

MATERNITY POLICY

INTRODUCTION

This document is designed to assist you in understanding what the basic statutory and occupational entitlements to maternity leave and pay are. If you have any queries after reading this document please refer them to HR.

ANTENATAL CARE

A pregnant employee has the right to paid time-off work, (including travelling time) to receive ante natal care.

Except in the case of the request for time-off for the first appointment, an employee must produce evidence of appointments if requested.

An expectant father or the partner (including same sex) of a pregnant woman is also entitled to take unpaid time off work to accompany the woman to up to 2 of her ante-natal appointments. The time off is capped at six and a half hours for each appointment. Please see the Paternity Policy for further details.

NOTIFICATION

Once an employee has notified the Council that she is pregnant a risk assessment specific to the employee must be carried out to ensure a safe working environment.

An employee must notify the Council at least 15 weeks before her expected week of confinement (EWC) or as soon as is reasonably practicable that she is pregnant. Failure to do so may result in loss of entitlement. A form, known as a PRE 3A, "Notification of absence or leaving because of Pregnancy" must be completed and passed to the Line manager. This form is completed by all pregnant staff irrespective of whether they qualify for SMP or not and is available from Human Resources.

The Council must also be informed of when the employee wishes to commence maternity leave. An employee can change her mind about the dates she wishes to start maternity leave as long as she gives at least 28 days' notice before the date varied or the new date (whichever is earlier) or as soon as reasonably practicable.

Ordinary Maternity Leave is automatically triggered by a pregnancy related absence in the last 4 weeks before EWC, an employee must notify the Council (in writing) as soon as reasonably practicable that she is absent due to pregnancy and that her absence began for that reason.

Where leave is triggered by giving birth, an employee must notify the Council (in writing) as soon as reasonably practicable after the birth that she has given birth and the date on which it occurred. Failure to do so may result in loss of entitlement.

MATERNITY LEAVE ENTITLEMENT

All pregnant employees, irrespective of service, will be entitled to 52 weeks maternity leave. Maternity leave is made up of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional

maternity leave (AML). AML follows immediately on from OML and there can be no gap between the two. Maternity leave does not break an employee's continuous service.

Maternity leave and maternity pay are separate entitlements. The amount of maternity leave that will be paid will depend on the salary and length of service of the employee.

The maternity leave period cannot be broken by any other manner of leave and must be a continuous period.

An employee must take a minimum of two weeks leave after the birth of her child. This is referred to as Compulsory Maternity leave.

Employees are protected from suffering a detriment or dismissal for taking, or seeking to take, maternity leave.

STARTING MATERNITY LEAVE

The Maternity Pay Period (MPP), during which the employee is paid Statutory Maternity Pay (SMP), cannot start earlier than the 11th week before the EWC. An employee must have stopped work entirely (except for keeping in touch days, which are exempt) before the start of the Maternity Pay Period. If the baby is born before the arranged maternity absence begins, the MPP will commence the day following the birth of the baby.

A pregnant employee can, if it is regarded as safe to do so, continue to work up until the birth of their baby although the Council would not normally advise this.

STATUTORY MATERNITY PAY (SMP)

Qualifying for SMP

A pregnant employee qualifies for SMP provided she has:

- At least 26 weeks continuous service with Arun DC at 15 weeks before EWC.
- Average weekly earnings at or above the lower earnings limit for the National Insurance Contributions (NIC) in the 'set period'. An employee who earns less than this per week, will not qualify for SMP but can claim Maternity Allowance and/or Income Support.
- An employee has reached the 11th week before EWC or has had the baby by that time.
- Provided confirmation of the pregnancy (MATB1 or equivalent document issued by the midwife or Doctor).
- Stopped work altogether. If an employee undertakes any paid work other than the 10 'Keeping in Touch' (KIT) days (see 8.0 below) in a given week during the MPP she will automatically lose her SMP for that week. This applies both to work for the Council or any other employer.
- Given 28 days' notice of the date from which she wants to start her SMP.

