THE MORAY COUNCIL - EDUCATIONAL SERVICES
MATERNITY LEAVE AND PAY - TEACHING STAFF
(Including Neonatal Care Leave)

NOTES OF GUIDANCE FOR EMPLOYEES

1. Definition

1.1 Maternity leave is the aggregate of paid and unpaid leave of absence granted in accordance with the provisions as set out below.

2. Maternity Leave

2.1 All teachers, regardless of length of service, are entitled to 52 weeks' Maternity Leave. The 52 weeks comprises 26 weeks' Ordinary and 26 weeks' Additional Maternity Leave.

2.2 Maternity Leave can begin from a date not earlier than the 11th week before the Expected Week of Childbirth (EWC), unless childbirth has taken place prior to this. The period of Maternity Leave may commence on any day of the week. During the Maternity Leave period all the employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

3. Compulsory Maternity Leave

3.1 An employee is required to take compulsory maternity leave of 2 weeks starting on the day on which childbirth occurs.

4. Transfer of Maternity Leave

4.1 New regulations give parents of children due, or matched for adoption, on or after 3 April 2011, greater flexibility in how they use maternity and paternity provisions through the introduction of Additional Paternity Leave and Pay – For further information please refer to the Policy on Paternity Leave and Pay.

5. Maternity Pay

5.1 An employee with less than 26 weeks' continuous service at the **beginning of the 15th week** before the EWC will have no entitlement to maternity pay. She may, however, be entitled to Maternity Allowance payable through the Department of Work and Pensions.

5.2 An employee with at least 26 weeks' continuous service at the **beginning of the 15th week** before the EWC is entitled to be paid:

(a) Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) at the appropriate rate for the first 13 weeks. Taken together, these payments will be equal to the employee's normal salary, and where eligible,

(b) SMP for the remaining 26 week period, provided that the employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.

5.3 Any previous employment with councils, employers listed in the Redundancy Payment (Local Government) (Modification) Order 1990 (as amended) and any other employment deemed by the council to be relevant, should be counted as continuous service (as defined in the Employment Rights Act 1996) subject to a gap in employment not exceeding one working week.

5.4 Other than Keeping in Touch Days (as described in 13.1), when an employee returns to work before the full Maternity Leave period, then her entitlement to any balance of maternity leave and maternity pay ceases. The employee will receive her normal salary from the date of her return to work.

6. Notification of Start of Maternity Leave

6.1 To qualify for maternity leave and pay, an employee must notify the council in writing of:

(a) The fact that she is pregnant

(b) The expected week of childbirth or the actual date of the birth, if this has already occurred; and

(c) The date she wishes Maternity Leave to commence (the notified leave date).

6.2 The notification set out above must be given to the council not later than 21 days before maternity leave commences, or as soon as is reasonably practicable.

6.3 Confirmation of the pregnancy and expected date of childbirth should be given in the form of a maternity certificate (form MAT B1) from a registered medical practitioner or midwife.

7. Notification of Birth

7.1 An employee should notify the council, as soon as is reasonably practicable, of the date of the birth of her child.

8. Notification of Return from Maternity Leave

8.1 An employee who wishes to return to work earlier than the end of the Maternity Leave period must give the council 28 days' notice. If the appropriate notice is not given, the council may postpone her return for up to 28 days (but not to a date later than the end of the ML period).

8.2 No notification is required for an employee returning to work on the first working day following the end of the ML period.

9.0 Neonatal Leave and Pay

The Neonatal Care (Leave and Pay) Act 2023 is intended to support parents of babies who are admitted into neonatal care.

9.1 What qualifies as Neonatal Care?

The Act sets out three categories of medical care which will count as neonatal care, these are:

- Any medical care received in hospital
- Medical care received elsewhere following discharge from an inpatient stay hospital. The care must be under the direction of a consultant and includes ongoing monitoring and visits to the child by healthcare professionals; or
- Palliative or end of life care.

