
MATERNITY POLICY & PROCEDURE

Policy Statement

All employees who are pregnant are entitled to maternity leave and maternity pay. This document sets out the contractual (“occupational”) and statutory maternity entitlements that apply to Southampton City Council employees, and the requirements of employees and line managers before, during and upon return from maternity leave.

Scope

This policy relates to all female employees directly employed by the Council, other than school based employees. A separate policy and procedure cover this group.

Eligibility

Eligibility for maternity leave and pay will vary depending on an individual employee’s length of continuous local government service. All employees requesting maternity leave must produce medical evidence of their expected week of childbirth, usually in the form of a MATB1, which is issued by a doctor or midwife.

Responsibility and Accountability

Employees must:

- Adhere to the required time scales to provide notification of pregnancy, request maternity leave and notify a return to work (where applicable).
- Complete and relevant any maternity forms and submit them to HR Pay in a timely fashion.

Managers must:

- Ensure that pregnant employees access the Council’s Maternity Policy and inform HR Pay of the pregnancy.
- Refer to the Safe Working Procedure for New and Expectant Mothers, to ensure that the Council’s statutory responsibilities in relation to health and safety are adhered to in relation to any pregnant employee.
- Ensure that HR Pay are notified of an employee’s return to work date and any changes to working hours.

Review and Amendment

This Policy does not form part of the employee’s contract of employment and the Council retains the right to review and change the Policy at any time, ensuring that it complies with current employment legislation and the requirements of the Council. The recognised Trade Unions will be consulted with a view to reaching an agreement on any changes prior to publication.

MATERNITY ENTITLEMENTS & PROCEDURES

1.0 Maternity Leave

All pregnant employees, regardless of service, are entitled to Ordinary Maternity Leave (OML) of 26 Weeks and Additional Maternity Leave (AML) of a further 26 weeks to start immediately after OML.

An employee can choose when to start maternity leave, subject to her giving the required notice (see section 5 for further details). Maternity leave can start anytime from the beginning of the 11th week before the Expected Week of Childbirth (EWC) to, at the latest, the day of the birth of the baby.

Where the employee decides to continue working during the four weeks prior to the expected date of childbirth, the employee may be asked to supply a certificate for each week from their doctor to say they are fit to work.

If an employee becomes medically unfit at any time from the beginning of the 11th week before EWC she can choose to have sick pay OR start maternity leave. However, any absence after the beginning of the 4th week before the EWC which is wholly or partly because of the pregnancy or childbirth will automatically trigger the start of maternity leave (this does not include antenatal appointments).

Where a baby is born before maternity leave commences then the date following the date of childbirth will be regarded as the first day of maternity leave.

The birth of a baby (living or stillborn) after 24 weeks of pregnancy automatically starts maternity leave. If a baby is stillborn the employee is still entitled to receive the full maternity benefits, i.e., statutory and occupational maternity pay and maternity leave that she would have received had the baby not been stillborn. (In this event the line manager should advise the HR/Payroll Service, so that any communications to the employee that are necessary are appropriately written).

A woman who has given birth must take a minimum of two weeks maternity leave, immediately following the birth. This is known as compulsory maternity leave.

If you are on authorised maternity leave your contract of employment continues to apply except for your pay. You will be entitled to non-pay benefits and, where you contribute e.g., pension, this will continue whilst you are on paid maternity leave. You must not take any other employment and the Council's rules, including the disciplinary rules etc., continue to apply.

If you are medically unfit whilst on maternity leave you will not be entitled to sick pay even if you are in the period of unpaid maternity leave.

For babies that were due on, or after 5th April 2015, a new policy of Shared Parental Leave and Pay applies – please see the separate policy for details and eligibility.

2.0 Maternity Pay

2.1 Statutory Maternity Pay (SMP)

Statutory Maternity Pay will normally commence on the first day of the employee's maternity leave.

SMP is payable where:

- The employee is employed into the “qualifying week” which is the 15th week before the EWC, and has at least 26 weeks service with SCC at this point previous service with other local authority organisations or those under the Modification Order does not count towards this,
- The employee is earning, before tax, the Lower Earnings Limit for National Insurance Contributions.

If the above criteria are met, the employee is entitled to a maternity pay period of 39 weeks comprising:

- 90% of a week's pay (for the first 6 weeks of Ordinary Maternity Leave,)
- the lower of either SMP, or 90 per cent of your average gross weekly pay (see <https://www.gov.uk/maternity-pay-leave/pay>) (for the remaining 33 weeks)

If the criteria to obtain SMP are not met, the employee may be entitled to maternity allowance. HR Pay will send the employee a form (SMP1) to complete. The allowance is claimed from Jobcentre Plus (see <https://www.gov.uk/maternity-allowance>) If maternity allowance is claimed, the employee must inform the Council of the amount received.

