working hours, a week’s pay will be 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.
    4. If you have more than one job with the Council, your OMP will be calculated using the combined contractual weekly pay or average pay in over 12 weeks if there are no normal working hours, for all of the posts that you hold.
    5. Maternity Pay is treated as earnings and is therefore subject to tax and national insurance contributions in the normal way.
  1. Notification of intention to take Maternity Leave
     1. For Non-Teaching Employees: Notification of the intention to take maternity leave must be given no later than the beginning of the 15th week before the EWC using form HR/ML/AL1.
     2. For Teaching Employees: Notification of the intention to take maternity leave must be given no later than 21 days before the beginning of the 11**th** week before the EWC using form HR/ML/AL2.
  2. Returning to Work
     1. An employee has the right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. “Job”, for this purpose, means the nature of the work which she is employed to do and the capacity and place in which she is so employed.
     2. However, where it is not practicable by reason of redundancy for the Council to permit the employee to return to work in her job as defined in (a) above, the employee is entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable and appropriate to the circumstances, and that the capacity and place of employment and terms and conditions of employment are not substantially less favourable than if the employee had been able to return to the job in which she was employed prior to her absence.
     3. If you intend to return to work at the end of your 52 weeks maternity leave entitlement you do not require to give any further notification. However, it is recommended that you notify your manager of your intended return date as soon you have decided what you wish to do. This will allow your manager to plan for your return by reorganising work or giving notice to temporary cover.
     4. If you wish to return to work before the end of your 52 weeks maternity leave entitlement you must give your manager *at least* 8 weeks’ notice in writing**.** You should do this by completing Form HR/RTW1 (available from Organisational Development, Human Resources and Communications) indicating the proposed date of return to work.
     5. If you attempt to return to work prior to the end of your Maternity Leave period without giving the appropriate notice, then the Council may postpone your return by up to 21 days to a date no later than then end of your Additional Maternity Leave period.
     6. You should note that you cannot return to work during the 2 week period following the birth of your child. This period of maternity leave is compulsory.
  3. Return to Work When Employee Terminates Employment
     1. Where an employee has terminated her employment due to pregnancy or childbirth, but the child does not live, they will be entitled to return to work but without the right to return to the same post at the same grade and salary as applied immediately prior to the termination of employment unless the council determines that this is not practicable.

However, an employee will not be entitled to return to employment with the Council in accordance with this paragraph unless a suitable vacancy exists and she submits a doctor’s statement that she is medically fit to return, where appropriate.

* 1. Keeping-in-Touch (KIT) days
     1. Employees on ordinary or additional - but not compulsory - maternity leave may also do up to 10 days' work under their contract of employment without bringing their maternity leave period to an end or losing their entitlement to maternity pay. These days are known as 'keeping-in-touch (KIT) days'.
     2. The purpose of KIT days is to keep employees informed on what is happening in the workplace. While KIT days could simply be used for you to undertake your normal duties, it is suggested that they could also be particularly useful in enabling you to attend a conference, attend college courses if undertaking further education funded by the Council, undertake a training activity, attend a team meeting, work shadowing a colleague or liaison with a colleague, or to participate in annual review discussions.
     3. The number of days and the activity to be undertaken must be agreed between you and your manager, taking account of the wishes of both parties, ideally before your maternity leave commences. A record should be kept of what is agreed. The days of work may be separate days or a single block, as agreed between you and your manager. Whether the employee goes in for one hour or a whole day, it will still be counted as one day for ‘KIT’ purposes.
     4. KIT days are completely voluntary – participation is not compulsory. However, you are not entitled to be offered any work to do. The amount and type of work to be done is subject to the agreement of both you and your manager.
     5. Should you decide to use KIT days, please complete form HR/KIT1 to indicate which dates you would like to use.
     6. It is expected that KIT days requested will be subject to amicable agreement. However, if resolution cannot be achieved through informal discussion, the Council’s formal ***Grievance Procedures*** may be invoked by employees who are unable to obtain an agreement on KIT days.
     7. You will receive normal contractual pay during any ‘keeping-in-touch’ days. Normal pay will be an amount inclusive of OMP, SMP or Maternity Allowance as appropriate. Where the period worked is less than a full day, you will be paid an hourly rate.
     8. Once a KIT Day has been worked, it is the line manager’s responsibility to inform OD, HR and Communications. Instructions on what information is required is provided on form HR/KIT1.
     9. Your maternity leave will not be extended due to the fact that you have made use of the ‘Keeping-in-touch’ days.
  2. Frequently Asked Questions on Maternity Leave

How do I apply for Maternity Leave and Pay?

You are required to inform your line manager/Head Teacher in writing:

(a) that you are pregnant and your EWC

(b) the date you intend your maternity leave to start

You are required to do this no later than the first working day of the 15th week prior to the EWC. If this is not possible, as soon as it is reasonably practicable.

For Teaching employees - You are required to do this no later than the first working day of the 11th week prior to the EWC. If this is not possible, as soon as it is reasonably practicable.

You must do this by completing form HR/ML/AL1 for maternity leave and pay which you can obtain from Organisational Development, Human Resources and Communications (OD, HR & Communications). You will also have to submit a Mat B1 form which your doctor will give you when you are approximately 26 weeks pregnant. This form confirms your expected date of childbirth and must be submitted before your HR/ML/AL1 form can be processed.

OD, HR & Communications will respond to your HR/ML/AL1 form within 28 days of receipt and will set out the latest date you can return to work if you take your full entitlement.

OD, HR & Communications will also arrange to meet with you to discuss in detail your rights, entitlements and responsibilities, and to provide you with a Pregnancy Information Pack.

**Am I allowed time off for antenatal care?**

Yes. All pregnant employees are entitled to reasonable time off **with pay** to receive antenatal care made on the advice of a registered medical practitioner, midwife or health visitor. As well as medical examinations antenatal care may include relaxation, aqua-aerobics and parent-craft classes, as long as these classes are made on the advice of a registered medical practitioner, midwife or health visitor, evidence (e.g. a letter from the practitioner stating this classes are needed) will be required.

In order to take paid time off you must also produce a certificate from your doctor, registered midwife or registered health visitor stating that you are pregnant. You must also produce evidence of all appointments for ante-natal care. You are expected to report for work before and after any ante-natal appointment where it is reasonably practical for you to do so.

**Is my partner allowed time off to accompany me to antenatal appointments?**

Yes, Fathers and partners of pregnant women are entitled to unpaid time off to attend two ante-natal appointments (time off is capped at six and a half hours for each appointment).

If your partner works for the Council, and they wish to accompany you to, for example, scans and other medical appointments, they should make a request to their manager.

However, should a partner wish to attend more than two antenatal appointments it is the Council’s policy to consider all requests reasonably and sympathetically, particularly if there are complications with the pregnancy. In these circumstances make arrangements with management to make up the time later in the week or the following week. Your partner will be asked to provide evidence of all appointments.

**Should my manager conduct a risk assessment?**

Yes. Under health and safety legislation, the Council has a duty to ensure that its employees who either are, or in the future could be, a new or expectant mother, are not exposed to any significant risk. Accordingly, it is your manager’s responsibility to carry out both a general risk assessment to identify the hazards in the workplace that could be a risk to expectant, new or breastfeeding mothers, as well as a specific risk assessment on receipt of written notification from you that you are pregnant.

The risk assessment must be carried out in consultation with you and must take into account any information or advice provided by your doctor or midwife. If you have been given a ‘Med3’ certificate from your doctor stating that adjustments are required, you must give this to your manager. If no information is available from your doctor or midwife, we may seek medical advice from our Occupational Health provider.

If any risks are identified then your manager must take action to remove, reduce or control the risk. If the risk cannot be removed managers must:

* temporarily adjust your working conditions, duties and/or hours of work (without loss of pay); or if that is not possible:
* offer you suitable alternative work (at the same rate of pay) if available; or if that is not feasible:
* suspend you from work on paid leave for as long as necessary to protect your health and safety and that of your child.

**Medical suspension is always a last resort and will not be done without prior consultation with yourself and, if relevant, your trade union representative.**

Your manager will give you a copy of the risk assessment, and if risks are identified and control measures put in place, it is essential that to comply with these control measures.

And remember, what you may be able to handle with ease at the start of your pregnancy might be quite different to what you can do in the later stages of pregnancy. Furthermore, medical advice from your doctor or midwife may well change at various stages of your pregnancy. It is therefore essential that you let your manager know immediately if you start to experience any difficulties as your pregnancy progresses.

**When can my maternity leave and pay start?**

The earliest leave and pay can be taken is 11 weeks before the expected week of childbirth.

**What if my baby is born early?**

If your baby is born early, this will in most cases make no difference to your maternity rights. Entitlement to maternity leave and maternity pay (SMP and OMP) will depend on your length of service as at your **expected** week of childbirth, and not on the actual week in which childbirth occurs.

If you are still working at the time of the premature birth, your maternity leave and maternity pay will begin automatically on the day after your baby is born. If you haven’t done so already, you will still be required to provide the maternity certificate (Mat B1) giving evidence of both the expected date and the actual date of birth.

If you are on annual leave when your baby is born, any untaken annual leave can be used after your maternity leave.

**What if I change my mind about when I want my Maternity Leave to start**?

You are able to change your mind about when you want to start your Maternity Leave, providing you inform your manager at least 28 days in advance (unless this is not reasonably practicable).

**What if I’m absent from work due to a pregnancy-related illness?**

If you are unable to report for work due to sickness, normal notification and certification procedures apply.

However, you must advise your manager if the illness is pregnancy-related. This will allow your manager to re-visit your risk assessment and discuss with you whether there is anything at work causing or contributing to your ill-health.

If you are absent from work for a pregnancy related reason in the 4 weeks before the baby is due, your maternity leave will start automatically on the day after the date in which you became unfit for work.

**Do I require to advise anyone of the actual date my baby is born?**

Yes. You should notify your manager, as soon as is reasonably practicable, of the date your baby is born.

**What happens if I have a miscarriage or my baby is stillborn?**

In the unfortunate circumstances that you miscarry or your baby is stillborn in or after the 25th week of pregnancy, you will retain your entitlement to maternity leave, statutory maternity pay (SMP) and occupational maternity pay (OMP), where due.