Unfortunately, any medical care which does not fall within the definition above will not qualify, nor will any medical care which does not begin within the first **28 days** of the baby's birth.

9.2 Eligibility for Neonatal Care Leave (NCL)

Neonatal **Leave** is a day-one right.

In order to qualify for Neonatal care leave (NCL) the following conditions must be met:

- You must be an employee
- The baby must be born **on or after 6th April 2025**
- At the birth of the baby, you must be the baby's parents, intended parents (in relation to surrogacy) or partner, spouse, civil partner or adoptive parent to the baby's mother and you must have or expect to have responsibility for raising the child (similar rules apply in relation to adoption).
- The newborn must be admitted to neonatal care within the first 28 days of birth and must remain in neonatal care for at least 7 continuous days. The first period of 7 days begins with the day after the day your baby first receives neonatal care.
- Neonatal care leave must be taken to provide care for the baby
- Neonatal care leave must be taken in blocks of a week

9.3 Eligibility for Neonatal Care Pay (NCP)

Neonatal Care Pay is paid at a flat rate per week at the current SMP rate or 90% of average weekly earnings, if this is less. Neonatal Care Pay may be paid for a maximum of 12 weeks and is payable within the first 68 weeks of the child's birth.

9.4 Leave Entitlement

This leave is applicable for babies born on or after 6 April 2025

Parents can take one week's Neonatal Care Leave in respect of each interrupted week (7 days) that their baby receives neonatal care. The maximum amount of leave is **12 weeks**. The first qualifying period of 7 days begins with the day after the day your baby first receives neonatal care (i.e, days 2-8 of neonatal care). Neonatal care Leave can be taken from the day after the first qualifying period. This means that you are not able to start neonatal leave until day nine.

Leave must be taken within the first 68 weeks of the bays birth (or placement in the case of adoption)

Leave falls into two categories and will depend on when the leave is taken:

Tier 1 period leave applies to leave taken while your baby is still receiving care and up to a week post discharge. Tier 1 leave can be taken in non-continuous blocks of a minimum of one week at a time. The Tier 1 period leave ends on the 7th day after the day your baby stops receiving neonatal care.

Tier 2 period leave applies to all other leave and must be taken in one continuous block, there is no option to take more than one period of Neonatal Care Leave in the tier 2 period

9.5 Notice Periods for Leave

For each week of **Tier 1 period leave** (leave to be taken while your baby is still receiving care), notice must be given before you are due to start work on your first day of absence in that week unless it is not reasonably practicable in which case you must give as much notice as soon as it is reasonably practicable. Notice during a Tier 1 period does not need to be in writing.

Tier 1 period leave is only likely to be taken by a father or the mother's partner, as the mother will more than likely already be on Maternity leave during the Tier 1 period. If you are already on paternity leave when you wish to take Tier 1 period leave, you would just have to notify your employer before the time you are due to start work after paternity leave, that you wish to take Neonatal Care Leave.

For a single week of **Tier 2 period leave**, notice must be given no later than 15 days before the first day the of the Neonatal Care Leave to which the notice relates.

For two or more consecutive weeks of **Tier 2 Leave**, notice must be given no later than 28 days before the first day of the neonatal care leave to which the notice relates. The leave can only be taken in a single block.

Notice periods can be waived in agreement with your Line Manager.

10. Antenatal Care

10.1 A pregnant employee shall be allowed to take such reasonable time off, without loss of pay, as is required to attend for antenatal care, on production of evidence of appointments.

10.2 A prospective father, or the spouse, civil partner or partner of a pregnant woman, can take unpaid time off to attend up to two antenatal appointments. It is expected that normally no more than half a day is needed for an antenatal appointment, but the leave includes the time needed to travel to the appointment and any waiting time needed at the appointment, and can be for a maximum of six and a half hours on each occasion.