2.1.2 Calculation of a Week's Pay for Statutory Maternity Pay

The Council will look at the gross earnings paid to the employee in a set period. This is usually the eight week or two-month period up to and including the 15th week before the expected week of childbirth (please see note below at 2.3 about childcare vouchers).

If the employee is awarded a pay rise which is effective at any time from the start of the set period used to work out SMP and the end of the employee's maternity leave, the Council will recalculate the rate of SMP and pay any balance due.

2.2 Occupational Maternity Pay

A 'week's pay' is calculated with reference to the employee's pay at the time that she commences maternity leave.

Qualification for OMP only

If the pregnant employee has one year of continuous local government service at the beginning of the 11th week before the EWC, but **is not** entitled to Statutory Maternity Pay she will be entitled to:

- 90% of a week's pay for the first six weeks

and if she declares in writing her intention to return to work with the Council for a minimum of three calendar months (using the Notification of Pregnancy for, F19 in the Forms Library on the intranet), she will receive:

- half pay for 12 weeks

Qualification for OMP and SMP

If the pregnant employee has one year of continuous local government service at the beginning of the 11th week before the EWC, and **is** entitled to SMP she will receive a combination of the two elements, with a cap to payments (where applicable) to ensure that they do not exceed the employee's normal full pay):

- SMP at 90% of a week's pay for the first six weeks of OML

and if she declares in writing her intention to return to work with the Council for a minimum of three calendar months (as above), she will receive:

- half pay for 12 weeks in addition to the lower rate of Statutory Maternity Pay (for 33 weeks).

2.2.1 12 Weeks Half Pay Payment Options

The employee may elect to receive the 12 weeks half pay either

- paid in conjunction with any SMP payable between the 7th and 18th week, or
- as a lump sum on her return to work.

If the employee does not return to work or returns for less than three calendar months, she will be required to refund the 12 weeks' half pay. They would also be required to refund the occupational element if they move to another local government organisation or other organisations where service counts under a 'Modification Order'.

2.2.2 Second and Subsequent Births

In these circumstances, the employee must return to work for a minimum period of 3 months as a qualifying condition to receiving further Occupational Maternity Pay.

2.3 Childcare Vouchers

Following the launch of the government's Tax-Free Childcare (TFC) scheme the council's Childcare Voucher (provided in partnership with Computershare) is now closed to new entrants.

The Tax-free Childcare scheme pays 20% of childcare costs up to a maximum of £2000 each year for each child. The scheme has some eligibility criteria and there are some specific clauses relating to Maternity leave otherwise, it is open to all parents of children under 12 (or under 17 if disabled). For more information, see the links below:

- Childcare Vouchers v Tax Free Childcare

- Tax Free Childcare
<https://www.gov.uk/browse/childcare-parenting/childcare>

Where an employee is in receipt of Childcare Vouchers via the council's partnership with Computer share, they should seek advice from Computershare as deductions made during the period leading up to maternity leave can affect maternity pay.

To contact Computershare Email: parent@computershare.co.uk or call: 0345 002 1111 (8am-8pm, Monday to Friday)

3.0 Antenatal Care

All pregnant employees are entitled to paid time off to attend antenatal care appointments. Antenatal care may include relaxation and parent craft classes (on the advice of a healthcare professional), as well as medical examinations related to the pregnancy.

With the exception of the first antenatal appointment, the employee must provide her manager, on request, with a certificate confirming she is pregnant (once this is provided by a medical practitioner e.g., a doctor) and an appointment card (or equivalent) confirming the antenatal care appointment.

3.1 The right for the other parent to take unpaid time off to accompany the expectant mother to antenatal appointments

The husband, civil partner or partner of the pregnant woman is allowed the right to unpaid time off to accompany the pregnant woman to attend up to two antenatal appointments.

This also applies to employees who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for, and intend to apply for, a Parental Order for the child born through that arrangement.

The employee cannot be asked for any evidence of the antenatal appointment, such as an appointment card, as this is the property of the expectant mother.

Please ask the employee to complete the Form AN1 to show the required information relating to the appointment. If the employee is not using TOIL or leave to cover this time off, please inform HR Pay so they can use the appropriate code for unpaid time off.

