

### **DOCUMENT INFORMATION**

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## **MATERNITY LEAVE AND PAY**

Where an employee needs help reading or understanding or engaging in the process below, because English is not their first language or they have learning difficulties or a disability which affects their ability in this area, Human Resources will arrange for someone to assist them. This will apply to the whole process and the support will include reading and explaining letters or documentation. To access this support the employee must ask Human Resources as otherwise they may not be aware of the need.

To simplify these guidance notes, abbreviations have been used as follows:

<b>EWC</b>	Expected week of childbirth (beginning on a Sunday this is the 7 day period which includes the EDC)
<b>EDC</b>	Expected date of childbirth
<b>QUALIFYING WEEK</b>	This is the 15th week before the EWC.
<b>AVERAGE WEEKLY EARNINGS</b>	For maternity pay purposes this is assessed as the gross weekly earnings (liable for National Insurance contributions) in the 8 week period immediately before the qualifying week and includes payments made during this time, for example overtime payments.
<b>SMP</b>	Statutory Maternity Pay
<b>OMP</b>	Occupational Maternity Pay
<b>MPP</b>	Maternity Pay Period (under the terms of SMP this is a period of 39 weeks during which SMP is payable)

### **General Principles**

1. Maternity leave and maternity pay are separate entitlements. These entitlements and the criteria for eligibility are described below.
2. Guildford borough Council applies the NJC for Local Government Services maternity scheme which offers enhanced maternity pay benefits to employees.
3. This policy does not apply to employees wishing to take paternity leave or adoption leave where separate policies exist.

## Maternity leave

4. All pregnant employees are entitled to take 52 weeks maternity leave. This is made up of 26 weeks' ordinary maternity leave followed by 26 weeks additional maternity leave.
5. Employees must take a minimum of two weeks' compulsory maternity leave following the birth of the child and must not be allowed to work during this time.
6. Only one period of maternity leave will be available to employees, irrespective of whether more than one child is born as a result of the same pregnancy.

## Statutory maternity pay (SMP)

7. Employees are entitled to SMP if:
  - the employee has 26 weeks continuous Guildford borough Council service by the qualifying week and are employed by the Council during the qualifying week
  - the employee's average weekly earnings are at or above the lower earnings limit (£116 gross pay per week during 2018 to 2019) for National Insurance contributions.
8. The employee becomes ineligible for SMP if:
  - the employee returns to paid employment during the MPP (other than keeping-in-touch days)
  - the employee works for a new employer who they did not work for in the qualifying week
  - the employee is taken in to legal custody by the Police at any time during their MPP.
9. It is the employee's responsibility to inform their manager if they are no longer eligible for maternity pay due to a change in circumstances.
10. SMP is paid for 39 weeks as follows:
  - **weeks 1 – 6:** Higher rate SMP: Pay at 90% of the employee's average weekly earnings (no upper limit)
  - **weeks 7 – 39:** Lower rate SMP: Pay at standard rate (£145.18 from 1 April 2018) or pay at 90% of the employee's average weekly earnings if this is less than the standard rate
  - **weeks 40 – 52:** The remaining 13 weeks of the employee's maternity leave are unpaid.
11. SMP is a weekly rate set by the Government and reviewed annually in April. An employee is entitled to SMP even if they do not return to work.

## Maternity Allowance

12. Employees who are not eligible for SMP may be entitled to Maternity allowance. Maternity allowance is a standard rate (£145.18 from April 2018) or 90% of the employee's average weekly earnings if this is less than the standard rate. Maternity allowance is paid for 39 weeks. Further information and a claim pack can be obtained from the Department for Work and Pensions or Jobcentre Plus.
13. Employees who are not eligible for SMP or Maternity Allowance will receive 5 days salary from the Council. Employees may be able to get additional financial support through Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant. Further information is available from the local Jobcentre Plus office or [www.gov.uk](http://www.gov.uk)

## Occupational maternity pay (OMP)

14. Employees are entitled to OMP if:
  - the employee has one year's continuous local government service at 11 weeks prior to their EWC
  - the employee is intending to return to work following their maternity leave.
15. OMP is paid for 12 weeks as follows:
  - **weeks 7 - 18:** Pay at 50% of the employee's average weekly earnings.
16. OMP is paid to the employee in addition to any entitlement to SMP paid during these weeks. The total payment cannot exceed the employee's usual full weekly pay.
17. If the employee leaves local authority employment within 3 months of the date they returned to work or do not return to local authority employment following maternity leave then the employee will be required to repay any Occupational Maternity pay received. If the employee is uncertain whether she will be returning to work she can request that the payment is deferred and paid to her on return to work.
18. If a stillbirth occurs after 24 weeks of pregnancy or the baby is born alive but later dies then entitlements to maternity leave and pay will still apply.