The employee needs to confirm:

- that he or she:
    - is the expectant mother's spouse, civil partner or partner, or
    - the child's father;
- that the purpose of the time off is to accompany the expectant mother to an antenatal appointment;
- that the appointment in question is made on the advice of a registered medical practitioner, registered midwife or registered nurse; and

- the date and time of the appointment.

The employee should endeavour to give his/her line manager as much notice as possible of when he/she needs the time off for the antenatal appointment and, wherever possible, try to arrange them as near to the start or end of the working day as possible. Employees and managers should ensure that the appropriate form (P30a is complete and forwarded to Payments Section.

11. Stillbirth and Neonatal Death

11.1 In the event of a stillbirth after 24 weeks of pregnancy, or neonatal death an employee is entitled to maternity leave and pay provisions.

12. Sick Leave and Maternity Leave

12.1 Where an employee is absent before the start of the maternity leave period due to illness, the absence will be treated as sickness absence except when the undernoted applies. This includes absence due to miscarriage (that is, prior to the 24th week of pregnancy).

12.2 If an employee is absent because of pregnancy related illness, and there are fewer than four weeks before her baby is due, she will be deemed to have commenced ML.

12.3 Where an employee is unable to return to work after the ML period has ended, or on the date previously notified, due to sickness, the normal sickness notification and certification procedures will apply.

13. Annual Leave - Maternity

13.1 Annual leave shall accrue during the period of Ordinary and Additional maternity leave.

13.2 A teacher or music instructor will accrue annual leave, in accordance with Section 5, para 5.3 to 5.5 of the SNCT Conditions of Service during the period of her ML.

13.3 An education support officer, quality improvement officer or educational psychologist will accrue annual leave, in accordance with Section 5, paras 5.12 to 5.15 of the SNCT Conditions of Service during the period of ML.

13.4 Maternity leave shall either fall within one leave year or span two leave years. Statutory leave must be provided and must be taken by the employee for each leave year spanned by the period of maternity leave.

13.5 An employee on maternity leave which spans two leave years shall receive at the end of the first leave year, a statement which notifies: the leave taken to the commencement of the maternity period and the leave accrued during the maternity period in that leave year (contractual entitlement minus leave taken). The balance will be carried forward into the next leave year.

13.6 When an employee has notified the Council of the intended date of return, the Council will issue a statement of the employee's annual leave entitlement effective at that date, including any balance of statutory leave which will require to be taken.

13.7 On return from maternity leave the employee shall take any remaining statutory leave in that leave year. Where it is not practicable to take that leave in full or in part, any balance will be carried forward into the next leave year but must be taken as leave. The timing of this leave shall take account of the needs of the service and,

(a) In the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term; or

(b) In the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.

13.8. The balance of annual leave in excess of statutory leave, accrued during the period of maternity leave shall be taken following the end of the maternity leave period. The timing of this leave is subject to the overriding needs of the service and,

(a) In the case of teachers and music instructors, the accrued leave can be directed to be taken during the days of school closure, with payment to be arranged in accordance with Section 5, Para 5.7 of the SNCT Conditions of Service, with any remaining leave to be taken in the term in which the return to work takes place, or within the following term; or

(b) In the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.

13.9 Where an employee gives written notice to the council that she does not intend to return to work at the end of her ML period, the council will make a payment in lieu of leave accrued during the ML period. This is in accordance with the provisions in Section 5, Para 5.8 of the SNCT Conditions of Service.

13.10 Teachers who have been on maternity leave for an 'entire' year will be entitled to 40 days paid leave on return from Maternity Leave or payment in lieu. Where accrued leave is directed to be taken during days of school closure, an additional payment will be made for each day of leave, in accordance with Part 2, Section 1, para 1.8 of the SNCT Conditions of Service.