If you miscarry or your baby is stillborn in or before the 24th week of pregnancy you will not be entitled to maternity leave or pay. However, assuming that you are absent from work for a period of time following the miscarriage, you will be entitled to sick pay in the normal way, provided that you qualify for it. If you suffer a pregnancy loss at any time during your pregnancy and/or you lose a child at any point up to the age of 18 you will be entitled to 2 weeks full paid leave. Further information can be found in section 10 of the *Family Friendly and Worklife Balance Policy.*

Where your baby is born early and lives for only a short period of time, you will, irrespective of the timing of the birth, retain your full rights to maternity leave and pay.

If you have resigned from your job the Council will make every effort to allow you to return to work but not necessarily to the same job or at the same grade.

**My earnings vary from week to week. How will an average weeks’ pay be calculated?**

For Occupational Maternity Pay purposes, a week’s pay is defined as the amount payable by the Council under your current contract of employment for working your normal hours in a week. Where there are no normal working hours, a week’s pay will be the average pay in the period of 12 weeks leading up to your last working week, excluding any week in which no pay was earned.

For Statutory Maternity Pay purposes, average weekly earnings will be taken from the 8 weeks up to and including the qualifying week (i.e. the 15th week before the EWC).

**I hold two part-time posts with the Council. How will my entitlements to Occupational and Statutory Maternity Pay be calculated?**

For Statutory Maternity Pay purposes, average weekly earnings will be taken from the 8 weeks up to and including the qualifying week (i.e. the 15th week before the EWC). If you held both posts during this time then your earnings from each will be added together to establish your entitlement to SMP and the rate at which SMP is paid.

For Occupational Maternity Pay purposes, a week’s pay is defined as the amount payable by the Council under your current contract of employment for working your normal hours in a week. Therefore, if you hold both posts at the point you commence maternity leave then your earnings from each will be added together to establish rate at which OMP is paid.

You must commence your maternity leave from both posts at the same time.

**What contact will there be during my maternity leave?**

Managers may make reasonable contact with employees who are on maternity leave, for example to discuss your plans to return to work, whether you might wish to seek any changes to your working hours or pattern of work on your return, any important developments within the workplace, or to make you aware of any specific vacancies or training opportunities.

Prior to the commencement of maternity leave, you and your manager should discuss how contact can be maintained. Both you and your manager should have a clear understanding of the nature and frequency of contact.

Communication may, if agreeable to both parties, be facilitated by home computers so whilst you are on maternity leave you can exchange emails and keep up-to-date with relevant workplace developments. For employees who have no access to emails then communication by telephone or letter should be agreed.

OD, HR & Communications will send you a copy of the Internal Vacancy Bulletin (IVB) to either your chosen email address or your home address on a fortnightly basis. However, your manager has a responsibility to ensure that you have information on vacancies and promotion, including acting appointments or other continual professional development (CPD) opportunities which may arise outwith the IVB. They also have a responsibility to ensure that you are appraised of changes to the workplace which may impact on you.

**Will I be entitled to apply for vacancies during my maternity leave?**

Yes. The IVB will be sent to your chosen email address, or your home address, on a fortnightly basis throughout the duration of your maternity leave. If you are interested in any vacancies you should apply in the normal manner.

**What about training opportunities?**

You are entitled to receive the same training opportunities during your maternity leave that you would have received had you been at work. You should discuss your interest in any forthcoming courses (be they in-house or external courses) with your supervisor prior to commencing your maternity leave. If your colleagues are required to undergo training whilst you are on maternity leave you will also be invited to attend, if applicable.

**Will I be entitled to any pay rises that take effect during my maternity leave?**

Yes. If you become eligible for a pay rise between the start of the original calculation period and the end of your maternity leave (whether ordinary maternity leave or additional maternity leave), the higher or standard rate of SMP will be recalculated, as will OMP, to take account of your pay rise, regardless of whether SMP has already been paid. This means that your SMP and OMP will be recalculated and increased retrospectively, or that you may qualify for SMP if you did not previously (i.e. your new earnings take you above the NI Lower Earnings Threshold). You will be paid a lump sum to make up any difference between SMP/OMP already paid and the amount payable as a result of the pay rise.

**What happens to my annual leave during maternity leave (non-term time employees)?**

All employees continue to accrue their contractual annual leave entitlement during both their Ordinary and Additional Maternity Leave.

In most cases, it will not be permissible to carry over annual leave accrued during one leave year into the next leave year. Therefore, if it is known in advance that your return to work date is such that you will be unable to take your holiday entitlement in the same year as it was assigned, your manager must give you the opportunity to take your entitlement before your maternity leave commences (see table below).

**The Council cannot give employees payment in lieu of untaken holidays, other than on termination of employment.**

|  |  |
| --- | --- |
| **Accrual of annual leave during maternity leave** | |
| Maternity Leave starts and finishes within one holiday year, e.g. starts in February 2014 and ends on November 2014 | You are allowed to take some or all of your holiday entitlement before commencing maternity leave. Any annual leave not taken before the start of your maternity leave must be granted and taken some time after your return to work generally within the current leave year (where time allows) or, in exceptional circumstances, within the following leave year. |
| Maternity leave spans two holiday years e.g. starts in August 2014 and ends on April 2015. | You are allowed to use up your full annual leave entitlement for the first holiday year before commencing maternity leave. Full annual leave entitlement for the second holiday year should then be taken some time after your return to work generally within the current leave year (where time allows) or, in exceptional circumstances, within the following leave year. |
| Maternity leave coincides exactly with the holiday year i.e. 1st Jan to 31st Dec | Seek advice from OD, HR & Communications. |

You should discuss with your manager at an early stage, prior to going on maternity leave, how and when you are going to take your holiday entitlement.

Where you give written notice to the Council that you do not intend to return to work following your maternity leave, then the Council will make payment to you for any outstanding annual leave accrued during your Maternity Leave period.

**What happens to my public holidays during maternity leave?**

Employees accrue not only contractual annual leave but also any public holidays which occur during their entire leave period. This can be taken, subject to exigencies of the service, either immediately before or following your Maternity Leave, or sometime after you return to work (generally within the current leave year) or, in exceptional circumstances, the following leave year.

Please note that any change to your contractual working hours on return from maternity leave could affect your entitlement to public holidays. Public holidays accrue on a daily basis like annual leave entitlement; however as we have fixed public holidays you may not be entitled to the full amount which has fallen during your maternity leave if you choose to reduce your contract hours. For example:

During the period January – May there are 5 fixed public holidays. A full-time employee returns from maternity leave on 31st May but does so on part-time hours (18.5hrs per week). She is not automatically entitled to 5 public holidays as although these have fallen during the period of maternity leave, the entitlement has not yet been accrued and by changing her working pattern her entitlement will naturally reduce. The employee will be entitled to:

1st January – 31st May - 7 public holidays / 365 days x 151 working days = 3 days

1st June – 31st December - 7 public holidays / 365 days x 0.5 (18.5 hrs) x 214 working days = 2 days

Entitlement for the full leave year is 5 days but the employee will be required to keep days back for the remaining 2 fixed public holidays.

**I have a term time contract of employment, what happens with my annual leave and public holidays during maternity leave ?**

To ensure term time employees receive a salary throughout the year rather than the actual term worked (i.e. 38, 39 weeks, etc), annual leave and public holiday entitlement is rolled up within the salary. As maternity pay does not cover 100% of the normal salary (i.e. 90% for 6 weeks, 50% for 12 weeks, etc) then a term time employee will be due a reimbursement of a small element of their annual leave and public holiday pay. This amount will depend on the actual length of maternity leave period taken and can be calculated by OD, HR & Communications once the estimated return to work date is known.

As term time employees have their leave period set in line with school holidays, any owed annual and public holiday entitlement should be taken at the end of the maternity leave period but before the employee physically returns to work.

**Will I continue to pay pension contributions?**

Yes. During your period of paid maternity leave, your contributions will be based on the pay you actually receive, but the Council will pay contributions on full notional pay. You will make contributions even if you are only in receipt of SMP. Your service will count as normal for pension purposes i.e. as if you had been at work. The Council will continue to pay pension contributions during OML, regardless of whether the employee is in receipt of maternity pay.

During any period of unpaid maternity leave, your pension contributions will be suspended and will not count for pension purposes. If you wish, however, you can repay any contributions you would have made during your unpaid leave. If you choose to do this you must advise the Payroll Section as soon as you commence unpaid maternity leave so that the relevant pension forms can be completed.

If you elect to do this, your basic pension contributions for the unpaid period will be based on the pay you were entitled to receive on the day before the unpaid period began. The Council’s contributions, however, will be based on full notional pay. **This unpaid period will not affect your continuous service.**

**Will I require to continue paying car loan or lease payments?**

Yes. If you have a current car loan or have a leased car you will require to continue payments during your maternity leave. These payments will be deducted from your maternity pay.

**I don’t know whether I will return to work or not. What should I do?**

If you are undecided what to do following your maternity leave it is advised that you indicate that you wish to return to work. This will allow your post to be held open for you.

For Non-Teaching Employees: If you do not return to work and you qualify for occupational maternity pay, you will not be entitled to the 12 weeks at half pay. If desired these payments can be suspended. Therefore, if you do not return you will not have been overpaid. However, if you do return for at least three months you shall be entitled to the amount and it will be paid to you as a lump sum.

**What happens if I change my mind and decide not to return to work?**

If you change your mind and decide not to return to work after your maternity leave, you should notify your manager as soon as possible and officially submit your letter of resignation, giving the appropriate notice as specified in your contract of employment. If you are entitled to occupational maternity pay you should remember that you will require to pay back the twelve weeks at half pay. Requirement to pay back occupational maternity pay does not apply to Teachers.

**Will I still qualify for maternity leave and pay if I resign before my maternity leave commences?**

You cannot get maternity leave or occupational maternity pay if you have left your job, but you may still get statutory maternity pay.

If you resign **after** the end of the 15th week before the week your baby is due (the qualifying week), SMP will still be payable providing you meet the service and earnings criteria specified earlier.

Where you leave our employment after the 11th week before your expected week of childbirth, but before your maternity pay is due to start, your maternity pay period will start from the day after your employment ends.

