

## NOTICE OF MEETING

MEETING	<b>EMPLOYMENT COMMITTEE</b>
DATE:	<b>THURSDAY 20 JANUARY 2011</b>
TIME:	<b>3.00 pm</b>
VENUE:	<b>BOURGES/VIERSEN ROOMS - TOWN HALL</b>
CONTACT:	Gemma George, Senior Governance Officer <b>Telephone: 01733 452268</b> <b>e-mail address: <a href="mailto:gemma.george@peterborough.gov.uk">gemma.george@peterborough.gov.uk</a></b>
<i>Despatch date:</i>	<i>12 January 2011</i>

### AGENDA

	<b>PAGE NO</b>
<b>1. Apologies for Absence</b>	
<b>2. Declarations of Interest</b>	
<b>3. Minutes of the Meetings held on:</b>	
3.1 30 September 2010	<b>1 - 4</b>
3.2 20 October 2010	<b>5 - 6</b>
<b>4. Employment Policies Review</b>	<b>7 - 36</b>



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Gemma George on 01733 452268.

## **MEMBERS OF THE EMPLOYMENT COMMITTEE**

Councillor Cereste (Chairman), Councillor Lamb (Vice Chair), Councillor Fitzgerald, Councillor Holdich, Councillor Seaton, Councillor Swift and Councillor Sandford

Subs: Councillor Walsh, Councillor Miners and Councillor Shaheed

**Minutes of a meeting of the Employment Committee  
held at the Town Hall, Peterborough on 30 September 2010**

**Members Present:** Councillors Holdich, Seaton, Swift and Walsh

**Officers Present:** Amy Brown, Solicitor  
Karen Craig, Senior HR Consultant – Job Evaluation  
Alana Diffey, Governance Officer  
Mike Kealey, Acting Head of HR  
Mandy Pullen, Senior HR Business Partner - Childrens Services

**Also in Attendance:** Pat Carrington, Vice Principal, City College, Peterborough

**Appointment of Chairman**

**RESOLVED:** to appoint Councillor Holdich as Chairman to the Committee for this meeting.

**1. Apologies for Absence**

Apologies were received from Councillors Cereste, Fitzgerald, Lamb and Sandford.

**2. Declarations of Interest**

Councillor Holdich declared a personal interest in *Agenda Item 6. City College Peterborough – Proposal to Vary Terms and Conditions of Permanent Tutors and Assessors*, on the basis that he was Chairman of City College.

Councillor Seaton declared a personal interest in *Agenda Item 5. Local Government Pensions Scheme – Discretionary Policy*, on the basis that he is a member of the Cambridgeshire Pensions Fund Committee. Councillor Seaton had also made a 'standing declaration' at a previous meeting on the basis that he is a member of the UNITE union.

**3. Minutes of the Meeting held on 23 June 2010**

The minutes of the meeting held on 23 June 2010 were approved as a true and accurate record.

**4. Local Government Pension Scheme - Discretionary Policy**

The Committee received a report from the Acting Head of Human Resources which was submitted to the Committee following a referral from the Corporate Management Team, and Joint Consultative Forum on 5 August 2010.

The report sought agreement from the Committee to the Local Government Pension Scheme Discretionary Policy (Part A (previous regulations) & Part B) as attached at Appendix One to the report.

In presenting the report, the Acting Head of Human Resources explained that the report now presented three additional statutory discretionary items which applied to employees that had left the Council or were deferred pensioners. These items had a minor impact for current employees.

Part B of Appendix One outlined a further seven discretions that were not compulsory to include in the Policy Statement but were recommended to be included. The last of these discretions was the most significant, which was to ensure that the correct rate of contribution was collected for each employee as their pay changed. Reassessment of contributions would now take place at any time during the year when an employee was promoted, demoted, on an incremental pay award, the commencement or cessation of acting up, the commencement or cessation of a contractual allowance, and pay awards as and when they occurred.

During consideration, the following points were noted:

- Human Resources had been working closely with Payroll in relation to the implementation of the policy. Payroll were confident that they could monitor changes closely.
- A list of pensionable pay elements had been devised that confirmed which elements of pay were pensionable and included in the calculation of the tier and which were not. This was to clarify the position going forward. Despite no formal list having previously been published the actual pension contributions collected was by and large correct. At times it had been difficult to define what was and was not a contractual payment, however processes were being strengthened going forward. Items included in the list of pensionable items were based on national guidelines from HMRC.
- Guidance Notes on Membership on the LGPS, which were not part of the LGPS discretionary policy, sought to clarify which employees may join the scheme. Special mention was made for the Coroner and registration staff, as they are defined separately in legislation.
- Fixed term employees who initially had a contract of less than three months which was extended to more than three months were entitled to membership of the Local Government Pension Scheme, in accordance with the rules of the scheme.
- Queries were raised on the benefit of adjusting employee contributions when an employee was acting at a higher grade for a short period, however it was noted that periods of 'acting up' tended to be longer term and in these cases it was appropriate to increase the contribution. This would ensure that the employee would receive benefit from the scheme at the higher rate, which was considered appropriate.
- Queries were raised over how the three month period for temporary staff correlated with the Council's six month probationary period. It was noted that employees, either part time or full time who were on a permanent contract, were able to enter the pension scheme three months before the end of their probationary period.
- There was Council guidance as to how long an employee could 'act up' in a position, however policy required that if a permanent vacancy occurred, that it was filled through the normal process and that 'acting up' should not be used in these circumstances. If 'acting up' was to cover long term sick leave, or maternity leave, it was difficult to judge just how long that period could be. It would be possible to cap 'acting up' at 12 months, however it was noted that this would be likely to impact on the organisation and this would need to be taken into consideration before such a policy were implemented.

The Acting Head of Human Resources informed the Committee that the trade unions and the JCF were comfortable with the proposals, and that the policy aim is to ensure fair but sensible use of the pension scheme finances.

**RESOLVED:**

That the Local Government Pension Scheme Discretionary Policy (Part A (previous regulations) & Part B) as attached at Appendix One to the report, is approved.

**5. City College, Peterborough - Proposal to Vary Terms and Conditions of Permanent Tutors and Assessors**

The Committee received a report from the Principal of City College which was submitted to the Committee by the Management Team of City College on the recommendation of the Job Evaluation Team and the Association of Colleges in the Eastern Region ("ACER").

The report sought agreement from the Committee to enable (as part of a staged process) the alignment of the terms and conditions of permanent and sessional tutors and assessors employed at City College, Peterborough.

The Vice Principal of City College briefly explained that recent job evaluation of tutors and assessors revealed that there were two different remuneration types for staff undertaking the same work. There had been a review of salaries across the sector, consultation with permanent staff and the unions, both of whom supported the proposal.

