

# People Framework

## Maternity Procedure



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## Tracking

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<b>Service</b>			

## Revision History

Revision Date	Revisor	Previous Version	Description of Revision

## Document Approvals

Each revision requires the following approvals:

Sponsor Approval		Name	Date

## **1. Notification requirements**

The employee should notify her manager of her pregnancy as soon as possible. This will provide the opportunity for the manager to consider any health and safety implications and to plan ahead for the employee's absence.

By the end of the qualifying week (i.e. the 15<sup>th</sup> week before the expected date of childbirth) or as soon as reasonably practicable afterwards, the employee must inform her manager, in writing, of:

- The fact that she is pregnant
- Her expected week of childbirth
- The date on which she intends to start her maternity leave

LINK – Maternity Notification Form

The employee should also contact HR to arrange a meeting to discuss her maternity entitlements and next steps.

The employee must provide her MATB1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. This will usually be given to the employee after the 20<sup>th</sup> week of her pregnancy and enables Statutory Maternity Pay or Maternity Allowance to be claimed.

HR will write to the employee within 28 days of receiving the Maternity Notification Form, confirming the start date of her maternity leave, the date on which she is expected to return to work and her maternity pay entitlements.

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

## **2. Health and Safety**

The Council has a duty to ensure the health and safety of all employees. Where an employee notifies her manager that she is pregnant, the manager will carry out a risk assessment to identify any potential risk to the employee's health and/or that of her unborn child.

Where an employee or her manager identifies a risk or potential risk, advice must be sought from the Council's Health and Safety Officer and the HR team.

It may also be appropriate to refer the employee to the Council's Occupational Health provider for advice on reasonable work adjustments or alternative duties. Referrals to Occupational Health will be arranged by the HR team.

Where it is identified that the requirements of the employee's role may present a risk to the employee and/or her unborn child, the Council will take all reasonable steps to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible to alter the employee's working conditions to remove the risks to her health and there is no suitable alternative work available to offer on a temporary basis, the employee may be suspended from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. Please refer to Medical Suspensions in Absence Management procedure

Where an employee is suspended from work on maternity grounds, her employment will continue during the period of the suspension. Suspension on maternity grounds will not affect the employee's statutory or contractual employment and maternity rights in any way. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

### **3. Time off for antenatal care**

Antenatal care covers the care and advice of a registered medical practitioner, registered midwife or registered health visitor. Employees are entitled to **paid** time off to attend antenatal appointments. Antenatal care may include relaxation and parent craft classes that the employee has been advised to attend in addition to medical examinations.

The employee must give her manager as much notice as possible of antenatal appointments and produce an appointment card if asked to do so. Wherever possible, antenatal appointments should be arranged at the start or end of the working day.

Husbands, fathers, civil partners and partners of pregnant women are also entitled to **unpaid** time off to attend up to two antenatal appointments. Please see the Council's Paternity Leave Procedure.

### **4. Maternity Leave**

All pregnant employees who have a live or still birth after 24 weeks of pregnancy are entitled to take up to 52 weeks' maternity leave (26 weeks' ordinary maternity leave and a further 26 weeks' additional maternity leave).

These rights apply regardless of the hours worked or length of service.

Ordinary Maternity Leave may start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless the baby arrives before that date, in which case maternity leave will start on the day following the baby's birth.)

Maternity leave will start on whichever date is the earlier of:

- The employee's chosen start date
- The day after the employee gives birth
- The day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth

If the employee gives birth before her maternity leave was due to start, she must notify her manager in writing of the date of the birth as soon as is reasonably practicable.

The law requires all employees to take a minimum of two weeks' maternity leave immediately following the birth of a child.

### **Maternity Pay**

There are two types of maternity pay:

- Statutory Maternity Pay (SMP)
- Occupational Maternity Pay (OMP)

### **Statutory Maternity Pay (SMP)**

Statutory Maternity Pay is payable for up to 39 weeks during maternity leave. An employee is entitled to receive SMP if:

- She has been continuously employed by the Council for at least 26 weeks before the qualifying week (i.e. the end of the 15<sup>th</sup> week before the expected week of childbirth) and she is still employed during that week
- Her average weekly earnings for the 8 weeks up to and including the qualifying week are not less than the lower earnings limit for the payment of NI contributions, which can be found at [Rates and allowances: National Insurance contributions - GOV.UK](#)
- She is still pregnant (or has given birth) 11 weeks before the start of the expected week of childbirth
- She has provided an original MATB1 form stating her expected week of childbirth
- She has given the Council proper notification of her pregnancy (as set out in Section 1 of this procedure)

Continuous service with other local authorities and associated public bodies does not count for the purposes of maternity pay.