If you start work for a new employer before your baby is born, the Council will still pay you SMP. However, if you do start a new job, you won’t be able to receive SMP for any week you do work for the new employer.

If you resign **before** the end of the 15th week before the week your baby is due, SMP is not payable.

**I am on a temporary/ fixed term contract which expires while I’m on maternity leave. How will this affect me?**

Whether or not your contract is renewed will depend on whether there is still a requirement for the post. If there ceases to be a requirement for your post, you will be given the appropriate notice of termination, as specified in your contract of employment. Conversely, if there continues to be a requirement for your post beyond the expiry date of your contract, you will be offered, in writing, an extension to your contract. The fact that you are on maternity leave will not affect the decision on whether or not your contract is renewed.

If your contract is not to be renewed by your Service, then this is classed as a termination and your manager must follow the procedure as outlined in the Council’s ***Temporary Employee Protocol***. In other words, your manager must:

Advise you, in writing, that dismissal is being considered and the reasons for this e.g. the impending expiry of the contract;

You must be invited to a meeting to discuss the circumstances, to establish whether the contract might be extended or whether there is any alternative work that you could do;

You must be advised of the outcome of the meeting and given the right of appeal;

You must be given your contractual notice.

If, after the above procedures have been carried out, you are given notice of termination, the Council, during your notice period, will look for possible redeployment to another suitable alternative vacancy as outlined in the Council’s ***Temporary Employee Protocol***.

If your temporary contract expires while you are still on maternity leave and you are still in receipt of maternity pay, you will retain entitlement to SMP for the full statutory pay period, notwithstanding the termination of your employment. However, OMP payments will cease.

If the expiry of your temporary contract occurs before you commence your maternity leave but after you have qualified for SMP, you will still retain your right to SMP. However, you will not qualify for OMP, as in order to do so you need to return to employment for 3 months after your maternity leave.

**What happens if I cannot return to work as planned because of illness?**

If you become ill during your maternity leave, you will not be entitled to sick pay until you are due to return to work.

If, due to illness, you are unable to return to work after the expiry of your full maternity leave period, or on a date previously notified, the Council’s Occupational Sick Leave Scheme shall apply. Normal sickness absence notification and certification procedures should be followed in these circumstances.

Please note, however, that you are not entitled to receive the Statutory Sick Pay element of your sick pay throughout the whole of your 39 week period of entitlement to SMP or MA. This applies even if you resume work during the 39 week period but then fall ill before the end of that period.

**How do I apply to work flexibly upon my return to work?**

If you wish to apply to work flexibly, including job-share, you must submit the request in writing to your manager as early as possible, but no later than 8 weeks before you intend to return to duty if you wish your new working pattern to commence immediately on your return to work. You should do this by completing the Flexible Working Request Form outlined in Appendix 1 of the Flexible Working Policy.

**What if I am still breastfeeding when I return to work?**

If you are still breastfeeding when you return to work you must notify your manager of this, as while you are breastfeeding your manager has a duty to ensure that your breastfeeding baby does not suffer any adverse effects as a result of your working conditions.

If you are still breastfeeding when you return to work then this should be taken into consideration when undertaking a risk assessment of your relevant work activities. Specific risks for breastfeeding employees include, working with organic mercury, working with radioactive sources or exposure to lead, however very few occupations within the Council will involve contact with these substances. Appropriate rest places need to be provided and facilities to ensure nursing mothers have easy access to toilets and are able to drink plenty of fluids.

Combining work and breastfeeding takes tremendous energy and commitment, as well as plenty of forethought and forward planning. There are various ways for you to combine breastfeeding with working. The main options are:

* Childcare near your work location
* Expressing milk whilst at work
* Partial breastfeeding (i.e. only breastfeeding when not at work)

What option is feasible will depend on the circumstances, for example what type of job you do, what your working pattern is like, how close your work is to home or nursery, what facilities, if any, are available in the workplace.

You should discuss these options with your manager at any early stage to see what is feasible and practical for you to do.

**MATERNITY LEAVE CHECK LIST**

* Notify your manager as soon as you know that you are pregnant so that a risk assessment can be undertaken.
* Contact Human Resources to arrange an appointment to discuss your rights, entitlements, and responsibilities.
* Complete Form HR/ML/AL1 no later than the first working day of the 15th week prior to your Expected Week of Childbirth. Thereafter submit Form Mat B1 to OD, HR & Communications.
* Prior to going on maternity leave, remember to discuss and agree with your manager when you are going to take your annual leave entitlement.
* Ideally, prior to going on maternity leave, remember to discuss and agree with your manager arrangements for keep in touch and agree specific Keeping-in-Touch days if this is agreeable to you both.
* If you intend to return to work before the end of your Maternity Leave, complete Form HR/RTW1 at least 8 weeks before you intend to return to work.
* If you wish to apply for a change to your working hours or pattern under the Council’s Flexible Working Policy, complete Appendix 1 within the Flexible Working Policy and submit at least eight weeks before your return to work.

1. MATERNITY SUPPORT AND PATERNITY LEAVE
   * 1. The Maternity Support and Paternity Leave Scheme gives eligible employees the right to paid leave to care for the child or support the mother. It is also available to an employee who is the partner of a person adopting a child, or is the other member of a couple who are jointly adopting.
   1. Maternity Support Leave and Pay
      1. Maternity Support Leave of 5 days with full normal pay will be granted to the child’s father, the expectant mother’s husband, partner, civil partner, or nominated carer at or around the time of birth. The nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of birth.
      2. Partners of adopters, or the other member of a couple who are jointly adopting are entitled to maternity support leave of five days with full normal pay also.
      3. There are no length of service criteria to qualify for Maternity Support Leave.
   2. Statutory Paternity Leave and Pay
      1. In addition to Maternity Support Leave described above the following employees are entitled to an additional week’s Statutory Paternity Leave:
      2. Employees who have worked for Inverclyde Council for 26 continuous weeks at the start of the 15th week before the baby is due; and are either

* A biological father; or
* A partner or husband who is not the baby’s biological father; or
* A mother’s female partner or civil partner in a same sex couple
  + 1. In the case of adoption employees who have worked for Inverclyde Council for 26 continuous weeks up to and including the week the person adopting the child is told by the adoption agency that they have been matched with a child; and are either:
* Partner/ husband/ wife of a person adopting a child
* A partner/ civil partner of a person adopting a child
  + 1. In all cases you must also be;
* Responsible for the child’s upbringing
* Taking the time off work to care for the child or to support the person adopting the child.
  + 1. Employees absent on Statutory Paternity Leave shall receive Statutory Paternity Pay (SPP) providing they have average weekly earnings in the eight weeks up to and including the qualifying week (i.e. the 15th week before the EWC) not less than the lower earnings limit for national insurance contributions as set annual by the Government . SPP will be paid at the same rate as Statutory Maternity Pay at the rate set annual by the Government or 80% of your average earnings, whichever is less.
    2. Employees whose average earnings are below the Lower Earnings Limit for National Insurance Contributions will not qualify for SPP. In these circumstances, Finance Services will issue you with the form SPP1 ‘*Why I cannot pay you SPP*’ which you should take to your local benefits agency or Job Centre Plus office to assist in any claim for social security benefits you may be entitled to.
  1. Frequently Asked Questions on Paternity Entitlements

**How do I apply for Maternity Support and Paternity Leave?**

You are required to inform your manager in writing no later than the first working day of the 15th week prior to the Expected Week of Childbirth, where this is reasonably practicable. In the case of partners of adopters, notification must be received no later than 7 days after the date the adoption agency had told the person adopting the child that they have been matched with a child, again where this is reasonably practicable.

You should give your notification by completing form HR/PL1, which is available from OD, HR and Communications.

In completing the form you should provide the following information:-

(a) the week in which the child is due or will be placed for adoption;

(b) whether you wish to apply for one or two weeks leave;

(c) when you intend the leave to commence.

Paternity and Maternity Support Leave must be taken in one block of two weeks or one block of one week. You cannot take odd days.

**When can my Maternity Support and Paternity Leave start?**

Leave can be taken:

1. from the date of the child’s birth or placement; or
2. from another date after the child’s birth or placement.

Leave can start on any day of the week, but must be taken within **56 days** of the actual birth of the child or the date the child is placed for adoption.

**What if I change my mind about when I want my Maternity Support and Paternity Leave to start?**

You may alter the date on which your leave starts, providing you inform your manager at least 28 days in advance, or as soon as possible, where this is not reasonably practicable.

**What if the baby is born early or late?**

If the baby is born earlier or later than expected and, consequently, you wish to change the date of your paternity leave, you should notify your manager as soon as possible who will endeavour to accommodate your request where possible.

**What if I can’t comply with the notice periods specified?**

The Council recognises that it may not always be possible to comply with the notice periods outlined above. However, providing there is a legitimate reason preventing you giving the required notice (e.g. an unexpected change in circumstances), your manager will endeavour to accommodate your request wherever possible.

**Will I continue to pay pension contributions?**

Yes. During any period of paid maternity support and paternity leave you will pay pension contributions on the pay you actually receive, but the Council will pay pension contributions on notional full pay. Your service will count as normal for pension purposes i.e. as if you had been at work.

Should your second week of paternity leave be unpaid (e.g. if your earnings are below the National Insurance Lower Earnings Limit) you will be deemed to have paid basic pension contributions, but the Council will continue to pay contributions based on notional full pay. As before, your service will count as normal for pension purposes i.e. as if you had been at work.

**Will I require to continue paying car loan/car lease payments?**

Yes. If you have a current car loan or have a leased car you will require to continue payments during your maternity support and paternity leave.

**What happens to my annual leave and public holidays?**

You will accrue annual leave during the period of maternity support and paternity leave and you will also be entitled to time in lieu for any public holidays which fall during the leave period. If you are a Teacher and your leave incorporates 1 complete week of the school vacation you will accrue credit of 2 days’ compensatory leave entitlement. The employee will take this during the term following the vacation concerned subject to the overriding needs of the service and in agreement with the Council.

**My partner is having twins. Will I be entitled to leave in respect of each child?**

No. Only one period of leave will be available irrespective of whether more than one child is born as a result of the same pregnancy. Similarly, if you and your partner are adopting more than one child as part of the same placement, only one period of leave will be granted.