The changes would be of benefit to employees as they recognised and rewarded qualifications and provided staff with a career structure, which also sought to increase the skills of the workforce. These changes had been on the table for some time, and had been reviewed by the legal team in detail.

The cost to City College would be minimal, and there would be no financial implications for the Council as the College was self financing.

During consideration, the following points were noted:

- The staff qualifications focussed on the learning experience of students and included assessment in the classroom. There was a heavy focus on quality and performance of staff.
- Ofsted had issued a deadline by which all staff must be trained, dependent on who and what they were teaching. Ofsted would also undertake classroom observations of staff.
- The changes provided parity in remuneration and career progression to staff which was very positive.
- Staff would still receive an annual increase within pay scales, however more often than not, staff would move from one career grade to another as they gained qualifications before they received an annual increase. Staff who did not gain any further qualifications, would receive an annual increase until they reached the top of the pay scale.
- The changes would first be rolled out to permanent staff, with sessional staff to follow, to bring everyone under the same payscale and structure. Sessional staff were to follow as the logistics of accessing these staff was quite complex,

and it was felt that it was important not to hold up the process and proceed on this basis.

- The implementation would see arrears back to 1 April 2009. Some arrears and pay protection had been factored into the report.

**RESOLVED:**

That the proposed changes to the terms and conditions of permanent tutors and assessors employed at Peterborough College, are approved.

**6. Conclusion of Business - Formal Record of Time**

Business was concluded at 3.35pm.

Chairman  
3.00pm - 3.35 pm

**Minutes of a Meeting of the Employment Committee  
held at the Town Hall, Peterborough on 20 October 2010**

**Members Present:** Councillors Cereste (Chair), Lamb (Vice Chair), Lee, Fitzgerald, Sandford and Seaton.

**Officers present:** Gillian Beasley, Chief Executive, Peterborough City Council  
Nik Patten, Chief Executive, Peterborough & Stamford Hospitals Trust  
Christine Taylor, Senior HR Business Partner - Strategic Services, Chief Executives and Legal Services  
Alana Diffey, Governance Officer

**1. Apologies**

Apologies were received from Councillor Swift.

Councillor Lee, Deputy Leader and Cabinet Member for Culture, Recreation and Strategic Commissioning was attending as substitute for Councillor Holdich.

**2. Declarations of Interest**

There were no declarations of interest.

**3. Exclusion of Press and Public**

In accordance with Standing Orders, Members agreed that agenda item 4 contained exempt information as defined by paragraphs 1, 2 and 3 of Schedule 12A of Part 1 of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information, therefore the press and public were excluded from the meeting.

**4. Interviews for the Post of Director of Communications – Peterborough Public Services**

Three candidates were interviewed for the position of Director of Communications – Peterborough Public Services.

**RESOLVED:** to appoint Mr Andrew Mackintosh, who was currently employed as Head of Group Communications at Anglian Water.

**5. Conclusion of Business – Formal Record of Time**

Business was concluded at 7.30pm.

Chairman  
3.30pm to 7.30pm

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<b>EMPLOYMENT COMMITTEE</b>	<b>AGENDA ITEM No. 4</b>
<b>20 JANUARY 2011</b>	<b>PUBLIC REPORT</b>

Cabinet Member(s) responsible:	Councillor Gr Uff Marco Cereste – Leader of the Council and Cabinet Member for Growth, Strategic Planning and Economic Development Councillor Irene Walsh – Cabinet Member for Community Cohesion, Safety and Women’s Enterprise	
Contact Officer(s):	Mike Kealey - Acting Head of Human Resources	Tel. (01733) 384500

**EMPLOYMENT POLICIES REVIEW**

R E C O M M E N D A T I O N S	
<b>FROM :</b> Trade Union Representatives	<b>Deadline date :</b> N/A
<p>It is recommended that the Employment Committee:</p> <ol style="list-style-type: none"> <li>1. Consider and agree to the implementation of the following revised Employment Policies: <ul style="list-style-type: none"> <li>i) Equality and Diversity Policy (E&amp;Dp) (Appendix A)</li> <li>ii) Probation Policy and Associated Management Guidance (Appendix B)</li> <li>iii) Maternity Scheme (Appendix C)</li> </ul> </li> <li>2. Agree to the proposed change in wording in the current Attendance Policy, in relation to Bank Holidays.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report is submitted to the Employment Committee following a referral from the Joint Consultative Forum on 19<sup>th</sup> January 2011.

**2. PURPOSE AND REASON FOR REPORT**

2.1 The purpose of this report is to ensure that the council maintains up to date and legal employment policies.

2.2 This report is for the Committee to consider under its Terms of Reference No. 2.3.1.2 ‘to determine employee procedures, including dismissal procedures’, No. 2.3.1.4 ‘to determine local terms and conditions of employment for employees’ and No. 2.3.1.6. ‘to promote and pursue a policy of equal opportunities in employment’.

**3. TIMESCALE**

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	N/A
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**4. BACKGROUND**

4.1 The policies listed below have been prioritised for approval due to changes in legislation and statutory codes of practice, specifically, the Equality Act, the Additional Paternity Leave Regulations 2010 and the ACAS Statutory Code of Practice on Disciplinary and Grievance Procedures. The policies listed below ensure that Peterborough City Council is legally

compliant and ensure that documents available for viewing by the public, in particular the Equality and Diversity Policy, reflect a professional and progressive image of the Council.

#### 4.2 **i) Equality and Diversity Policy (E&Dp) (Appendix A)**

The current E&Dp was agreed at Employment Committee in October 2005 and contains references to various Acts i.e. Sex Discrimination Act, Race Relations Act etc., which have now been repealed and replaced by a single piece of legislation – the Equality Act 2010. The current policy also references equality schemes that have now expired and are due to be replaced by a Single Equality Scheme.

#### 4.3 **ii) Probation Policy and Associated Management Guidance (Appendix B)**

The current Probation Procedure was agreed at Employment Committee in January 2006. The view held by both managers and HR Business Partners is that the process is lengthy as a result of requiring formal review of new employees in their probation period at months 1, 3, 5 and 6. The new policy and associated management guidance, provided for completeness, simplifies this process whilst maintaining the rights of the new employee and ensuring that contracts do not continue beyond a year's service without a decision being made regarding confirmation or termination of employment.

#### 4.4 **iii) Maternity Scheme (Appendix C)**

These guidelines will replace the current Maternity Policy agreed previously at Employment Committee which is now out of date with existing legislation. The guidelines produced contain information regarding the new right under the Additional Paternity Leave Regulations 2010 for women who give birth after 3<sup>rd</sup> April 2011 to transfer up to 26 weeks of their outstanding maternity leave (and outstanding Statutory Maternity Pay) to their spouse, civil partner or partner, or the father of their child. The guidelines will be supported by a checklist to enable managers to conduct effective pre-maternity leave meetings to ensure that employees are clear on what their employment rights are.

