

# **Maternity, paternity, adoption and surrogacy policy**

This policy forms part of your contract of employment. The councils are entitled to introduce minor and non-fundamental changes to this policy by notifying you of these changes in writing and will consult all employees on any significant changes.

## **INTRODUCTION**

1. This policy outlines the statutory rights and responsibilities of employees who are pregnant or new parents and details arrangements relating to maternity, paternity, adoption and surrogacy
2. The following definitions are used in this policy:
  - 'expected week of childbirth' means the week, starting on a Sunday, during which the employee's doctor or midwife expects the mother to give birth
  - 'qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth
  - 'new or expectant mother' is someone who is pregnant, has given birth within the last 6 months or is breastfeeding
  - 'partners' includes same sex couples
3. This policy complies with the following legislation relating to maternity, paternity and adoption:
  - Employment Rights Act 1996
  - Civil Partnership Act 2004
  - Work and Families Act 2006
  - Maternity and Parental Leave etc Regulations 1999 and all subsequent amendments
  - Equality Act 2010
  - Additional Paternity Leave Regulations 2010
  - Maternity, paternity and adoption leave under the national scheme for local government employees
  - Human Embryology and Fertilisation Act 2008
4. If you have any queries after reading this policy, please contact your HR business partner.

## **SECTION 1 - MATERNITY**

### **Notification of pregnancy**

5. On becoming pregnant, you should inform your manager and HR business partner as soon as possible, but no later than 15 weeks before the baby is due. This is important as there are health and safety considerations and your manager will work with you to assess and manage any health and safety risks during your pregnancy.
6. By the end of your qualifying week, or as soon as reasonably practicable afterwards, you are required to notify your manager of the following in writing:
  - that you are pregnant
  - your expected week of childbirth
  - when you intend to start your maternity leave
7. To receive maternity pay (or a maternity allowance if you don't qualify for maternity pay) you need to provide a MATB1 certificate from your doctor or midwife to confirm your expected week of childbirth. You need to hand this to your HR business partner as soon as possible after you receive it.
8. On receiving your notification letter, MATB1 and half pay declaration form, your HR business partner will write to you within 28 days detailing arrangements for your maternity leave and your maternity pay.
9. You are entitled to bring forward or delay your maternity leave start date but you need to notify your manager in writing at least 28 days prior to the new start date (if bringing forward) or 28 days before the original proposed start date (if delaying). If 28 days notice is not possible, please notify your manager as soon as reasonably practicable.

### **Time off for ante-natal appointments**

10. All pregnant employees are entitled to paid time off to attend antenatal appointments as advised by a registered doctor, midwife or health visitor. Antenatal appointments are not just medical appointments. They can include antenatal classes if they have been recommended by a doctor or midwife. The time off includes necessary travelling time.
11. You should inform your manager in advance of your antenatal appointments giving as much notice as possible and wherever possible try to arrange them as near to the start or end of a working day as possible. Your manager may ask you to produce your appointment card.
12. If you are the spouse or partner of a pregnant woman you have the right to take unpaid time off to attend up to two ante-natal appointments. You may choose to use annualised hours for this.

## Health and safety

13. The councils have a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to new or expectant mothers.
14. When you notify your manager that you are pregnant they will carry out a specific risk assessment taking into account any medical advice received about your health.
15. If the risk assessment identifies risks to you and those risks cannot be avoided your manager will:
  - Amend your working conditions and, or, work hours, if it is reasonable to do so and it avoids the risks. If this cannot be achieved they will:
    - offer suitable alternative work; if this is not feasible;
    - Suspend you from work (on full pay).
16. For further guidance on new and expectant mothers see the Risk Assessment and Control policy (sections 26–37 and appendix 2) in the Health and Safety section on the intranet.

