

**Maternity Scheme  
Teachers and Associated Professionals  
Version: 1.0**

**Focus. Passion. Inspiration.**



**North Ayrshire Council**  
Comhairle Siorrachd Àir a Tuath

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Related Forms/ Template Letters	<ul style="list-style-type: none"> <li>• Application for Maternity Leave/Pay <a href="#"><u>Form</u></a></li> <li>• Alteration to Original Maternity Leave Date <a href="#"><u>Form</u></a></li> <li>• Early Return to Work Following Maternity/ Adoption <a href="#"><u>Form</u></a></li> <li>• Completed KIT/SPLIT Day <a href="#"><u>Form</u></a></li> <li>• Return to Work Following 52 weeks of Maternity/ Adoption Leave <a href="#"><u>Form</u></a></li> <li>• Special Leave Request <a href="#"><u>Form</u></a></li> </ul> <p>All of the template letters and forms referenced in this document are available on the Councils Intranet site '<a href="#"><u>Connects</u></a>'.</p>
Related documents	<a href="#"><u>HR Guide: Shared Parental Leave</u></a> <a href="#"><u>National Pay and Leave Specification</u></a> <a href="#"><u>Code of Practice on Keeping in Touch Days</u></a> <a href="#"><u>SNCT Handbook</u></a>
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1.0	12 December 2018	

## 1. Introduction

- 1.1 The North Ayrshire Council Maternity Scheme for Teachers and Associated Professionals complies with the nationally agreed conditions of service detailed within the [Scottish Negotiating Committee for Teachers Handbook of Conditions of Service](#).

## 2. Antenatal Care

- 2.1 All pregnant employees are entitled to take reasonable paid time off, as required for antenatal care. Antenatal care can include not only medical examination but also dental appointments, relaxation and parent craft classes.
- 2.2 Prospective fathers or a mother's partner are entitled time off to attend up to 2 antenatal appointments with the expectant mother. Time off is unpaid and for up to 6.5 hours per appointment. It would normally be expected that time off for half a day would be requested but a longer period should be granted depending on the location and nature of the appointment.
- 2.3 Time-off to attend Antenatal care can be requested by completing a [Special Leave Request Form](#).

## 3. Health and Safety for Mothers

- 3.1 Expectant mothers are advised to inform their line manager of their pregnancy when confirmed by a medical practitioner or midwife.
- 3.2 Managers should refer to the [Health & Safety Guide: New and Expectant Mothers Risk Assessment](#) for information on identifying and reducing any risks for expectant mothers. Risk assessments should also be carried out for mothers who have given birth within the previous six months or are breastfeeding.
- 3.3 Where risks are identified, normal duties may be adjusted or alternative work provided. If there is no suitable alternative work available, the employee may be medically suspended on normal pay for a period of time. Decisions to medically suspend will be made by the Head of Service in consultation with the relevant TU Representative.

## 4. Maternity Leave

- 4.1 All employees are entitled to 52 weeks of maternity leave, regardless of length of service. This is made up of 26 weeks' Ordinary Maternity Leave and 26 weeks' Additional Maternity Leave.
- 4.2 Employees can choose to begin their maternity leave on any date after the 11<sup>th</sup> week before the expected week of the birth. Maternity leave will automatically start on the day after the employee gives birth if earlier than their chosen date, or on the day

after an employee is absent on pregnancy related grounds in the four weeks before the expected birth.

- 4.3 Employees must take compulsory maternity leave of 2 weeks starting on the day of childbirth.

## **5. Maternity Pay**

- 5.1 Entitlement to maternity pay is based on the employee's length of continuous service. Continuous service includes any previous employment (including teacher probationary periods) with councils or other employers listed in the Redundancy Payment (Local Government) (Modification) Order, subject to a gap in employment not exceeding one working week.

- 5.2 Employees with less than 26 weeks' continuous service at the beginning of the 15<sup>th</sup> week before the expected week of childbirth (the qualifying week) will have no entitlement to maternity pay. Payroll will provide the employee with Form SMP1 along with the submitted Form Mat B1 within 7 days of the decision that she is not entitled to maternity pay. The Form SMP1 may enable the employee to claim Maternity Allowance directly from the Department of Work and Pensions.