#### 4.5 **iv) Attendance Policy**

The current Attendance Policy states that;

"No additional time off will be given in lieu of a bank holiday." It is proposed that this line be deleted and the following paragraph (which mirrors that in the new maternity scheme) be inserted to ensure legal compliance with the Working Time Regulations:

##### Bank Holidays

Employees on a period of sickness absence who have less than 5 years service must receive a minimum of 28 days per annum to comply with the Working Time Regulations. Therefore, they will be entitled to accrue a maximum of 4 bank holidays in order to meet this minimum requirement. For those with more than 5 years service who already receive 29 days annual leave entitlement, there will be no accrual of bank holidays.

### **5. CONSULTATION**

5.1 The joint Trade Unions have been consulted and the policies were agreed at the meeting of the Joint Consultative Forum on 19<sup>th</sup> January 2011. The council's legal department have also advised on the contents of the Policies.

5.2 The E&Dp has also been approved by the council's Diversity Forum which has representatives from various equality groups and by the council's Corporate Management Team.

### **6. ANTICIPATED OUTCOMES**

6.1 These policies will ensure that the council is complying with current legislation.

**7. REASONS FOR RECOMMENDATIONS**

7.1 This is a requirement to ensure that the council is complying with current legislation.

**8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 The policies were considered against (a) those published by some other local government employers, (b) template policies from legal bodies plus (c) the existing policy, to ensure it was a sensible, fair approach which took account of current legislation.

**9. IMPLICATIONS**

9.1 These policies will be reviewed on an ongoing basis and will be amended from time to time to ensure legal compliance.

**10. BACKGROUND DOCUMENTS**

10.1 Initial Equality Impact Assessments have been compiled for the E&Dp, Maternity Scheme and Probation Policy and Procedure which are available on request. No adverse impacts were identified and therefore progression to a full assessment was not required.

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## APPENDIX A

# EQUALITY AND DIVERSITY POLICY

### 1. Purpose and scope

The commitment made in this policy is delivered through the City Council's Single Equality Scheme, which brings together all the City Council's equalities activities in one place. The policy is designed to ensure that there is a consistent approach across the authority to all areas of equalities work and will be reviewed in three years.

- 1.1 Peterborough City Council believes that:
  - everybody should have an equal opportunity to contribute to and benefit from society and
  - a diverse integrated and cohesive community is a positive asset to the City which allows greater opportunities for a wider society to influence and contribute to Council strategy
- 1.2 Peterborough City Council recognises that people still experience inequality in society because of their background. The City Council will therefore not tolerate discrimination directly or indirectly in recruitment or employment or against customers on the grounds of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership. These are known as "**protected characteristics**."
- 1.3 The Council will lead by example. It will take active steps to challenge prejudice, discrimination and harassment and will identify equality objectives to promote equality of opportunity as well as equality of outcomes.
- 1.4 This Policy will underpin all decisions taken by the Council and all actions by its employees.
- 1.5 Employees who feel they have been unlawfully discriminated against may use the Council's Grievance Policy and Procedure or the Council's Dignity at Work Policy as appropriate.
- 1.6 Service users who wish to raise any concerns can do so through the Council's Complaints Procedure.
- 1.7 Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the Council's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

## 2 The law

### Types of unlawful discrimination

- 2.1 **Direct discrimination** is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.

In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.

- 2.2 **Indirect discrimination** is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

- 2.3 **Harassment** is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

- 2.4 **Associative discrimination** is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

- 2.5 **Perceptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).

- 2.6 **Third-party harassment** occurs where an employee is harassed and the harassment is related to a protected characteristic (other than marriage and civil partnership, and pregnancy and maternity), by third parties such as clients or customers. For an employer to be liable:

- the harassment must have occurred on at least two previous occasions (although not necessarily by the same harasser or suffering the same type of harassment);
- it must be aware that the previous harassment has taken place; and
- it must have failed to take reasonable steps to prevent harassment from happening again.

- 2.7 **Victimisation** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so. However, an employee is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his or her treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings, such behaviour could amount to victimisation.
- 2.8 **Failure to make reasonable adjustments** is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

### 3 Employment

- 3.1 As one of the largest employers in the City, the Council will:
- Demonstrate its commitment to equality in all aspects of employment, including recruitment, career development, pay and benefits, opportunities for training, promotion, discipline, selection for redundancy and welfare
  - Monitor and report on its workforce and take positive action with a view to ensuring that its workforce at all levels reflects the communities it serves. In particular the Council will monitor the ethnic, disability and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities.
  - Inform all employees of this Policy and of their rights to protection from discrimination, harassment or victimisation
  - Ensure managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise are provided with training in equal opportunities.
  - Inform all existing and new employees to help them understand their rights and responsibilities under this policy and the dignity at work policy.
  - Promote flexible working policies and practices to increase opportunities for those with, in particular, caring responsibilities or health issues.
  - Ensure person and job specifications are limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability.

## **4 Service Delivery**

4.1 The Council provides services both directly and by working with other organisations. It will promote equality of opportunity for local people by:

- Providing accessible information about the services available to them
- Undertaking assessments to determine if there is any adverse impact for equalities on its policies and activities
- Delivering services in ways which are appropriate, relevant and sensitive to service user needs and, whenever possible, removing barriers which may deny access
- Using its powers to ensure that organisations providing services on its behalf operate in accordance with the aims of this Policy and have a good track record in handling equality issues, covering both employment as well as service issues.
- Ensuring, wherever possible, out sourced services are provided by local organisations or those with close connections with the city.
- Promoting widely the availability of the Council's Complaints system to ensure people know how to raise issues about services.
- Ensuring staff do not discriminate against or harass a member of the public in the provision of services or goods.
- Ensuring that reasonable adjustments are made to remove barriers and enable those with a disability to access services.
- Discussing the importance of equality policies with all its partners and will encourage service providers to use the same or similar formats for evaluation purposes such as equality monitoring categories, equality impact assessments templates, etc.

4.1.1 Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action. Service users who wish to raise any concerns of this nature can do so through the Council's Complaints Procedure.

## **5 Information, Consultation and Involvement**

5.1 Effective information, consultation and involvement are essential to the success of this Policy. The Council will therefore:

- Inform, consult and involve a wide range of people including employees and stakeholders about decisions which affect them so that they can influence policies and practices
- Ensure that people from different backgrounds are able to fully participate in consultation and involvement activities
- Give people a voice by promoting involvement in decision making and review such structures so that any proposed changes are considered and adopted where appropriate.