Where a salary-sacrifice arrangement is in place during the 8 weeks up to and including the qualifying week, the employee's average weekly earnings calculation will be based on the lower salary and may adversely affect the amount of SMP payable. Where average weekly earnings are reduced to below the lower earnings limit for NI contributions, this may mean that the employee is not entitled to receive SMP.

Employees who are not eligible for Statutory Maternity Pay may be eligible for Maternity Allowance (MA), which is claimed by the employee directly. For details of how to apply for Maternity Allowance please see [Maternity Allowance: How to claim - GOV.UK](#).

### **Occupational Maternity Pay**

An employee is entitled to receive Occupational Maternity Pay if she has already qualified for SMP (above) and is intending to return to work for a minimum period of 3 months following maternity leave. Occupational Maternity Pay is paid as follows:

First 6 weeks	Full pay
Weeks 7 to 20	Half pay
Weeks 21 to 39	Statutory Maternity Pay or 90% of average weekly earnings (whichever is lower)

These rates are inclusive of Statutory Maternity Pay.

Before going on maternity leave, the employee must decide whether she wishes to receive her 12 weeks' half pay OMP. Where an employee elects not to receive this and returns to work for a period of three months immediately after maternity leave, she will receive her OMP as a lump sum on completion of three months' work. If an employee decides not to receive her half pay OMP during this 12 week period, she will receive Statutory Maternity pay as detailed above.

Where an employee who has claimed OMP does not return to work for a period of at least three months immediately after her maternity leave, she will need to repay the 12 weeks half pay Occupational Maternity Pay (excluding her entitlement to SMP). Maternity pay will start on the employee's first day of maternity leave.

During maternity leave, payments will be made through payroll on the usual pay date (20<sup>th</sup> of the month.) Statutory Maternity Pay and Occupational Maternity Pay are treated as earnings and are subject to tax, NI deductions and pension contributions

### **Terms and conditions of employment during maternity leave**

During ordinary maternity leave and additional maternity leave, all terms and conditions of the employee's contract except salary will continue. Salary payments will be replaced by statutory maternity pay and occupational maternity pay where the employee is eligible for this.

If there are any changes to an employee's terms and conditions of employment whilst she is on maternity leave, for example changes to the pay scales, policies and procedures, etc., these will also be applied.

## **5. Annual leave**

Annual leave will continue to accrue during both paid and unpaid periods of maternity leave.

In addition, employees have a contractual right to time off for public holidays and are therefore entitled to the appropriate number of days off in lieu of any public holiday which occurs during their maternity leave.

The normal rule of carrying over a maximum of 5 days' annual leave continues to apply. Therefore if the end of the annual leave year (31 March) falls within the employee's maternity leave period, the full year's annual leave entitlement should be taken before maternity leave commences.

Where maternity leave crosses two annual leave years, the employee should discuss and plan when to take her annual leave with her manager as soon as possible. Where annual leave is transferred to the next leave year, this must be taken in a block immediately before the employee returns to work so that she does not lose her entitlement.

As with any annual leave requests, the employee must agree her annual leave dates with her manager in advance.

Annual leave cannot be taken during or between ordinary and additional maternity leave periods.

Where the employee is not intending to return to work following maternity leave, she should take any accrued annual leave before her maternity leave commences. Where this is not possible, payment will be made for any outstanding annual leave on termination of employment. Equally, where an employee has taken more annual leave than she has accrued, she will be required to repay the overtaken annual leave.

## **6. Loans**

The employee will be required to continue to make repayments in respect of loans throughout their period of maternity leave, even though they may be on reduced earnings. If at any stage an employee is on unpaid maternity leave, it will be their responsibility to make necessary arrangements for the ongoing repayments during the unpaid period. Advice can be sought from HR.

## **7. Pension**

The Council will continue to make pension contributions based on the employee's normal pay during ordinary maternity leave and paid additional maternity leave. However, employer pension contributions will cease during any periods of unpaid additional maternity leave.

Where the employee is a member of the Local Government Pension Scheme (LGPS) and takes unpaid maternity leave, she can choose whether or not to pay pension contributions for her period of unpaid leave.

If the employee elects to pay pension contributions to cover lost pension, she can do this by paying an age related Additional Pension Contribution (APC) within 30 days of returning to work or, if she does not return to work, within 30 days of ceasing to be employed by the Council.

If the employee purchases an APC within the 30 day period, the Council will share the cost. It will be assumed that the employee does not wish to pay contributions unless she elects to do so within the 30 day timescale.

