

Maternity Leave Policy



The Council is fully committed to helping working parents balance the needs of work and family life and appreciates the importance of providing greater choice for parents in how they arrange parental care during the first year of a child's life.

This policy sets out the rights, responsibilities, and eligibility for employees who wish to take Maternity Leave

We recognise that, from time to time, employees may have questions or concerns relating to their rights. It is our policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As these provisions are complex, employees should clarify the relevant procedures with their People Manager or the HR Team to ensure that they are followed.

It ensures compliance with equality & diversity, making sure consideration is given to the needs of employees, balancing these with the needs of the business of the Council.

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Introduction

The Council is committed to helping employees balance the needs of work and family life and as such offers enhanced 'Maternity Leave' benefits.

In addition to this 'Maternity Leave Policy', the Council supports a suite of 'Family Friendly' policies aimed at supporting employees to achieve work/life balance and meet the demands faced with family life.

Scope

The Council is committed to ensuring equality and diversity across the organisation and the purpose of this 'Maternity Leave Policy' is to provide an opportunity for our employees to integrate the development of a carer with family responsibilities.

This document sets out the maternity provisions to which employees are entitled, both before and after the birth of their baby. These maternity provisions comply with the relevant legislation and apply to all eligible employees employed by the Council.

This Maternity Leave Policy ' does not cover:

- Paternity Leave
- Adoption Leave
- Shared Parental Leave
- Parental Leave
- Time off Work

Key Points

Maternity provisions refer to the leave and pay to which employees may be entitled, and their right to resume employment with the Council, following the period of leave. All employees have the right not to be subjected to a detriment on the grounds of pregnancy, childbirth or maternity, irrespective of hours of work or service and have the right to demand a written statement of the reasons for dismissal, if dismissed while pregnant. There is no distinction between live and still births in the granting of 'Maternity Leave'

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1. Time off for Antenatal Care

- 1.1 All pregnant employees irrespective of length of service have a statutory right to reasonable paid time off work to attend appointments for antenatal care prescribed by a doctor, midwife or health visitor.
- 1.2 Employees should discuss time off with their People Manager and submit a request through the Employee Self Service System.
- 1.3 Following the first appointment a People Manager may request to see evidence of an appointment or a certificate from your doctor or midwife confirming that you are pregnant.
- 1.4 Fathers, partners and parents-to-be are also afforded the right to unpaid time off work to attend up to two ante-natal appointments. They must provide their manager with as much notice as possible but at least one weeks notice of the appointment and the Council reserves the right to see sight of the appointment card.

2. Protection from Exposure to Risk for Expectant & Breastfeeding Employees

- 2.1 The Council has a duty to take care of the health and safety of all employees and it is committed to ensuring that their wellbeing is maintained and considered throughout all aspects of their role.
- 2.2 The employee should arrange to review work activities in consultation with their People Manager immediately upon becoming aware of the pregnancy by completing the 'Expectant and Breastfeeding Employee' risk assessment with their People Manager which is available on the PSPS Health & Safety Portal.
- 2.3 Where this may present personal difficulty, the employee is urged to discuss the matter with the Health and Safety Department and their GP at the earliest opportunity.
- 2.4 The outcome of the risk assessment may indicate an adjustment in work activities to remove the hazard for the period of pregnancy and breastfeeding. Where this is not possible for operational reasons, then the employee will need to be found alternative duties of an appropriate nature.
- 2.5 If it is not feasible to find alternative duties of an appropriate nature then the employee may be suspended from work on paid leave for as long as necessary to protect their Health and Safety, and/or that of the child.

3. Maternity Leave Entitlements

- 3.1 All expectant employees are entitled to 26 weeks' ordinary Maternity Leave followed by 26 weeks' additional Maternity Leave, giving a total of 52 weeks' continuous leave, the 'Maternity Leave period'.
- 3.2 The 'Maternity Leave Period' shall commence no earlier than 11 weeks before the 'Expected Week of Childbirth' (EWC) or if the baby arrives earlier maternity leave will automatically start on the day after the birth.
- 3.3 It is up to the employee to decide how much of the 52 weeks' 'Maternity Leave' they wish to take; the law requires that a minimum of two weeks' leave must be taken from the date of childbirth.
- 3.4 If the employee is still working and the baby is born prematurely 'Maternity Leave' will start from the day immediately after the date of the birth of the baby.
- 3.5 After the compulsory 2 week 'Maternity Leave' period that follows the birth of the baby the remaining leave may, subject to the eligible criteria, be transferred or shared under the provision of 'Shared Parental Leave'.
- 3.6 If the baby is stillborn after the twenty fourth week of pregnancy, or if the baby is born alive but dies after birth, the mother still qualifies for their right to a 52 week 'Maternity Leave Period'.
- 3.7 Maternity Leave and pay are separate entitlements.
- 3.8 Entitlement to 'Maternity Pay' will depend on the length of service of the employee and on whether or not the employee returns to work following the period of Maternity Leave.