## Payments

19. All payments due to employees from the Council will be made by the Payments Section in to the employee's bank account in the usual way. Payments are subject to deductions for tax and NI.
20. Any cost of living pay award or pay increment that becomes effective at any point during the employee's MPP will be reflected in any SMP and if applicable, OMP, received which will be recalculated, retrospectively if necessary.

## Timing of maternity leave

21. The earliest an employee can commence maternity leave and pay is the beginning of the 11<sup>th</sup> week before the EWC. Maternity leave can commence on any day of the week.
22. The latest date to commence maternity leave and pay is the date the child is born.
23. The employee's maternity leave will commence on the date given by them unless one of the following situations occurs:
  - the baby is born before the maternity leave is due to start. If this occurs then the maternity leave will commence on the day after the date of childbirth, or
  - the employee is absent from work due to **pregnancy related sickness** after the 4<sup>th</sup> week prior to their EWC. If this occurs then the employee's maternity leave and SMP are automatically triggered and will start on the day following the first day of sickness absence.

## Notice requirements – maternity leave

24. Employees are required to provide written notice of the pregnancy, the EWC and the date they intend to commence maternity leave to their manager and Human Resources no later than the qualifying week. The employee should also confirm any annual leave arrangements and whether she intends to return to work following maternity leave.
25. The employee is required to send their original MATB1 certificate to Human Resources along with their written notification (or to follow as soon as possible if the employee has not yet received this). *The MATB1 is a certificate issued at approximately 21 weeks by the Doctor or Midwife which confirms the EWC.* If the employee does not qualify for SMP, the original MATB1 will be returned to them and a copy will be retained by Human Resources and Pay section.
26. An employee who later decides to commence maternity leave at a different date than originally planned should notify their manager and Human Resources at least 28 days before the revised date or the original date, whichever is sooner. If this is not possible, the employee should notify their manager and Human Resources as soon as reasonably practicable.
27. Once the employee has notified Human Resources of the date they intend to commence maternity leave, Human Resources will write to the employee within 28 days to acknowledge their intentions and confirm when the maternity leave is due to end.
28. The employee should notify their manager of the date the baby was born as soon as reasonably practicable following the birth.

## **Sickness absence**

29. If sickness absence occurs that is not pregnancy related, then the usual statutory and occupational sick pay entitlement will apply up to the date the employee commences maternity leave. If the employee's sick pay has reduced to half or nil pay prior to commencement of maternity leave, this will have an impact on the amount of SMP she will be entitled to receive.

## **Parking**

30. Pregnant employees are entitled to parking facilities at Millmead House if still working at 8 weeks prior to their EWC. The manager should contact Human Resources to arrange for the employees security card to be activated for parking purposes.

## **Ante-natal Care**

31. Employees are entitled to reasonable paid time off during working hours to attend ante-natal care if advised to do so by a registered GP, midwife or health visitor. The manager can ask the employee to provide evidence of appointments and the employee should endeavour to provide as much notice as possible of appointments. Where possible the employee should try to arrange appointments at the beginning or end of the working day.

## **Health and Safety**

32. The manager should undertake an expectant mother's risk assessment as soon as possible once notified by the employee of their pregnancy. The manager should look at all aspects of the employee's work and work environment to identify whether there are any hazards to the expectant mother. If a risk is identified, managers should agree with the employee how that risk will be minimised. The expectant mother risk assessment template can be viewed on the Loop.

These health and safety obligations will continue to apply to women in the workplace who have recently given birth or are breastfeeding.

## **Contractual rights during maternity leave**

33. During maternity leave, employees are entitled to retain all their usual terms and conditions of employment with the exception of pay.

34. Continuity of employment is preserved during maternity leave so any period of maternity leave will be regarded as service.
35. Employees will continue to accrue statutory and contractual annual leave during maternity leave.
36. Where a period of maternity leave crosses in to a new leave year, all accrued annual leave and bank holiday leave may be carried over. However, the amount of leave taken in any leave year should not fall below the statutory minimum of 5.6 weeks (including bank holidays).
37. Employees should discuss with their manager their plans for taking outstanding annual leave. With the manager's agreement employees may add a period of annual leave on to the beginning or end of maternity leave.
38. If the employee is a member of the Local Government Pension Scheme (LGPS), employer pension contributions will continue to be made and the employee will continue to pay employee pension contributions during any period of paid maternity leave (up to 39 weeks). Employee pension contributions will be calculated based on maternity pay received. If you are not entitled to receive any pay during maternity leave, employer pension contributions will be made during the first 26 weeks of maternity leave.
39. The period of additional maternity leave that is unpaid (weeks 40 – 52) does not count towards membership of the LGPS although this does not count as a break in service. Employees can elect to buy the pension 'lost' during this period of unpaid additional maternity leave. Where an election to buy 'lost' pension is made within 30 days of returning to work from maternity leave, the Council will meet 2/3rds of the cost. Where an election to buy 'lost' pension is made after 30 days of returning to work, it is at full cost to the employee. Further information is available from Human Resources.
40. If the employee is a member of the Council's private medical insurance scheme, the Council will continue to pay contributions during maternity leave so the employee will maintain their level of cover.
41. If the employee receives an essential user car allowance, this will continue to be paid during their period of maternity leave.
42. If the employee has a lease car, they will retain the car during their maternity absence. If the employee is paying an additional contribution towards the cost of the car, this must continue during their maternity absence.
43. If the employee is in receipt of childcare vouchers, the childcare vouchers will be suspended during the period of maternity leave.