Pension contributions for the period of unpaid maternity leave are based on the actual pay that the employee received immediately before the period of unpaid leave started.

If the employee chooses not to pay pension contributions for the period of unpaid maternity leave, this period will not count as service for pension purposes.

## **8. Contact during maternity leave**

The Council reserves the right to maintain reasonable contact with employees during maternity leave. This may be to discuss the employee's plans for returning to work or to discuss and update them on developments at work during their absence, including internal vacancies and training opportunities.



## **9. Keeping-in-touch days**

An employee may work (or attend training) for up to 10 Keeping in Touch (KIT) days during her maternity leave without bringing it to an end.

Managers cannot insist that employees attend or carry out any work and employees cannot insist that their manager gives them work during their maternity leave.

A KIT day is defined as anything from attending a 1 hour meeting to working the full contractual hours for the day. Employees will receive their normal rate of pay for the hours they attend or carry out work. However, where an employee is in receipt of maternity pay, this will be offset from the payment. KIT days cannot be used to accrue overtime or TOIL.

Where an employee works during her maternity leave, she must ensure that the **Keeping In Touch payments form** is completed, signed by her Line Manager and submitted to HR so that payment can be made.

The employee's period of maternity leave will not be extended because she has carried out some work during her leave.

The employee cannot carry out any work during the first two weeks following the birth of the child.

## **10. Returning to work after maternity leave**

Subject to legislative requirements and the notification requirements set out in this procedure, the employee may return to work at any time during either ordinary maternity leave or additional maternity leave. Alternatively, she may take her full period of maternity leave entitlement and return to work at the end of this period. If the employee wishes to return to work before her full period of maternity leave has elapsed, she must give at least eight weeks' notice in writing to the organisation of the date on which she intends to return. The employee should discuss her intention to return to work early with her manager.

Where an employee intends to return to work on the first working day after the end of her full maternity entitlement (i.e. at the end of the Additional Maternity Leave period) she does not need to notify her manager in advance. The employee has the right to resume working in the same role if she is returning to work during or after ordinary maternity leave.

If the employee returns to work during or after a period of additional maternity leave, she is entitled to return either to the same role or, if this is not reasonably practicable, to another suitable role that is on terms and conditions not less favourable than the terms and conditions which applied prior to maternity leave. Managers must confirm the date of the employee's actual return to work to HR so that salary payments can restart.

## **11. Reducing hours of work**

There is no automatic right to return to work on different terms than before, e.g. part-time hours. Employees who wish to change their working arrangements must contact their manager as soon as possible in advance of their return. Requests should be made in line with the Council's Flexible Working Procedure. Managers will consider requests for flexible working and will seek to agree the changes wherever possible, however, requests may be rejected if there are genuine business reasons to do so.

## **12. Resignation before, during or following maternity leave**

Where an employee has met the eligibility requirements for statutory maternity pay, she will remain entitled to receive SMP if she leaves the Council's employment after the start of the qualifying week for any reason, including because she has resigned. The qualifying week is the 15th week before the expected week of childbirth. The employee's contract of employment will terminate at the end of her notice period, at which point the employee's entitlements to all other benefits, including accrual of holiday, will cease.

Where an employee resigns from her employment after the 11th week before her expected week of childbirth but before her maternity pay period is due to start, the maternity pay period will start on the day after her employment ends. If she resigns before the 11<sup>th</sup> week before the expected week of childbirth but after the qualifying week the maternity pay period will start on the Sunday at the start of the 11th week before the expected week of childbirth.

If the employee leaves the Council's employment during the SMP period, the Council will continue to pay SMP as long as the employee has not started work for another employer.

Where an employee decides during maternity leave that she does not wish to return to work, she must give written notice of resignation to the Council as soon as possible and in accordance with the terms of her contract of employment.

Where an employee who has received OMP does not return to work for a minimum period of 3 months following her maternity leave, she will need to repay this amount.

## **13. Failure to return to work**

Failure to return to work at the end of maternity leave will be treated as unauthorised absence unless the employee is sick and produces a Fit Note before the end of the maternity leave period.

## **14. Miscellaneous Fertility Treatment**

Employees who are undergoing fertility treatment are entitled to paid time off to attend appointments and treatment. Employees should give their manager as much notice as possible of appointments and produce an appointment card if asked to do so. Wherever possible, appointments should be arranged at the start or end of the working day.

The employee will be regarded as being pregnant from the stage of embryo transfer. Where fertility treatment is unsuccessful, the employee's protected period will end two weeks after she has been told her treatment has proved unsuccessful. Any sickness absence resulting from fertility treatment will be managed in line with the Council's Absence Management Procedure.