4. Maternity Pay Entitlements

- 4.1 All employees seeking 'Occupational Maternity Pay' (OMP) or 'Statutory Maternity Pay' (SMP) must provide the Council with a MATB1 (Maternity Certificate) as soon as possible during the pregnancy.
- 4.2 The MATB1 is issued by a doctor or midwife no sooner than the 20th week before the baby is due.
- 4.3 The Employee may choose when to start their 'Maternity Leave'. However, the earliest date an employee can start 'Maternity Leave' and retain their rights is at the 11th week before the Expected Week of Childbirth (EWC).

4.4 If an employee wishes to change the start date of their 'Maternity Leave' then they must give 28 days' notice, where practicable.

Statutory Maternity Pay (SMP)

4.5 If an employee falls pregnant after their first week of employment with the Council but before their 27th week of employment, then they may qualify for Statutory Maternity Pay (SMP).

4.6 To qualify for Statutory Maternity Pay (SMP) the employee must have been:

- Employed by the Council continuously for at least 26 weeks into the 15th week before the Expected Week of Childbirth (EWC)
- Have average earnings above the Lower Earnings Limit (LEL) for the 8 week "relevant" period between weeks 17- 25 of the pregnancy. The LEL is the amount you have to earn before you are treated as paying National Insurance contributions.

4.7 If an employee satisfies the above criteria, then they will be eligible to:

- 39 weeks statutory paid Maternity Leave and
- Followed by 13 weeks unpaid Maternity Leave

4.8 Employees who qualify for Statutory Maternity Pay will receive:

- 90% of their average weekly earnings (before tax) for the first 6 weeks
- Followed by 33 weeks paid at the [Government SMP Rate](#) or 90% of their average weekly earnings (whichever is lower)
- Followed by 13 weeks unpaid Maternity Leave

4.9 To secure these rights the employee must complete the 'Notification of Maternity' form which is available on the HR & Payroll Service Portal by the end of the 15th week before the Expected Week of Childbirth.

Occupational Maternity Pay (OMP)

4.10 To qualify for Occupational Maternity Pay (OMP) the employee must have been:

- Employed by the Council continuously for at least 52 weeks into the 11th week before the Expected Week of Childbirth (EWC)
- Have average earnings above the LEL (Lower Earnings Limit) for the 8 week "relevant" period between weeks 17- 25 of the pregnancy. The LEL is the amount you have to earn before you are treated as paying National Insurance contributions.

- 4.11 If an employee satisfies the above criteria then they will be eligible to 90% pay for the first 6 weeks of 'Occupational Maternity Leave' and an additional 12 weeks half pay in addition to 'Statutory Maternity Pay'.
- 4.12 Employees who qualify for 'Occupational Maternity Pay' will receive:
- Followed by 12 weeks paid at 50% of their average weekly earnings (before tax) in addition to the [Government SMP Rate](#)
 - Followed by 21 weeks paid at the [Government SMP Rate](#) or 90% of their average weekly earnings (whichever is lower)
 - Followed by 13 weeks unpaid Maternity Leave
- 4.13 Payments made by the Council during 'Maternity Leave' under 4.12 above shall be made on the understanding that the employee will return to employment with the Council for a period of at least three months following a period of 'Maternity Leave'.
- 4.14 Should the employee not return to work for a period of three months following a period of 'Maternity Leave' then the Council may request that the employee repay the 'Occupational Maternity Pay' under 4.12. Payments made under 'Statutory Maternity Pay' are not repayable.
- 4.15 Employees can choose to hold this payment in abeyance should they be undecided about a return to work at the cessation of their maternity leave. Holding the payment in abeyance simply means, not receiving this payment until the employee returns to work after their period of maternity leave. However, if the employee decides to take their Occupational Maternity Pay under 4.12 during their maternity leave and does not return to work at the end of this period of leave for a minimum of three months, they will be required to repay their Occupational Maternity Pay.
- 4.16 To secure these rights the employee must complete the 'Notification of Maternity' form on the HR & Payroll Service Portal by the end of the 15th week before the Expected Week of Childbirth (EWC).