## Sickness absence

17. If you are sick with a pregnancy related illness during the last four weeks before your baby is due your maternity leave will start automatically and you will need to notify your HR business partner as soon as reasonably practicable.
18. You are not entitled to sick pay whilst on maternity leave.
19. If you are unable to attend work due to sickness at the end of your maternity leave the managing attendance policy applies.

## Maternity leave

20. All pregnant employees are entitled to take 26 weeks ordinary maternity leave (OML) and up to 26 weeks additional maternity leave (AML), providing an entitlement of up to 52 weeks maternity leave in total. This is regardless of the number of hours you work or your length of service.
21. OML can start any time after the beginning of the 11th week before the expected week of childbirth and you can work until the day of birth if you choose. If you give birth before your chosen maternity leave start date, your start date will start earlier. Your maternity leave will therefore start on whichever date is the earlier of:
  - your chosen start date;

- the day after you give birth; or
- The day after any day on which you are absent for a pregnancy related reason in the four weeks before the expected week of childbirth.

22. If you give birth before your maternity leave was due to start, please notify HR of the date of birth in writing (initially by phone is helpful) as soon as reasonably practicable. Your maternity pay may need to be recalculated.

23. You are required by law to take a minimum of two weeks maternity leave immediately after the birth of your child.

24. Please ensure that you book your maternity leave on HR Pro.

## **Maternity pay**

25. Qualifying for maternity pay depends on a number of factors including how much local government continuous service you have and also your average weekly earnings in the relevant earnings period.

26. If you qualify for SMP you will be entitled to 39 weeks SMP. The first six weeks will be paid at higher rate SMP and the following 33 weeks will be paid at the lower SMP rate (see <http://www.hmrc.gov.uk/pay/rates-thresholds.htm#3> for details of current SMP rates). SMP is calculated based on what you are paid in the relevant earnings period. The relevant earnings period is the eight week period before the qualifying week. SMP starts on the same day as your maternity leave.

27. If you have more than one year's service (with South Oxfordshire District Council or Vale of White Horse District Council) by the beginning of the 11<sup>th</sup> week before your baby is due, you qualify for occupational maternity pay (OMP). This means you will receive 12 weeks half pay in addition to 39 weeks SMP. You will need to complete the OMP declaration form and return it to your HR business partner to ensure you receive your OMP.

28. If your salary is subject to pay protection because your grade has decreased (normally 18 months salary protection), the period of protection will be ongoing during your maternity leave i.e. the time you take off for maternity leave will form part of the 18 months duration. Your higher rate SMP and your OMP will be paid at your protected rate of pay.

29. The following table summarises maternity pay entitlements:

Go to the following link to help calculate your pay <https://www.gov.uk/pay-leave-for-parents>. Requests will be passed to payroll once you have received your MATB1.

How much local government service do you have?	What you will be paid?
<p><b>Less than 26 weeks continuous service</b> at the 15<sup>th</sup> week before the EWC and/or earning less than the National Insurance Lower Earnings Limit</p> <p><a href="http://www.hmrc.gov.uk/payee/rates-thresholds.htm#1">http://www.hmrc.gov.uk/payee/rates-thresholds.htm#1</a></p>	<p><b>Maternity Allowance (MA)</b></p> <ul style="list-style-type: none"> <li>a) You will not qualify for SMP but can claim Maternity Allowance.</li> <li>b) Maternity Allowance will be paid at the current flat rate (or 90% of average weekly earnings if this is less) for 39 weeks</li> <li>c) Maternity Allowance is not processed by payroll but by your local JobCentre Plus.</li> <li>d) A copy of the Maternity Allowance claim form is available from your HR business partner or from <a href="http://www.dwp.gov.uk">www.dwp.gov.uk</a></li> </ul>
<p><b>More than 26 weeks continuous service</b> at the 15<sup>th</sup> week before the EWC and earn over the National Insurance Lower Earnings Limit</p> <p><a href="http://www.hmrc.gov.uk/payee/rates-thresholds.htm#1">http://www.hmrc.gov.uk/payee/rates-thresholds.htm#1</a></p>	<p><b>SMP</b></p> <ul style="list-style-type: none"> <li>a) 90% of your average earnings for six weeks (higher rate SMP)</li> <li>b) followed by current lower rate SMP for 33 weeks (or 90% of average weekly earnings if this is less)</li> </ul>
<p><b>More than one year's service</b> with either South Oxfordshire District Council or Vale of White Horse District Council by the beginning of the 11<sup>th</sup> week before your baby is due</p>	<p><b>OMP</b></p> <ul style="list-style-type: none"> <li>a) 90% of average earnings for six weeks (higher rate SMP)</li> <li>b) followed by half pay* plus lower rate SMP for 12 weeks (or capped at your average basic salary if this is less)</li> <li>c) followed by lower rate SMP for a further 21 weeks</li> </ul> <p>* to receive 12 weeks half pay you must return to work for a minimum of three months or you will be liable to repay the half pay element of the SMP. You can elect to receive the 12 weeks half pay following on from your six weeks higher rate SMP or as a lump sum on your return.</p>