## **6 Implementation**

- 6.1 To ensure the effectiveness of this Policy, the Council will:
- Set equality outcomes and monitor progress against them
  - Consider the equal opportunities implications of any changes to policies, functions, strategies or projects and undertake equality impact assessments before implementation.
  - Identify barriers that prevent equal access to services and take measures to address them
  - Monitor the composition of its workforce and the take-up of its services and take positive action to redress inequalities

## **7 Accountability**

- 7.1 The Cabinet Member whose portfolio covers equalities issues will be responsible for monitoring the effectiveness of the policy and for recommending changes and improvements necessary to the Cabinet.
- 7.2 The Chief Executive will hold Directors accountable for taking steps to ensure that this Policy is promoted, understood and implemented by Council employees. The Council's Management Board will take overall responsibility for maximising progress towards a more inclusive society.
- 7.3 All employees of Peterborough City Council are accountable and responsible for taking steps to promote equal opportunities in their day to day work and avoid unlawful discrimination.

## **8 Review Date**

This policy will be reviewed in line with the City Council's Single Equality Scheme and whenever changes to legislation occur.

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## APPENDIX B

# PROBATION POLICY

### Purpose

The purpose of this Policy and the [Probation Procedure](#) is to provide a basis for the effective management of probationary assessment and where appropriate unsatisfactory performance during the probationary period.

This policy does not form part of any employee's contract of employment. It may be amended from time to time.

### Key Principles

- All newly appointed employees will be subject to a probation period.
- Appointments 'subject to a probation period' are made with a view to permanency.
- The probation period provides an important opportunity for the newly appointed employee to familiarise themselves with the requirements of their role and to objectively assess with their line manager whether they can be adequately satisfied.
- Line managers will meet with newly appointed employees as soon as possible after the commencement of their employment in order to confirm the standards of performance expected and the way in which this will be evaluated during the probation period.
- Line managers will continue to provide appropriate support throughout the probation or extended probation period to assist the newly appointed employee in achieving the required standards of their role.
- Matters of attendance, capability and conduct will be dealt with under this Policy and the [Probation Procedure](#). No other Policy or Procedure will apply.

### Further information

This Policy should be read in conjunction with the [Probation Procedure](#).

## Probation Procedure

These guidelines are to provide helpful information to assist the management of probationary periods and are not intended to amount to legal advice.

### Introduction

This Procedure should be read in conjunction with the [Probation Policy <insert link>](#).

### Definitions

#### **Newly Appointed Employees**

Includes all new recruits including those joining with continuous service from another local authority or associated employer ①.

It does not include existing staff transferring into new roles (including secondments) who have previously completed a period of probation with Peterborough City Council.

#### **Probation Period**

Will unless otherwise and expressly agreed be a period of six calendar months beginning on the newly appointed employee's start date.

#### **Extended Probation Period**

Will be any period of probation extending beyond 6 months. An extended probation period must not extend beyond 11 months from the newly appointed employee's start date

#### **Performance**

Includes matters relating to attendance, capability and conduct.

### Monitoring and Support

Newly appointed employees will receive feedback on their performance during 1:1's/supervision meetings with their line manager.

If minor performance issues arise the line manager should inform the newly appointed employee and attempt to alleviate the problem at an early stage.

Where reasonable and if required additional support and/or training will be given to assist the newly appointed employee in achieving an acceptable level of performance.

Where performance issues persist and/or are regarded as serious/gross incompetence, line managers should conduct a Performance Review.

① for a list of associated employers refer to the Redundancy Payments Modification Order (Local Government) 1983 (as amended).

## Performance Review

Line managers should complete a Performance Review in any circumstance where performance issues have arisen and in all circumstances not later than 5 months after the newly appointed employee's start date.

Line managers should use the Probation Checklist (See Annex 1) when completing the Performance Review.

### No Performance Issues Identified

If a newly appointed employee's performance meets required standards line managers should continue to monitor and provide support.

Required standards will be met in any circumstances where the newly appointed employee achieves level 3 or above in all areas.

Where required performance levels are maintained throughout the probation period, line managers should confirm the newly appointed employee's appointment.

Confirmation can be given in person or in writing. Where confirmation is in person an appropriate record should be kept.

### Performance Issues Identified

If at any stage during the probation period the performance of a newly appointed employee does not reach the standards required the line manager will arrange a Probation Meeting.

Required standards will not be met in any circumstances where the newly appointed employee achieves level 2 or below in any area.

Where the issues identified are regarded as sufficiently serious to justify termination of the employment contract, a Stage 2 Probation Meeting should be organised

In all other circumstances, a Stage 1 Probation Meeting should be organised.

## Probation Meetings

### Stage 1 Probation Meeting

- The Stage 1 Probation Meeting ("Stage 1 Meeting") will be held as soon as possible and where achievable within 1 week of the unsatisfactory Performance Review.
- Normally an employee would not require representation. However, in certain circumstances, where deemed appropriate they can request this.
- During the Stage 1 Meeting the line manager will discuss areas of concern with the newly appointed employee and an improvement plan will be agreed.
- Where the actions agreed in the improvement plan cannot be achieved within the probation period the line manager should consider setting an extended probation period.

- After the Stage 1 Meeting the line manager will confirm the improvement plan in writing to the newly appointed employee and will include the following information:
  - A summary of the performance issues identified;
  - Confirmation of the actions agreed to achieve satisfactory standards of performance;
  - The timescale within which actions should be completed and performance levels improved;
  - Confirmation of any extended probation period; and
  - Confirmation that a Stage 2 Probation Meeting will be organised if performance levels do not improve and/or the agreed actions are not completed within the timescales.
- The line manager will continue to monitor the newly appointed employee's performance to ensure compliance with the improvement plan.
- At the conclusion of the improvement plan and where performance levels have been improved the newly appointed employee should be informed of this. The line manager should continue to monitor progress and provide support and where performance levels are maintained throughout the probation or extended probation period, line managers should confirm the newly appointed employee's appointment.
- In circumstances where performance remains unsatisfactory or the improvement plan is not complied with a Stage 2 Probation Meeting should be organised.