Maternity Allowance

- 4.17 Employees who have less than 26 weeks' continuous service within the Council into the 15th week before the baby is due will not be entitled to 'Occupational Maternity Pay' or 'Statutory Maternity Pay', but may be entitled to state 'Maternity Allowance'.
- 4.18 'Maternity Allowance' can be claimed via the employees local Job Centre Plus and further guidance can be found on the [Government Website](#).

5. Absence due to Sickness

- 5.1 Should you be absent from work for a pregnancy-related illness in the 4 weeks before the baby is due Maternity leave and Statutory Maternity Pay will start automatically.

6. Annual Leave

- 6.1 The Council's 'Annual Leave' year runs from 1st April to 31st March.
- 6.2 Employees that are on 'Maternity Leave' will continue to accrue 'Annual Leave' and Bank Holiday entitlement during a period of paid or unpaid 'Maternity Leave'.
- 6.3 It is not possible to take 'Annual Leave' whilst on 'Maternity Leave' therefore this must be taken at any alternative date as detailed below.
- 6.4 Any 'Annual Leave' accrued before 'Maternity Leave' starts should be taken prior to commencing 'Maternity Leave' or immediately on return from 'Maternity Leave' thereby effectively extending the employee's actual physical return to work.
- 6.5 Any 'Annual Leave' accrued whilst on 'Maternity Leave' should be taken immediately on return from 'Maternity Leave' thereby effectively extending the employee's actual physical return to work.
- 6.6 Where it is agreed that an employee will return to work on reduced contractual hours, then the employee's new reduced hours should not normally take effect until any 'Annual leave' accrued under the previous contractual hours has been taken.

7. Employees on Fixed Term Contracts

- 7.1 Where an employee has a fixed-term contract of employment which expires before the start of 'Maternity Leave' then the employee will be able to claim 'Statutory Maternity Pay' from the Council subject to their eligibility.
- 7.2 Where an employee's fixed-term contract of employment expires during the 'Occupational Maternity Pay' period or prior to the completion of their 3 months' return to work will be unable to fulfil the usual 'Occupational Maternity Pay' requirements to return to work following maternity leave and remain in work for at least 3 months.
- 7.3 However, so long as all the other eligibility criteria are met, such employees will be able to claim 'Occupational Maternity Pay' up to the last day of their contract of employment. Thereafter 'Statutory Maternity Pay' can be claimed subject to eligibility.

7.4 Where an employee's fixed-term contract expires after the 'Occupational Maternity Pay' period but during the statutory pay period, such employees will continue to be paid 'Statutory Maternity Pay' subject to eligibility.

8. Pension Contributions

8.1 Employees on 'Maternity Leave' who are in receipt of full pay will continue to have 'Employee Pension Contributions' deducted in the usual way.

8.2 During periods of half pay or 'Statutory Maternity Pay', 'Employee Pension Contributions' will be deducted according to the total amount of pay received. The Council will make up the 'Employee's Pension Contributions' and pay the 'Employers' Pension Contributions' as if the employee were on full pay for the period.

8.3 During periods of unpaid leave i.e. 13 weeks unpaid 'Maternity Leave' the Council will only pay pension contributions if the employee does.

9. Salary Progression

9.1 Employees will continue to receive spinal point increases up to the top of their Grade whilst on 'Maternity Leave'.

10. Continuity of Service

10.1 The contract of employment continues throughout any period of 'Maternity Leave'.

10.2 Continuity of service will not have been broken by a period of unpaid leave under the maternity provision, therefore entitlement to notice periods, holidays and sick leave which were accrued at the beginning of 'Maternity Leave' will not be lost.

11. Communications

11.1 It is recommended that employees and People Managers make arrangements to maintain reasonable contact during 'Maternity Leave' in order to keep the employee informed of important developments at work and to discuss plans for returning to work.