## **Miscarriage or still birth**

30. Each council aims to be as supportive as possible in the event of an employee suffering a miscarriage or still birth. If your baby is stillborn after the 24<sup>th</sup> week of pregnancy you still qualify for all the entitlements described in this policy. If you have a miscarriage prior to the 24<sup>th</sup> week of pregnancy then the managing attendance policy applies.

## **Contact during maternity leave**

31. Shortly before your maternity leave starts, your manager will discuss arrangements for you to keep in touch during your leave, if you wish to do so. The councils reserve the right to maintain reasonable contact with you from time to time during your maternity leave including advising you of any job vacancies or learning & development opportunities. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

## **Keeping in touch days**

32. If you wish, and your manager agrees, you can work on up to ten “keeping in touch” days, sometimes called KIT days, during your maternity leave without bringing your maternity leave to an end or affecting your SMP (or OMP if applicable). Each keeping in touch day is paid at your normal daily rate of pay (pro-rata if you work less than a full day) less any maternity pay you receive for that week. If you are not due to receive maternity pay in the week you work your KIT day(s) you will be paid at your standard hourly rate without a reduction for maternity pay. This will usually be the case from week 40 onwards of your maternity leave as you are likely to receive 39 weeks of SMP.
33. You should keep a note of your KIT days on a form that the HR team can provide you. Once you have completed all your KIT days, your manager will sign the form and forward it to the HR team who will arrange any payment you are due to receive.
34. Working for part of a day will count as one full keeping in touch day, for example if you work half your normal working day you will have nine KIT days remaining, not nine and a half. Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purpose of keeping in touch with the workplace.
35. You cannot use keeping in touch days during the first two weeks following the birth of your child.

## **Pay increases during maternity leave**

36. The benefit of any general pay increase awarded between your relevant earnings period and the date you return to work will be reflected in a recalculation of your maternity pay and paid retrospectively.

## **Benefits during maternity leave**

37. Your contract of employment continues during your maternity leave and you are therefore entitled to receive all benefits except pay (please see previous maternity pay section for details of any pay you are entitled to). During your maternity leave you are entitled to the benefit of the council's implied obligation of trust and confidence and any terms relating to notice of termination by the council, redundancy and disciplinary or grievance procedures. During your maternity leave you remain bound by your implied obligation of good faith and any terms as to notice of termination by you, disclosure of confidential information, acceptance of gifts or other benefits and participation in any other business.

38. Statutory and contractual payments other than those relating to maternity and adoption are not affected by the salary sacrifice schemes for bike loans and childcare vouchers.