- 5.3 Employees with at least 26 weeks' continuous service at the beginning of the 15<sup>th</sup> week before the expected week of childbirth (the qualifying week) are entitled to receive:

- Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) for the first 13 weeks of maternity leave, which taken together will equal normal pay and where eligible
- SMP for 26 weeks, provided the employee's average weekly earnings (in the 8 weeks prior to the qualifying week) are not lower than the lower earnings limit for National Insurance contributions. Payroll will provide the employee with Form SMP1 along with the submitted Form Mat B1 within 7 days of the decision that she is not entitled to statutory maternity pay. The Form SMP1 may enable the employee to claim Maternity Allowance directly from the Department of Work and Pensions.
- The remaining 13 weeks of maternity leave are unpaid

- 5.4 If an employee qualifies for SMP and then resigns or is dismissed after the 11<sup>th</sup> week before the Expected Week of Confinement, the Council will pay SMP, starting from the day after employment ends. If the employee is dismissed before the 11<sup>th</sup> week before the expected week of confinement, SMP will start from the 11<sup>th</sup> week before the expected week of confinement.

- 5.5 Maternity Pay stops being paid when an employee:

- starts back to work before the end of her maternity pay period (when SMP/OMP is normally paid). This includes returning to work when sharing parental leave
- has received SMP/OMP for the determined period

- starts work after childbirth but before the end of her maternity pay period with an employer other than the Council by which she was employed during the qualifying week (SMP/OMP ceases on the Saturday of the week before the week in which she starts work)
  - dies (SMP/OMP ceases on the Saturday of the week in which the death occurred)
  - is arrested or sent to prison (SMP/OMP ceases with the last complete week within the maternity pay period before the employee is taken into custody)
- 5.6 Where SMP/OMP ceases to be payable, the employee will be notified in writing within 21 days, of:
- the weeks for which the Council considers SMP/OMP is payable
  - the amount of SMP/OMP payable for such weeks
  - The weeks for which the Council considers SMP/OMP not payable and the reasons
- 5.7 Where the reason is because the employee is taken into legal custody the Council will complete Form SMP1 and send this to the employee along with her MAT B1 (this may enable the employee to claim Maternity Allowance).
- 5.8 If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether Ordinary or Additional Maternity Leave) the higher rate of SMP will be recalculated by Payroll to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively or that she may qualify for SMP if she did not previously.

## **6. Notification of Maternity Leave**

- 6.1 To qualify for maternity leave and pay an employee must notify the Council at least 15 weeks before the expected week of childbirth that she is pregnant, the expected week of childbirth and the date she wishes maternity leave to start. The employee should use the [Application for Maternity Leave/Pay Form](#) to submit this notification.
- 6.2 This must be accompanied by form MAT B1 from a registered medical practitioner or midwife confirming the pregnancy and expected date of childbirth.
- 6.3 The Council will respond in writing within 28 days of receipt of the [Application for Maternity Leave/Pay Form](#). This response will set out the dates of maternity leave and details of any maternity pay the employee is entitled to receive.
- 6.4 Employees can alter the start date of maternity leave by submitting an [Alteration to Original Maternity Leave Date Form](#) at least 28 days prior to the new start date.
- 6.5 For teachers and music instructors, a pay calculation for the part month prior to the start of maternity leave will be made in accordance with the [National Pay and Leave Specification](#).

## **7. Keeping in Touch During Maternity Leave**

- 7.1 Managers should have clear arrangements for keeping in contact with employees during maternity leave and discuss these with the employee prior to the leave starting.
- 7.2 With the exception of the first 2 weeks of maternity leave, an employee can work up to 10 “Keeping in Touch (KIT) Days” without bringing the period of maternity leave to an end.
- 7.3 KIT Days are paid at the employee’s normal contractual pay, inclusive of any SMP or Maternity Allowance due. If the employee works less than their normal contractual hours during a KIT day, this will still count as one day and payment will be based on the actual hours worked. Managers are required to submit a [Completed KIT/SPLIT Day Form](#) for any KIT day worked.
- 7.4 KIT Days do not need to be consecutive and can be used for training or any other activity that enables the employee to keep in touch with their place of employment. The employee and manager need to agree the activity and timing of KIT Days and the [SNCT Code of Practice on Keeping in Touch Days](#) should be the basis for arrangements for such days.