**Are grandparents entitled to Maternity Support and Paternity Leave?**

To qualify for the first week of Maternity Support Leave and Pay you must be the ‘nominated carer’ and be taking the leave to care for the child or support the mother. There may be circumstances where, as a grandparent, you meet this criteria e.g. where you are the only or main support for the mother, or where you will be the legal guardian of the child. You will be required to provide your employer with a copy of the MatB1 form and a letter from the expecting mother confirming you are the ‘nominated carer’.

The qualification criteria for the second week of Statutory Paternity Leave and Pay is stricter, and not open to immediate relatives of the mother. Therefore grandparents would not be entitled to the second weeks’ leave. If you are in any doubt whether you meet the necessary criteria, you should seek advice from OD, HR and Communications.

**Are civil partners entitled to Maternity Support and Paternity Leave?**

Yes. Under the Civil Partnership Act 2004 same sex couples have the opportunity to acquire a legal status for their relationship. Couples who register as civil partners will gain the same rights and responsibilities as those already available to married couples.

**Will I still be entitled to receive paternity leave and pay if I resign or my contract ends before the date my leave was due to commence?**

No. You will not be entitled to any leave or pay.

1. ADOPTION LEAVE
   * 1. The Adoption Leave Scheme will apply to all employees providing the employee:

* has been newly matched with a child by an approved adoption agency;
* meets the notification requirements as described below.
  + 1. From April 2015 surrogate parents are also eligible for adoption leave. Adoption leave is also available to employees who are, or expect to be, the parents of a child under a parental order, where the child’s expected week of birth begins on or after 5 April 2015.
    2. Where a couple jointly adopt a child, the couple must choose one person to take the leave under this Scheme (the primary adopter). The partner may be entitled to Paternity Leave as outlined in the Paternity Leave section above.
  1. Adoption Leave Entitlement
     1. You will be entitled to 26 weeks’ Ordinary Adoption Leave and 26 weeks’ Additional Adoption Leave.
  2. Adoption Pay Entitlement
     1. Entitlement to occupational adoption pay (OAP) will be in accordance with maternity pay entitlement as detailed in section 4 above.
     2. To qualify for Adoption Pay (SAP) an employee must:
* have worked for Inverclyde Council continuously for at least 26 weeks by the week you were matched with a child
* earn on average at least £112 a week (before tax)
* give the correct notice
* give proof of the adoption or surrogacy
  + 1. Employees who have less than 26 weeks continuous service prior to the week in which he/she is identified of being matched with a child for adoption, will not be entitled to Statutory Adoption Pay (SAP).
    2. If your average earnings are below the Lower Limit for National Insurance Contributions you will not qualify for SAP. In these circumstances, you will be issued with the form SAP1 ‘Why I cannot pay you SAP’ which you should take to your local Benefits Agency or Job Centre Plus office to assist in any claim for social security benefits you may be entitled to.
  1. Overseas adoptions
     1. In addition to the above eligibility criteria for overseas options you must also:
     + have worked continuously for Inverclyde Council for at least 26 weeks by the time you get your ‘official notification’
     + sign [form SC6](https://www.gov.uk/government/publications/statutory-adoption-pay-and-leave-adopting-a-child-from-abroad-sc6) if you’re adopting a child with your partner
     1. The official notification is permission from a UK authority that you can adopt from abroad. Form SC6 confirms you are not taking paternity leave or pay.
  2. Surrogacy arrangements
     1. If your child is due on or after 5 April 2015 you will also be entitled to adoption leave and may be entitled to Statutory Adoption Pay (SAP).
     2. To qualify for Statutory Adoption Pay, you must have worked continuously for Inverclyde Council for at least 26 weeks by the 15th week before the baby’s due. All the other conditions for qualifying for pay and leave are the same as for adoptive parents.
  3. Frequently asked Questions on Adoption Leave & Pay

**How do I apply for adoption leave and pay?**

You must inform your Supervisor/ Head of Service/ Head Teacher, in writing, of your intention to take Adoption Leave within 7 days of being notified by your adoption agency that you have been matched with a child for adoption, where this is reasonably practicable. Not withstanding these notice requirements, it is recommended that you notify your supervisor of your intention to take leave as soon you or your partner are approved for adoption. This may be before you have received, or are required to submit, documentary evidence, but will allow your supervisor to plan for the intended leave by reallocating work or organising temporary cover.

When advising your supervisor you must inform them of:

(a) the expected date of placement; and

(b) the date you intend your adoption leave to start

You must do this by completing Form HR/ML/AL1 (Non-teaching) or Form HR/ML/AL2 (Teaching) for adoption leave and pay which is available from OD, HR and Communications. This form includes a section to be completed by the adoption agency and you will require to submit your ‘Matching Certificate’. This will confirm that you have been matched with a child for adoption as well as your expected date of placementand must be submitted before your application for adoption leave can be processed.

OD, HR and Communications will respond to your application for Adoption Leave within 28 days of receipt and will set out the latest date you can return to work if you take your full entitlement.

OD, HR and Communications will also arrange a time and date for you to come and discuss the Adoption Leave Scheme so that you fully understand your entitlements.

**I don’t qualify for SAP. Are there any other forms of financial assistance available to me?**

If you don’t qualify for SAP you should talk to your adoption agency about possible financial support. The Local Authority responsible for overseeing the adoption has an obligation to make an assessment of the financial support you and your partner may need. In addition, you may be able to claim social security benefits such as Income Support, Housing and Council Tax Benefit.

**Pre-adoption Meetings**

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, on production of evidence of appointments if required by the Council.

**When can my adoption leave and pay start?**

Statutory Adoption Pay starts when you take your adoption leave. Adoption leave and pay can start either:

(a) from the date of the child’s placement; or

(b) from a fixed date up to 14 days before the expected date of placement

(c) when the child arrives in the UK or within 28 days of this date (overseas adoptions)

(d) the day the child is born or the day after (surrogacy)

**What if I change my mind about when I wish my adoption leave to start?**

If the date of placement is earlier or later than originally anticipated you should discuss the situation with your supervisor as soon as you are aware of the new date. You are able to change your mind about when you want your adoption leave and pay to start, providing you give your supervisor at least 28 days in advance, unless this is not reasonably practicable.

**Do I require to advise anyone of the actual date of placement?**

After the placement you must inform your supervisor of the date in which the child was placed. This should be done as soon as is reasonably practicable after the placement.

**Does the age of the child I am adopting affect my adoption entitlements?**

Leave will be granted for any new placement of children up to the age of 18.

**Both myself and my partner work for the Council? Are we both entitled to adoption leave and pay**?

No. Only one partner can apply for Adoption Leave. The other partner may be entitled to Paternity Leave (see above).

**I am adopting more than one child. How does this affect my entitlements?**

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

**What happens if the placement ends or is disrupted during the adoption leave period?**

In the unfortunate event that the placement ends during the adoption leave period (e.g. the child returns to the adoption agency) or you are informed that the placement will no longer be made once you have already commenced your leave, you will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the week in which the placement ended or the disruption took place. Where the placement ends within the first 26 weeks Teaching Staff are entitled to remain absent from work until the end of the 26 week period. Where placement ends after the 26 week Teaching Staff will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement or the end of the adoption period whichever is sooner.

Payment of adoption pay will continue for 8 weeks after the end of the week in which the disruption took place, or until the end of your 26 week SAP period, whichever is the sooner.

You must remember, where possible, to give your supervisor 28 days’ notice if you are returning to work earlier than expected because of a disruption to the placement.

**My earnings vary from week to week. How will an average weeks’ pay be calculated?**

Where your earnings vary from week to week, an average will be taken from the 8 week period up to and including the last normal pay day before you notified the Council that you had been matched with a child for adoption.

This average must be at least equal to the lower earnings limit for National Insurance Contributions to qualify for SAP. However, you will be entitled to benefit from salary increments and/or pay awards that take effect after the 8 week reference period.

**I hold two part-time posts with the Council. How will my entitlements to Statutory Adoption Pay be calculated?**

If you hold two substantive posts with the Council, your earnings from each will be added together to establish your entitlement to adoption pay.

**Will I be entitled to apply for vacancies during my adoption leave?**

Yes. The Internal Vacancy Bulletin will be sent to your home address on a fortnightly basis throughout the duration of your adoption leave. If you are interested in any vacancies you should apply in the normal manner.

**What about training opportunities?**

You are entitled to receive the same training opportunities during your adoption leave that you would have received had you been at work. You should discuss your interest in any forthcoming courses (be they in-house or external courses) with your supervisor prior to commencing your adoption leave. If your colleagues are required to undergo training whilst you are on adoption leave you will also be invited to attend, if applicable.

**Will I be entitled to any pay rises that take effect during my adoption leave?**

Yes. Pay awards and increments normally take effect from 1st April every year (or 1st August in the case of teachers’ increments). If you are on your paid adoption leave during this time any pay award or increment you may be due will be reflected in the adoption payyou receive. The same principle applies in the case of back-dated pay awards.

**What happens to my annual leave and public holidays? (Non-teaching Employees)**

All employees will accrue annual leave during the entire period of adoption leave.

Prior to going on adoption leave, you are required to take a proportionate amount of annual leave entitlement calculated up to the start of your adoption pay period. This, unless agreed otherwise, must be taken before your adoption leave starts.

Leave accrued during the period of adoption leave can then be taken, subject to the exigencies of the service:

* either before your adoption leave commences, if you will not be returning to work during the current leave year;
* or immediately following your adoption leave;
* or sometime after you return to work, generally within the current leave year (where time allows) or, in exceptional circumstances, within the following leave year.

In most cases, it will not be permissible to carry over annual leave accrued during one leave year into the next leave year. Therefore, if you know in advance that your return to work date is such that you will be unable to take your holiday entitlement in the same year as it was assigned, you must take your entitlement before your adoption leave commences. You cannot receive payment in lieu of untaken holidays.

Employees on maternity or adoption leave accrue not only contractual annual leave but also any public holidays which occur during their entire leave period, provided their child was born or adopted on or after 5th October 2008.

This can be taken, subject to exigencies of the service, either immediately following your return to work, or sometime later within the leave year (where time allows) or within the following leave year.