## **Annual leave**

39. Your annual leave entitlement will continue to accrue during both ordinary and additional maternity leave and there will be flexibility about carrying over annual leave from one year to the next. Where possible only one contractual week's leave should be carried over. Where this is not possible then more leave may be carried forward, as agreed with your manager. You will need to consider the following:

- When you will take the leave you are accruing. You may decide to take some of your accrued annual leave (or annual leave that will be accrued during maternity leave) before your baby is born or alternatively you may opt to take it at the end of your maternity leave (subject to the carry over arrangements). You should agree this with your manager before commencing your maternity leave.
- if you are full time and return to work on a part-time basis, your leave will be pro-rated from the date you return
- if you decide not to come back to work and have taken more leave than was due, you will be required to repay this. If you have leave remaining this will be paid to you in your final salary.

## **Annualised hours**

40. Wherever possible you should ensure that when you start your maternity leave your annualised hours are at a zero balance. If, in exceptional circumstances, you have a deficit or credit when you go on maternity leave, then the starting point when you return from maternity leave will be the deficit or credit you had when you started your maternity leave. If you do not return from maternity leave the council reserves the right to deduct payment for excessive negative hours. You will not be paid for annualised hours you have in credit at the point of leaving.

## **Local government pension scheme membership**

41. During the 26 weeks OML period the council will continue to pay employer pension contributions based on the pay you would have received if you had been working normally. This will apply whether you receive any pay or not during this period. If you do receive some pay (SMP) during this period, you will pay contributions at the same pension percentage as you did before your maternity leave but this percentage will be based on the amount you actually receive.

42. If you receive SMP in any part of your AML, the council will pay pension contributions based on the pay you would have received had you been at work normally and you will pay contributions based on the SMP you receive. No contributions will be deducted through the period in which you receive no pay. Any such period will not count towards your membership of the pension scheme. However, when you return from leave, or if you resign, you can elect to pay contributions for this period based on the amount of pay you received (including SMP) immediately before your unpaid period began. This period of your maternity leave will then count towards your pension scheme membership.

43. If you decide to make these contributions you should contact your HR business partner within 30 days of your return or resignation.

44. To discuss your pension in more detail you can contact the pension team at Oxfordshire County Council on 01865 797125 or 01865 797134.

## **Childcare vouchers**

45. If you receive childcare vouchers through the councils' childcare salary sacrifice scheme your higher rate SMP and 12 weeks half pay (where applicable) will be calculated based on what you are paid in the relevant earnings period, i.e. your adjusted salary. The relevant earnings period is the eight week period before the qualifying week. You may want to consider coming out of the childcare salary sacrifice scheme just before your relevant earnings period so that your 12 weeks half pay is calculated on your full salary. However, if you choose to stay in the scheme you can continue to receive childcare vouchers during your maternity leave. During the maternity leave period your salary can only be sacrificed from the 12 weeks half pay (where applicable). The remainder of the cost of the childcare vouchers during maternity leave is met by the councils.

## **Bike loans**

46. If you have a bike loan through the council's salary sacrifice scheme, your higher rate SMP (if applicable) will be affected by participation in the bike scheme (see childcare vouchers section above). During maternity leave you will continue to have the bike and equipment on hire. During the maternity leave period your salary can only be sacrificed from the 12 weeks half pay (where applicable) and therefore you will accrue a debt which will be recovered as soon as you return to work. If you resign, you will need to pay the balance due.

## **Pregnancy during additional maternity leave**

47. If you qualify for AML and you become pregnant again during your maternity leave, and your baby is due before you are due to return to work, you are entitled to another period of maternity leave without returning to work. When you return to work after your second period of maternity leave, you have the right to return to the same job with the same terms and conditions unless it is not reasonably practical to do so. If this is the case, we will offer you suitable alternative work.

## **Fixed-term contracts during maternity leave**

48. If you are employed on a fixed-term contract which is due to expire during your maternity leave, your manager will contact you to discuss the options available to you. This may be an extension to your contract, redeployment or redundancy. The council will apply the organisational change policy when dealing with redeployment or redundancy. If your post is made redundant your maternity leave will cease and your contract and benefits will come to an end automatically. If you qualify for SMP the council will continue to pay your SMP.

