

## Appendix 1

# FAMILY LEAVE: MATERNITY POLICY AND PROCEDURE



Policy Schedule		
Policy owner and lead	ODHR: HR Policy Manager	
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	Employee engagement forum	Date
	CMT	Date
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Date of approval		
Date of implementation		
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Related documents	Family Leave Policies: <ul style="list-style-type: none"> <li>• Paternity Policy</li> <li>• Adoption, Surrogacy, Fostering Policy</li> <li>• Parental Leave Policy</li> <li>• Shared Parental Leave</li> <li>• Flexible Working Policy</li> </ul>	
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### 1. Introduction

- 1.1 This policy sets out the statutory rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements maternity leave and pay as well as antenatal care and pregnancy-related illness.
- 1.2 As maternity provisions can be complex, advice on maternity procedures and entitlements should be clarified with your manager to ensure they are correctly applied. Advice is also available from OD/HR.

### 2. Scope

- 2.1 This policy and procedure applies to all employees of the council including those on sessional, 'as and when' and fixed term contracts. The entitlement to maternity pay and leave will depend upon the employee's continuous service.
- 2.2 This policy and procedure does not apply to agency workers or volunteers working in the council.
- 2.3 This policy and procedure outlines maternity provisions. Separate family leave policies are available for paternity, adoption-surrogacy-fostering, parental and shared parental leave.

### 3. Definitions

- 3.1 The following definitions are used throughout this policy:
  - **Expected week of childbirth (EWC):** the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth
  - **Qualifying week:** the 15th week before the expected week of childbirth

### 4. Notification of pregnancy

- 4.1 On becoming pregnant, an employee should notify her manager that she is pregnant and complete the **Form A: Maternity Notification Form** [\(insert link\)](#) as soon as possible. This form must be submitted to her line manager no later than the qualifying week and triggers the completion of any health and safety assessments that may be required. On this form the employee is required to confirm when she plans to commence maternity leave.
- 4.2 The employee may bring forward or postpone her maternity leave start date, provided she advises her manager in writing at least 28 days before the new start date or, if this is not possible, as soon as reasonably practicable. If, the employee is unable to provide the required notice, their Manager has discretion to agree a revised date.

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- 4.3 Upon receiving the Maternity Notification, the manager will respond in writing within 28 days, confirming the date when the employee is expected to start her maternity leave and the date she is expected to return to work. A template manager response is available [\(insert link\)](#).
- 4.4 The employee must also provide a **MAT B1 form**, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The MAT B1 Form is provided after the 20<sup>th</sup> week of pregnancy and enables statutory maternity pay or maternity allowance to be claimed. The original MAT B1 form, and not a copy, should be submitted to the manager no later than 28 days before maternity leave starts. The MAT B1 form should be submitted by the manager to payroll as soon as it is received, with a copy to OD/HR for recording purposes.

### 5. Maternity Leave

- 5.1 All pregnant employees are entitled to take up to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave; making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional maternity leave begins on the day after ordinary maternity leave ends.
- 5.2 During the period of ordinary and additional maternity leave, the employee's contract of employment continues and she is entitled to receive all her contractual benefits, except for salary which includes salary sacrifice benefits e.g. childcare vouchers. Any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.
- 5.3 Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her child is born prematurely before that date, in which case it will start on the day following the birth of the baby).
- 5.4 Maternity leave will start on which ever date is the earlier of:
- the employee's chosen start date
  - the day after the employee gives birth; or
  - 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
- 5.5 **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 reasonably practicable using **Form B: Notification of the date of the birth of the baby** [\(insert link\)](#).
- 5.6 The law obliges all employees to take a minimum of two weeks maternity leave immediately after the birth of the child.

### 6. Annual leave and bank holidays

- 6.1 The employee will be advised before starting ordinary maternity leave whether she has any outstanding leave entitlement. The employee should, whenever possible, take any

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outstanding leave before commencing maternity. Annual leave and bank holidays that will accrue during the maternity leave period may be anticipated and with the manager's agreement, taken prior to the start of the maternity leave period.