### **Sickness absence before maternity leave commences**

Where an employee is absent from work for a reason unrelated to her pregnancy, the provisions of the Council's Absence Management Procedure will apply until the start date of her maternity leave (or the date of the baby's birth, whichever is sooner).

Where an employee is absent from work due to symptoms that are directly related to her pregnancy, managers must record these absences and continue to monitor them. ***However, these absences will not be counted towards absence triggers.***

Maternity Leave and pay (if applicable) will start automatically if the employee is absent from work due to a pregnancy-related illness in the 4 weeks before the baby is due, regardless of what has previously been agreed.

### **Resignation before maternity leave**

Where an employee has met the eligibility requirements for statutory maternity pay, they will remain entitled to receive SMP if they leave the Council's employment for any reason, including because they have resigned, before their maternity leave is due to start.

Where statutory maternity pay is being paid to an employee who, during the statutory maternity pay period, commences work for another employer, the Council will cease to pay statutory maternity pay in respect of the remaining part of the statutory maternity pay period. The employee is required to notify the employer that they are working for another employer.

### **Stillbirth and Miscarriage**

Where an employee suffers a miscarriage before the end of 24 weeks of pregnancy, her absence from work will be regarded as sickness absence and will be paid accordingly. Where the baby is still born after the end of the 24<sup>th</sup> week of pregnancy, the employee will receive her contractual maternity entitlements as detailed in this procedure. This means that maternity leave and pay will apply.

### **Fixed term/temporary contracts**

Where an employee is employed on a fixed-term or temporary basis, contractual maternity rights will only apply for the duration of the fixed-term or temporary contract. In these circumstances the end date of the contract will end the employee's maternity leave as well as her employment with the Council. However, where an employee qualifies for Statutory Maternity Pay, this will continue until the full entitlement has been paid (39 weeks).

Prior to commencing maternity leave, the employee will need to discuss her fixed-term or temporary appointment with her manager. Where possible, a decision regarding the end date of the contract should be made prior to the commencement of the employee's maternity leave.

### **Reorganisations/Restructuring**

Where a reorganisation or restructure is proposed whilst an employee is absent on maternity leave, the provisions of the Council's Management of Workforce Change Procedure will apply.

### **Pregnancy during maternity leave**

If an employee becomes pregnant during her ordinary maternity leave (OML) and is taking additional maternity leave (AML) she is entitled to another period of maternity leave which will follow immediately from the end of her additional maternity leave.

As maternity leave does not break continuity of employment, the employee's right to maternity leave for this pregnancy will be based on her total service with the Council. The employee must give the same notice to her manager as she did the first time she went on maternity leave.

The employee will have the same rights as she would have received on returning from her first period of AML, i.e. she is entitled to return either to the same role or, if this is not reasonably practicable, to another suitable role that is on terms and conditions not less favourable than the terms and conditions which applied prior to maternity leave.

SMP is calculated on average earnings over 8 weeks before the 15<sup>th</sup> week before the baby is due. The HR team will advise the employee regarding maternity pay on receipt of her completed Maternity Notification Form and MATB1.

Contractual leave entitlement accrued whilst on maternity leave should be taken before the start of the second maternity leave wherever possible. Where this is not possible, leave from the first maternity leave then this should be taken in one block before returning to work.

### **Nursing mothers**

Where an employee informs her manager or HR that she will be breastfeeding, the manager will discuss with her any arrangements that need to be made and a Risk Assessment will be carried out. Facilities will be provided so that nursing mothers can store expressed milk.

### **Transfer of maternity leave**

Employees may choose to end their maternity leave and pay and share the untaken balance (up to a maximum of 50 weeks) with their partner as Shared Parental Leave and pay. Employees may also choose to return to work early from maternity leave and take Shared Parental Leave and pay at a later date.

To be able to take Shared Parental Leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. Please see the Council's Shared Parental Leave Procedure for further details.

### **Balancing work and childcare responsibilities**

There are options to help you to balance work and childcare responsibilities and work. Please see:

- Flexible Working Procedure
- Ordinary Parental Leave Procedure
- Special Leave Procedure

Financial support such as the government's Tax Free Childcare scheme [Tax-Free Childcare - GOV.UK](#)

### **Data protection**

When managing an employee's maternity leave and pay, the Council processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which an employee informs the Council that she is pregnant is held securely, accessed by and disclosed to individuals only for the purposes of managing maternity leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Council's Data Protection Policy. Where appropriate, action may be taken in line with the Council's Disciplinary Procedure.