## **Return to work**

49. During your maternity leave, it would be helpful if you could confirm that you will be returning to work as expected as soon as convenient.

50. If you decide to return to work before the end of your additional maternity leave or previously agreed end of maternity leave date you should notify your manager in writing giving at least eight weeks notice. If you do not give full notice, the council may postpone your return date, which will ensure that full notice is given, but cannot postpone your return date beyond the expiry of the maternity leave period itself.

51. If you return to work during or at the end of OML you have the right to return to the same job in which you were employed under your contract of employment and on terms and conditions no less favourable than those, which would have been applicable, if you had not been absent. If you return to work during or at the end of AML, you have the right to return to the same job, unless this is not reasonably practicable, in which case you will be offered a suitable alternative position.

52. Wherever possible the council supports requests for employees to work part time or

job share. If you wish to request this in advance of you returning from your maternity leave you should refer to the council's flexible working policy.

53. If you decide not to return work you should write a letter of resignation to your manager in the normal way, giving one months notice, or more, as detailed in your contract of employment. If you are intending to work for another organisation, who did not employ you in your qualifying week, your SMP will stop from the date you begin working for this other employer. Your last day of employment will be the final day that you receive maternity allowance, SMP or OMP or, if you are not receiving any form of maternity pay the date at the end of your notice period.
54. If you are breastfeeding when you return to work, the councils provide a rest room for you to use. If you need to adjust your working hours to accommodate breastfeeding, please discuss this with your line manager.

### **Sharing maternity leave**

55. Sharing your maternity leave is covered under a separate policy called Shared Parental Leave (SPL) policy. This enables you to use some of your maternity leave in a more flexible way and share it with your partner.

## **SECTION 2 - PATERNITY**

### **Ordinary paternity leave**

56. If your wife, civil partner or partner gives birth to a child, to qualify for ordinary paternity leave (OPL) and pay you will need to:
- have, or expect to have, responsibility for the child's upbringing and be making the request to help care for the child or to support the child's mother
  - be the biological father of the child or the mother's husband or partner or, in the case of adoption, is either married to, or the partner of the child's adopter
  - have worked continuously for the council for 26 weeks before the end of the 15th week before the baby is due or in the case of adoption, as at the end of the 15th week before the week in which the adopter is notified of being matched with a child by an approved adoption agency
  - not be taking adoption leave in respect of another child.
57. If you are eligible for OPL you will be entitled to take either one week or two consecutive weeks' OPL (but not odd days or two non consecutive weeks). You can choose to start your OPL on any working day:
- from the date of the child's birth (whether this is earlier or later than expected), or in the case of adoption, from the date on which the child is placed with the adopter

- from a chosen number of days after the date of the child's birth (whether this is earlier or later than expected), or, in the case of adoption, at a chosen date after the date of the child's placement.

58. OPL can start on any day of the week on or following the child's birth but must be taken:

- within eight weeks of the actual date of birth or adoption of the child; or
- if the child is born early, within eight weeks of the expected childbirth.

### **Notification of ordinary paternity leave**

59. If you wish to request OPL you must give your manager 15 weeks' written notice of the date on which your partner's baby is due, the length of OPL you wish to take and the date on which you wish the leave to commence.

60. In the case of an adopted child, you must give written notice of your intention to take OPL no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date you intend to start OPL, the length of the intended ordinary paternity leave period and the date on which the adopter was notified of having been matched with the child.

61. If the birth occurs later than expected, please note OPL cannot commence until the birth.

62. If you wish to change the date from which you take OPL you must give the council at least 28 days prior written notice of the new date, or as soon as is reasonably practicable.

63. You need to complete and sign an SC3 form declaring that you are entitled to OPL and ordinary statutory paternity pay. This form is available on the intranet.

### **Ordinary paternity leave pay (OPL)**

64. If you qualify for ordinary paternity pay, you will be paid your full salary for the one or two weeks' OPL. This is an enhanced rate provided as an additional benefit from the councils.