- 6.2 It is not normally possible to receive pay in lieu of any untaken annual leave or bank holidays. If there have been exceptional circumstances that have prevented annual leave being taken the manager may approve payment for any outstanding leave providing as much of the outstanding leave has been taken as possible.
- 6.3 Where annual leave is taken at the end of the maternity leave period, any unused annual leave or bank holidays may be carried over to next year.
- 6.4 If the employee decides not to return to work following her maternity leave, she will be paid for any outstanding holiday entitlement accrued. Equally, should she decide not to return to work and has taken more holiday than she has accrued, she will be required to repay the equivalent of the excess holiday taken.
- 6.5 If an employee takes annual leave immediately before or after their maternity leave, this will be recorded as annual leave in the usual way. Whilst maternity leave is paid as a percentage of salary, and not full pay, time taken as annual leave will be paid at the full rate of pay.
- 6.6 Term time only (TTO) employees receive pay that includes a payment for annual leave and bank holidays in addition to salary. For instance a TTO employee working 38 weeks per year with a holiday entitlement pro rata to 25 days leave and 8 bank holidays (also pro rata) per year will actually receive payment equivalent to 43.3 weeks per year. This number of week's pay is paid in 12 equal instalments (i.e. payment is made every month) during the year. Maternity pay will not include full pay for pro-rata holidays and bank holidays accrued during maternity leave. The difference will be calculated by payroll and paid as a lump sum on return from maternity leave.

## 7. Maternity Pay

- 7.1 There are two types of maternity pay:
  - Statutory Maternity Pay
  - Councils Occupational Maternity Pay

### Statutory Maternity Pay (SMP)

- 7.2 Statutory maternity pay is payable for up to 39 weeks during maternity leave. An employee is entitled to SMP if:
  - she has been continuously employed by the council for at least 26 weeks at the end of the qualifying week and she is still employed during that week;

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- her average weekly earnings in the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date are not less than the lower earning limit for national insurance
- she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides an original MAT B1 form stating her expected week of childbirth; and
- she gives proper notification of her pregnancy on Form A: Maternity Notification

- 7.3 For the first 6 weeks SMP is paid at the higher rate, which is equivalent to 90% of the employee's average weekly earnings calculated over a specified period. For the purpose of calculating average weekly earnings, shift allowances and overtime payments, are all included.
- 7.4 The standard rate of SMP is paid for the remaining 33 weeks (or less if the employee returns to work sooner).
- 7.5 This is paid at a rate set by the Government for the relevant tax year, or 90% of the employee's average weekly earnings if this is lower than the Government's set weekly rate. The rate of standard SMP can be found at: <https://www.gov.uk/employers-maternity-pay-leave/entitlement>
- 7.6 If an employee is eligible for a pay rise between the start of the pay increase and the end of her maternity leave, the higher or standard rate of SMP will be recalculated to take account of the pay rise, regardless of whether SMP has already been paid.
- 7.7 Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions as appropriate.
- 7.8 Employees who are not entitled to SMP may be entitled to receive maternity allowance, payable by the Government. Maternity allowance is claimed by the employee directly. Further details on how to apply are available at: <https://www.gov.uk/government/publications/statutory-maternity-pay-employee-not-entitled-form-for-employers>

### **Occupational Maternity Pay (OMP)**

- 7.9 Occupational maternity pay is more generous than SMP. An employee is entitled to OMP if;
- she has at least 12 months continuous Local Government service by the 11th week before EWC
  - she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);

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- she provides an original MAT B1 form stating her expected week of childbirth; and
- she gives proper notification of her pregnancy on Form A: Maternity Notification
- she will be returning to work after her maternity leave for a minimum period of 3 months
- she gives at least 8 weeks written notice if she wishes to change her agreed return date by completing Form C: Request to change return date.

7.10 OMP is payable for up to 18 weeks after maternity leave starts. Maternity leave can start anytime after 11 weeks before the EWC

7.11 OMP is treated as earnings and is therefore subject to PAYE and national insurance deductions as appropriate.

7.12 For the first 6 weeks, OMP is paid at the equivalent of 90% of the employees average weekly earnings calculated over a specified period. For the purpose of calculating average weekly earnings, shift allowances and overtime payments, are all included.

7.13 For weeks 7 – 18 at 50% of average weekly pay plus any entitlement to SMP or Maternity Allowance up to a maximum of full pay.