Where you give written notice to the Council that you do not intend to return to work following your adoption leave, then the Council will make payment to you for any outstanding annual leave accrued during your adoption leave period.

**What happens to my leave entitlement? (Teaching employees)**

All teachers continue to accrue their contractual leave entitlement during their adoption leave period. The contractual leave entitlement is 40 days per annum. Pro rata arrangements shall apply to part time. Public holidays are included in this entitlement.

**Will I continue to pay Superannuation?**

Yes. During your period of paid ordinary adoption leave, your contributions will be based on the pay you actually received, but the Council will pay contributions on full notional pay. You will make contributions even if you are only in receipt of SAP. Your service will count as normal for pension purposes i.e. as if you had been at work. The Council will continue to pay pension contributions during OAL, regardless of whether the employee is in receipt of maternity pay.

During any period of unpaid additional adoption leave, your pension contributions will be suspended and will not count for pension purposes. If you wish, however, you can repay any contributions you would have made during your unpaid leave. If you choose to do this you must advise the Payroll as soon as you commence unpaid maternity leave so that the relevant pension forms can be completed.

If you elect to do this, your basic pension contributions for the unpaid period will be based on the pay you were entitled to receive on the day before the unpaid period began. The Council’s contributions, however, will be based on full notional pay.

**This unpaid period will not affect your continuous service.**

**Will I require to continue paying car loan/car payments?**

Yes. If you have a current car loan or have a leased car you will require to continue payments during your adoption leave. These payments will be deducted form your adoption pay or an account will be sent from Finance Services.

**Do I have to inform anyone of when I intend to return to work?**

If you intend to return to work at the end of your full adoption leave entitlement (i.e. after 52 weeks’ leave) you do not require to give any further notification. However, it is recommended that you notify your supervisor of your intended return date as soon you have decided what you wish to do. This will allow your supervisor to plan for your return by reorganising work or giving notice to temporary cover.

If, however, you wish to return to work before the end of your full adoption leave period, you must give you supervisor/ Head of Service/ Head Teacher at least 28 days notice in writing - by completing form HR/RTW1 (non-Teaching staff) or HR/RTW2 (Teaching staff) available from OD, HR and Communications - of your proposed date of return to work.

**I don’t know whether I will return to work or not. What should I do?**

If you are undecided what to do after your adoption leave it is advised that you indicate that you wish to return to work. In this way your post will be held open should you return.

**What happens if I change my mind and decide not to return to work?**

If you change your mind and decide not to return to work after your adoption leave, you should notify your supervisor, Head of Service, or Head Teacher as soon as possible and officially submit your letter of resignation.The Council will also make payment for any outstanding annual leave.

If you are entitled to occupational adoption pay you should remember that you will require to pay back the twelve weeks at half pay. Requirement to pay back occupational adoption pay does not apply to Teachers.

**I am on a temporary/ fixed term contract which expires while I’m on adoption leave. How will this affect me?**

Whether or not your contract is renewed will depend on whether there is still a requirement for the post. If there ceases to be a requirement for your post, you will be given the appropriate notice of termination, as specified in your contract of employment. Conversely, if there continues to be a requirement for your post beyond the expiry date of your contract, you will be offered, in writing, an extension to your contract. The fact that you are on adoption leave will not affect the decision on whether or not your contract is renewed.

**If I resign or my contract ends before the placement, will I still qualify for SAP?**

If you resign or your contract expires before placement you will still be entitled to receive Statutory Adoption Pay, providing you meet the eligibility criteria specified earlier and you do not start work for a new employer. If you do start a new job you won’t be able to receive SAP for any week you do work for the new employer.

If your employment ends before pay starts, pay shall begin 14 days before the expected date of placement; if employment ends within those 14 days, payment will begin the day following your last day of work.

**What happens if I cannot return to work as planned because of illness?**

If, due to illness, you are unable to return to work after the expiry of your full adoption leave period, or on a date previously notified, the Council’s Occupational Sick Leave Scheme shall apply. Normal sickness absence notification and certification procedures should be followed in these circumstances.

Please note, however, that you are not entitled to receive the Statutory Sick Pay element of your sick pay throughout the whole of your 26 week entitlement to SAP. This applies even if you resume work during the 26 week period but then fall ill before the end of that period.

If, however, you become ill during your adoption leave, you will not be entitled to Occupational Sick Pay until you are due to return to work.

**How do I apply to work flexibly upon my return to work?**

If you wish to apply to work flexibly, you must submit the request in writing to your Head of Service or Head Teacher as early as possible, but no later than 8 weeks before you intend to return to duty to allow your request to be considered. You should do this by completing Form HR/FW1 available from OD, HR and Communications. Full details of the Council’s Flexible Working policy can be found in Section 8 of this booklet.

**ADOPTION LEAVE CHECK LIST**

* Notify your supervisor, Head of Service or Head Teacher as soon as you know that you have been matched with a child for adoption.
* Request a copy of the Adoption Leave and Pay Scheme.
* Arrange an appointment with Human Resources to discuss the Adoption Leave Scheme.
* Complete Form HR/ML/AL1 (Non-teaching staff) or form HR/ML/AL2 (teaching staff) and attach your Matching Certificate within 7 days of being notified by your Adoption Agency that you have been matched with a child for adoption.
* Prior to going on adoption leave, remember to take a proportionate amount of annual leave entitlement calculated up to the start of your adoption pay period.
* Ideally, prior to going on adoption leave, remember to discuss and agree with your manager arrangements for keep in touch and agree specific Keeping-in-Touch days if this is agreeable to you both.
* If you intend to return to work before the end of your Adoption Leave, complete Form HR/RTW1 (Non-teaching staff) or HR/RTW2 (Teaching staff) at least 28 days before you intend to return to work.
* If you wish to apply for a change to your working hours or pattern under the Council’s Flexible Working Policy, complete Appendix 1 of the Flexible Working Policy and submit at least eight weeks before your return to work.

1. SHARED PARENTAL LEAVE
   * 1. Shared Parental Leave allows eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This means that the mother or adopter shares some of the leave with his/her partner, perhaps returning to work for part of the time and then resuming leave at a later date.
     2. Shared parental leave gives parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a pot of leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after their child.
     3. Before the mother/primary adopter or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave or provide her employer with a maternity leave curtailment notice.
     4. **Shared parental leave is available to parents of babies due on or after 5 April 2015.**
   1. Shared Parental Leave Entitlement
      1. The amount of shared parental leave which an employee is entitled to take will depend on when the mother/primary adopter brings her maternity leave period to an end and the amount of leave that they have remaining.
      2. An employee can request to take shared parental leave in one continuous block, or as a number of discontinuous blocks of leave. A maximum of three requests for leave per pregnancy can be made by each parent.
      3. The mother cannot end her maternity leave period to take shared parental leave until two weeks after the birth therefore the maximum period that parents could take as shared parental leave is 50 weeks between them. This period will normally be less than this because of the maternity leave that mothers usually take before the birth.
      4. The mother/primary adopter’s partner can begin a period of shared parental leave at any time from the date of the child's birth. However partners are still entitled to take up to two weeks' paternity leave following the birth of his/her child, which he/she will lose if shared parental leave is taken first.
      5. Shared parental leave can start while your partner is still on maternity or adoption leave as long as they’ve given binding notice to end it.
      6. Shared parental leave must be taken by both mother/primary adopter and partner within 52 weeks of birth.
   2. Mother/Primary Adopter’s eligibility for Shared Parental Leave
      1. For employees to be eligible to take shared parental leave, **both** parents must meet certain eligibility requirements. In some circumstances, only one parent may qualify for shared parental leave and as such the leave cannot be shared. However, if both parents meet the eligibility requirements, parents can decide to be off work at the same time and/or take it in turns to have periods of leave.
      2. The Mother/Primary Adopter is eligible for shared parental leave if she:

* has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the council until the week before any period of shared parental leave that she takes;
* has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
* is entitled to statutory maternity leave in respect of the child; and
* complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.
  + 1. In addition, for the mother/primary adopter to be eligible for shared parental leave, their partner must:
* have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
* have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks; and
* have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.
  1. Partner's eligibility for shared parental leave
     1. A Father/Partner is eligible for shared parental leave if he/she:
* has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the council until the week before any period of shared parental leave that he/she takes;
* has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
* complies with the relevant shared parental leave notice and evidence requirements.
  + 1. In addition, for the partner to be eligible for shared parental leave, the mother/primary adopter must:
* have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
* have average weekly earnings of at least the maternity allowance threshold (currently £30)for any 13 of those 66 weeks;
* have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
* be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
* comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).
  1. Shared Parental Leave Pay (ShPP)
     1. Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available will depend on how much statutory maternity pay or maternity allowance the mother/primary adopter has been paid when the maternity leave or pay period ends.
     2. If a mother/primary adopter is entitled to statutory maternity pay or maternity allowance, 37 weeks of this pay can be taken by either the mother/primary adopter or their partner as shared parental leave pay. A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother/primary adopter. However 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 has a maximum of 37 weeks' statutory shared parental pay remaining to share with her partner.
     3. ShPP is paid for 37 weeks at the statutory rate, currently £139.58 a week or 90% of your average weekly earnings, whichever is lower (as at 1st April 2016). The remaining 13 weeks of shared parental leave are unpaid.
     4. For example, if when you decide to end maternity leave you have 10 weeks at statutory maternity pay (SMP) or maternity allowance (MA) remaining, and later start a period of shared parental leave, you will be paid for up to 10 weeks statutory shared parental leave pay.
     5. Please note however that shared parental leave must be taken by both mother/primary adopter and partner within 52 weeks of birth and any statutory pay will not be paid after that time.
     6. A Father/Partner is eligible for statutory shared parental leave only during any periods of shared parental leave. Please note that a Father/Partner is still entitled to take up to two weeks' paternity leave (1 week of which may be paid at an enhanced rate) following the birth of his/her child, however the entitlement to paternity leave will be lost if shared parental leave is taken first.
  2. Types of leave – continuous or discontinuous blocks
     1. Shared parental leave may be taken in a single continuous block, or smaller blocks a minimum of a week at a time, subject to agreement from your service manager. Employees can take a period of shared parental leave, return to work, then take a further period of shared parental leave.
     2. Employees can only give 3 notices to take leave unless under exceptional circumstances.
     3. When giving notice of a period of leave, employees can request either a single block or discontinuous periods of leave. For example when giving 1 notice to take leave an employee could request one continuous period of 4 months leave (Jan – April) or leave with a pattern of 2 months shared parental leave (Jan – Feb), 1 month at work (March) followed by a further 2 months shared parental leave (April – May).
  3. Approving periods of leave
     1. Continuous period of shared parental leave - If submitting a period of leave notice requesting one continuous period of leave, you will be entitled to take that period of leave.
     2. Discontinuous periods of shared parental leave – This type of leave may be difficult for a service to accommodate. Requests for this type of leave are therefore dependent on the requirements of the service and require approval by your service manager. Requests for discontinuous periods of leave may be rejected due to exigencies of the service.
     3. If a request is submitted requesting discontinuous periods of leave, the council, in the two weeks beginning with the date the period of leave notice was given, can:
* consent to the pattern of leave requested;
* propose an alternative pattern of leave; or
* refuse the pattern of leave requested.
  + 1. If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.
    2. 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 period of leave notice was originally given. 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 requested in the period of leave notice.
    3. Alternatively, if the council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. 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.
  1. Notification of intention to take Shared Parental Leave
     1. The notice periods set out below are the minimum required by law. However, the earlier the employee informs their manager of his/her intentions, the more likely it is that they will be able to accommodate your request, particularly if your request is for discontinuous leave.
     2. Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