## **SECTION 3 – ADOPTION AND SURROGACY**

### **Adoption leave**

65. If you are due to be the adoptive parent of a child from the UK or overseas, you are entitled to take 52 weeks adoption leave (26 weeks ordinary adoption leave and 26 weeks additional adoption leave) providing
- you are newly matched with a child for adoption by an approved adoption agency
  - you are a parent in a surrogacy arrangement who is entitled to and intends to apply for a Parental Order under the Human Embryology and Fertilisation Act 2008
66. If you and your spouse/partner meet these criteria and adopt a child together, only one person is entitled to take adoption leave. If you choose to take adoption leave, your spouse/partner can take paternity leave and vice versa.
67. You can choose to start your leave either from the date of the child's placement or from a fixed date that can be up to 14 days before the expected date of placement. Leave can start on any day of the week. Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.
68. If the child's placement ends during the adoption leave period, employees will be able to continue adoption leave for up to eight weeks after the end of the placement, provided this does not extend beyond the expiry of additional adoption leave.
69. Within seven days of being notified by your adoption agency that you have been matched with a child you will need to inform your manager and HR business partner in writing:
- the date on which the child is to be placed with you
  - the date you wish your adoption leave to begin
  - the date you would like your statutory adoption pay (SAP) to begin.
70. You will need to show your HR business partner a matching certificate or a letter from the adoption agency before your pay and leave can be authorised. Your HR business partner will also ask you to complete an HMRC form SC4.
71. On receiving your letter, the HR team will write to you within 15 working days detailing arrangements for your adoption leave and pay. A meeting will also be arranged with your HR business partner to discuss these arrangements.

## **Time off for antenatal appointments**

72. If you are going to be a surrogate parent, you are entitled to take unpaid leave to attend up to two antenatal appointments with the birth mother during working time if you meet the eligibility criteria. You may prefer to use annualised hours.

73. If you are going to be an adoptive parent, you are entitled to take unpaid time off to attend up to two appointments to have contact with the child you are adopting. You may prefer to take annualised hours.

## **Adoption pay**

74. If you have less than 26 weeks service when you receive formal notification of the adoption from an approved adoption agency and / or your average weekly earnings are below the lower earnings limit for National Insurance you will not qualify for SAP. Please go to <https://www.gov.uk/adoption-pay-leave/pay> for current rates. Further advice is also available on this website.

75. If you have at least 26 weeks service when you receive formal notification of the adoption from an approved adoption agency and your average weekly earnings are above the lower earnings limit for National Insurance then you qualify for SAP. SAP can start up to two weeks before the expected date of the placement or from the date of the child's placement and reflects SMP. For current rates see <https://www.gov.uk/adoption-pay-leave/pay>. SAP will be paid for up to 39 weeks.

76. If you have more than one year's service when you receive formal notification of the adoption from an approved adoption agency you qualify for occupational adoption pay (OAP). This means you will receive 12 weeks half pay in addition to 39 weeks SAP. You will need to complete the occupational adoption pay declaration form and return this to your HR business partner to ensure you receive your occupational adoption pay.

## **Surrogacy pay**

77. You can get pay and leave if the child is due on or after 5 April 2015. To qualify for Statutory Adoption Pay, you must have worked continuously for your employer for at least 26 weeks by the 15th week before the baby's due. All the other conditions for qualifying for pay and leave are the same as for adoptive parents.

78. If you're genetically related to the child (ie the egg or sperm donor), you can choose to get paternity leave and pay instead. You can't get both.

## **Exceptions**

79. You don't qualify for Statutory Adoption Leave or Pay if you:

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a stepchild

- adopt a family member or stepchild

## **Pay increases during adoption leave**

80. The benefit of any general pay increase awarded when you are on adoption leave will be reflected in your 12 weeks half pay (where applicable); unless it takes effect after the entitlement to such has run out.
81. Shortly before your adoption leave starts, your manager will discuss the arrangements for you to keep in touch during your leave, if you wish to do so. The councils reserve the right to maintain reasonable contact with you from time to time during your adoption leave. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

## **Contact during adoption leave**

82. Shortly before your adoption leave starts, your manager will discuss the arrangements for you to keep in touch during your leave, if you wish to do so. The councils reserve the right to maintain reasonable contact with you from time to time during your adoption leave including advising you of any job vacancies or learning & development opportunities. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

## **Keeping in touch days**

83. If you wish, and your manager agrees, you can work on up to ten “keeping in touch” days, sometimes called KIT days, during your adoption leave without bringing your adoption leave to an end or affecting your Statutory Adoption Pay (or Occupational Adoption Pay if applicable). Each keeping in touch day is paid at your normal daily rate of pay (pro-rata if you work less than a full day) less any adoption pay you receive for that week. If you are not due to receive adoption pay in the week you work your KIT day(s) you will be paid at your standard hourly rate without a reduction for adoption pay. This will usually be the case from week 40 onwards of your adoption leave as you are likely to receive 39 weeks of Statutory Adoption Pay (SAP).
84. You should keep a note of your KIT days on a form that the HR team can provide you. Once you have completed all your KIT days, your manager will sign the form and forward it to the HR team who will arrange any payment you are due to receive.
85. Working for part of a day will count as one full keeping in touch day, for example if you work half your normal working day you will have nine KIT days remaining, not nine and a half. Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purpose of

keeping in touch with the workplace.

86. You cannot use keeping in touch days during the first two weeks following the birth of your child.

## **Benefits during adoption leave**

87. Your contract of employment continues during your adoption leave and you are therefore entitled to receive all benefits except pay (please see adoption pay section of this policy for more details). During your adoption leave you are entitled to the benefit of the council's implied obligation of trust and confidence and any terms relating to notice of termination by the council, redundancy and disciplinary or grievance procedures. During your adoption leave you remain bound by your implied obligation of good faith and any terms as to notice of termination by you, disclosure of confidential information, acceptance of gifts or other benefits and participation in any other business.

88. Statutory and contractual payments other than those relating to maternity and adoption are not affected by the salary sacrifice schemes for bike loans and childcare vouchers.

## **Annual leave**

89. Your annual leave entitlement will continue to accrue during adoption leave. In the case of adoption, normal arrangements relating to the carry over of leave from one year to the next need to be applied flexibly. Where possible only one contractual week's leave should be carried over. Where this is not possible then more leave may be carried forward, as agreed with your Head of Service. You will need to consider the following:

- When will you take the leave you are accruing? You may decide to take some or all of the annual leave already accrued or that will be accrued whilst on adoption leave before you go on adoption leave or alternatively you may opt to take it at the end of your adoption leave period (subject to the carry over arrangements). You should agree this with your manager before commencing your adoption leave.
- if you are full time and return to work on a part-time basis, your leave will be pro-rated from the date you return
- if you decide not to come back to work and have taken more leave than was due, you will be required to repay this. If you have leave remaining this will be paid to you in your final salary.

## **Annualised hours**

90. Wherever possible you must ensure that when you start your adoption leave your annualised hours are at a zero balance. If, in exceptional circumstances, you have a

deficit or credit when you go on adoption leave then the starting point when you return from adoption leave will be the deficit or credit you had when you started your adoption leave. If you do not return from adoption leave the council reserves the right to deduct payment for excessive negative hours. You will not be paid for annualised hours you have in credit at the point of leaving.

## **Local government pension scheme membership**

91. During the 26 weeks ordinary adoption leave period the council will continue to pay your pension contributions based on the pay you would have received if you had been working normally. This will apply whether you receive any pay or not during this period. If you do receive some pay (SAP) during this period, you will pay contributions at the same pension percentage as you did before your maternity leave but this percentage will be based on the amount you actually receive.
92. If you receive SAP in any part of your additional maternity leave, the council will pay pension contributions based on the pay you would have received had you been at work normally and you will pay contributions based on the SAP you receive. No contributions will be deducted through the period in which you receive no pay. Any such period will not count towards your membership of the pension scheme. However, when you return from leave, or if you resign, you can elect to pay contributions for this period based on the amount of pay you received (including SAP) immediately before your unpaid period began. This period of your adoption leave will then count towards your pension scheme membership.
93. If you decide to make these contributions you should contact your HR business partner within 30 days of your return or resignation.
94. To discuss your pension in more detail you can contact the pension team at Oxfordshire County Council on 01865 797125 or 01865 797134.

## **Childcare vouchers**

95. If you receive childcare vouchers through the council's childcare salary sacrifice scheme your 12 weeks half pay (where applicable) will be calculated based on what you are paid in the relevant earnings period i.e. your adjusted salary. The relevant earnings period is the eight week period before you receive formal notification of the adoption from an approved adoption agency. You may want to consider coming out of the childcare salary sacrifice scheme just before your relevant earnings period so that your 12 weeks half pay is calculated on your full salary. However, if you choose to stay in the scheme you can continue to receive childcare vouchers during your adoption leave. During the adoption leave period your salary can only be sacrificed from the 12 weeks half pay (where applicable). The remainder of the cost of the childcare vouchers during adoption leave is met by the councils.

## **Bike loans**

96. During adoption leave you will continue to have the bike and equipment on hire.

Your salary can only be sacrificed from the 12 weeks half pay (where applicable) and therefore you will accrue a debt which will be recovered as soon as you return to work. If you resign, you will need to pay the balance due.

## **Fixed-term contracts during adoption leave**

97. If you are employed on a fixed-term contract which is due to expire during your adoption leave, your manager will contact you to discuss the options available to you. This may be an extension to your contract, redeployment or redundancy. The council will apply the managing organisational change policy when dealing with redeployment or redundancy. If your post is made redundant your adoption leave will cease and your contract and benefits will come to an end automatically. If you qualify for SAP the council will continue to pay your SAP.

## **Return to work**

98. During your adoption leave, it would be helpful if you could confirm that you will be returning to work as expected as soon as convenient

99. If you decide to return to work before the end of your adoption leave you should notify your manager in writing giving at least eight weeks notice. If you do not give full notice, the council may postpone your return date, which will ensure that full notice is given, but cannot postpone your return date beyond the expiry of the adoption leave period itself.

100. If you return to work during or at the end of ordinary adoption leave you have the right to return to the same job in which you were employed under your contract of employment and on terms and conditions no less favourable than those, which would have been applicable, if you had not been absent. If you return to work during or at the end of additional adoption leave, you have the right to return to the same job, unless this is not reasonably practicable, in which case you will be offered a suitable alternative position.

101. Wherever possible the council supports requests for employees to work part time or job share. If you wish to request this in advance of you returning from your maternity leave you should refer to the council's flexible working policy.

102. If you decide not to return work you should write a letter of resignation to your manager in the normal way, giving one months notice, or more, as detailed in your contract of employment. If you are intending to work for another organisation, who did not employ you during the week in which you were notified of the match of adoption, your SAP will stop from the date you begin working for this other employer. Your last day of employment will be the final day that you receive SAP or, if you are not receiving any form of adoption pay the date at the end of your notice period.

## **Alternative formats of this policy**

103. Alternative formats of this publication can be made available on request. These

include large print, braille, audio, email, easy read and other languages. Please contact the HR team on 01491 823424.

Version 1 issued: February 2010  
Version 2 issued: June 2010  
Version 3 issued: August 2010  
Version 4 issued: January 2012  
Version 5 issued: September 2012  
Version 6 issued: June 2013  
Version 7 issued: November 2014  
Version 8 issued: February 2015  
Version 9 issued: May 2015