14. Keeping in Touch Days

14.1 During both ML and AL an employee is allowed up to ten days at work with normal pay as Keeping In Touch Days, without bringing the ML or AL period to an end. Normal pay will be an amount inclusive of SMP, SAP or Maternity Allowance, as appropriate. These days do not have to be consecutive and can be used for training or any other activity which enables the employee to keep in touch with the place of employment. Keeping In Touch Days can only be taken following agreement between the employer and the employee on both the activity and timing. The Code of Practice on Keeping In Touch Days should be the basis for arrangements for such days.

14.2 The SNCT recommends the following as examples of good practice, which may be undertaken in Keeping in Touch Days:

(i) Attending INSET days, as set out in the school calendar.

(ii) Team teaching with the teacher covering the leave, particularly in the weeks preceding the date of return.

(iii) Attending CPD events, including participating in annual review discussions.

(iv) Attending team or departmental meetings.

(v) Work shadowing a colleague or liaison with a colleague.

14.3 Where the employee on maternity holds a promoted post the SNCT strongly advises that the employee should not resume those duties for Keeping in Touch Days or break the contract of the employee who had taken the post on temporary responsibility. This would not preclude a Keeping in Touch Day to be used for work shadowing or liaison, as set above.

14.4 The Regulations make it clear that an employer and employee are allowed to make reasonable contact during maternity leave to discuss such issues as the return to work. This would not constitute 'work' and would not therefore count towards the 10 days.

14.5 If you do participate in a KIT day(s), then you should notify Human Resources of the date(s) of these on the tear off slip on your entitlement letter indicating your return to work date. Human Resources will notify Payments of the dates for record keeping purposes.

14.6 If you exceed the ten 'Keeping in Touch' days, and work for the Council in any particular week you are disqualified from receiving Statutory Maternity Pay for that week. Any Statutory Maternity Pay lost in this way is always lost at the standard rate first.

15. Pension

15.1 The council will continue to make full pension contributions during the period of paid ML or AL.

16. Continuous Service

16.1 All periods of maternity leave count towards continuous service.

17. Childcare Vouchers

17.1 All employees with parental responsibilities are eligible to access childcare vouchers, free of Tax and National Insurance through the Childcare Vouchers Scheme.
To find out how much you could save please contact:
Employers for Childcare on 0800 028 3008

Additional information can be accessed in the SNCT website:
www.snct.org.uk

Date of Review:	2025
Policy Approved:	April 2025
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Next review Date:	2029/30

APPLICATION FOR MATERNITY LEAVE - TEACHING STAFF

SECTION A ***TO BE COMPLETED AND FORWARDED TO THE HEAD TEACHER***

Name (Mrs Miss Ms Etc)		*Payroll N°*	
Address			
		Post Code	
Name of School		*Class(es) taught*	
Appointment held			
Subjects taught (where appropriate)			
Date of appointment to The Moray Council			
Dates of previous service with any other Local Authority			
Expected date of childbirth *(Please attach, or forward as soon as possible, Form MAT B1Certificate confirming the expected date of childbirth, which may be obtained from your G.P. or midwife)*			
Date when you wish maternity leave to begin			
Do you intend to take: *(please tick)*	*Ordinary Maternity Leave (26 weeks)* *OML + Additional Maternity Leave (Maximum 52 weeks)* *Any other defined number of weeks*		
Is it your intention to return to work after your period of maternity leave		*YES/NO**	
Signature of Teacher		***Date***	

SECTION B ***TO BE COMPLETED BY THE HEAD TEACHER AND SENT TO EDUCATION SERVICES OFFICER (STAFFING), THE MORAY COUNCIL, HIGH STREET, ELGIN IV30 1BX***

Suggestions by Head Teacher as to the filling of the vacancy:

Advertise vacancy for			
Comments			
Signature of Head Teacher		***Date***	

SECTION C ***FOR EDUCATION STAFFING USE***

Post to be advertised	*YES/NO**
Signature of ESO (Staffing)	
Date signed and passed to HR	