An employee must obtain a completed Form MATB1 from her Doctor or midwife and supply this to the Payroll Manager. SMP cannot be paid unless this form has been submitted. It must not be issued more than 20 weeks before EWC otherwise it is invalid. If it is signed by a Doctor it must have the practice stamp on it. If it is signed by a Midwife no stamp is required but it must have his/her Registration Number (UKCC PIN).

RATES OF SMP (STATUTORY LEGISLATION)

SMP is payable for 39 weeks during maternity leave as detailed below:

- **Weeks 1 to 6**
90% of average weekly earnings.
- **Weeks 7 to 39**
Standard rate SMP or 90% of average weekly earnings (whichever is less).

SMP is subject to PAYE income tax, NICs and pension contributions. The method and time of payment does not change, but payslips will be sent to an employee's home address. Voluntary deductions will continue to be made as before unless the employee requests otherwise.

If an employee does not qualify for SMP she may qualify for income based Maternity Allowance. A completed form SMP1 must be obtained from Payroll so that the allowance can be claimed directly from her local benefits office.

OCCUPATIONAL MATERNITY PAY

An employee with over one year's continuous local government service at the 11th week before EWC will be entitled to the following payments under the National Terms and Conditions (Green Book):

- **Weeks 1- 6**
90% of actual average weekly earnings with no upper limit or Maternity Allowance.
- **Weeks 7-18**
Half pay, which is usually paid alongside your first 12 weeks of standard rate SMP provided you return for a minimum of 3 months following maternity leave. Should you decide not to return following your maternity leave, you will be expected to repay this Occupational Maternity Pay unless you can demonstrate exceptional circumstances in which case the Council will give consideration to waiving this condition.
- **Weeks 19-39**
SMP paid at standard rate or a rate equal to 90% of average weekly earnings whichever is lower, or Maternity Allowance.

Essential Car user, where applicable, will be paid in full throughout the maternity pay period.

PENSION CONTRIBUTIONS

During the period of Ordinary Maternity Leave an employee will continue with full membership of the Local Government Pension Scheme (LGPS). Pension contributions are based on the pay an employee receives during this period.

Full membership of the LGPS will continue for any Additional Maternity Leave and pension contributions will be based on the actual pay received during this period.

For any additional unpaid leave taken, an employee can choose to make pension contributions. An employee must inform HR/Payroll if she intends to do this within 30 days of returning to work (or within 30 days of leaving, if she chooses not return to work). The cost of paying back is based on the

last rate of pay an employee received ignoring any increase in pay due to working a Keeping in Touch day.

KEEPING IN TOUCH (KIT) DAYS

An employee is able to take up to ten days work or training during her SML without bringing the leave to an end or losing her maternity pay. KIT days can be taken at any point other than the first two weeks of maternity leave and any work carried out on a particular day will count as a day's work.

Neither the employer nor an employee can insist on work being carried out during maternity leave and maternity leave cannot be extended if an employee chooses to work any of these days.

Each agreed KIT day will be paid at an employee's contracted daily rate of pay. This will be offset against any maternity pay she is receiving at the time.

CONTACT DURING MATERNITY LEAVE

Reasonable contact can be made from time to time by HR or the line manager during an employee's maternity leave to discuss, for example, her return to work. An employee on maternity leave should also be offered her annual appraisal if this falls during the period she is absent. Contact can be made by telephone, email, letter or in person, and will depend on any agreement made before the employee's leave commences.

RETURNING TO WORK

An employee is not required to give notice of her intention to return to work unless she wishes to return to work before the end of the maternity leave period (52 weeks).

Under the Green Book, if an employee on Ordinary Maternity Leave (the first 26 weeks of the maternity leave period) wishes to change her return date, she must give at least 7 days written notice. Where the notice given is less than 7 days, the Council may postpone the return to ensure 7 days' notice but may not postpone beyond the end of the Ordinary Maternity Leave period.

