

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 th 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 manager 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 24th 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 24th 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 4th 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 11th 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 11th 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 11th 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 29th 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 continue your salary sacrifice arrangement	As the employee, if you terminate 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.

Signed:	Date:
Employee Name:	Payroll Number: