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# AGENDA FOR THE MEETING OF COUNCIL MATTERS COMMITTEE

# MONDAY 9TH DECEMBER 2024 AT 6.30PM IN THE GUILDHALL

There are stairs to the Council Chamber but if any member of the public has mobility issues the Council can relocate to the lower Guildhall.

You are hereby SUMMONED to attend the **Council Matters Committee** on **Monday 9th December 2024**

**at 6.30pm** in the Guildhall for the purpose of transacting the following business:

**Committee Members:** Councillors D Peters (Chair), C Beavis, T Bennett, J Chinnock, J Hannam, E Price and T Robshaw.

# 1. WELCOME AND APOLOGIES FOR ABSENCE

The Chair will read out the following statement:

Welcome to everyone attending and observing the meeting.

A reminder that open proceedings of this meeting will be video recorded. If members of the public make presentations, they will be deemed to have consented to being recorded. By entering the Council Chamber attendees are also consenting to being recorded.

This meeting is limited to 90 minutes and therefore members are asked to raise their points succinctly and not repeat the same view expressed by colleagues if it does not add to the debate.

To receive apologies and to confirm that any absence has the approval of the Council.

*The Committee will adjourn for the following items:*

PUBLIC QUESTION TIME

A period of 15 minutes will be allowed for members of the public to ask questions or make comment regarding the work of the Committee or other items that affect Totnes.

*The Committee will convene to consider the following items:*

# 2. CONFIRMATION OF MINUTES

To approve the minutes of 11th November 2024 and update on any matters arising. Document attached.

**3. STRATEGY DELIVERY WORKING GROUP RECOMMENDATIONS**

To consider any budgetary recommendations from the following (document attached and to follow):

1. Environment and Public Realm Working Group, 27th November 2024.
2. Community Working Group, 3rd December 2024.
3. Economy Working Group, 4th December 20204.
4. Councillor Away Day, 30th November 2024.

**4. DRAFT 2025/26 BUDGET**

To consider an initial draft budget for financial year 2025/26. Document attached. Recommendations to Full Council needed on:

1. Precept for 2025/26.
2. Annual budget for 2025/26.
3. Anticipated spend from Reserve in 2025/26.

**5. BURIAL AND CREMATION CONSULTATION**

To consider the Law Commission’s consultation on ‘Burial and Cremation’ in relation to Totnes Cemetery and make any recommendation to Full Council (deadline 9th January). Document attached and see <https://lawcom.gov.uk/project/burial-and-cremation/>

**6. PAYMENTS TO COUNCILLORS**

To review the Payments to Councillors Policy. Document attached.

**7. ASSET TRANSFER POLICY**

To consider a draft Asset Transfer Policy for the Council. Document attached.

**8. RECRUITMENT**

To consider delegated authority for the Clerk in terms of recruitment (subject to checks and references). Verbal update.

# 9. MATERNITY, PATERNITY AND ADOPTION POLICY

To review the Maternity, Paternity and Adoption Leave Policy. Document attached.

# 10. DATE OF NEXT MEETING

To note the date of the next meeting of the Council Matters Committee – Monday 13th January 2025 at 6.30pm in the Guildhall. No document.

*The Committee will be asked to* ***RESOLVE*** *to exclude the press and public “by reason of the confidential nature of the business” to be discussed and in accordance with the Public Bodies (Admission to Meetings) Act 1960. (CONFIDENTIAL by virtue of relating to legal and/or commercial matters, staffing and/or the financial or business affairs of a person or persons other than the Council)*

# 11. BANK STATEMENTS AND RECONCILIATIONS (Standing Item)

To consider the bank statements and reconciliations for November (financial). To follow.

# 12. IT SOFTWARE

To consider expenditure on IT software (commercial). Document attached.

# 13. GUILDHALL COTTAGE

To note an update on the Guildhall Cottage (legal). Verbal update.

# 14. STAFFING UPDATE

For any general or urgent updates that required confidential sharing with Councillors (staffing). Verbal update.

Catherine Marlton

Town Clerk

4th December 2024

**USE OF SOUND RECORDINGS AT COUNCIL & COMMITTEE MEETINGS**

**The open proceedings of this Meeting will be audio and video recorded. If members of the public make a representation, they will be deemed to have consented to being recorded. By entering the Council Chamber or Zoom meeting, attendees are also consenting to being recorded.**

**Televised, vision and sound recordings or live broadcastings by members of the press or public at Council or Committee debates are permitted and anyone wishing to do so is asked to inform the Chairman of the respective Committee of their intention to record proceedings.**

### ITEM 2 – CONFIRMATION OF MINUTES

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# DRAFT MINUTES FOR THE MEETING OF COUNCIL MATTERS

# MONDAY 11TH NOVEMBER 2024 AT 6.30PM IN THE GUILDHALL

**Present:** Councillors D Peters (Chair), C Beavis, T Bennett, J Chinnock, J Hannam and E Price.

**Apologies:** Cllr Robshaw.

**In Attendance:** Cllr Collinson (for part of the meeting) and C Marlton (Town Clerk).

# 1. APOLOGIES FOR ABSENCE

The Chair read a statement about how the meeting would be conducted and recorded. The apologies were accepted.

Cllr Chinnock proposed that Cllr Collinson be invited to participate in item 12 of the agenda (part 2) given her knowledge. It was **AGREED** to invite Cllr Collinson to attend this single item as an exception to Standing Orders.

PUBLIC QUESTION TIME

There were no members of the public present.

**2**.  **CONFIRMATION OF MINUTES**

**To approve the minutes of 14th October 2024 and update on any matters arising.**

The minutes were **AGREED** unanimously as an accurate record of the proceedings.

**3. BUDGET MONITOR**

**To consider the Budget Monitor including:**

**a. the reserves projection; and**

Subject to an amendment on the Guildhall Wedding/Hire income line, the budget monitor was **AGREED**.

**b. allocation of unallocated Strategic Priorities Budget.**

This will be considered at the Cllr at budget setting session at the end of November.

**4. COUNCILLOR USE OF PREMISES AND EQUIPMENT POLICY**

**To consider a policy covering Councillor use of Council premises and equipment.**

To **RECOMMEND** to Full Council that it adopts the Councillor use of Council premises and equipment policy.

**5. TRANSFER OF FUNDS**

**To consider the transfer of funds into the Council’s saving accounts.**

It was **AGREED** to:

* Transfer to Nationwide 35 Day Saver Account £ 16000.00
* Transfer to Charity Bank Easy Access Account £145000.00

**6. MHCLG CONSULTATION ON REMOTE MEETINGS**

**To consider the Ministry of Housing, Communities and Local Government consultation on ‘Enabling remote attendance and proxy voting at local authority meetings’ and make any recommendation to Full Council (deadline 19th December).**

The Committee expressed support for the use of remote or hybrid meetings as an option, particularly in an emergency. However, they raised concerns about the validity of proxy voting and how that is compatible with avoiding pre-determination. It was **AGREED** that the Town Clerk would draft the consultation response for consideration by Full Council.

# 7. DISCIPLINE POLICY AND PROCEDURE

**To review the Discipline Policy and Procedure.**

It was **AGREED** to adopt the updated Discipline Policy and Procedure.

# 8. GRIEVANCE POLICY

# To review the Grievance Policy.

It was **AGREED** to adopt the updated Grievance Policy.

# 9. DATE OF NEXT MEETING

**To note the date of the next meeting of the Council Matters Committee – Monday 9th December 2024 at 6.30pm in the Guildhall.**

Noted.

*The Committee will be asked to* ***RESOLVE*** *to exclude the press and public “by reason of the confidential nature of the business” to be discussed and in accordance with the Public Bodies (Admission to Meetings) Act 1960. (CONFIDENTIAL by virtue of relating to legal and/or commercial matters, staffing and/or the financial or business affairs of a person or persons other than the Council)*

# 10. BANK STATEMENTS AND RECONCILIATIONS (Standing Item)

**To consider the bank statements and reconciliations for October (financial).**

These were reviewed and **AGREED**.

# 11. CLOSED CIRCUIT TELEVISION AT THE CIVIC HALL

# To consider quotes for the installation of CCTV at the Civic Hall (commercial).

The quote was **AGREED** subject to South Hams District Council consent.

# 12. DEVON HIGHWAYS

# To consider how to challenge Devon Highways on the pavement width required for accessibility legislation (legal).

It was **AGREED** that the Town Clerk would draft a letter to the leaders of Devon County Council and South Hams District Council regarding the concerns raised, for consideration by Full Council. It was **AGREED** that the Town Clerk would continue to escalate the concerns via Devon Association of Local Councils (DALC).

# 13. STAFFING UPDATE

**For any general or urgent updates that required confidential sharing with Councillors (staffing).**

Noted.

The meeting closed at 8.00pm

Catherine Marlton

Town Clerk

November 2024

**ITEM 3 – STRATEGY DELIVERY WORKING GROUP RECOMMENDATIONS**

1. Environment and Public Realm Working Group, 27th November 2024.

Item 2 – Budget. To **RECOMMEND** to the Council Matters Committee that the following allocations from the EPR budget are agreed for in year spend:

* PRD2.F Public Bins - funding allocated for larger ‘120-size’ public bins. Costs have been requested from SHDC.
* PRD2.P Public Art/railway bridge - that the Council paints the railway bridge in town and funding is allocated for this task (cost – TBC).
* PRD7.C Community Composting [new deliverable] - £300 allocated to the Community Composting project to cover the survey cost for printing and distribution. Subject to the results of the public survey and further Town Matters Committee and Full Council discussion, £1500 is allocated/ringfenced for costs for planning permission.
* PRD8.A Vehicle Activated Signage – two signs to be purchased subject to Devon Highways (DH) confirmation of suitable locations. Approx £6K total cost.
* PRD8.C Totnes Welcomes Careful Drivers Signage – costs to be confirmed for signs at main road entry points to the town.

Item 3 – Delivery Plan [for items not covered by the budget recommendations]:

* PRD2.E Seagull Survey – to **RECOMMEND** to the Council Matters Committee that this project is removed, as the £2K required would be better invested in larger waste bins to deter seagull activity in the town.
* PRD2.O Cistern Street/bypass – to **RECOMMEND** to the Town Matters Committee that the Council writes to DCC to see if they have any suggestions of how best to prevent illegal parking/encampments along this stretch of land with boulders, railings, etc.
1. Community Working Group, 3rd December 2024.

To follow.

1. Economy Working Group, 4th December 2024.

To follow.

1. Councillors Away Day, 30th November 2024.

See table below:

|  |  |
| --- | --- |
| **Community Development 24 25 - left to allocate** |  |
| **Environment/Public Realm** |  |
| Committed and spent | 4945 |  |
| Green travel - Vehicle Activated signage | 6000 |  |
| Community Composting Survey | 300 |  |
| Community composting - next steps after further discussion | 1500 |  |
| New Bins Phase 1 | 5000 |  |
| Initial tidy up Vire Island | 2500 |  |
| One off 'tidy' up by external contractor | 10000 |  |
| **TOTAL** | **30245** |  |
| **OVERSPEND** | **9150** |  |
| **Economy** |  |
| Committed and spent | 675 |  |
| Transport Feasibility Phase 1 | 10000 |  |
| **TOTAL** | **10675** |  |
| **UNDERSPEND** | **4325** |  |
|   |   |  |
| **Community** |  |
| Commited and spent | 38010 |  |
| Community mapping | 5000 |  |
| 50% generator cost | 355 |  |
| **TOTAL** | **43365** |  |
| **UNDERSPEND** | **7135** |  |
| **Strategic Priorities** |  |
| Away Day | 1000 |  |
| Emergency resilience grants | 15000 |  |
| Move to EMR for Skate Park | 45000 | Move to EMR |
| **TOTAL** | **61000** |  |
| **UNDERSPEND** | **5332** |  |
| **Total Community Development budget** | **152927** |  |
| **Total proposed expenditure** | **145285** |  |
| **Total UNDERSPEND** | **7642** |  |

# ITEM 5 – BURIAL AND CREMATION CONSULTATION

The Law Commission is currently conducting a consultation on Burial and Cremation. The Council Matters Committee is asked to consider elements of the consultation that relate to Totnes Cemetery – management, current and future use, and make any recommendations to Full Council. The consultation closes on 9th January 2025.

#### Extract from the Law Commission website (see <https://lawcom.gov.uk/project/burial-and-cremation/> )

#### The Law Commission is seeking to reform the law of burial in England and Wales, which is piecemeal, complex and outdated. It is also gauging solutions for unresolved issues in cremation law.

We have published a [consultation paper](https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/30/2024/09/Burial-and-Cremation-Consultation-Paper.pdf) and a [summary](https://cloud-platform-e218f50a4812967ba1215eaecede923f.s3.amazonaws.com/uploads/sites/30/2024/09/Burial-and-Cremation-CP-Summary.pdf) and are looking for views on our proposals. The consultation is open until  9 January 2025.

**The problem**

Burial law is governed by a patchwork of legislation, some of which dates to the 1850s. There are different laws in place for burial grounds which are operated by local authorities, the Church of England, the Church in Wales, and private burial grounds. This complex picture has emerged as a result of different historical development, and it means that there are gaps in the safeguards which protect the dignity of the people who are buried in burial grounds.

Burial space is running out across England and Wales, with the situation worse in some urban areas. Grave reuse has been proposed as a solution to this problem, but reform to permit the reuse of graves must include sufficient safeguards to maintain public support.

Cremation law has been reformed more recently in 2017, but some issues remain unresolved. Concerns have been raised about entitlement to ashes, and what may be done with them.  There are also issues relating to the ownership of medical implants which are removed before cremation and relating to sets of ashes which have not been collected from funeral directors’ premises.

**Our review**

This work is part of our overall Burial, Cremation and New Funerary Methods project, which has two other strands.

**The consultation paper**

On 3 October 2024 we published a consultation paper containing our provisional proposals, and open questions on issues relating to law reform. The consultation paper contains provisional proposals for reform on a number of issues. We consider:

* the regulation of burial grounds;
* grave reuse and reclamation;
* closed and disused burial grounds, and exhumation;
* the rights granted to the Commonwealth War Graves Commission; and
* cremation law.

**Next Steps**

We encourage stakeholders to respond using the [online questionnaire](https://consult.justice.gov.uk/law-commission/burial-and-cremation). The closing date for responses is  9 January 2025. We will use the responses to the consultation to develop our final recommendations for reform, which ultimately will be published in a report. We expect the report will be published towards the end of 2025.

*Town Council Officer Note:*

It is the burial sections of the consultation that concern the Council. Burial space is limited. The consultation looks at provisional proposals for reform to the law governing burial, as well as more control over private burial grounds (those not run by the Church of England or local authorities) in terms of recording keeping and maintenance.

Reusing and Reclaiming Old Graves – One of the key points of the consultation in relation to Totnes Cemetery is the potential for the reuse or reclaiming of old graves, for example in the original middle section of the cemetery, which would afford valuable additional space for the future. The following explanation in the Law Commission summary document explains the two processes:

*“Grave reclamation is when the space above existing burials in a grave is used to make further burials. It is already possible in circumstances where nobody owns the right to a grave, and our proposed reforms would not change this. Grave reuse is when remains in an old grave are disinterred, reburied, and the grave is used again. Reuse is commonly practised and understood in many countries. While its use in England and Wales is less common and it is less widely known, it is far from novel. Grave reuse has been used in Church of England churchyards since time immemorial, and is also permitted in London local authority cemeteries, and three other cemeteries as a result of private Acts of Parliament.”*

The proposed review would give cemeteries the ability – after much public consultation (see bold text below) – to consider this within the need for an Act of Parliament (a long and costly procedure). The following extract from the consultation explains the current position and proposed process:

*“****Exclusive burial rights*** *- are the rights to control a grave space: to determine who is buried in it and to place any memorial over it… Under the current law, a grave can be reclaimed if there are no exclusive burial rights in relation to it. That may be because they have expired, because there never were any, or, in the cemeteries which have such powers, because they have been extinguished. Our provisional proposals would not change this position. They would however permit more burial grounds to extinguish burial rights in graves, after which they could then reclaim them.*

***Extinguished burial rights*** *– The same rules when it comes to extinguishing burial rights apply whether the grave is then reused, or reclaimed. For burial rights to be extinguished in a grave, there must have been no burials made for at least 75 years.* ***The burial ground operator must publish a notice and serve it on the registered owner of the grave. After a minimum of six months the rights are extinguished. Any tombstone may be removed, and may be destroyed if it is not collected after three months. If any objection is made by the owners of the burial right within the six-month period, then the right will not be extinguished.*** *Any other objections also stop the process, unless the Secretary of State provides their consent. There are provisions for a registrar to resolve any disputes as to ownership, for details of any tombstones to be recorded and deposited with the Registrar General, and for compensation for any extinguished right to be paid if a claim is made within six months. The power to extinguish burial rights early does not apply to any rights which were granted after these provisions came into force. Once burial rights have been extinguished in a grave and any memorials dealt with, the law does not require any further steps under the law before a grave can be reclaimed.*

***Obtaining reuse and reclamation powers*** *- In order to obtain grave reuse and reclamation powers, we provisionally propose that burial ground operators should be required to apply for a decision to the Secretary of State. They would need to submit the results of a public consultation, and a grave reuse and reclamation plan including information about the graves affected, a conservation plan, and any mitigation steps identified through the consultation. We acknowledge that these requirements are burdensome and would take time and cost money to comply with. They could reduce the extent to which graves are reused. However, the costs involved will be less than the effort and expense of securing a private Act of Parliament, and this approach would provide reassurance to the public.*

***Safeguards for the reuse or reclamation of any specific grave.*** *We provisionally propose that expanded grave reuse and reclamation powers for all types of burial ground should have broadly the same safeguards as those in place where it is already permitted. Therefore, an objection from relatives of the deceased person or the grave owner should result in the process being stopped for 25 years. The burial ground operator should be required to tell a potential purchaser that a grave they are considering buying an exclusive right to burial in is one that is being reused or reclaimed. A key question on which we consult is how long the period should be between the last burial in a grave, and the point at which it can be reused or reclaimed. The current period before reuse or reclaimed is permitted is 75 years. Two main considerations are cited when it comes to how long that period should be: the time it naturally takes for a body to decompose, and ensuring that graves are not reused or reclaimed during the lifetime of someone who knew the deceased person. On that basis, we ask an open question consulting on a period of 75 years, 100 years, or another period.”*

All Consultation questions [with Yes/No/Don’t know and free text boxes to answer] are listed below but not all are of relevance to TTC (questions relating to cremation have not been included).

Approaches to regulating burial grounds

1. We provisionally propose that there should not be a single uniform burial law applying to private, local authority, Church of England and Church in Wales burial grounds. Instead, we provisionally propose that different aspects of regulation should be introduced for different types of burial grounds, where there is a case for doing so. Do consultees agree?

2. We provisionally propose that regulation of private burial grounds should encompass any land where the primary purpose is, or has been, burial. Do consultees agree?

We invite consultees’ views on whether the definition of burial in the Local Authorities’ Cemeteries Order 1977 has caused any problems. [Definition is: “…burial includes: (1) the interment of cremated human remains; (2) the interment of bodies of stillborn children or of their cremated remains; and (3) placing human remains, cremated human remains, or the remains of a stillborn child in a vault.]

3. We provisionally propose that: (a) it should be a criminal offence for a person making a burial outside a burial ground to knowingly fail to register it; (b) it should be a criminal offence for a person transferring an interest in that land, or creating a lease of more than 21 years on that land, to knowingly fail to transfer the burial register to the new owner or lessee; or for the lessee to knowingly fail to transfer it to the owner at the end of the lease; and (c) the maximum penalty for these offences should be a fine at level 2 on the standard scale (£500). Do consultees agree?

4. We provisionally propose that in a local authority cemetery, the religious services that accompany a burial in all areas reserved or consecrated to a religious faith should be restricted to those of that faith, or to no service at all. Do consultees agree?

Maintenance and burial specification

5. We provisionally propose that every burial ground owner should be required to maintain their burial ground in good order appropriate to its current use. Do consultees agree?

6. We invite consultees’ views on whether problems of poor maintenance of burial grounds are sufficient to impose requirements on burial ground operators, over and above setting a uniform standard of maintenance. We invite consultees to provide examples or evidence of issues with poor maintenance that would potentially justify such requirements. We invite consultees’ views as to whether, if further regulatory action should be taken in relation to the maintenance of burial grounds: (1) the Secretary of State should issue a statutory code of practice for burial ground maintenance, following consultation with stakeholders; or (2) all burial ground operators should be required to publish a management plan on a periodic basis.

7. We provisionally propose that the Secretary of State should continue to be able to authorise inspections of burial grounds. Where an inspection finds that the law is not being complied with, the Secretary of State should be able to issue a notice requiring actions to be taken to bring the burial ground into compliance. Do consultees agree?

8. We provisionally propose the abolition of the offence of failing to adhere to cemetery regulations in section 8 of the Burial Act 1855. Do consultees agree?

9. We invite consultees’ views on whether the Secretary of State should have the power to direct that a local authority takes over the management of a burial ground which has failed to comply with the actions required in a notice, and whether local authorities in such circumstances should have the power to charge costs back to the cemetery owner.

10. We invite consultees’ views on what the minimum burial depth should be for bodies buried in a non-perishable coffin, and for bodies buried in perishable coffin or wrappings.

We provisionally propose that: (1) in all burial grounds there should be six inches of soil between two coffins or bodies which are interred in the same grave; and(2) for walled graves or vaults, there should be a requirement for them to be properly constructed of suitable materials, and for the coffin to be embedded in concrete or enclosed in a separate airtight compartment within 24 hours of the interment. Do consultees agree?

We provisionally propose the creation of a new criminal offence of recklessly breaching minimum burial requirements, with a maximum penalty on summary conviction of a fine at level 2 on the standard scale (£500). Do consultees agree?

Burial rights and memorials

11. We provisionally propose that, in relation to all cemeteries: (1) it should be a requirement for all burial rights, both exclusive and nonexclusive, and memorial rights, to be issued in writing; (2) where this requirement is not met on the grant of a burial right, the purchaser should be able to request that their burial right is made out in writing, and that where the operator does not comply within a month the Secretary of State should have the power to issue a civil penalty; and (3) that where a burial right has not been issued in writing, there should be a presumption that the right is a statutory exclusive burial right. Do consultees agree?

12. We invite consultees’ views as to whether an optional scheme of statutory exclusive burial rights should be introduced for private cemeteries which are not already governed by their own Act of Parliament. If consultees support the introduction of an optional scheme of statutory exclusive burial rights, we invite consultees’ views on the following. (1) Should the right be able to be assigned by deed or inherited? (2) Should the right have a maximum duration of 100 years, subject to extension at the discretion of the cemetery operator? (3) Should there be any other features of such a scheme?

13. We provisionally propose that: (1) in its cemetery, a local authority should have the power to grant a memorial right to any relative of a person buried in a grave if no memorial has been placed on the grave two years after the burial; and (2) if there is a dispute between different relatives, or between the relatives and the owner of the exclusive burial right, a local authority should only have the power to grant the right to a neutral memorial displaying the name of the deceased person and their dates of birth and death. Do consultees agree?

14. We provisionally propose that a local authority should be permitted to maintain a tombstone, memorial or vault without the consent of its owner, if they have served notice on the owner at their last address known to the authority, and the owner has not objected within three months of such notice being served. Do consultees agree?

Record Keeping

15. We provisionally propose that: (1) a consistent system of burial registration should be introduced; (2) the requirement for burials (of both bodies and cremated remains) to be registered as soon as possible should be retained; (3) all burial ground operators should be under a statutory duty to keep the following documents: (a) a burial register; (b) a register of disinterments; (c) a plan of the burial ground; and (d) a register of rights granted; and (4) these records should be kept either electronically or on paper. Do consultees agree?

We provisionally propose the repeal of the criminal offences of failing to register a burial:

(1) by a private burial ground operator where registration is not governed by an Act of Parliament; and (2) by a Church of England minister when a burial takes place in consecrated ground in a Church of England churchyard without the rites of the Church of England. Do consultees agree?

16. We invite consultees’ views as to whether burial registration documents should be sent to the General Register Office or Historic England when a burial ground closes.

17. We provisionally propose that the criminal offences relating to burying a child as if it were stillborn and burying more than one body in a coffin should be repealed. Do consultees agree?

Grave reuse and reclamation

18. We provisionally propose that any grave reuse powers should apply to common or public graves, and to those where exclusive rights of burial have expired, as well as those where exclusive rights of burial have been extinguished. Do consultees agree?

19. We invite consultees’ views on the minimum time that must elapse between the last burial in a grave, and the burial rights in that grave being extinguished and the grave being reused. Should it be: (1) 75 years; (2) 100 years; or (3) a different period?

We invite consultees’ views as to whether there should be a requirement that a grave must not be reused if it still contains significant remains from a previous burial. If so, we invite consultees’ views on what should count as “significant remains”.

We invite consultees’ views on whether there is a case for the Secretary of State to be able to permit certain cemeteries to reuse graves after a shorter period of time in exceptional circumstances, and where the people, making burials in the graves which are to be reused, consent to it.

20. We provisionally propose that, in any extension of grave reuse and burial right extinguishment powers, notices should be posted: (1) on the burial ground operator’s website if they have one; (2) in local newspapers; (3) by the grave and entrances to the cemetery; and (4) should be sent to the last known address of the owner of the burial rights and memorial. Do consultees agree?