## **8. Maternity Leave and Pension Contributions**

- 8.1 Pension contributions will continue to be made during the period of paid Maternity Leave and on any KIT day. A period of unpaid leave will not count for pension contributions.
- 8.2 Information about increasing Teachers’ pension benefits (such as purchasing additional pension or additional service) is available from the [Scottish Public Pension Agency](#).

## **9. Maternity Leave and Accrual of Annual Leave**

- 9.1 Annual leave will continue to accrue during the full period of maternity leave.
- 9.2 Information about how annual leave accrues for Teachers and Associated Professionals is included within [Part 2 Section 5 of the SNCT Handbook](#).
- 9.3 Education support officers, quality improvement officers and educational psychologists should, where possible, take their proportionate annual leave entitlement prior to starting maternity leave.

- 9.4 For teachers and music instructors, a pay calculation will be made at the start of maternity leave of pay up to the day prior to starting maternity leave (including annual leave accrued to this date).
- 9.5 Where an employee has notified the Council of their date of return from maternity leave they will be notified of the annual leave entitlement that they have accrued during their period of maternity leave (including any balance that an associated professional had accrued prior to leave starting). This annual leave entitlement will be comprised of statutory leave entitlement and additional occupational leave entitlement.
- 9.6 Statutory leave entitlement should be should be taken in leave year that the employee returns. If this isn't practicable it will be carried into the next leave year and must be taken as leave. This should normally be taken by teachers in the term or following term of their return, and by associated professionals as soon as possible following their return.
- 9.7 The balance of leave (in excess of the statutory entitlement) should be taken at the end of the maternity leave period, subject to the overriding needs of the service. In the case of teachers, such leave can be taken during periods of school closure with appropriate payment.

## **10. Maternity Leave and Salary Sacrifice Schemes**

- 10.1 If an employee has entered into a salary sacrifice scheme then for the purposes of calculating maternity pay, earnings are based on the salary received after the salary sacrifice payment has been deducted.
- 10.2 If an employee wishes to withdraw from a salary sacrifice scheme prior to the calculation of maternity pay being made, then they should note this on the Application for Maternity Leave / Pay
- 10.3 If an employee continues to be in a salary sacrifice scheme during maternity leave, the Council will meet the cost of the continued benefit for the duration of the maternity leave.

## **11. Returning to Work following Maternity Leave**

- 11.1 Employees are not required to provide any notification of their return if returning on the first working day following the end of the maternity leave period. Managers should confirm to payroll that the employee has returned using Form [Return to Work Following Maternity Leave](#).
- 11.2 If an employee wishes to return to work earlier than the end of their Maternity Leave, they must give the Council at least 28 days' notice by submitting an [Early Return to Work Form](#). Failure to provide 28 days' notice may result in the Council postponing the employee's return to work for up to 28 days (but no later than the maternity leave end date).

- 11.3 For teachers and music instructors, a pay calculation following the return from maternity leave will be made in accordance with the [National Pay and Leave Specification](#).

## **12. Shared Parental Leave**

- 12.1 Shared parental leave allows mothers to end their maternity leave and pay, and to share the untaken balance of leave and pay as shared parental leave with their partner. For more information about shared parental leave please see [HR Guide: Shared Parental Leave](#).

## **13. Rights on Return to Work**

- 13.1 The employee has the right to return from maternity leave to the post in which she was employed. This will be under the original contract of employment and on terms and conditions no less favourable than those which would have been applicable had they not been absent on maternity leave.
- 13.2 Where it is not practicable, by reason of redundancy, for the employee to return to her post, the employee is entitled to be offered a suitable alternative vacancy where one exists.
- 13.3 Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (eg a general reorganisation) which would have occurred if the employee had not been on maternity leave and where these circumstances necessitate a change in the post in which she was employed prior to her leave commencing.
- 13.4 A temporary employee will not have the right to return to work where her contract would have expired during the leave period but will be entitled to all other provisions provided she meets the criteria (where these are stated).

## **14. Discrimination and Unfair Dismissal**

- 14.1 The Equality Act (2010), as amended, contains express provisions prohibiting discrimination on the grounds of pregnancy or maternity leave. Under the Employment Rights Act 1996, the dismissal of an employee on the grounds of pregnancy is automatically unfair dismissal.