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| **Types of notice that will be required** | |
| maternity leave curtailment notice | This notice is from the mother/primary adopter to detail when he/she proposes to end their maternity leave.  This notice must be in writing and the date must be:   * At least two weeks after birth * at least eight weeks after the date on which the notice is given to your manager * at least one week before what would be the end of the additional maternity leave period (52 weeks after start of maternity leave) |
| notice of entitlement and intention | This notice is from the employee to give an initial, non-binding indication of each period of shared parental leave being requested. This must be provided whether you are the mother/primary adopter or partner and should be submitted at least eight weeks before the start date of the first period of leave. |
| period of leave notice | This notice is from the employee to detail the start and end dates of each period of shared parental leave that you are requesting.  A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave. |
| Mother/Primary Adopter’s signed declaration | This declaration confirms that the mother/primary adopter:   * satisfies, or will satisfy, the eligibility requirements to take shared parental leave * has given accurate information within the notice of entitlement and intention * will immediately inform the council if they cease to care for the child |
| Partner’s signed declaration | This declaration confirms that the partner:   * satisfies, or will satisfy, the eligibility requirements to take shared parental leave * has given accurate information within the notice of entitlement and intention * will immediately inform the council if they cease to care for the child or if the mother/primary adopter informs him/her that they no longer meet the requirement to have curtailed their maternity leave or pay period |

* 1. Returning to Work
     1. All employees have the right to return to the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.
     2. If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.
  2. Shared Parental Leave In Touch (SPLIT) Days
     1. “Shared Parental Leave in Touch” (SPLIT) Days gives both parents the opportunity to take up to 20 optional ‘keeping in touch’ days each during shared parental leave.
     2. These days are in addition to the 10 “Keeping in Touch” (KIT) days allowed during maternity and adoption leave.
     3. Employees and their partner can both work up to 20 SPLIT days during shared parental leave without bringing their shared parental leave or pay to an end.
     4. SPLIT days can be used in situations where both parties feel it would be beneficial for the employee to attend a work-related activity, for example a training session or a team meeting, or to work part of a week to help the employee return to their role in a gradual way.
     5. SPLIT days are optional and must be agreed between employer and employee.
  3. Frequently Asked Questions on Shared Paternity Leave

**How do I apply for Shared Parental Leave?**

If you are the mother/primary adopter the following must be provided to apply for shared parental leave:

* A maternity leave curtailment notice
* A notice of Entitlement
* A period of leave notice
* Partner’s signed declaration

If you are the partner the following must be provided to apply for shared parental leave:

* notice of entitlement and intention
* a copy of the child's birth certificate
* A period of leave notice
* Mother/Primary Adopter’s signed declaration

A copy of the form is available from OD, HR and Communications.

**What if I change my mind about when I want my Shared Parental Leave to start?**

An employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides the council with a written notice. The written notice must contain:

* an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
* details of any periods of shared parental leave that have been notified through a period of leave notice;
* details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
* a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

* it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
* the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
* the partner has died.

**What if I can’t comply with the notice periods specified?**

The Council recognises that it may not always be possible to comply with the notice periods outlined above. However, providing there is a legitimate reason preventing you giving the required notice (e.g. an unexpected change in circumstances), your manager will endeavour to accommodate your request wherever possible.

**What happens in the event of a miscarriage, my baby is stillborn or the placement for adoption does not happen?**

In the unfortunate circumstances of a miscarriage or your baby is stillborn in or after the 25th week of pregnancy, you will retain your entitlement to shared parental leave and statutory pay where due.

If you miscarry or your baby is stillborn in or before the 24th week of pregnancy you will not be entitled to shared parental leave or pay. However, assuming that you are absent from work for a period of time following the miscarriage, you will be entitled to sick pay in the normal way, provided that you qualify for it. If you suffer a pregnancy loss at any time during your pregnancy and/or you lose a child at any point up to the age of 18 you will be entitled to 2 weeks full paid leave. Further information can be found in section 10 of the *Family Friendly and Worklife Balance Policy.*

Where your baby is born early and lives for only a short period of time, you will, irrespective of the timing of the birth, retain your full rights to shared parental leave and statutory pay where due.

If you have resigned from your job the Council will make every effort to allow you to return to work but not necessarily to the same job or at the same grade.

**My partner is having twins. Will I be entitled to leave in respect of each child?**

No. Only one period of leave will be available irrespective of whether more than one child is born as a result of the same pregnancy. Similarly, if you and your partner are adopting more than one child as part of the same placement, only one period of leave will be granted.

**Are civil partners entitled to Shared Parental Leave?**

Yes. Under the Civil Partnership Act 2004 same sex couples have the opportunity to acquire a legal status for their relationship. Couples who register as civil partners will gain the same rights and responsibilities as those already available to married couples.

**Will I still be entitled to receive Shared Parental Leave and pay if I resign or my contract ends before the date my leave was due to commence?**

To be eligible for shared parental leave you must continue to be employed up to the start of your period of additional paternity leave

If your contract ends during shared parental leave you will still be entitled to any remaining shared parental leave pay. However if you start a new job, you won’t be able to receive additional pay for any week you work for a new employer.

**What contact will there be during my Shared Parental Leave?**

Managers may make reasonable contact with employees who are on shared parental leave, for example to discuss your plans to return to work, whether you might wish to seek any changes to your working hours or pattern of work on your return, any important developments within the workplace, or to make you aware of any specific vacancies or training opportunities.

Prior to the commencement of shared parental leave, you and your manager should discuss how contact can be maintained. Both you and your manager should have a clear understanding of the nature and frequency of contact.

Communication may, if agreeable to both parties, be facilitated by home computers so whilst you are on shared parental leave you can exchange emails and keep up-to-date with relevant workplace developments. For employees who have no access to emails then communication by telephone or letter should be agreed.

OD, HR & Communications will send you a copy of the Internal Vacancy Bulletin (IVB) to either your chosen email address or your home address on a fortnightly basis. However, your manager has a responsibility to ensure that you have information on vacancies and promotion, including acting appointments or other continual professional development (CPD) opportunities which may arise out with the IVB. They also have a responsibility to ensure that you are apprised of changes to the workplace which may impact on you.

**Will I be entitled to apply for vacancies during my Shared Parental Leave?**

Yes. The IVB will be sent to your chosen email address, or your home address, on a fortnightly basis throughout the duration of your shared parental leave. If you are interested in any vacancies you should apply in the normal manner.

**What about training opportunities?**

You are entitled to receive the same training opportunities during your shared parental leave that you would have received had you been at work. You should discuss your interest in any forthcoming courses (be they in-house or external courses) with your supervisor prior to commencing your leave. If your colleagues are required to undergo training whilst you are on leave you will also be invited to attend, if applicable.

**What happens to my annual leave during Shared Parental Leave (non-term time employees)?**

All employees continue to accrue their contractual annual leave entitlement during shared parental leave.

In most cases, it will not be permissible to carry over annual leave accrued during one leave year into the next leave year. Therefore, if it is known in advance that your return to work date is such that you will be unable to take your holiday entitlement in the same year as it was assigned, your manager must give you the opportunity to take your entitlement before your shared parental leave leave commences (see table below). **The Council cannot give employees payment in lieu of untaken holidays, other than on termination of employment.**

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| **Accrual of annual leave during paternity leave** | |
| Shared parental leave starts and finishes within one holiday year, e.g. starts in February 2012 and ends on November 2012 | You are allowed to take some or all of your holiday entitlement before commencing shared parental leave. Any annual leave not taken before the start of your shared parental leave must be granted and taken some time after your return to work generally within the current leave year (where time allows) or, in exceptional circumstances, within the following leave year. |
| Shared parental leave spans two holiday years e.g. starts in August 2012 and ends on April 2013. | You are allowed to use up your full annual leave entitlement for the first holiday year before commencing shared parental leave. Full annual leave entitlement for the second holiday year should then be taken some time after your return to work generally within the current leave year (where time allows) or, in exceptional circumstances, within the following leave year. |

You should discuss with your manager at an early stage, prior to going on shared parental leave, how and when you are going to take your holiday entitlement.

Where you give written notice to the Council that you do not intend to return to work following your shared parental leave, then the Council will make payment to you for any outstanding annual leave accrued during your shared parental leave period.

**What happens to my public holidays during Shared Parental Leave?**

Employees accrue not only contractual annual leave but also any public holidays which occur during their entire leave period. This can be taken, subject to exigencies of the service, either immediately before or following your shared parental leave, or sometime after you return to work (generally within the current leave year) or, in exceptional circumstances, the following leave year.