We provisionally propose that one notice should suffice for both grave reuse and extinguishing burial rights. Do consultees agree?

21. We provisionally propose that in any extension of grave reuse powers, remains which are moved in order to reuse a grave must be either reinterred in the original grave, or in another grave in the same cemetery, below the level of the ground in a grave consisting wholly or substantially of earth. Do consultees agree?

22. We provisionally propose that burial ground operators should be required to keep a register of disinterments. Do consultees agree?

23. We provisionally propose that burial ground operators should be required to disclose the fact that a grave has been reused or reclaimed to potential purchasers. Do consultees agree?

24. We provisionally propose that burial ground operators should be able to apply to the Secretary of State for a decision enabling them to extinguish burial rights in graves and reuse graves, on a case-by-case basis. Do consultees agree?

We invite consultees’ views on whether applications for grave reuse and reclamation powers should be made: (1) by each burial authority to cover all of their burial grounds; or (2) for each burial ground individually.

We provisionally propose that an application for grave reuse and reclamation powers should be accompanied by: (1) a grave reuse and reclamation plan setting out any additional mitigation proposed and identifying the graves which are intended to be affected; and (2) the results of a consultation with those living near the burial ground and those with friends or relatives buried in the burial ground. Do consultees agree?

Closure and reopening of burial grounds

25. We provisionally propose that a burial ground, or any other specified area, should be closed to new interments by a decision of the Secretary of State, rather than by Order in Council. Do consultees agree?

26. We provisionally propose that the Secretary of State should have the power to close a burial ground where: (1) there is no useable space for new burials in graves which are free from exclusive burial rights; (2) the legal minimum standard of maintenance or burial specifications have not been complied with; or (3) the burial ground represents a risk to public health. Do consultees agree? 7.74 We invite consultees’ views as to whether there are other reasons why a burial ground should be closed to new interments. 7.75 We provisionally propose that the Secretary of State must post notice of the intention to close a burial ground at the entrances to the burial ground, and in the London Gazette, for two months before a burial ground can be closed. Do consultees agree?

27. We provisionally propose that the fault element of the offence of burying a body in a

closed burial ground should be knowledge that the burial ground has been closed to further burials. Do consultees agree?

We provisionally propose that the maximum sentence for the offence of burying a body in a closed burial ground is increased to level 3 on the standard scale of fines, which is currently set at £1,000.

Do consultees agree?

28. We provisionally propose that the existing exceptions to the power to close a burial ground to new interments should be ended, and that the existing exemption in relation to burials with the approval of the Sovereign in St Paul’s Cathedral or Westminster Abbey should be extended to include all royal peculiars. Do consultees agree?

29. We provisionally propose that the Secretary of State should have the power to reopen burial grounds which have been closed to new interments, with the agreement of the burial ground owner, or the incumbent. Burial grounds could be reopened in full, or partially by reference to a particular area or purpose. Do consultees agree?

30. We provisionally propose that where a closed Church of England churchyard is reopened, any local authority which has become legally responsible for its maintenance should continue to have that responsibility. Do consultees agree?

We invite consultees’ views on whether Church of England fees for funerals and burial should be shared with local authorities, or whether an additional fee payable to local authorities should be charged, in relation to reopened churchyards.

Question 31 relates to the Church of Wales

Questions 32 – 36 relate to exhumations

Questions relate to the Commonwealth War Graves Commission

37. We provisionally propose that: (1) every time a local authority burial authority seeks to exercise powers under articles 10(5) or 16(2) of LACO 1977, it should be required to notify the CWGC; and (2) it should be a requirement for the local authority to share information about which graves it intends to take this action in relation to, and then for the CWGC to confirm whether the grave is a Commonwealth war grave. Do consultees agree?

38. We provisionally propose that where a local authority has followed the process to obtain the right to maintain a monument whose owner cannot be contacted:(1) the consent of the CWGC should be required for the local authority to undertake ordinary maintenance to Commonwealth war graves in relation to which they do not own the memorial or the burial rights; and (2) the CWGC should have the right to maintain such graves. Do consultees agree?

We provisionally propose that the CWGC should be able to maintain any memorial over a Commonwealth war grave in a private burial ground without the consent of its owner, if a notice has been served on the owner of the memorial right and they have not responded within three months. Do consultees agree?

39. We provisionally propose that the CWGC should be informed every time a burial ground operator seeks to extinguish burial rights or reuse a grave, and it should have the power to object to these actions in relation to Commonwealth war graves. Do consultees agree?

We provisionally propose that the CWGC should be informed every time a burial ground operator seeks to make a further burial above a grave where the person buried died between 4 August 1914 and 31 August 1921, or between 3 September 1939 and 31 December 1947. The CWGC should have the power to object to the reclamation of Commonwealth war graves. Do consultees agree?

40. We provisionally propose that the CWGC should have the right in respect of compulsorily purchased land to remove remains in Commonwealth war graves and to reinter or cremate them, and to remove any memorials. Do consultees agree?

41. We invite consultees’ views on whether the Ministry of Justice should be required to consult with the Commonwealth War Graves Commission in relation to exhumations of deceased people who died during the periods between 4 August 1914 and 31 August 1921, or between 3 September 1939 and 31 December 1947.

Question 42 relates to private burial ground operators.

Questions 43-54 related to cremation.

55. We invite consultees’ views on: (1) whether there are circumstances or places in England and Wales where it is difficult for people to find a burial space in locations of their choice; (2) whether our provisional proposals in this Consultation Paper would help to address the availability of burial space; (3) what impact our provisional proposals in this Consultation Paper might have on reducing distress to family and friends of deceased people; and (4) whether more comprehensive or frequent collection of data on burial grounds would be of practical value.

56. We invite evidence from consultees on: (1) their general perception of the affordability of burial and cremation; (2) the contribution that burial costs and burial plot fees make to the costs that families and friends bear when organising a funeral; and (3) the impact that our proposed reforms might have on reducing or increasing these costs.

57. We invite evidence from consultees on: (1) the costs and benefits private burial grounds are likely to see as a result of our provisional proposals; (2) the costs and benefits funeral directors are likely to see as a result of our provisional proposals; and (3) any benefits or costs that are likely to arise if the rules on the siting of crematoria were repealed.

58. We invite evidence from consultees on: (1) the scale of any benefits that are likely to accrue to local authorities if they obtain grave reuse and reclamation powers; (2) the likely additional cost of maintaining Church of England churchyards if they are reopened, and the level of fees that would be required in order to mitigate that cost; (3) the cost to Welsh local authorities if maintenance responsibility for Church in Wales churchyards could be transferred under the law; and (4) any impact on local authorities that might arise from repealing the rule on the siting of crematoria.

59. We invite consultees’ views on the potential impact of our provisional proposals on costs to Government, and other operators and owners of burial grounds and crematoria.

**ITEM 6 – PAYMENTS TO COUNCILLORS**

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**Payments to Councillors Policy**

TOTNES TOWN COUNCIL

DECEMBER 2024

NEXT REVIEW DECEMBER 2025

*This Policy outlines the occasions on which payments may be made to Town Councillors.*

**Councillor Allowances**

Whilst there is no provision in law enabling town and parish councils to pay individual councillors a wage commensurate with work done by that individual nevertheless the council notes and recognises the time commitment of councillors as well as the many incidental costs they incur in carrying out council business.

Such incidental expenses include: -

a) the use of their homes.

b) telephone calls from home landlines and mobile phones.

c) stationary, printing and IT costs.

d) use of car, motorcycle or bicycle.

Please note that this list is indicative and not meant to cover every circumstance in which incidental expenses may be incurred.

Totnes Town Council will pay a basic members allowance to elected members intended to compensate for time taken on council business and these incidental costs, except that travelling expenses incurred on council business as specified below can be the subject of a specific claim.

In order to qualify for this allowance, Councillors must attend 75% of Full Council meetings plus meetings of one committee during the 12 months prior to the payment being made. Councillors who start part way through the year will receive a pro rata allowance assuming they have attended 75% of the meetings as detailed above during their time. Councillors who are not on at least one committee are not eligible to claim this allowance. Also Co-opted Councillors are not eligible to receive this allowance – this is not a local decision and is set down in Regulation 25 of the Local Authorities (Members’ Allowances) (England) Regulations 2003.

The levels of allowance paid are agreed by South Hams District Council in accordance with national legislation. The annual permitted allowance for members of Totnes Town Council is £487.50 and this is subject to taxation.

Town Councillors who are members of another local authority and who are entitled to an allowance from that authority should be guided by the Declaration of Interest Guidance in the Council’s Code of Conduct.