Paid time off may be granted in exceptional circumstances at the discretion of senior managers and in conjunction with HR Pay.

4.0 Maternity Risk Assessments

It is important that employees notify their line manager of a pregnancy once it is confirmed so that the required risk assessment is conducted to ensure that there is nothing in the employee's work that could affect her health and wellbeing or that of her baby. See: Safe Working Procedure - New & Expectant Mothers. The pregnancy can still be kept confidential to the parties

involved in carrying out and, where appropriate, implementing the results of the risk assessment.

If the employee's health (or that of her unborn child) is likely to suffer as a result of her normal work the Council will either move the employee to safe work or instruct the employee not to come to work until maternity leave commences, at the beginning of the 11th week before the EWC. The employee would remain on full pay until maternity leave commences.

5.0 Formal Notification of Pregnancy

Employees who are pregnant are asked to notify their manager (and HR Pay) about the pregnancy, as soon as the pregnancy is confirmed. Employees should complete the Notification of Pregnancy form, which can be accessed from the Forms Library in the intranet. The Council's preference for early notification is to ensure that the appropriate health and safety measures are considered (as above). If an employee is not able to access the notification form via the intranet, a letter will be acceptable.

There is a legal requirement for an employee to notify their employer of their pregnancy, at the latest, in or before the 15th week before the Expected Week of Childbirth (EWC). The employee must give at least 28 days' notice of the date on which they intend to start their maternity leave. If notification is by letter, it must give the date on which the employee expects to begin maternity leave and say if the employee intends to return to work or not.

The employee should enclose a maternity certificate showing the EWC (generally known as a form MAT B1 which is obtainable from a doctor or midwife) with the submitted form/letter. The manager must forward the MAT B1 to HR Pay (the employee should retain their own copy, as HR/Payroll require the original).

If the employee wishes to later change the start date of maternity leave, she must give 28 days' notice (or, if that is not possible, as much notice as is reasonably practicable).

The Council (HR Pay) is required to write to the employee within 28 days to confirm her expected date of return from maternity leave.

6.0 Planning Ahead

The manager and pregnant employee must agree together how to manage the employee's pregnancy in the workplace. This must take place following the employee's notification about her pregnancy to her manager. It is recommended that the manager and employee discuss:

- Any special concerns to manage from the risk assessment
- Rest breaks
- Antenatal appointments
- Confidentiality. Agree how/when to inform colleagues.
- Contact arrangements during maternity leave (see section 7 below)
- Keeping in Touch (KIT) days (see section 8 below)
- Return to work plans

- Flexible working arrangements
- Access to childcare vouchers
- Parental leave (see the Parental Leave Policy)
- Annual leave (see section 12 below)
- Arrangements, if required, for a woman who is still breast feeding (the Council has to provide breastfeeding employees with a place to rest and with suitable rest periods).

7.0 Maintaining Contact

The Council may contact the employee (and vice-versa) while she is on maternity leave. The purpose of this contact is to discuss issues such as her plans for returning for work, or to keep the employee informed of important developments at the workplace e.g., if a restructure is being planned.

The contact must be considered 'reasonable' for both sides and it is therefore important that the manager and employee discuss and agree what is reasonable contact (both in terms of the amount and type of contact) before maternity leave commences.

8.0 Keeping in Touch (KIT) Days

The maternity leave regulations have been amended to provide that a woman can choose to do up to 10 days' work during her maternity leave without bringing her maternity leave to an end. These days are known as Keeping in Touch (KIT) days. (An employee cannot carry out any work during the first two weeks following the birth of the child, which is a compulsory maternity leave period.)

KIT days can be used to keep up to date with what has been happening in the workplace whilst the employee has been on maternity leave, to attend a training course or staff meeting, to complete a specific piece of work or project, or simply to help the employee settle back into work gradually at the end of her maternity leave. If and how KIT days will be used is decided between the employee and her manager.

The Statutory Maternity Pay regulations have been amended to provide that a woman will not lose any SMP (where she is still in receipt of it) for working up to 10 KIT days. Working even for part of a day will count as one day in terms of KIT days (i.e., deducting from a total of the permitted 10 days).

The employee will receive payment for the actual hours they worked on a KIT Day, at their contractual rate of pay. The Council's expectation is that an employee will come into work for her normal contractual hours when undertaking a KIT Day, but where the length of the working day is shorter, the individual will only receive pay for the hours she actually worked.

Employees may request to receive time off in lieu rather than payment for the hours worked. Any time off granted must be taken within 3 months of her return to work.