Please note that any change to your contractual working hours on return from shared parental leave could affect your entitlement to public holidays. Public holidays accrue on a daily basis like annual leave entitlement; however as we have fixed public holidays you may not be entitled to the full amount which has fallen during your shared parental leave if you choose to reduce your contract hours. For example:

During the period January – May there are 5 fixed public holidays. A full-time employee returns from shared parental leave on 31st May but does so on part-time hours (18.5hrs per week). They are not automatically entitled to 5 public holidays as although these have fallen during the period of shared parental leave, the entitlement has not yet been accrued and by changing their working pattern their entitlement will naturally reduce. The employee will be entitled to:

1st January – 31st May - 7 public holidays / 365 days x 151 working days = 3 days

1st June – 31st December - 7 public holidays / 365 days x 0.5 (18.5 hrs) x 214 working days = 2 days

Entitlement for the full leave year is 5 days but the employee will be required to keep days back for the remaining 2 fixed public holidays.

**I have a term time contract of employment, what happens with my annual leave and public holidays during Shared Parental Leave?**

To ensure term time employees receive a salary throughout the year rather than the actual term worked (i.e. 38, 39 weeks, etc), annual leave and public holiday entitlement is rolled up within the salary. As shared parental leave pay does not cover 100% of the normal salary (i.e. 90% for 6 weeks, 50% for 12 weeks, etc) then a term time employee will be due a reimbursement of a small element of their annual leave and public holiday pay. This amount will depend on the actual length of shared parental leave period taken and can be calculated by OD, HR & Communications once the estimated return to work date is known.

As term time employees have their leave period set in line with school holidays, any owed annual and public holiday entitlement should be taken at the end of the shared parental leave period but before the employee physically returns to work.

**Will I continue to pay pension contributions?**

Yes. During your period of paid shared parental leave, your contributions will be based on the pay you actually receive, but the Council will pay contributions on full notional pay. Your service will count as normal for pension purposes i.e. as if you had been at work.

During any period of unpaid shared parental leave, your pension contributions will be suspended and will not count for pension purposes. If you wish, however, you can repay any contributions you would have made during your unpaid leave. If you choose to do this you must advise the Payroll Section as soon as you commence unpaid paternity leave so that the relevant pension forms can be completed.

If you elect to do this, your basic pension contributions for the unpaid period will be based on the pay you were entitled to receive on the day before the unpaid period began. The Council’s contributions, however, will be based on full notional pay.

**This unpaid period will not affect your continuous service.**

**Will I require to continue paying car loan/car lease payments?**

Yes. If you have a current car loan or have a leased car you will require to continue payments during your shared parental leave.

**I don’t know whether I will return to work or not. What should I do?**

If you are undecided what to do following your shared parental leave it is advised that you indicate that you wish to return to work. This will allow your post to be held open for you.

**What happens if I change my mind and decide not to return to work?**

If you change your mind and decide not to return to work after your shared parental leave, you should notify your manager as soon as possible and officially submit your letter of resignation, giving the appropriate notice as specified in your contract of employment.

**I am on a temporary/ fixed term contract which expires while I’m on Shared Parental Leave. How will this affect me?**

Whether or not your contract is renewed will depend on whether there is still a requirement for the post. If there ceases to be a requirement for your post, you will be given the appropriate notice of termination, as specified in your contract of employment. Conversely, if there continues to be a requirement for your post beyond the expiry date of your contract, you will be offered, in writing, an extension to your contract. The fact that you are on shared parental leave will not affect the decision on whether or not your contract is renewed.

If your contract is not to be renewed by your Service, then this is classed as a termination and your manager must follow the procedure as outlined in the Council’s ***Temporary Employee Protocol***. In other words, your manager must:

* Advise you, in writing, that dismissal is being considered and the reasons for this e.g. the impending expiry of the contract;
* You must be invited to a meeting to discuss the circumstances, to establish whether the contract might be extended or whether there is any alternative work that you could do;
* You must be advised of the outcome of the meeting and given the right of appeal;
* You must be given your contractual notice.

If, after the above procedures have been carried out, you are given notice of termination, the Council, during your notice period, will look for possible redeployment to another suitable alternative vacancy as outlined in the Council’s ***Temporary Employee Protocol***.

If your temporary contract expires while you are still on shared parental leave and you are still in receipt of shared parental leave pay, you will retain entitlement to shared parental leave pay for the full statutory pay period, notwithstanding the termination of your employment.

**What happens if I cannot return to work as planned because of illness?**

If you become ill during your shared parental leave, you will not be entitled to sick pay until you are due to return to work.

If, due to illness, you are unable to return to work after the expiry of your full shared parental leave period, or on a date previously notified, the Council’s Occupational Sick Leave Scheme shall apply. Normal sickness absence notification and certification procedures should be followed in these circumstances.

Please note, however, that you are not entitled to receive the Statutory Sick Pay element of your sick pay throughout any paid period of shared parental leave. This applies even if you resume work during this period but then fall ill before the end of that period.

**How do I apply to work flexibly upon my return to work?**

If you wish to apply to work flexibly, you must submit the request in writing to your manager as early as possible, but no later than 8 weeks before you intend to return to duty if you wish your new working pattern to commence immediately on your return to work. You should do this by completing Form HR/FW1 available from HR, OD & Communications. Full details can be found in part 2 of this document within the work-life balance policy.

1. PARENTAL LEAVE SCHEME
   * 1. Parental leave should not be confused with shared parental leave. Parental leave is a separate entitlement and allows a parent to take up to 18 weeks' unpaid leave.
     2. Both male and female employees who meet the qualifying criteria described below have the right to 18 weeks unpaid leave in total for each child. This is a right per child and per parent. A parent with twins would be entitled to 18 weeks for each child.
   1. Qualifying for Parental Leave (Non-Teaching staff):
      1. To qualify for parental leave, you must:

* have at least 26 weeks continuous service;
* be the parent (named on the birth certificate) of a child who is under 18 years old;
* or have acquired parental responsibility for a child who is under 18 years old, as defined under The Children Act 1989 or the Children (Scotland) Act 1995);
* or have adopted a child under the age of 18.
  1. Qualifying for Parental Leave (Teaching Staff)
     1. To qualify for parental leave, you must:
* have at least 1 year’s continuous service;
* be the parent (named on the birth certificate) of a child who is under 18 years old; or
* have acquired parental responsibility for a child who is under 18 years old, as defined under The Children Act 1989 or the Children (Scotland) Act 1995); or
* have adopted a child under the age of 18.
  1. Frequently asked Questions on Parental Leave

**How do I apply for Parental Leave?**

If you wish to take parental leave you must complete Form HR/PAT1 (Non-Teaching) or Form HR/PAT2 (Teaching), both of which are available from OD, HR and Communications. You must give 21 days notice to your Supervisor, Head of Service, or Head Teacher as follows:

The notice must specify the dates on which leave is to begin and end.

If you are a prospective father wanting to take parental leave when the baby is born, notwithstanding Paternity Leave (as outlined above), you must:-

specify of the expected week of childbirth (EWC);

specify the duration of the period of leave you wish to take;

give notice 13 weeks before the EWC.

You may be required to provide evidence of parentage.

**When does parental leave have to be taken by?**

Providing you have at least 26 weeks’ continuous service (1 year for Teaching Staff), you can choose to take parental leave any time –

up until the child’s 18th birthday;

in adoption cases, leave can be taken for 18 years after the child is first placed for adoption (or until the child’s 18th birthday if that comes sooner);

**Are there any restrictions on the amount of leave I can take at any one time?**

There are no restrictions on the amount of leave you can request to take at any one time. There is flexibility to take parental leave on a day-to-day basis, you may take more than a week at a time and up to 4 weeks in any one year per child.

**What happens if I change employer?**

Parental leave is not a right per employer. That is, you are entitled to a total of 18 weeks’ leave in respect of each child, NOT each employer. Therefore, any leave taken with a past employer will count towards the 18 week limit for each child.

If you move to a new employer, you will once again need to accrue one years’ qualifying service before taking parental leave, unless your new employer recognises your service with Inverclyde Council.

**Can I take Parental Leave immediately after my Maternity/Adoption Leave or my Paternity Leave?**

Yes. You are entitled to take parental leave immediately after a period of maternity, adoption or paternity leave, providing that any necessary notice and/or qualifying requirements are met.

**Will I continue to pay Superannuation?**

During any period of unpaid leave, your pension contributions will be suspended and will not count for pension purposes. If you wish, however, you can repay any contributions you would have made during your parental leave. If you choose to do this you must advise the Payroll Section within **30 days** of your return to work.

If you elect to do this, your basic pension contributions for the unpaid period will be based on the pay you were entitled to receive on the day before the unpaid period began. The Council’s contributions, however, will be based on full notional pay.

This unpaid period will not affect your continuous service.

**Will I require to continue paying car loan/car payments?**

Yes. If you have a current car loan or have a leased car you will require to continue payments during your parental leave. These payments will be deducted form your normal pay or an account will be sent from Payroll.

**What happens to my leave entitlement?**

All employees will accrue annual leave during the period of parental leave and are entitled also to time in lieu for any public holidays which fall during the leave period.

**Can my supervisor postpone my request for parental leave?**

Yes. The Council reserves the right to postpone requests for parental leave where the Council’s business would be substantially prejudiced if the employee took the leave at the time requested. The Council will state in writing the reason(s) for postponement and the dates on which the postponed leave will begin and end. This response must be given in writing within 7 days of your originals request. The postponed leave will be of the same length as originally requested.

If an employee has requested two week’s parental leave or less, the Council’s notice of postponement will be two weeks before the requested parental leave was due to begin. If the employee requests more than two weeks’ parental leave, the notice of postponement will be as long as the leave requested. The new start date must be no later than 6 months from the requested start date. The Council cannot postpone the leave if this would delay the leave until after the child’s 18th birthday.

The Council cannot postpone the leave if it is taken immediately after the birth or adoption of a child.

For Teaching Staff postpone can be up to 6 months.

The postponement of parental leave does not apply to prospective fathers or prospective adopters.

1. PARENTAL BEREAVEMENT (LEAVE & PAY) ACT 2018
   * 1. From April 2020, under the Parental Bereavement (Leave and Pay) Act 2018 (known as “Jack’s Law’) employed parents may be are entitled to 2 weeks’ bereavement leave and pay following the death of a child.

10.1.2 Parents have the right to take Parental Bereavement Leave if they are classed as an employee and they suffer a pregnancy loss at any time during their pregnancy and/or lose a child up to the age of 18 years old. Employees have this right from the day they start their job.