### Stage 2 Probation Meeting

- The Stage 2 Probation Meeting ("Stage 2 Meeting") will be held as soon as possible and where achievable within 2 weeks of:
  - a Performance Review raising serious concerns; or
  - the newly appointed employee's non-compliance with the improvement plan; or
  - the line manager identifying ongoing unsatisfactory performance during the improvement plan which is unlikely to improve within the agreed timescales;
  - the conclusion of the improvement plan where performance has not improved to the required standard.
- An HR Business Partner will be present at a Stage 2 Meeting unless it is agreed by the HR Business Partner, in discussion with the line manager, that their attendance is not required.
- Where the issues identified relate to conduct or matters of a serious nature, the line manager must discuss this with an appropriate HR business partner to determine whether an investigation is required and if so, who should carry this out.
- In exceptional circumstances it may be appropriate for an alternative manager to conduct the Stage 2 Meeting and a decision in this respect will be taken by the line manager in consultation with their HR Business Partner.
- At least 5 days prior to the Stage 2 Meeting the newly appointed employee should be sent a letter dealing with the following matters:
  - the date, time and venue;
  - the right to be accompanied;
  - details of the way in which their performance has fallen short of required standards with reference where applicable to the improvement plan; and

- confirmation of the possible outcomes of the Stage 2 Meeting.
- If the newly appointed employee or their companion is unable to attend the Stage 2 Meeting they must notify the line manager as soon as possible. They should be asked to suggest an alternative date so long as it is reasonable and unless exceptional circumstances exist not more than 1 calendar week after the original date proposed.
- The newly appointed employee and/or their companion (if any) should make every effort to attend the Stage 2 Meeting.
- Stage 2 Meetings will not be delayed beyond the probation period or where applicable the extended probation period.
- In this procedure references to a newly appointed employee within the context of a Stage 2 Meeting or Appeal Meeting will be taken to also include references to their companion.
- At the Stage 2 Meeting the line manager will explain to the employee the way in which their performance has fallen short of the required standards with reference where applicable to the improvement plan.
- The newly appointed employee will be given an opportunity to respond.
- The outcome of a Stage 2 probation meeting will either be:
  - **Termination of Employment**  
This will occur if the newly appointed employee's performance is below required standards and/or they are unlikely to achieve the required standard.
  - **Agreement of an Improvement Plan**  
This will only occur in extenuating circumstances and/or if the line manager considers that there is a good chance of the required improvements being achieved.  
Where the actions agreed in the improvement plan cannot be achieved within the probation period the line manager should consider setting an extended probation period.
- After the Stage 2 Meeting the line manager will confirm the outcome to the newly appointed employee in writing. The following information should be included:
  - Confirmation of the decision and the reasons for making that decision.
  - Where an improvement plan is agreed, confirmation of the required actions, the timescales within which they must be complied with and where appropriate details of the extended probation period.
  - Where employment is terminated, confirmation of the newly appointed employee's last date of employment taking into account any relevant period of notice.
- At the conclusion of the improvement plan and where performance levels have been improved the newly appointed employee should be informed of this. The line manager should continue to monitor progress and provide support and where performance levels are maintained throughout the probation or extended probation period, the line manager should confirm the newly appointed employee's appointment.
- In circumstances where performance remains unsatisfactory or the improvement plan is not complied with a further Stage 2 Probation Meeting should be organised and the process should be followed as set out above.

## Right to be Accompanied

Newly appointed employees may bring a companion to the Stage 2 Meeting under this procedure. The companion may be a trade union representative or a colleague.

The line manager may at their discretion allow the newly appointed employee to bring a companion who is not a colleague or trade union representative if this will help overcome a disability or difficulties in understanding English.

Companions may make representations and ask questions but should not answer questions on the newly appointed employee's behalf. The newly appointed employee may talk privately with their companion at any time.

Acting as a companion is voluntary and no employee is required to fulfil this role unless they are happy to do so.

If the newly appointed employee's choice of companion is unreasonable they may be asked to choose someone else for example:

- If there is a conflict of interest or the companion's attendance may prejudice the Stage 2 Meeting; or
- If the companion's unavailability will undermine the line manager's ability to call a Stage 2 Meeting within required timeframes unless exceptional circumstances exist.

## Appeals

Employees have the right of appeal where employment is terminated during, or at the end of the probation period. Appeals must be put in writing to their line manager within 1 calendar week of receipt of the letter advising on their termination. The appeal letter must include the reasons for the appeal.

The employee's line manager will make arrangements for the appeal to be heard by a senior manager or Head of Service normally within 2 calendar weeks of receiving the letter and will remind the employee of their right to be accompanied by a work colleague or Trade Union Representative. A member of the HR team will be present at the appeal hearing.

The employee will be given an opportunity to state their case at the meeting. The meeting will adjourn for the decision maker to consider their decision and the outcome will be confirmed in writing. The employee will be advised that the outcome is final.

## Document Retention

The line manager should keep a record of Performance Reviews, Probation Meetings and any associated correspondence and should forward copies of these to HR Support, Manor Drive. Any such correspondence should be labelled for the attention of the relevant HR Business Partner for the service area and marked as 'Strictly Private and Confidential'

Any paperwork provided will be stored and/or destroyed in accordance with the Council's records retention and management policies.

## Further Information

For further advice and/or template letters please discuss with the HR Business Partner for your service area.



# PROBATION CHECKLIST

<b>Employee's name:</b>			
<b>Job title:</b>			
<b>Department:</b>			
<b>Start Date:</b>			
<b>Manager's name:</b>			
<b>Date of review:</b>			
	5 = Consistently exceeds expectations 4 = Regularly exceeds expectations 3 = Meets expectations 2 = Marginally below expectations 1 = Significantly below expectations		
Performance against job description			
Quality and accuracy of work			
Attendance			
Time keeping			
Work relationships (team work, attitude to work and colleagues, inter-personal and communication skills)			
Conduct (note on the back of this sheet the allegation, supporting evidence/facts and whether it is a misconduct/gross misconduct issue)			
Other			
<b>Stage 1 Improvement Plan</b>			
<i>Use additional sheet if necessary and ensure the employee receives a copy of this plan</i>			
<b>Stage 2 Meeting Decision</b>			
<b>Extend Probation</b>		<b>Terminate Employment</b>	
<b>For extension – detail here the period of the extension (maximum 3 months) and what is required of the employee to be confirmed and what support is in place:</b>			
<i>Use additional sheet if necessary</i>			
<b>END OF PROBATION DECISION</b>			
<b>Has the employee successfully completed their probation period</b>			

Once completed send this form to [HRSupport@peterborough.gov.uk](mailto:HRSupport@peterborough.gov.uk) with any Stage 2 decision letter and a leavers form where appropriate.