## **Contact during maternity leave**

44. During maternity leave the manager may make reasonable contact with the employee to discuss plans for returning to work and advising them of any developments or changes at work. Employees who wish to receive current job vacancies during maternity leave should notify Human Resources.
45. Managers should consult with the employee regarding contact arrangements before their maternity leave commences. Managers should agree a level and method of contact that is agreeable to both parties.

### **Keeping In Touch (KIT) days**

46. During maternity leave an employee can attend work for up to 10 days by mutual agreement with their manager. Attendance at keeping-in-touch (KIT) days is voluntary and they are to enable the employee to keep in touch with the workplace. The days can be used for any activity which would ordinarily be deemed as work under the employment contract. This could include training courses, team meetings or any activity aimed at keeping in touch. Managers should discuss opportunities to work KIT days with the employee before they begin maternity leave, identifying any key dates for activities.
47. If the employee attends work for only half a day then this will be counted as using one of their ten KIT days. The employee will receive pay for the time spent at work at their usual salary or they can take time off in lieu at a later date.
48. KIT days must not take place within two weeks following the birth of the child.
49. Any KIT days worked will not extend the period of maternity leave.
50. If the employee is on maternity leave when their performance appraisal is due, the manager should invite the employee to attend work for an appraisal or alternatively offer an appraisal via telephone. Absence due to maternity leave should not affect the assessment made of the employee's performance level.

## **Notice Requirements – return to work**

51. The Council will assume that where an employee has indicated that they intend to return to work, the employee will do so when their maternity leave entitlement has ended. The employee is not required to provide written notification of their return to work if returning following full maternity leave entitlement of 52 weeks.
52. If the employee wishes to return to work early before the full 52 weeks maternity leave, they must provide 8 weeks written notification of their intended return date. The Council may delay an employee's return to work in such cases to allow for the correct notice period provided it is not later than the end of the maternity leave period.

53. If the employee is unable to return to work at the end of their maternity leave due to sickness or injury, the Council's normal arrangements for sickness absence will apply.

## **Changes to Working Patterns**

54. If the employee is considering changing their working pattern on their return to work from maternity leave, the employee should discuss this with their manager at the earliest opportunity. This may include part time hours, condensed working weeks, term time contracts or job share options. Every effort will be made to accommodate a request within the needs of the service. Such requests should be considered in accordance with the guidance and procedures set out under flexible working. Please see guidance on flexible working on the Loop for further information.

## **Resignation**

55. If the employee decides not to return to work and chooses to resign from their job, they are required to provide their manager with the appropriate notice period as set out in their employment contract. The employee can serve their notice period whilst on maternity leave.
56. An employee can only elect to buy 'lost' pension (see point 34) whilst an active member of the pension scheme. If an employee decides not to return to work at the end of their maternity leave, any election and payment to cover 'lost' pension would need to take place prior to leaving the Council's employment.

## **Parental leave**

57. An employee with at least one year's service may request up to 4 weeks unpaid parental leave per child to follow on from maternity leave. For further information please contact Human Resources. *Please note that Parental leave should not be confused with Shared Parental Leave, which is a separate entitlement (see below).*

## **Surrogacy**

58. Maternity leave and pay entitlements will also apply to an employee who gives birth to a child as a surrogate.

## **Shared parental leave and pay**

59. Qualifying mothers may be able to choose to end maternity leave and pay early and exchange it for shared parental leave and pay. Please see Shared Parental Leave and Pay guidance, which is available on the Human Resources pages of the Loop.

## **Monitoring the application of the maternity leave and pay policy**

60. The Council will carry out equality monitoring of its workers and is committed to the principles of diversity, equality of treatment and equality of opportunity. The scheme aims to ensure that no person receives less favourable treatment on any of the grounds outlined above under protected characteristics or is disadvantaged by conditions or requirements of the scheme.