Where the employee is on Additional Maternity Leave (the last 26 weeks of the maternity leave period) and an employee wants to change her return date she must give at least 21 days' notice before the old or proposed return date (whichever is the earliest). Where the notice given is less than 21 days, the Council may postpone the return to ensure 21 days' notice but may not postpone beyond the end of the additional maternity leave period.

An employee, who returns to work, during or at the end of her Ordinary Maternity Leave period is entitled to return to the job in which she was employed before her absence on no less favourable terms and conditions than had she not been absent

An employee who returns to work after a period of Additional Maternity Leave is entitled to return to the job in which she was employed before her absence except when it is not reasonably practicable. In these circumstances an employee is entitled to return to another job that is both suitable and appropriate for her to do, on terms and conditions that are no less favourable than those for her original job.

An employee is entitled to benefit from any general improvements to the rate of pay or holiday entitlement which may have been introduced for her grade or class of work during her absence.

Where an employee is unable to return after her leave due to sickness, the normal sick leave procedures will apply. A Medical Certificate must be provided on the same basis as other employees.

Maternity leave cannot be treated as sick leave and is not therefore taken into account when calculating sick leave entitlement. Equally an employee cannot claim Statutory Sick Pay at the same time as claiming SMP.

CHANGING WORKING HOURS ON RETURN TO WORK

An employee returning to work may make a request to work flexibly either on a temporary or a permanent basis. The regulations do not give a right to work flexibly but they make it easier for an employee to make the request and have it properly considered.

An employee wishing to explore this option should follow the procedure laid down in the Council's Flexible Working Policy. Application should be made to HR at least 28 days prior to an employee's return to work date to allow due time for the request to be considered.

NOT RETURNING TO WORK

If an employee wishes to resign whilst on maternity leave, they may do so in writing giving their contractual period of notice. An employee is still entitled to statutory maternity pay even if she decides not to return to work. The employee will not be entitled to statutory maternity pay for any week in which she works during the maternity pay period therefore it is important that the Council is advised if the employee is resigning to start work with another employer.

ANNUAL LEAVE ENTITLEMENT

An employee continues to accrue annual leave throughout her maternity leave. She may not take annual leave during maternity leave but can take any untaken annual leave before and/or after her maternity leave.

Employees are encouraged to take any outstanding annual leave due to them before commencing maternity leave. Employees should take leave where possible in the year that the entitlement is for, therefore, if maternity leave crosses over into the next leave year, employees should try to use their full year's entitlement, before starting maternity leave.

If the employee is unable to take her annual leave during the leave year she may carry forward all accrued leave to the following year so that the employee can take this at some other time. This includes Bank Holidays.

The Council cannot pay an employee in lieu of any untaken statutory leave unless the contract is terminated.

HEALTH & SAFETY CONSIDERATIONS

Under Health & Safety at Work legislation where an employee has notified the Council in writing that she is pregnant, has given birth in the previous 6 months or is breastfeeding, the manager must

carry out a specific risk assessment in relation to her current work duties, and ensure that a Personal Emergency Evacuation Plan (PEEP) is completed. Where a risk is identified which cannot otherwise be avoided, the Council will alter the working conditions or hours of work. If it is not reasonable to do this and if alternative work on the same terms and conditions cannot be found, the Council will suspend the employee from work for as long as necessary.

Mothers who are still breastfeeding on their return to work will be provided with a private room and suitable rest periods to feed their child on site.

REDUNDANCY

If a redundancy situation arises whilst an employee is on maternity leave (OML or AML), and it is not possible to continue to employ the employee under her existing contract of employment, she will be offered any suitable available vacancy. An employee does not need to express an interest. This gives more favourable treatment to an employee who has been issued with notice of redundancy and is on maternity leave. The work offered must be both suitable and appropriate for her to do and must not be substantially less favourable than her previous contract.

If the alternative role does not satisfy these conditions, it is not suitable alternative employment and the employee is not entitled to be offered the role automatically.

This special treatment does not apply before maternity leave commences or once the employee has returned to work.

SHARED PARENTAL LEAVE

The father or partner of the mother may be eligible for Shared Parental Leave. Please see the Shared Parental Leave policy for more information.