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## APPENDIX C

# Maternity Scheme for employees with an expected week of childbirth beginning on or after 3rd April 2011

### 1.0 Definitions

The following definitions are used in this document:

EWC	"Expected week of childbirth"	means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.
QW	"Qualifying week"	means the 15 <sup>th</sup> week before the expected week of childbirth.
MATB1	Maternity Form	Form provided by midwife giving confirmation of the EWC
OML/AML	Ordinary or Additional Maternity Leave	A period of 26 weeks OML and 26 weeks AML
MA	Maternity Allowance	Allowance paid to employees who do not qualify for SMP
SMP	Statutory Maternity Pay	Basic allowance paid to employees who qualify
OMP	Occupational Maternity Pay	Enhanced allowance paid to employees who qualify
KIT	Keeping In Touch days	Up to 10 days that can be worked during the OML/AML period
Continuous Service	Includes previous service with another public authority which will be advised in the employees contract of employment where relevant or where an employee returns to local government following a break for maternity reasons, or reasons concerned with caring for children or other dependants provided the break is not longer than 8 years and that no permanent paid full time employment has intervened or where a TUPE transfer occurs to another organisation and is transferred back to PCC within 5 years of the original transfer.	

### 2.0 Fertility Treatment

Reasonable time off will be given to employees undergoing fertility treatment. This time will be unpaid.

### 3.0 Notification of Pregnancy

On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there may be health and safety considerations.

Before the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee must provide written confirmation of the following to their line manager:

- the fact that she is pregnant;
- her EWC; and
- the date on which she intends to start her maternity leave ("the intended start date").

***It is the responsibility of the line manger to hold a maternity meeting with the employee once she has given notification of her pregnancy. A maternity meeting checklist is available from HR Support that will provide useful information on what should be covered at this meeting.***

The employee must also provide a MAT B1 Form, which is a certificate from a doctor or midwife confirming the EWC. The form must have either the doctor's name and address or the midwife's name and registration number on it.

The employee is permitted to bring forward her maternity leave start date, provided that she advises the council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises the council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The Council will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

#### **4.0 Time off for Antenatal Care**

Employees will be entitled to take reasonable paid time off during working hours for ante-natal care. This may include specific appointments or classes that the employee's doctor, registered midwife or registered health visitor has advised them to attend.

When requesting time off for antenatal care, employees will be required to produce a certificate from their doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

Time off may also be given to fathers-to-be, partners or nominated carers to attend or accompany the expectant mother when undergoing a medical examination and evidence of appointments will also be requested in these circumstances.

#### **5.0 Health and Safety**

The Council has a duty to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.

It is the responsibility of the employee's line manager to arrange the risk assessment as soon as they have been informed of an employee's pregnancy. The completed risk assessment should be regularly reviewed and adapted as necessary.

The employee's line manager will provide them with information as to any risks identified in the risk assessment and any preventative or protective measures that have been or will be taken. If it is considered that as a new or expectant mother, the employee would be exposed to health hazards in carrying out their normal work, any such steps as are necessary (for as long as they are necessary) will be taken to avoid those risks. This may involve:

- changing the employee's working conditions or hours of work;
- offering the employee suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
- suspending the employee on full pay unless they have unreasonably refused suitable alternative work.

Suitable places rest periods and places to rest shall be provided for new and expectant mothers.

## 6.0 Miscarriage or Still-Birth

Although the vast majority of pregnancies are healthy, clearly problems can arise. The council acknowledges that the needs of each individual employee will differ as employees handle difficult circumstances in their own way. However, the council will react sympathetically to employees. If support or guidance is required then the employee should contact their HR Advisor or HR Admin team who may have access to external resources which may help the employee deal with their situation.

### Miscarriage

If the employee should suffer a miscarriage, at any time up to and including the 24<sup>th</sup> week of pregnancy, then the provisions of the maternity policy will not apply. If the employee is unfit to work following the miscarriage then the provisions of the Attendance Policy will apply.

### Stillbirth

If a child is still born after the 24<sup>th</sup> week of pregnancy, or dies within the period of Maternity leave, the terms of the maternity policy apply in full in respect of maternity pay, allowances, and maternity leave. If the employee is unfit to return to work at the end of their maternity leave then the provisions of the Attendance Policy will apply.

## 7.0 Sickness Absence

Periods of pregnancy-related sickness absence shall be paid in accordance with the Attendance Policy in the same manner as any other sickness absence. Any payment in excess of this as a result of the pregnancy-related sickness will be entirely at the Council's discretion.

If an employee is absent due to an illness wholly or partly related to pregnancy, the maternity leave will start automatically on the day after the first day of absence if the employee is absent from work during the 4<sup>th</sup> week before the EWC, regardless of the planned maternity leave start date.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the EWC, she must notify the council in writing of this as soon as possible.

If an employee is absent due to a condition not related to the pregnancy then the sick leave will continue up to the date that was the notified intended date for the maternity leave.

All other absences will be dealt with in accordance with the Council's Attendance Policy.

Periods of pregnancy-related absence from the start of the employee's pregnancy until the end of their maternity leave will be recorded separately from sickness absences and will be disregarded in any future employment-related decisions.

## **8.0 Maternity Leave**

All pregnant employees are entitled to take up to 26 weeks' OML and up to 26 weeks' AML (one year's leave in total) regardless of length of service. AML begins on the day after OML ends.

OML can start at any time after the beginning of the 11<sup>th</sup> week before the employee's EWC (unless her child is born prematurely before that date in which case it will start earlier).

OML will start on whichever date is the earlier of:

- the intended start date (if notification is given in accordance with section 3 of this document);
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the EWC.

Employees may postpone their intended start date by informing their line manager in writing at least 28 days before the original intended start date or, if that is not possible, as soon as reasonably practicable.

Employees may bring forward the intended start date by informing their line manager at least 28 days before the newly proposed start date or if that is not possible as soon as reasonably practicable. The newly proposed start date should not be earlier than the 11<sup>th</sup> week before the employee's EWC.

At the discretion of the manager, the employee may be allowed leave with or without pay in excess of the 26 week period, for example, where a baby is born prematurely consideration should be given to allowing an extension of the maternity leave period. Any decision made is discretionary and considered on a case by case basis.

If the employee gives birth before her maternity leave was due to start, she must notify the council in writing of the date of the birth as soon as reasonably practicable. The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child (four weeks in the case of factory workers).

## 9.0 Maternity Pay

### Maternity Allowance (MA)

Employees whose average earnings are below the lower earnings limit of National Insurance at the qualifying week will not be entitled to SMP.

Form SMP1 will be issued to in these circumstances and dependent upon earnings the employee may be able to claim MA. Further advice in this respect can be obtained by the employee from The JobCentre Plus.

### Statutory Maternity Pay (SMP)

SMP is payable for up to 39 weeks. SMP will stop being payable if the employee returns to work (unless this is simply for keeping in touch in accordance with section 9).