**NOTE: Town Councillors will be required to declare their allowance to HMRC through the Town Council PAYE system.**

**Rates set by South Hams District Council**

**Parish Basic Allowance**

The formula recommended by the Parish Remuneration Panel at its last meeting calculates an allowance based on a percentage of the district basic allowance (now fixed at £6500 per annum) and the size of the electorate.

|  |  |  |
| --- | --- | --- |
| **Electorate** | **% of District Basic Allowance** | **Amount per Councillor** |
| **5,001 – 10,000** | **7.5%** | **£487.50** |

**Chairman / Mayor’s Allowance**

An additional sum will be allocated to a Chairman / Mayor of £100, claimable by receipts. Please see the Civic and Mayoral Budget Policy for details.

**Travel Allowance**

An elected and co-opted Councillor shall, in addition to their entitlement to a Basic Parish Allowance or Chairman’s Allowance, will only in exceptional circumstance be paid a travelling expense in respect of travelling undertaken in connection with the duties and only for journeys outside the parish boundary.

Councillors may be reimbursed for expenses for travel when carrying out duties approved by the council or in connection with the discharge of the functions of the council or any of its committees or working parties. This includes attendance at training courses.

Approval for the attendance at events referred to above must be approved in advance.

Councillors will not receive expenses for attendance at any meeting of Totnes Town Council or work within the parish.

The main rates are:

a. The council will pay a travel allowance in accordance with the following:

* Cars: 45p per mile
* Motorcycles: 24p per mile
* Public transport: lowest available second-class fare only, ticket receipts required
* Parking cost: actual cost with receipt

Taxis

In rare cases of urgency where no public transport is reasonably available the amount of the actual fare will be paid. In any other case, the amount of the fare for travel by appropriate public transport will be paid.

Rail Travel

Tickets should be purchased through the office as far in advance as possible to minimise costs. All tickets will be standard class, and Councillors should use any discounts available to them.

b. Subsistence Allowances

Subsistence is reimbursement from the Council to a Councillor in respect of actual food and drink costs they have incurred during their approved duty. Expenses will not be paid where a suitable meal is provided as part of the event (e.g. at a course or conference).

If a town councillor is away from their usual place of residence for more than four hours, they can claim £10.00 towards their breakfast, lunch and/or evening meal.

In exceptional circumstances, if a Councillor must stay away from home overnight on an approved duty, then dinner, bed and breakfast (at a reasonably priced rate with full supporting receipts) may be claimed.

Where hotel accommodation is essential it will be in a reasonably priced hotel (e.g. Travel Inn or 3 star hotel), and must be booked in advance by the office.

**Reimbursement of expenditure**

Items required by Councillors to carry out their approved duties must be ordered and paid for through the office in advance of the event.

**Councillor Training**

All Councillor training will be booked and paid for through the office.

**Administration**

Claim forms are available from the Finance, HR and Lettings Manager.

In general, appropriate VAT receipts must be obtained for all expenses incurred.

Reimbursement of the VAT element, or the entire sum will be withheld in cases where there is no receipt.

Any dispute over claims or reimbursement of expenses will be considered by Full Council.

**ITEM 7 – ASSET TRANSFER POLICY **

**DRAFT Asset Transfer Policy**

TOTNES TOWN COUNCIL

TO BE CONSIDERED DECEMBER 2024

**1. Introduction**

* This policy provides a framework and set of guidelines for Totnes Town Council to evaluate the transfer of assets or services from other authorities or organisations.
* It outlines the due diligence requirements, assessment criteria for both assets and services, and essential initial questions to develop a comprehensive business case.

**2. Key Assessment Principles**

**a. Asset Evaluation Criteria** Each potential asset transfer will be evaluated based on the following criteria:

* **Ownership and Tenure**
	+ Determine whether the asset is owned or leased by the transferring authority.
	+ Establish whether the transfer involves freehold or leasehold ownership.
	+ **[Clarify any potential legal liabilities associated with either freehold or leasehold transfer, including specific indemnities required. Seek legal advice on drafting these clauses if needed.]**
* **Occupancy and Use**
	+ Identify any current tenants and terms of occupancy agreements.
	+ Review any restrictions, covenants, or agreements that may affect the future use or disposal of the asset.
	+ **[Legal advice may be necessary to confirm whether existing tenant agreements will transfer to Totnes Town Council and to address potential future liabilities related to these agreements.]**
* **Condition and Maintenance**
	+ Review any available condition surveys, noting that independent assessments may be advisable.
	+ Examine existing maintenance plans, historical maintenance spending, and current condition.
	+ **[Determine whether Totnes Town Council is expected to assume responsibility for current or deferred maintenance obligations upon transfer; obtain legal input on potential indemnities or warranties from the transferring authority regarding the asset's condition.]**
* **Statutory Testing and Compliance**
	+ Confirm the status of statutory testing (e.g., electrical, gas, asbestos surveys, RoSPA) to ensure compliance.
	+ **[Include provision to ensure responsibility for statutory testing is clarified before the transfer. Seek legal guidance on any compliance certifications required to avoid future liability.]**
* **Financial Implications**
	+ Assess operational expenses such as business rates, insurance, and ongoing costs.
	+ Check the date of the last insurance valuation and consider potential cost adjustments.
	+ Request a breakdown of income and expenditure related to the asset over a representative period (e.g., 5-10 years).
	+ Determine if financial support accompanies the transfer or if the asset will be brought up to standard prior to transfer.
	+ To request and consider a record of insurance claims history.
	+ **[Verify whether the council’s insurers require any specific conditions for liability coverage or if exclusions apply for certain types of assets. Seek advice on insurable risks and conditions.]**
* **Strategic Fit and Risk Assessment**
	+ Evaluate the asset’s development potential or intrinsic value and identify any risks, including any historic or current complaints or proceedings.
	+ Liaise with the Police and local community groups or residents to understand if there is a history of anti-social behaviour to consider.
	+ Determine if the asset is listed or protected and if it aligns with the council’s broader strategic or long-term plans.
	+ **[Clarify if legal protections or indemnities are advisable for risks related to listed or protected assets. Obtain legal advice on clauses to limit liability in cases of unforeseen regulatory changes.]**

**b. Service Evaluation Criteria** Transferred services should align with Totnes Town Council’s strategic priorities and be assessed based on the following:

* **Nature of Service**
	+ Establish whether the service is statutory or discretionary.
	+ Define baseline standards, requirements, and legal compliance obligations.
	+ **[Seek legal input on any specific compliance standards for statutory services, including penalties or liabilities for non-compliance.]**
* **Fit with Council Capabilities**
	+ Evaluate Totnes Town Council’s capacity to manage and deliver the service effectively.
	+ Assess resource needs, including any skills, equipment, or facilities required.
	+ **[Legal and HR advice may be required to address workforce needs, especially where additional qualifications or certifications are needed.]**
* **Financial and Staffing Considerations**
	+ Review budget implications, including any financial support, revenue sources, and ongoing costs.
	+ Determine if TUPE (Transfer of Undertakings Protection of Employment) applies and conduct due diligence on staffing needs, performance, and employment terms.
	+ Assess any impacts on the council’s staffing structure, salary grades and collective agreements.
	+ **[Seek specific advice on employment law and TUPE implications to prevent future liabilities. Clarify if indemnities or warranties may be needed from the transferring body regarding employment obligations.]**

**c. Business Case Development** A business case must be prepared for all potential transfers to ensure clarity and informed decision-making. Core questions to address include:

* **Rationale for Transfer**
	+ Understand why the transferring authority wishes to divest the asset/service and its importance.
	+ Clarify what is being transferred, including any limitations.
	+ **[Request legal advice on potential restrictions or limitations that may not be immediately apparent but could impose future liability on Totnes Town Council.]**
* **Strategic and Operational Fit**
	+ Assess how the transfer aligns with Totnes Town Council’s strategic plans and any relevant district plans.
	+ **[Ensure legal guidance is obtained if strategic alignment creates any implied long-term obligations or restrictions on council activities.]**
* **Support and Future Obligations**
	+ Determine the level of support available if Totnes Town Council assumes responsibility, as well as implications if the transfer does not proceed.
	+ **[Consult insurers to verify future obligations and ongoing liability coverage; confirm any specific legal clauses to clarify support expectations or indemnities.]**
* **Transparency and Community Engagement**

Totnes Town Council recognizes the importance of engaging with the community in a transparent and inclusive manner to ensure that any asset or service transfer reflects the needs and aspirations of its residents. As part of this process, the following considerations will be addressed:

* + Stakeholder Mapping: Identify and consult with relevant community stakeholders, including local user groups, residents, and other interested parties, to ensure broad representation of views.
	+ Assessment of Interest Group Proportionality: Evaluate the size and representativeness of the interest groups supporting or opposing the asset transfer. Consider whether the level of interest is proportionate to the broader community's needs and priorities, ensuring resources are allocated equitably.
	+ Consideration of Pressure Groups and Agendas: Identify any active pressure groups or advocacy agendas related to the asset or service. Assess their motivations and potential influence on public opinion and decision-making, ensuring that Council decisions remain impartial and focused on the broader public interest.
	+ Transparent Communication: Clearly outline the Council’s decision-making process, potential impacts of the transfer, and how feedback will be incorporated. Ensure this information is accessible to all sectors of the community.