It is important that the manager and employee discuss the use of KIT days and pay arrangements before maternity leave commences.

9.0 Returning to Work

The Council will expect the employee to return to work at the end of her 52 week maternity leave period (26 weeks Ordinary Maternity Leave, plus 26 weeks Additional Maternity leave unless she advises otherwise.

Employees must give notice of a return to work (where it is required), to HR Pay by completing the Employee's Notification to Return to Work or Resignation form (form F21 in the Forms Library on the intranet), or by letter.

If the employee wishes to return to work before the end of the maternity leave period, she must give 21 days' notice in writing. If the employee fails to give the 21 days' notice the Council may postpone her return until the 21 days' notice has been given, but not beyond the end of the maternity leave period.

If an employee changes her mind about the day she proposes to return, she must give her employer 21 days' notice of the new date, if this is earlier than the original date she notified. If the new date is later than the original date, she must give notice of the new return date 21 days before the original return date.

If the employee is unable to return from maternity leave on the agreed date due to sickness, she must inform her manager in accordance with the sick absence rules (or earlier if possible), submitting a doctor's statement, stating that she is incapable of work. The Council will treat the employee as returning to work on the originally agreed date and apply the sick pay scheme.

If the employee decides she does not want to return to work after her maternity leave, she must give the Council the notice required by her contract of employment. The employee may give the Council more than the required notice and still safeguard her full maternity pay and leave by specifying the date on which she intends to terminate the contract i.e., the first day she would have been due back after maternity leave. It is important to note that once an employee terminates her contract, she will not have the right to return to work after the birth of her baby.

The line manager will need to complete a [leaver form](#) selecting 'Resignation – Maternity' as the reason for the termination.

10.0 Rights on Return to Work

Employees have a right to return to the same 'job' after maternity leave. 'Job' for this purpose means the nature of the work which she is employed to do and the capacity and place in which she is employed.

Where the employee's job ceases to exist due to redundancy while on maternity leave, the employee is entitled to be offered a suitable alternative vacancy where one exists. This is provided that the capacity and place at which she is to be employed and her terms and conditions of employment are

not substantially less favourable than those she would have had if she had been able to return to the original job. (For more detail, please refer to the Council's guidance on redundancy).

An employee may wish to return to different working arrangements than those worked under her contract of employment prior to maternity leave. Employees can make a request for revised working arrangements by following the procedure set out in The Right to Request Flexible Working Policy, available on the intranet.

The line manager should ensure that any variation to contractual terms that is agreed as part of a flexible working request is notified to HR Pay, with sufficient notice of the employees return date.

11.0 Pension

Employees who are members of the Local Government Pension Scheme (LGPS) will continue to have contributions deducted on all payments during paid maternity leave. Your pension for this period will be based on your assumed pensionable pay.

During unpaid maternity leave (when SMP has ended) the employee will be retained in the scheme, but the period will not count as superannuable service unless the employee arranges for the additional contributions to be paid, this is called a Shared Cost APC and more details are available on the Hampshire Pensions website. These contributions are based on the assumed pensionable pay and not on normal contractual pay. These arrangements must be made **within 30 days** of returning to work. Employees should contact the HR Payroll and Pensions team in the first instance.

12.0 Annual Leave

The employee should, if possible, take any outstanding leave before the start of her Maternity Leave. If this is not possible, she may in exceptional circumstances agree with her manager to carry it forward. If this is done the employee must either add it at the end of her Maternity Leave or agree with her manager when she will take it. The employee will continue to accrue annual leave during her period of maternity leave, whether paid or unpaid.

If the employee seeks to return to work for the Council on different contractual terms (e.g., to work part-time) she should ideally clear any leave carried forward and any leave accrued during Maternity Leave before starting on new terms. However, with agreement of her manager, the employee may carry the leave forward into the new contract and, if this is the case, the leave will not be pro-rated to reflect any reduction in working hours.

Where an employee takes annual leave immediately following a period of Maternity Leave, the return to work date is the first day of annual leave. It is important that the line manager advises HR Pay of this date in order that normal pay is reinstated from this date.

Wherever operationally possible, SCC closes of offices over the Christmas to New Year period. If your workplace is closed and you are on maternity leave at this time, you will not be expected to use your additional leave to cover these days.

13.0 Public Holidays

Upon her return to work, the employee will be 'credited' with any public holidays that fell during her period of Maternity Leave. In effect, these days will be added to her annual leave entitlement, and the arrangements outlined in section 12.0 will apply.