7.14 For weeks 19 – 39 SMP at standard maternity pay rate, (subject to qualifying conditions above).

7.15 Women who have claimed OMP but who then decide to resign and not return to work for a minimum period of 3 months will be required to repay the OMP (net of their entitlement to SMP). This period will be extended proportionately if they gain agreement to return to work on a reduced hour's basis

## 8. Other Entitlements

### Time off for Antenatal Care

8.1 Once an employee has advised their Manager that she is pregnant, she will be entitled to take reasonable paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or health visitor. She should endeavor to give her manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible. She must provide her manager evidence of appointments if requested.

8.2 Fathers and partners have the right to take time off work (unpaid) to accompany a pregnant woman at an antenatal appointment on two occasions. They are entitled to be absent for the appointment time for up to a maximum of 6.5 hours on each occasion and the appointment must be on the advice of a registered medical practitioner, midwife or nurse. The council may require the employee to provide a signed declaration confirming the employee's qualifying

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relationship with the pregnant woman or her expected child that the purpose of the time off is to accompany the woman at her antenatal appointment and the date and time of the appointment.

### Health & Safety

- 8.3 Once notified of an employee's pregnancy, the manager must conduct a risk assessment with her to assess any workplace risks in light of her pregnancy. In addition, in advance of the employee returning to work (or as soon as they return if this is not possible), the manager should complete a further risk assessment to assess any workplace risks for women who have recently given birth or where breastfeeding is required on their return to work. A template Risk Assessment Form is available in Appendix E

### Sickness Absence

- 8.4 If an employee is absent from work during her pregnancy due to ill health, she will receive normal sick pay in the same manner as she would during any other period of sickness absence, provided she has not yet commenced maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically. If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, the employee must notify her manager in writing of this, as soon as reasonably practicable.

### Pensions

- 8.5 Employees will continue to pay their usual percentage pension contributions during their paid maternity leave. On their return from maternity leave they have the option to make up pension contributions for any period of unpaid leave. However, their request to repay these contributions to avoid a break in pensionable service must be within 30 days of returning to work. Payroll will provide the employee with a Pension Buy Back Form upon their return, which must be completed and returned to payroll within the stipulated 30 days.

## 9. Contact during maternity leave

- 9.1 Shortly before an employee's maternity leave starts, the manager will discuss arrangements with her for keeping in contact during her leave. Whilst contact should be minimal and respect privacy during maternity leave, it may be necessary to contact the employee from time to time during her maternity leave. This may be to discuss changes within the organisation/service area, the employee's plans for return to work, to discuss any opportunities to support her return to work or simply to update her on important developments at work during her absence.

## 10. Keeping in touch days (KIT)

- 10.1 Except during the first two weeks after childbirth, an employee can agree to work or to attend training for up to a total of 10 days during their maternity leave without that work bringing

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their maternity to an end and without a loss of a week's SMP. These are known as 'keeping in touch' days. Any work carried out on a keeping in touch day shall constitute a day's work for these purposes. Payment is for hours attended only and will be paid at their current salary rate.

- 10.2 Any keeping in touch days worked will not extend the total period of maternity leave.
- 10.3 Keeping in touch days are optional and there is no requirement for an employee on maternity leave to carry out any work during her maternity leave. Equally, there are no obligations on the council to offer keeping in touch days during the period of maternity leave.
- 10.4 If an employee undertakes work for the council and all keeping in touch days have been exhausted, she will lose a week's SMP for any week in which she agrees to work.
- 10.5 The employee's manager must notify Payroll of any keeping in touch days worked (insert link) and the employee will receive payment on the next available monthly pay date.

### 11. Returning to work

- 11.1 The employee will have been formally advised in writing of the date on which she is expected to return to work. The employee is expected to return on this date, unless she notifies her manager otherwise. If she is unable to attend work at the end of her maternity leave due to sickness or injury, normal arrangements for sickness absence reporting procedures will apply.
- 11.2 While the employee is under no obligation to do so, it would be helpful if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.
- 11.3 If the employee wishes to return to work earlier than the expected return date, she must give her manager at least eight weeks' notice of her date of early return and submit a **Form C: Request to change return to work date** (insert link). If she fails to do so it may be necessary to postpone her return to such a date as will give eight weeks' notice, provided that this is not later than the expected return date.
- 11.4 If the employee wishes to return to work later than the notified end of maternity leave period, she must give her manager at least 8 weeks notice prior to her original agreed return date by submitting the **Form C: Request to change return to work date** as above. The notice requirement applies during both ordinary and additional maternity leave. The maternity leave period cannot be extended beyond the maximum entitlement of 52 weeks.