**3. Approval and Governance**

* Each potential transfer will be reviewed by Totnes Town Council, with final approval subject to a comprehensive review by professional advisers as needed.
* The Council will refer to relevant best practice guidelines and ensure alignment with all legal and regulatory requirements.
* The Council is required to ensure they have the legal and regulatory requirements to spend public funds on the service or asset.

**4. Legal and Insurance Considerations**

* **[Include specific steps to consult legal and insurance advisors throughout the transfer process, especially in drafting and approving terms regarding liability, indemnity, and potential future claims.]**
* **[Insert clause here specifying that Totnes Town Council will require an indemnity from the transferring body where possible, to cover unforeseen liabilities and future claims.]**

# 5. Policy review and monitoring process

This policy provides a structured approach for evaluating asset and service transfers, incorporating due diligence throughout. Regular reviews and updates of this policy are recommended to maintain alignment with evolving legal standards and Council objectives.

# ITEM 9 – MATERNITY, PATERNITY AND ADOPTION POLICY

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**MATERNITY, PATERNITY AND ADOPTION LEAVE AND PAY POLICY**

**TOTNES TOWN COUNCIL**

**December 2024**

**Maternity Policy**

1. **Definitions**

The following definitions are used in this policy:

* "Expected week of childbirth" (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects them to give birth; and
* "Qualifying week" means the fifteenth week before the expected week of childbirth.
1. **To Whom This Policy Applies**

The occupational maternity scheme shall apply to all pregnant employees regardless of the number of hours worked per week.

1. **Notification Requirements**

An employee shall notify the Town Clerk in writing at least 28 days before their absence begins or as soon as is reasonably practical:

* That they are pregnant;
* Of the EWC, providing a copy of form MATB1 as supplied by a registered medical practitioner; and
* The date on which they intend to start their maternity leave.

The employee may vary the date on which they intend to start their maternity leave provided that they notify their employer of the revised start date. To start the leave sooner, the employee must tell the employer at least 28 days before the **new** start date. To start the leave later, the employee must tell the employer at least 28 days before the **old** start date. If either of these are not reasonably practicable, the employee must tell the employer as soon as is reasonably practicable.

1. **Health and Safety**

On receipt of written notification from an employee that they are pregnant, the Town Clerk should carry out a risk assessment. The employee and relevant manager should be fully informed of any risks identified. The manager and employee have an ongoing responsibility to monitor any potential risks that may be present.

1. **Ante-Natal Care**

Any pregnant employee has the right to a reasonable amount of paid time off to attend ante-natal appointments made on the advice of a registered medical practitioner, which may include relaxation classes and parent-craft classes. Employees must produce evidence of appointments if requested to do so.

1. **Maternity Leave**

**6.1 Ordinary and Additional Maternity Leave**

All pregnant employees, regardless of their length of service, are entitled to 26 weeks’ ordinary maternity leave (OML) and 26 weeks’ additional maternity leave (AML) providing a right to one year’s maternity leave in total.

Maternity leave shall commence no earlier than 11 weeks before the EWC or from the time of childbirth if that is earlier.

From the beginning of the fourth week before the EWC, an employee’s maternity leave may be triggered if they are absent due to a pregnancy-related illness.

1. **Maternity Pay**

**7.1 Less Than One Year’s Continuous Service**

Payments for employees who have less than 1 year’s continuous local government service at the beginning of the eleventh week before the EWC shall be the employee’s entitlement to Statutory Maternity Pay (SMP) or Maternity Allowance (MA).

Statutory maternity pay (SMP) will be payable if the employee has been employed continuously for at least 26 weeks ending with the 15th week before the EWC, and has an average weekly earnings at least equal to the lower earnings limit for National Insurance contributions.

SMP is payable for 39 weeks. For the first six weeks it is paid at 90 percent of the average weekly earnings. The following 33 weeks will be paid at the lower SMP rate or 90 per cent of the average weekly earnings whichever is the lower.

Employees who do not qualify for Statutory Maternity Pay may be entitled to Maternity Allowance, for up to 39 weeks. To qualify, they must have been employed or self-employed for 26 weeks out of the 66 weeks before the expected week of childbirth.

Details of the current rates of Statutory Maternity Pay and Maternity Allowance may be found on the government’s website [www.gov.uk](http://www.gov.uk)

**7.2 More Than One Year’s Continuous Service**

Payments for employees who have completed 1 year’s continuous service with a body listed on the Redundancy Modification Order (which includes local government) at the 11th week before the EWC shall be as follows:

First six weeks of absence:

The employee will be entitled to nine-tenths of a week’s pay. This will be offset against payments made by way of SMP (or Maternity Allowance [MA] for employees not eligible for SMP). This means that any SMP or MA payments will not be paid in addition to the nine-tenths of a week’s pay; instead the higher of these amounts will be paid.

Weeks 7 – 52 of absence:

**An employee who declares in writing that they intend to return to work** will, for the subsequent 12 weeks’ absence, receive half a week’s pay. They will also receive SMP (or MA and any dependent’s allowances if the employee is not eligible for SMP), if eligible to do so. The only reason that any deduction will be made is if the combined pay and SMP (or MA and any dependent’s allowances if the employee is not eligible for SMP) exceeds their contractual full pay.

As an alternative to the twelve weeks’ half pay the equivalent amount (i.e. 6 weeks’ pay) may be paid over any other mutually agreed distribution.

The twelve weeks’ half pay (or equivalent payment) made by the employer during maternity leave is made on the understanding that the employee will return to local authority employment for a period of at least three months. In the event that they do not do so, they will be required to refund the monies paid. This may be varied at the discretion of the employer if there is good reason to do so. Payments made to the employee by way of SMP are not refundable.

For the remainder of the maternity leave period the employee will receive their entitlement to SMP (which currently ends after 39 weeks in total), where eligible. Once the SMP payments have ended any remaining maternity period will be unpaid.

**For employees not intending to return to work**, payments during their maternity leave period following the first 6 weeks will only be their entitlement to SMP (currently ending after week 39), where eligible.

1. **Pension**

The following information relates to employees who are members of the Local Government Pension Scheme.

**Employee Contributions During Maternity Leave**

Employees will pay pension contributions at their ‘normal’ percentage rate during any period of paid leave.

Employees will not pay pension contributions during any period of unpaid leave. However, there is a distinction between the following:

* Periods of unpaid Ordinary Maternity Leave when the employer continues to make pension contributions.
* Periods of unpaid Additional Maternity Leave and Additional Adoption Leave, when the employer does not make any pension contributions.

In the latter case the employee can, if they wish, choose to enter into an age-related Additional Pension Contribution (APC) to cover the amount ‘lost’ during the unpaid leave. Information about this is set out in the employer’s information below.

**Employer Contributions During Maternity Leave**

The Town Council will pay employer contributions on the employee’s Assumed Pensionable Pay (APP).  APP is calculated with reference to the average pensionable pay the employee received in the 3 months immediately preceding the period of reduced or nil pay.  If, however, the employee’s pay during their leave is higher than APP, the Town Council will pay contributions based on this higher amount.

APP does not apply during any unpaid period of Additional Maternity Leave.  The employee can, if they wish, choose to enter into an age-related Additional Pension Contribution (APC) to cover the amount of pension ‘lost’ during the unpaid leave.

If the employee notifies the Town Clerk in writing within 30 days of returning to work that they wish to enter into an APC then:

* The employee will pay 1/3 of the cost of the APC
* The employer will pay 2/3 of the cost of the APC.

If the employee notifies the Town Clerk of this decision later than 30 days after returning to work then the whole cost will be borne by the employee, unless the Town Council voluntarily agrees to contribute to the APC.

1. **Continuous Service**

Maternity leave counts as continuous service for statutory and contractual purposes.

1. **Leave During Maternity Leave**

**10.1 Annual Leave**

Annual leave continues to accrue during maternity leave.

**10.2 Bank/Public Holidays**

Bank/public holidays continue to accrue during maternity leave.