Employees will be entitled to SMP if:

- they have been continuously employed for at least 26 weeks at the end of the qualifying week and are still employed during that week;
- their average weekly earnings during the eight weeks ending with the qualifying week (“the Relevant Period”) are not less than the lower earnings limit sent by the Government;
- they have provided their line manager with a doctor or midwife’s certificate (MAT B1 Form) stating their EWC;
- they have given at least 28 day’s notice (or if that is not possible as much notice as they are able) of their intention to take maternity leave; and
- they are still pregnant 11 weeks before the start of the EWC or have already given birth.

SMP is calculated as follows:

- First six weeks: SMP is paid at the earnings-related rate of 90% of the employee’s average weekly earnings calculated over the relevant period;
- Remaining 33 weeks: SMP is paid at the prescribed rate which is set by the Government for the relevant tax year or the earnings-related rate if this is lower.

The definition of a week’s pay for SMP purposes is all the earnings which are taken into account for national insurance contributions

SMP accrues from the day on which the employee commences OML and afterwards at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.

If an employee becomes eligible for a pay rise before the end of their maternity leave they will be treated for SMP purposes as if the pay rise had applied throughout the relevant period. This means that SMP will be recalculated and increased retrospectively or that the employee may qualify for SMP when they did not previously. In those circumstances arrangements should be made for the employee to be paid a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the earnings related rate (if any) will also be increased as necessary.

An employee will still be eligible for SMP if they leave employment for any reason after the start date of the qualifying week (for example they resign or are made redundant). In such cases, if maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

- The week following the week in which employment ends; or
- The eleventh week before the EWC.

A pregnant employee is disqualified from receiving SSP throughout the whole of her 39 week period of entitlement to SMP (or MA period if applicable. This applies even if she resumes work during the 39 week period and then falls ill before the end of that period. If this happens she can go back to receiving SMP but not SSP.

### Occupational Maternity Pay (OMP)

Employees who have completed 1 year's continuous local government service at the beginning of the 11<sup>th</sup> week prior to the EWC are entitled to additional benefits under the Peterborough City Council OMP scheme.

The total of SMP and OMP or MA plus any allowances and OMP should not exceed normal full pay, regardless of the option taken below, or when the payment is made.

Employees can choose from one of the following options in addition to their SMP or MA:-

- **Option A: 12 weeks at half salary paid during Weeks 7-18; OR**
- **Option B: 06 weeks full pay paid in a lump sum on return from maternity leave**

In order to claim OMP the employee must provide written notification of their intention to return to work at Peterborough City Council after their maternity leave. A form for this purpose is attached at Annex 1. This will be sent to all qualifying employees by HR Support. Although there is no specified date by which this notification should be given, payment of OMP will only be made when the employee feels able to make an informed decision to return.

OMP shall be paid only on the understanding that the employee will return to employment at the Council for a period of at least three months following her maternity leave.

If an employee decides not to return to work, payments during the subsequent 20 weeks will be paid at the SMP rate only and if any OMP was claimed then the total



sum of OMP is refundable to the Council. In such circumstances, the line manager must be informed immediately, and arrangements made to reimburse the sum in full.

Payments made to the employee by way of SMP are not refundable.

*Definition of a week's pay:*

- A week's pay for employees whose remuneration for normal working hours does not vary with the amount of work done in the period is the normal week's pay.
- Where there are no normal working hours a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

If an employee becomes eligible for a pay rise before the end of their maternity leave they will be treated for OMP purposes as if the pay rise had applied throughout the relevant period. This means that OMP will be recalculated and increased retrospectively. In those circumstances arrangements should be made for the employee to be paid a lump sum to make up the difference between any OMP already paid and the amount payable by virtue of the pay rise. Any future OMP payments at the earnings related rate (if any) will also be increased as necessary.

Employees who do not qualify for SMP but have one year's continuous service 11 weeks before the EWC

Employees who earn below the lower earnings limit for national insurance at the qualifying week will not be entitled to SMP. However, these employees will be entitled to OMP if they have one year's service at the 29<sup>th</sup> week of pregnancy. For the first six weeks of absence the employee shall be entitled to 90% of a weeks pay offset against any MA payable (which should be declared to the employer). An employee who declares in writing that they intend to return to work will for the subsequent 12 weeks receive half a weeks pay providing that the combined MA, any allowances, plus OMP do not exceed full pay. The 12 weeks half pay can be paid as per the options (A and B) detailed above.

## 10.0 Terms and Conditions

An employee is entitled to receive some of the same terms and conditions as follows:

Essential Car User Allowance

If an employee is entitled to the Essential Car User Allowance, the Council will continue to pay the allowance throughout the period that the employee is on OML at 3 months full pay and 3 months half pay, providing the employee remains entitled to the allowance.

Pension Arrangements

During OML pension contributions will continue to be made. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave.

During the AML period, pension contributions will continue to be made during the period when the employee is receiving SMP but not during any period of unpaid AML.

Employees taking any period of unpaid maternity leave, or parental leave, immediately following the maternity leave will need to make additional pension contributions to avoid their absence being classed as a break of pension contributions. Employees are advised to contact payroll or the pensions department to discuss their individual circumstances.

### Trade Union Subscriptions

During the period of paid maternity leave contributions will continue to be made. When maternity pay ceases employee must contact their union to make their own arrangements.

### Annual Leave

Employees are encouraged to take any outstanding annual leave due to them before the commencement of OML. If the holiday year is due to end during the employees maternity leave period, the employee should take the full year's entitlement before starting maternity leave. Annual leave will continue to accrue during the period of OML and AML and may be taken at the end of the maternity leave period, or used during the remainder of the annual leave year once they return. The normal rules apply regarding the standard leave year and carry-over of annual leave.

### Bank Holidays

Employees on a period of maternity leave who have less than 5 years service must receive a minimum of 28 days per annum to comply with the Working Time Regulations. Therefore, they will be entitled to accrue a maximum of 4 bank holidays in order to meet this minimum requirement. For those with more than 5 years service who already receive 29 days annual leave entitlement, there will be no accrual of bank holidays.

### Salary Sacrifice – Childcare Vouchers

SMP is calculated on the salary earned in the 8 weeks prior to maternity leave. If childcare vouchers are taken during this period, these would not be considered part of salary, hence lowering the maternity pay that the employee may be eligible for. Employees participating in the scheme who become pregnant and ultimately due to take maternity leave are advised to contact HMRC for advice on whether to opt out of the salary sacrifice scheme or not. The following is a summary of either continuing with salary sacrifice or terminating the agreement:-

As the employee, if you <b>continue</b> your salary sacrifice arrangement	As the employee, if you <b>terminate</b> your salary sacrifice arrangement
The value of your SMP will be lower than it would be if no salary sacrifice arrangement was in place.	The value of your SMP will be greater than if you continue your salary sacrifice.
The value of your OMP will be lower than it would be if no salary sacrifice arrangement was in place – as your salary is reduced by the salary sacrifice.	The value of your OMP will be greater than if you continue your salary sacrifice – as your salary will no longer be reduced.
You will continue to receive your childcare vouchers non-cash benefit throughout the period of maternity leave.	You will cease to receive your childcare vouchers non-cash benefit when you terminate your salary sacrifice arrangement prior to the period of maternity leave.