#### **Right to return to same position**

- 11.5 On returning to work after ordinary maternity leave, the employee is entitled to return to the same position as she occupied before starting her maternity leave, on the same terms and conditions of employment as if she had not been absent.
- 11.6 It is also anticipated that in the vast majority of case, employees returning from additional maternity leave will also return to the same position as she occupied before starting her

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maternity leave. However, in exceptional cases it may not be reasonably practicable for the employee to return to the same position in which case the council will offer her a suitable alternative position on similar terms and conditions.

### Working patterns/part-time

- 11.7 An employee who worked full time prior to maternity leave has no automatic right to return to work on a part time basis or to other changes to her working patterns. However, the council endeavors to support flexible on working patterns subject to service requirements. If an employee would like to explore flexible working options, she should submit a flexible working request as soon as possible in advance of her return in accordance with the Flexible Working Policy available at <http://insite/people/employment-terms-and-conditions/flexible-working/>

### Breastfeeding

- 11.8 The council wishes to support employees with continuing to breastfeed after they return to work and will make every attempt to provide suitable rest and storage facilities. The manager will carry out a Risk Assessment with the employee to assess and agree what arrangements should be put in place.

### Childcare Vouchers

- 11.9 Childcare vouchers are a government approved tax efficient way of paying for childcare. They can be used for all children (up to age 16) to pay for any Qualifying Childcare in a wide range of childcare settings. Further information on our childcare scheme is available at: <http://insite/people/pay-and-benefits/childcare/>

## 12. Resignation

- 12.1 If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and provide notice in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the council may require the employee to return to work for the remainder of the notice period. Women who have claimed OMP but who do not return to work for a minimum period of 3 months will be required to repay the OMP.

## 13. Exceptional Circumstances

- 13.1 In the very sad event that the pregnancy ends in miscarriage in the first 24 weeks of pregnancy, the employee will not be entitled to maternity leave or pay. If the employee's pregnancy continues to after 24 weeks of pregnancy their entitlement to maternity leave and pay are unaffected.
- 13.2 In tragic circumstances where the employee gives birth to a still born baby or the baby sadly dies at, or shortly after birth, their entitlement to maternity leave and pay are unaffected.
- 13.3 Supporting an employee with returning to work after such sad events should be handled sensitively and with compassion. Confidential advice is available from ODHR.

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### 14. Summary

14.1 The table below summarise the various forms and steps that should be completed prior to, during and after the return from maternity leave

<b>Form/Action</b>	<b>Purpose</b>	<b>Who actions</b>	<b>When</b>
Mat B1	Certificate issued from Doctor or Midwife to Mother to confirm childbirth	Employee must provide original certificate to manager	At least 28 days prior to start of maternity leave
Form A	To confirm when employee anticipates starting maternity leave	Employee to manager	As soon as possible and no later than the 15 <sup>th</sup> week before EWC
Employers response letter	Letter from manager to confirm notification of maternity leave	Manager to employee	As soon as possible after notification
Form B	To confirm date of amended maternity leave if baby arrives prior to original maternity leave start date	Employee to manager	Only required if baby arrives early
Form C	Request to change agreed return to work date, giving 8 weeks notice	Employee to manager	8 weeks before
Form D	To confirm the return of the employee from maternity leave	Manager to payroll (Arvato)	Prior to return to work
Risk Assessment	To assess workplace risks to women who are pregnant and when they return to work and wish to continue breastfeeding	Manager with employee	At notification of pregnancy and on return to work in case of breastfeeding
Contact and 'keeping in touch' days	To agree arrangements for contact during maternity leave and any keeping in touch days	Manager/ employee	Prior to commencement of maternity leave and during maternity leave in respect of KIT days
Pension Buy Back Form	For employees who wish to repay pension contributions to avoid a break in pensionable service	Employee to Payroll (Arvato)	Within 30 days of return to work