**10.3 Carry Forward of Annual Leave**

The employee and their line manager should review annual leave arrangements prior to maternity leave being taken.  Where taking maternity leave means that the employee is unable to take their full annual leave entitlement in the current annual leave year, the outstanding leave (including any days in lieu of bank/public holidays) can be carried over to the next annual leave year.

**10.4 Treatment of Leave Where an Employee Changes Their Hours after Maternity Leave**

If an employee changes their hours after taking maternity leave, all leave accrued up to the agreed date when their hours change is calculated based on their original hours and any leave accrued subsequently is calculated on their new hours.

For an example of calculating this, see Appendix A.

1. **Returning To Work**

**11.1 Notification requirements**

Managers must assume that an employee will return after 52 weeks. An employee need only notify their employer that they are returning to work if they are going to do so before the end of their maternity leave. Otherwise, the employee simply returns at the end of their maternity leave. However, as the return to work impacts on the half pay element of the Green Book maternity pay, a manager can ask the employee to inform them if they intend to return to work. Please note that an employee can change their mind up to the point when they actually give notice and resign. If an employee can let their manager know when they are likely to return as soon as possible that would be appreciated.

**11.2 Early return**

If an employee wishes to return early or on a different date than they had previously notified, they must give 21 days’ notice.

**11.3 Keeping In Touch**

An employee can work up to 10 days’ during their maternity leave, in agreement with their manager, without bringing their maternity leave to an end. Working for part of a day will count as one day and the employee will not lose any SMP (Statutory Maternity Pay) for working up to 10 days.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Managers need to ensure that they keep in touch with their employees whilst they are on maternity leave. If the employee does not wish to be contacted, then they should notify their line manager. Newsletters and any other relevant correspondence will be sent to all employees whilst they are on maternity leave.

**Paternity Policy**

1. **To Whom This Policy Applies**

An employee has a statutory entitlement to take paternity leave for the purpose of caring for a child or supporting the child’s mother.

1. **Paternity Leave (PL)**

**13.1 Eligibility Criteria**

To qualify for paternity leave an employee must satisfy the following:

* In the case of a birth child, the employee must be:
	+ the biological father of the child; or
	+ the mother's spouse, civil partner or partner.
* In the case of an adopted child, the employee must be:
	+ the spouse, civil partner or partner of an individual who has adopted a child.
	+ Where a couple adopt a child jointly, one may take adoption leave and the other paternity leave.
* The employee must have or expect to have responsibility for the upbringing of the child.
* The employee must have complied with the relevant notification requirements and, where requested, have produced evidence to support their claim for paternity leave.
* The employee must have 26 weeks' continuous service with their current employer.

For the purposes of this policy, continuous service is calculated as follows:

* In the case of a birth child, the employee must have 26 weeks’ continuous service with their current employer by the end of the 15th week before the week in which the child is expected to be born.
* In the case of a child adopted within the UK, the employee must have 26 weeks’ continuous service with their current employer by the end of the week in which the adoption agency formally notifies the adopter that they have been matched with the child.
* In the case of a child adopted from overseas, the employee must have 26 weeks’ continuous service with their current employer by the end of the week in which the adopter receives the official adoption notification from the relevant domestic authority, or starting with the week in which the employee's employment began. The latter option allows for the possibility that the official notification may be received a year or more before the child enters the UK, and the employee may have changed employer in this time.

**13.2 Paternity Leave (PL)**

An employee who meets the qualifying criteria is entitled to two weeks’ paternity leave. The entitlement is up to two weeks' leave even where more than one child is born.

An employee can take either two separate blocks of one week or two consecutive weeks. An employee cannot choose to take odd days of paternity leave and paternity leave cannot be used before the birth.

An employee is not entitled to take paternity leave if they have already taken any shared parental leave in respect of the child.

Paternity leave must be taken within 52 weeks of the birth or placement with their adoptive parent, or in the case of a child adopted from overseas, within the period of 52 weeks beginning with the date the child entered Great Britain.

If the child is born prematurely, paternity leave must be taken during the period that begins with the birth of the child and ends 52 weeks after the week in which the child was expected to be born.

Where the child is born late, the 52-week period runs from the date of the actual birth. An employee cannot start a period of paternity leave before the child is born.

1. **Paternity Leave Pay**

Any periods of Paternity Leave taken will be paid at the current Statutory Paternity Pay (SPP) rate.

Employees may be eligible to receive Statutory Paternity Pay if they:

* have 26 weeks' continuous service with their current employer by the end of the 15th week before the child is due. In the case of adoption, it is at least 26 weeks by the relevant or matching week;
* have average weekly earnings of over the lower limit for National Insurance contributions;
* are still employed at the time of taking paternity leave.
1. **Notification Requirements for Paternity Leave**

**Before Paternity Leave starts**

In the case of a birth child, the employee must provide the following in writing by the end of the fifteenth week before the expected week of childbirth. If this is not possible, notice must be provided as soon as is reasonably practical:

* Confirmation that they are planning to take paternity leave in order to care for the child and/or the child’s birth parent (and the date(s) they wish to take their leave, as discussed with their manager, if known);
* The expected week of childbirth (EWC);
* Confirmation that the employee is the biological father of the child or the mother's spouse, civil partner or partner;
* Confirmation that the employee will be responsible for the child’s upbringing and will take time off work to support the mother or care for the child;
* If requested, the employee must also provide a copy of the mother’s MATB1.

In the case of an adopted child from with the UK, the employee must provide the following in writing no more than seven days after the date on which the adopter is notified by an approved adoption agency. If this is not possible, notice must be provided as soon as is reasonably practical:

* Confirmation that they are planning to take paternity leave in order to care for the child (and the date(s) they wish to take their leave, as discussed with their manager, if known);
* they have been matched with a child for adoption;
* the date on which the adopter was notified of having been matched with the child;
* the date when the child is expected to be placed with the adopter (or, if placement has already occurred, the date of the placement);
* a declaration that they are married to or the civil partner or partner of the child's adopter and that they expect to have main responsibility for the child's upbringing apart from any responsibility of the adopter.

In the case of an adopted child from with overseas, the employee must provide the following in writing no more than seven days after the date on which the adopter is notified by an approved adoption agency. If this is not possible, notice must be provided as soon as is reasonably practical:

* Confirmation that they are planning to take paternity leave in order to care for the child (and the date(s) they wish to take their leave, as discussed with their manager, if known);
* the date on which the child's adopter received the "official notification";
* the date on which the child is expected to enter Great Britain (or the date on which the child entered Great Britain where this has already occurred); and
* a declaration that they are married to or the civil partner or partner of the child's adopter and have or expect to have main responsibility for the child's upbringing apart from any responsibility of the child's adopter.

**Notice to take Paternity Leave**

An employee must give at least 28 days’ notice before any period of paternity leave. If this is not possible, notice must be provided as soon as is reasonably practical.

An employee must put their notice to take paternity leave in writing, if requested.

**After the birth or adoption**

The employee must also inform the employer of the date the child was born or placed for adoption, as soon as is reasonably practical after the child’s birth or placement.

**Varying dates of Paternity Leave**

If an employee wants to cancel a period of paternity leave or they change their mind about the date on which they intend to start a period of paternity leave, then they must inform the employer of the cancellation or revised start date at least 28 days before the earlier of the original or revised date (or as soon as is reasonably practicable, if not in a position to do so within the prescribed period, e.g. if the child is born prematurely).

If an employee wants to start their paternity leave on a predetermined date and the child has not been born or placed with the adopter by then, the employee must give their employer a notice of variation selecting a later date as soon as reasonably practicable.

An employee must put their notice of a cancellation or variation of leave in writing, if requested.

1. **Maternity Support Leave (MSL)**

Paragraph 7.6 of Part Two of the Green Book provides a right to Maternity Support Leave (MSL) of one week.

Maternity Support Leave is provided, for the child’s father or the partner or nominated carer of an expectant mother, to be used at or around the time of the birth.

To be eligible for Maternity Support leave, the employee must therefore be the child’s father, or the partner or nominated carer of an expectant mother. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth. There is no qualifying service requirement for this right.

Maternity Support Leave replaces one week of Statutory Paternity Leave; during this time any SPP is topped up to full pay. Therefore, an employee who would otherwise have been entitled to two weeks’ Statutory Paternity Leave will be entitled to one week’s Maternity Support Leave (during which Statutory Paternity Pay will be topped up to full pay) and one week’s Statutory Paternity Leave (during which they will receive Statutory Paternity Pay).

An employee who wishes to request or vary a period of MSL must provide the same notification requirements as set out in section 15 above.