10.1.3 Parental Bereavement Leave can be taken in the 56 weeks following their child’s death and if more than one child dies, the employee is entitled to 2 weeks’ Parental Bereavement Leave for each child.

10.1.4 Employees and workers are entitled to 2 weeks Parental Bereavement Pay if:

* Their child dies under the age of 18 or is stillborn after 24 weeks of pregnancy
* They were employed when their child died

10.1.5 Employees must ask for Parental Bereavement Pay within 28 days of taking Parental Bereavement Leave, starting from the first day of the week they're claiming the payment for.

10.1.6 An employee can choose to take either 1 or 2 weeks' leave. If an employee takes 2 weeks, this can be taken in one go, or as 2 separate weeks. For example, they could take 1 week immediately after the death, and take the other week later on. The leave must end within 56 weeks of the child's death. The date of the child's death is the first day of the 56 weeks.

10.1.7 An employee/worker must tell their employer to use Parental Bereavement Leave and Pay (if applicable). To give notice, the employee must tell their employer:

* When they want the leave to start
* Whether they want to take 1 or 2 weeks leave, start date and end date
* The date their child died
* Their relationship with the child

Notice must be given within 28 days of starting leave. If someone takes the 2 weeks off separately, they must give notice in writing for each week.

1. SPECIAL LEAVE SCHEME
   * 1. The aim of Special Leave Scheme is to provide a compassionate response to immediate needs, arising from the varied domestic situations which may arise from time to time.

The policy allows all employees to take reasonable time off work to deal with certain unexpected or sudden emergencies and to make any necessary longer term arrangements.

* + 1. The policy enables employees to take action which is necessary:
* if a dependant falls ill, or has been injured or assaulted;
* when a dependant has a baby;
* to deal with an unexpected disruption or breakdown of normal care arrangements for a dependant;
* to make longer term care arrangements for a dependant who is ill or injured;
* to cope with a care problem;
* to deal with an unexpected incident involving an employee’s child during school hours;
* to deal with a death of a dependant
* Foster Carers Leave

The quoted examples above are neither exclusive nor exhaustive and individual cases will be decided on their own merits.

* + 1. All employees, regardless of hours worked or length of service, are entitled, under the Special Leave Scheme, to take emergency time off for dependants or domestic incidents, e.g., fire, flooding etc.
  1. Entitlement
     1. Where a non-teaching employee is required to be absent from work to make urgent domestic arrangements, leave with pay for one day will be granted subject to proper notification and evidence. Teachers may be entitled to take *up to* two days paid leave.

Additional time off will be unpaid and will be at the discretion of the Service Director or Head of Service after discussion with the Head of Human Resources Appropriate medical confirmation may be required.

* + 1. One day’s paid leave (or up to two days in the case of teachers) will normally be granted per ‘event’, where this is deemed reasonable in the circumstances.
    2. The opportunity to supplement urgent domestic leave with annual leave may be possible subject to agreement with the Service Director or Head of Service.
    3. Leave taken under the scheme should be recorded as ‘special leave’ on attendance cards, and NOT sick leave.
  1. Frequently asked Questions on Special Leave

**How do I arrange for emergency time off?**

Requests for urgent domestic leave must be made to the Head of Service or Head Teacher. Wherever possible, such requests should be made in advance or as soon as reasonably practicable. Due to the nature of the domestic incident, the Council recognises that it may not always be possible for an employee to seek prior permission. In such cases, you should arrange for a friend or colleague to notify your Head of Service or Head Teacher, if it is not possible for you to do this personally.

Time off for urgent domestic incidents is separate from the time off that an employee may request under the parental leave provisions.

**Who is considered as a dependant?**

A dependant is defined as a husband, wife or partner, a child or parent of the employee. It also includes someone who lives in the same household as the employee. It does not include tenants, lodgers or boarders living in the family home.

In cases of illness, injury, or where care arrangements break down, a dependant may also include someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or the only person who can help in an emergency.

**How much time can I take off?**

You are entitled to take as long as it takes to deal with the immediate emergency. For example, if your child falls ill you can take enough time off to deal with their initial needs, such as taking them to the doctor and arranging for their care. **The Special Leave Scheme does not entitle you to take time off to care for the dependant yourself.** If you want to stay off work longer to care for a dependant you will be required to make other arrangements e.g. by applying for parental leave, annual leave.

**What if I know in advance that a problem is going to arise?**

The purpose of the Special Leave Scheme is to provide reasonable time off to deal with emergencies or unexpected incidents. If you know in advance that you require time off, or if it is known that a dependant suffers from a condition that is likely to result in relapses, alternative arrangements should be made such as applying for parental leave or requesting a change to working hours/ pattern under the Council’s Flexible Working Policy.

Equally, you are not entitled to time off under the Special Leave Scheme to take a dependant to a hospital appointment known about in advance. Again, alternative arrangements should be made such as applying for annual leave or making arrangements with your supervisor to make the time up later in the week or the following week.

**What does ‘longer term care arrangements’ mean?**

Where a dependant needs to be cared for because of an illness or injury, you can take time off work to organize alternative longer term arrangements. For example, this might mean making arrangements to employ a temporary carer or taking a sick child to stay with relatives.

**Both myself and my partner work for the Council. Can we both take time off work if our child falls ill or has an accident?**

Yes. The Council recognises that there may be times when it is necessary for both parents to take time off work e.g. if your child has been involved in a serious accident.

1. GLOSSARY OF TERMS

***Additional Adoption Leave (AAL****)* ***-*** this period of leave commences after the Ordinary Adoption Leave period is exhausted and lasts for up to a maximum of 26 weeks.

***Additional Maternity Leave (AML) -*** this period of leave commences after the Ordinary Maternity Leave period is exhausted and lasts for up to a maximum of 26 weeks.

***Adopter -*** this is someone who has been matched with a child for adoption.

***Childbirth* –** the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.

**Dependant –** this is a family member or someone in the household cared for on an unpaid basis who could not manage at home without help.

***Disabled Child -*** this is a child who is entitled to a disability living allowance within the meaning of Section 71 of the Social Security Contributions and Benefits Act 1992.

***Expected Week of Childbirth (EWC) -*** this is the week in which your G.P. or midwife calculates when your baby is due.

***Foster Parent -*** this is a foster parent within the meaning of Regulation 2(1) of the Fostering Servicing Regulations 2002 or Section 2 (1) of the Fostering of Children (Scotland) Regulations 1996.

***Guardian -*** this is a person appointed as a guardian under Section 5 of the Children Act 1989 or Sections 7 and 11 of the Children (Scotland) Act 1995.

***Matching -*** this is the process where an Approved Adoption Agency accepts you and/or your partner’s application to adopt a child and identifies a child to whom you will be given legal custody of.

***Matching Certificate -*** if you are adopting a child you will require a matching certificate from the adoption agency as documentary evidence that you have been matched with a child for adoption and are entitled to Statutory Adoption Leave and Pay.

***Maternity Allowance -*** this allowance is for employees who do not qualify for Statutory Maternity Pay. It is paid direct from the Benefits Agency.

***Maternity Support and Paternity Leave -*** this is a legal right for eligible employees to take 2 weeks paid leave to care for the child and/or support the mother.

***Mat B1 -*** this certificate is given to pregnant women by their G.P. or midwife and confirms that they are pregnant and their Expected Week of Childbirth. This form is required by the Council in order to process any claim for Statutory Maternity Leave and Pay.

***National Insurance Lower Earnings Limit -*** this is an amount that employees must earn in excess of to qualify for a range of statutory allowances e.g. statutory maternity pay, statutory adoption pay, statutory paternity pay.

***Ordinary Adoption Leave (OAL) -*** a person adopting a child, or one member of a couple who are jointly adopting, are legally entitled to a period of Adoption Leave to care for and support the child which they are adopting. Ordinary Adoption Leave is the first 26 weeks of this leave and is normally paid.

***Ordinary Maternity Leave (OML) -*** all pregnant employees are legally entitled to a period of Maternity Leave to care for and support their baby Ordinary Maternity Leave is the first 26 weeks of this leave and is normally paid.

***Parental Leave -*** eligible employees have a legal right to 13 weeks (18 weeks if the child is disabled) unpaid leave to care for their child. This leave must be taken by the child’s 17th birthday (18th birthday if the child is disabled).

***Partner -*** in relation to a child’s mother, father, adopter, guardian or foster parent, this is someone (whether of different or same sex) who lives with the child and the mother, father, adopter, guardian or foster parent who is in an ‘enduring family relationship’ but is not a relative.

***Placement -*** upon granting you and/or your partner legal custody of a child, a date will be agreed for that child to move into your home.

***Special Leave -*** employees have a legal right to a reasonable amount of time off (unpaid) to deal with unexpected or sudden emergenciesin relation to their dependants. The Council, however, operates an enhanced scheme which gives employees paid time off (normally one day).

***Statutory Adoption Pay (SAP) -*** during Adoption Leave, most employees will be entitled to Statutory Adoption Pay (SAP). SAP is the same as the standard rate for SMP.

***Statutory Maternity Pay (SMP) -*** during Maternity Leave, most employees will be entitled to Statutory Maternity Pay (SMP). There are two rates of SMP: the higher rate is 90% of your average earnings; and the standard rate which is set my government each April.

***Statutory Paternity Pay (SPP) -*** during Paternity Leave, most employees will be entitled to Statutory Paternity Pay (SPP). SPP is the same as the standard rate for SMP.

* 1. USEFUL LINKS & CONTACTS

**Sure Start Maternity Grant:**

<https://www.gov.uk/sure-start-maternity-grant/overview>

**Working Tax Credits**:

<https://www.gov.uk/working-tax-credit/overview>

* Telephone: 0345 300 3900
* Textphone: 0345 300 3909

**Maternity Pay/Allowance**:

<https://www.gov.uk/maternity-pay-leave/eligibility>

**Family related Benefits:**

<https://www.gov.uk/browse/benefits/families>

**Child Benefit Office:**

* Telephone: 0300 200 3100
* Textphone: 0300 200 3103

**Advise for Carers:**

<https://www.gov.uk/browse/benefits/disability>

**ACAS**

Helpline Number: 0300 123 1100

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