11.2 People Managers should draw particular attention to any changes in structures within the department and ensure that the employee is aware of any possible promotion opportunities.

11.3 Employees on 'Maternity Leave' should also ensure that they keep themselves informed as appropriate for example by regularly reviewing the Council's current vacancies on the website.

12. 'Keeping in Touch' (KIT) Days

- 12.1 Employees on 'Maternity Leave' can with the agreement of their People Manager work up to 10 days during their 'Statutory Maternity Leave' without bringing their 'Maternity Leave' to an end.
- 12.2 'Keeping in Touch' (KIT) days are designed to allow contact with the workplace and can include work, training or any other activity to assist the employee in 'Keeping in Touch'. 'KIT' days can be taken at any time during 'Maternity Leave', however the 2 weeks immediately following the birth of the baby are excluded.
- 12.3 There is no obligation on either the Council or the employee to make use of these 'KIT' days and there is no obligation for an employee who is on 'Maternity Leave' to attend work.
- 12.4 'KIT' day's that are worked will not extend the total 'Statutory Maternity Leave' period that can be taken and do not affect an employee's entitlement to 'Maternity Leave' or pay.
- 12.5 Employees should make arrangements for 'KIT' days directly with their People Manager and will be paid at their normal daily rate for each day worked.
- 12.6 Employees who attend work for a 'KIT' day during 'Maternity Leave' will need to complete a 'Keeping in Touch Claim' which can be completed on the Employee Self Service System.
- 12.7 Employees will be paid for the number of hours worked during the 'KIT' day and attendance at work will count as the use of one 'KIT day' even if only a few hours are worked.

13. Returning to Work Following Maternity Leave

- 13.1 Employees may exercise the right to return to work at any time during the period of 'Maternity Leave', except in the 2 weeks immediately following the birth of the baby.
- 13.2 If an employee returns to work following a period of ordinary 'Maternity Leave' i.e. up to 26 weeks, then they have the right to return to work and resume working in the same role.
- 13.3 If an employee returns to work following a period of additional 'Maternity Leave' i.e. over 26 weeks, then the employee has a right to return to either the same job or, where this is not reasonably practicable, alternative employment shall be offered.

- 13.4 The Council will consult with the employee where alternative employment is offered, and any offer of alternative employment should not be less favourable in respect of terms and conditions.
- 13.5 If an employee wishes to return to work before the end of the maximum period of 'Maternity Leave' (52 weeks) then the employee must notify HR in writing giving at least 8 weeks' notice of the date that they wish to return. If the employee fails to give the required notice, then the Council may postpone the return to work for up to 8 weeks.
- 13.6 Employees have a statutory entitlement to request an alternative working pattern or a change in hours of work under the 'Flexible Working Policy'. The Council has a duty to give reasonable consideration to such requests but reserves the right to refuse on business grounds.
- 13.7 The Council will give appropriate consideration to such requests, on either a temporary or permanent basis, from employees returning to work following 'Maternity Leave'.
- 13.8 Applications for flexible working must be made as early as possible but not later than 8 weeks before the notified date of return to work. Further guidance on submitting an application for flexible working can be found in the 'Flexible Working Policy'.
- 13.9 The latest an employee can return to work is 52 weeks after the week they left to go on 'Maternity Leave' unless:
- The employee is not well enough to return to work; if this is the case then the employee should follow the guidance set out in the Council's 'Managing Sickness Absence Policy'.
 - The employee's return is delayed due to a statutory requirement prohibiting them from working in order to protect the health of the employee or that of their baby i.e. if there was a risk to the employee in the workplace that could affect them breastfeeding their baby.
 - The employee chooses to take time off under the 'Parental Leave Policy', if they are eligible to do so.
- 13.10 If an employee chooses not to return to work at the end of 'Maternity Leave' then they should give the minimum written notice as specified in their contract of employment.
- 13.11 If the employee has taken the 'Occupational Maternity Pay', then this element will be reclaimed by the payroll team in the final salary. Payments made under 'Statutory Maternity Pay' are not repayable.

- 13.12 If there are not sufficient funds in the final salary to cover the over payment, then an overpayment letter will be sent to the employee's home address detailing how to repay the overpayment.
- 13.13 The contract of employment may be terminated if the employee fails to return to work and/or does not make contact with the People Manager to provide an adequate explanation.