If an employee starts maternity leave without any childcare voucher benefit in place, they may enter into a salary sacrifice agreement during a maternity leave period but will not receive the revised salary or benefit until they return to work.

## 11.0 Contact During Maternity Leave

The Line Manager should where possible discuss with the employee appropriate arrangements for staying in touch before maternity leave commences.

The Council reserves the right in any event to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss for example, significant workplace developments, the employee's plans to return to work, any required special arrangements, training opportunities and *vacancies*.

All employees are entitled to receive the vacancy bulletin whilst on maternity leave. An email address should be supplied to HR Support who will then arrange for each issue to be sent electronically. This can also be supplied by post to employees with no email. Externally advertised jobs are available through the Council website. The employee can also ask HR Support to send them the Council's weekly news bulletin.

### Keeping-in-touch (KIT) days

Except during the first two weeks after childbirth (four weeks for a factory worker), an employee can agree to work for the Council (or to attend training) for up to 10 days during either OML or AML without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as KIT days. Any work carried out on a KIT day shall constitute a day's work for these purposes.

The Council has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on a KIT day is entirely a matter for agreement between the Council and the employee. Any keeping KIT days worked do not extend the period of maternity leave. Once the KIT days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for the Council. It may also bring maternity leave to an end.

The days should be recorded on the KIT days form and sent to payroll within the normal deadline dates. The employee will be entitled to their full contractual remuneration, less any SMP amount. The sum paid will not exceed full pay.

## 12.0 Returning to Work

The employee will have been formally advised in writing by the Council of the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave. The employee is expected to return on this date, unless she notifies the Council otherwise.

If the employee is unable to attend work at the end of her maternity leave due to sickness or injury, the Council's normal arrangements for sickness absence will apply. Where work is interrupted (due to industrial action or some other reason), the employee must return when work resumes, or as soon as possible thereafter. In any other case, late return without prior authorisation will be treated as unauthorised absence.

While the employee is under no obligation to do so, it would assist the Council if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.

If the employee wishes to return to work earlier than the expected return date, she must give the council at least eight weeks' notice of her date of early return, preferably in writing. If insufficient notice is given, the Council may postpone the employee's return date until 8 weeks after notice was given or to the expected return date if sooner.

An employee who has confirmed that she wishes to return to work before the end of her AML is entitled to change her mind. However, in these circumstances she will then need to give eight weeks notice of the change of date.

If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the Council may require the employee to return to work for the remainder of the notice period. Any annual leave accrued during the OML or AML period may be taken at the end of the maternity leave period to reduce or prevent this requirement. Furthermore employees should refer to the Work Life Balance Policy should they wish to apply for additional parental leave.

### **13.0 Transfer of Maternity Leave**

If an employee proposes to return to work early without using her full 52-week entitlement to maternity leave by giving proper notification of an early return in accordance with the rules set above, she may be eligible to transfer up to 26 weeks of her outstanding maternity leave (and outstanding SMP) to her spouse, civil partner or partner, or the father of her child, to be taken as additional paternity leave (and additional statutory paternity pay) on her return to work.

The earliest that additional paternity leave may commence is 20 weeks after the date on which the employee's child is born and it must end no later than 12 months after the date of birth. The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks. The employee must therefore have at least two weeks of her maternity leave that remains unexpired.

Further details should be obtained from the employee's spouse's or partner's employer. If the employee does wish to transfer part of her maternity leave entitlement in this way, she will be required to submit a written and signed declaration form to that employer, who may also make additional enquiries of the Council to verify its employee's entitlement to additional paternity leave and pay.

### **14.0 Rights On and After Return to Work**

On resuming work after OML, the employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent.

On resuming work after AML the employee is again entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable for the Council to allow the employee to return to the same job, the employee may be offered suitable alternative work on terms and conditions that are not substantially less favourable than would have applied if she had not been absent. It is good practice to consult with employees about any proposed changes to their job at the end of their maternity leave if it is possible to do so.

An employee who worked full-time prior to her maternity leave has no automatic right to return to work on a part-time basis or to make other changes to her working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of the Council's business.

If an employee would like to propose a change to their working pattern she should write to her line manager as soon as possible in advance of her return date, so that there is adequate time for full consideration of the request. Managers must take the needs of breastfeeding employees into account if this is a factor when considering a flexible working request. The procedure for dealing with such requests is set out in the Council's Work Life Balance Policy.

Periods of OML and AML shall be regarded as continuous service for the purposes of NJC sickness and maternity schemes and annual leave.

## **15.0 Redundancy**

In the event that the employee's post is affected by a proposed restructure or other situation through which their post may become at risk of redundancy during their maternity leave they should be consulted in accordance with the Managing Change Policy.

Employees on maternity leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills. If the employee is offered a suitable alternative vacancy then she is entitled to a four week trial period in which to decide whether the employment is suitable.

## **16.0 Other policies that may be applicable**

### Parental Leave following Maternity Leave

Parents with one year's continuous service can take parental leave of 13 weeks per child or 18 weeks where the child is entitled to disability living allowance

### Time Off for Dependents (Special Leave)

All employees can take reasonable unpaid leave to take action in relation to dependants

For further information regarding these rights refer to the council's Work Life Balance Policy.

TEMPLATE FOR REFERENCE ONLY  
ACTUAL FORM WILL BE SENT BY HR SUPPORT

Please return this form to the Human Resources department.

This is to confirm that I elect to receive my OMP as follows:-  
(Please delete clearly the one which does not apply)

**A:** 12 weeks half pay paid at the same time as the first twelve weeks of the 33 weeks standard SMP, (during OML)

or

**B:** 6 weeks at full pay paid as a lump sum following return from maternity leave

1. **I understand that the total of Statutory Maternity Pay and Occupational Maternity Pay or Maternity Allowance plus any allowances and Occupational Maternity Pay will not exceed normal full pay regardless of the option I choose, or when payment is to be made.**
2. I understand that I will be required to repay this Occupational Maternity Pay if I do not return to work after maternity leave and remain at work for a period of at least three months.

**I understand that I will automatically receive vacancy information and I *do/do not* want to receive weekly news bulletins - delete as applicable.**

<b>Signed:</b>	<b>Date:</b>
<b>Employee Name:</b>	<b>Payroll Number:</b>