1. **Ante-natal Care Appointments**

Expectant fathers, or spouses, civil partners or the partner of the child’s mother have the right to unpaid time off to attend two antenatal appointmentswith the expectant mother, with a maximum statutory entitlement of 6 ½ hours’ time off for each appointment. They must produce evidence of appointments if requested to do so.

1. **Adoption Appointments**

In accordance with the Adoption Policy, the main adopter has the right to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

1. **Pension**

The following information relates to employees who are members of the Local Government Pension Scheme.

**Employee Contributions During Paternity Leave**

Employees will pay pension contributions at their ‘normal’ percentage rate during any period of paid leave.

**Employer Contributions During Paternity Leave**

The Town Council will pay employer contributions on the employee’s Assumed Pensionable Pay (APP).  APP is calculated with reference to the average pensionable pay the employee received in the 3 months immediately preceding the period of reduced pay.  If, however, the employee’s pay during their leave is higher than APP, the Town Council will pay contributions based on this higher amount.

1. **Continuous Service**

Paternity leave and Maternity Support leave will count as continuous service for statutory and contractual purposes.

1. **Annual Leave and Bank/Public Holidays**

Annual leave and Bank/Public holidays will continue to accrue during paternity leave and Maternity Support leave.

**Adoption Policy**

1. **To Whom This Policy Applies**

This policy applies to all Council employees seeking to adopt a child from approved Adoption Agencies.

The right to adoption leave is available to employees (whether married or single) who adopt a child through an approved adoption agency. Where a couple jointly adopts a child, only one of them (known as the primary adopter) will be entitled to take adoption leave (the couple can choose which). The other adoptive parent (known as the secondary adopter) will normally be entitled to take Statutory Paternity Leave, provided that they meet the relevant statutory criteria.

1. **Adoption Leave**

All employees, regardless of their length of service, are entitled to 26 weeks of Ordinary Adoption Leave and 26 weeks of Additional Adoption Leave (subject to providing the sufficient evidence as per below).

Adoption leave can start:

* up to 14 days before the date the child starts living with the adopter (UK adoptions)
* when the child arrives in the UK or within 28 days of this date (overseas adoptions)
* the day the child’s born or the day after (if the employee has used a surrogate to have a child)

An employee can change their mind about when they start their leave, provided they give sufficient notice. They must inform their manager of the new date 28 days before the date they now wish their leave to start, or as soon as is reasonably practical.

1. **Adoption Pay**

Payments for employees shall be the employee’s entitlement to Statutory Adoption Pay (SAP), where eligible.

Statutory Adoption Pay is paid for up to 39 weeks. The weekly amount is:

* 90% of employees average weekly earnings for the first 6 weeks
* SAP or 90% of employees average weekly earnings (whichever is lower) for the next 33 weeks

This provision is the statutory entitlement. Details of the current rates of Adoption Pay may be found on the government’s website [www.gov.uk](http://www.gov.uk)

1. **Eligibility Criteria**

To qualify for adoption pay an employee must:

* Have 26 weeks’ service with their employer by the notification week; and
* Be the child’s adopter, i.e. have been matched with the child for adoption. A person is matched with a child when an adoption agency decides that they would be a suitable adoptive parent for the child.

The notification week is the week in which the employee is informed by the adoption agency that they have been matched with a child.

The employee needs to have agreed with the adoption agency that the child should be placed with them and the date the placement should occur and provide the Council with the appropriate notice and evidence of entitlement.

1. **Notification Requirements**

Within 7 days, or as soon as possible after the day the employee receives notification from the adoption agency that they have been matched with a child, an employee must inform the Town Clerk in writing of the following:

the date the child is expected to be placed with them for adoption;

the date the employee has chosen to start their leave and pay.

* 1. **Evidence**

In order to receive adoption pay and leave, the employee must provide the Town Clerk with either a matching certificate and/or a letter from the adoption agency which shows the following:

the name and address of the adoption agency;

the employee’s name and address;

the date the child is expected to be placed for adoption, or where the child has already been placed, the date of placement, and;

the date the employee was informed that the child would be placed with them.

Where an employee is entitled to Statutory Adoption Pay (SAP) they must provide a signed declaration that they have elected to receive SAP and not statutory paternity pay (SPP).

1. **Adoption Appointments**

The main adopter has the right to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

1. **Leave During Adoption Leave**

**28.1 Annual Leave**

Annual leave continues to accrue during adoption leave.

**28.2 Bank/Public Holidays**

Bank/public holidays continue to accrue during adoption leave.

**28.3 Carry Forward of Annual Leave**

The employee and their line manager should review annual leave arrangements prior to adoption leave being taken. Where taking adoption leave means that the employee is unable to take their full annual leave entitlement in the current annual leave year, the outstanding leave (including any days in lieu of bank/public holidays) can be carried over to the next annual leave year.

1. **Continuous Service**

Adoption leave counts as continuous service for statutory and contractual purposes.

1. **Pension**

The following information relates to employees who are members of the Local Government Pension Scheme.

**Employee Contributions During Adoption Leave**

Employees will pay pension contributions at their ‘normal’ percentage rate during any period of paid leave.

Employees will not pay pension contributions during any period of unpaid leave. However, there is a distinction between the following:

* Periods of unpaid Ordinary Adoption Leave when the employer continues to make pension contributions.
* Periods of unpaid Additional Adoption Leave when the employer does not make any pension contributions.

In the latter case the employee can, if they wish, choose to enter into an age-related Additional Pension Contribution (APC) to cover the amount ‘lost’ during the unpaid leave. Information about this is set out in the employer’s information below.

**Employer Contributions During Adoption Leave**

The Town Council will pay employer contributions on the employee’s Assumed Pensionable Pay (APP).  APP is calculated with reference to the average pensionable pay the employee received in the 3 months immediately preceding the period of reduced or nil pay.  If, however, the employee’s pay during their leave is higher than APP, the Town Council will pay contributions based on this higher amount.

APP does not apply during any unpaid period of Additional Adoption Leave.  The employee can, if they wish, choose to enter into an age-related Additional Pension Contribution (APC) to cover the amount of pension ‘lost’ during the unpaid leave.

If the employee notifies the Town Clerk in writing within 30 days of returning to work that they wish to enter into an APC then:

* The employee will pay 1/3 of the cost of the APC
* The employer will pay 2/3 of the cost of the APC.

If the employee notifies the Town Clerk of this decision later than 30 days after returning to work then the whole cost will be borne by the employee, unless the Town Council voluntarily agrees to contribute to the APC.

1. **Returning to Work**

**31.1 Notification Requirements**

Managers must assume that an employee will return after 52 weeks. An employee need only notify their employer that they are returning to work if they are going to do so before the end of the adoption leave. Otherwise, the employee simply returns at the end of the adoption leave. Please note that an employee can change their mind up to the point when they actually give notice and resign. If an employee can let their manager know when they are likely to return as soon as possible that would be appreciated.

**31.2 Early Return**

If an employee wishes to return early or on a different date than they had previously notified, they must give 8 weeks’ notice.

**31.3 Keeping in Touch**

An employee can do up to 10 days’ work during their adoption leave, in agreement with their manager, without bringing their adoption leave to an end. Working for part of a day will count as one day. An employee will not lose any SAP (Statutory Adoption Pay) for working up to 10 days.

Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Managers need to ensure that they keep in touch with their employee whilst they are on adoption leave. If the employee does not wish to be contacted then they should notify their Line Manager. Newsletters and any other relevant correspondence will be sent to all employees whilst they are on adoption leave.

**Appendix A**

**Example:**

An employee working full-time (37 hours per week) and entitled to 24 days’ annual leave per year takes maternity leave.

They request to reduce their hours to 20 hours per week on their return to work and their employer agrees.

The employer’s annual leave year runs from 1 April to 31 March. Although they had used all the previous annual leave year’s entitlement before taking maternity leave, they have not taken any of the current annual leave year’s entitlement.\*

Their maternity leave ends on 30 June. If their hours are changed with effect from 1 July, their accrued annual leave will be calculated as follows:

1 April to 30 June (when their working day was 7.4 hours)

24 days’ annual leave per year = 2 days per month

Leave accrued 1 April to 30 June (3 months) = 6 days @ 7.4 hours = 44.4 hours

Plus

1 July to 31 March (when their average working day will be 4 hours)

24 days’ annual leave per year = 2 days per month

Leave accrued 1 July to 31 March (9 months) = 18 days @ 4 hours = 72 hours

The employee’s total annual leave for the current year will be 116.4 hours. Because they will be reducing the length of their working day to 4 hours, this will equate to 29.1 days on their return to work.

\* For simplicity, this example does not take account of bank/public holidays, although these accrue during maternity leave and would also need to be factored in to any calculations.