

Maternity leave, pay and arrangements

Contents

| | |
|---|----------|
| 1. Introduction..... | 2 |
| 2. Making arrangements: what you need to do..... | 2 |
| 2.1. Written notice of your pregnancy and intention to take maternity leave | |
| 2.2. Notice of changes | |
| 2.3. MATB1 certificate | |
| 3. Maternity leave..... | 3 |
| 3.1. Eligibility | |
| 3.2. When can maternity leave be taken? | |
| 4. Contact during maternity leave..... | 4 |
| 4.1. Keeping-in-touch (KIT) days | |
| 4.2. Keeping informed | |
| 5. Maternity pay..... | 5 |
| 5.1. The qualifying week | |
| 5.2. Statutory Maternity Pay only | |
| 5.3. Occupational Maternity Pay only | |
| 5.4. Statutory and occupational pay | |
| 5.5. Entitlement to SMP/OMP if you leave employment | |
| 5.6. SMP for further pregnancies | |
| 5.7. Government benefits | |
| 6. Further guidance..... | 7 |
| 6.1. Returning to work | |
| 6.2. Maternity leave and your employment contract | |
| 6.3. Impact on your pensions | |
| 6.4. The stillbirth or death of a baby | |

1. Introduction

The information in this guide applies to all pregnant employees who are employed under Local Government Services Green Book and Soulbury and Youth JNC Conditions of Service. If you are a surrogate mother (you were pregnant and gave birth), you are entitled to maternity leave provided that you meet the normal eligibility criteria.

The council provides occupational maternity benefits in addition to the statutory maternity entitlements: you will receive whichever benefits are better for you.

There is an entitlement to only one period of maternity leave regardless of the number of babies born as a result of a single pregnancy.

If you are entitled to maternity leave, you may also have the option of converting some of your maternity leave and **statutory** maternity pay into shared parental leave and shared parental pay. You may wish to do this if you want to share some of the first year's leave and **statutory** pay with your partner/the child's father or you could use it to take leave on a more flexible basis. Note that your entitlement to **occupational** maternity pay can not be converted to shared parental pay.

Find out more by reading the [shared parental leave, pay and arrangements](#) guidance.

If you have a child through surrogacy but are not the birth mother, you are not entitled to maternity leave. If you are the intended parent in a surrogacy arrangement, you may be entitled to [adoption leave](#). Otherwise, you may be entitled to take [unpaid parental leave](#).

2. Making arrangements: what you need to do

It is your responsibility to inform your manager of your pregnancy and the dates that you want to take maternity leave. This section explains when and how you need to provide this information.

Managers should ensure any letters, emails or notifications from their employee regarding their pregnancy are copied or forwarded on to HR&OD Support, so that HR and pay records are updated.

To find out more about when you can start maternity leave and how long you can take, go to [section 3](#).

2.1 Written notice of your pregnancy and intention to take maternity leave

The following information is required as soon as possible, to ensure that relevant leave and pay amendments are made. You can notify HR&OD Support by email/letter directly, or via your manager. You don't need to do anything on DES.

You must inform your manager at least 28 days before you intend to start maternity leave of:

- your pregnancy
- your due date
- the date you wish to commence maternity leave and pay

Once HR&OD Support have received your notification you will be sent a letter stating your entitlements. This will include your latest date for return to work.

2.2 Notice of changes

You can change your mind later about the date you want to start your maternity leave and pay, but you must give written notice of whichever is the earlier of:

- at least 28 days before the date that you originally intend to start your maternity leave, or
- 28 days before the new date that you want to change the leave unless this is not reasonably practicable.

You can also change your mind about the date you want to return to work following maternity leave. You should give your manager at least 21 days notice before your intended new return to work date. If you give less than 21 days notice, your manager may postpone your return date to ensure 21 days notice (as long as this doesn't extend beyond your maternity leave period).

2.3 MATB1 certificate

Your midwife or doctor will issue you with your MATB1 certificate. This is usually around 20 weeks before your due date. As soon as you receive the form, you must send the original to HR&OD Support. (If you require further originals, you should ask your midwife or doctor).

3. Maternity leave

3.1 Eligibility

You are entitled to 26 weeks ordinary maternity leave followed by 26 weeks additional maternity leave - a total of 52 weeks, regardless of the number of hours your work per week. You do not have to take 52 weeks however all the leave you take must be in one continuous period.

3.2 When can maternity leave be taken?

You must take at least two weeks maternity leave following the birth of your baby, during which time you are not able to come back to work.

It is your choice when you start maternity leave. In theory you can continue working right up to the birth. When you are planning your maternity leave, you may wish to have discussions with your manager about your intended date of return to work, so that your manager can make arrangements for cover.

The earliest you can start maternity leave is 11 weeks before the expected week of childbirth. If the baby is born early and you were not already on maternity leave, then your leave starts the day after the birth.

If you become sick and are off work with a pregnancy related illness in the four weeks (Sunday to Saturday) before your baby is due, (of if you are already off sick with a pregnancy related illness going into this week) then your maternity leave will automatically start on the next day.

You should notify your manager of the date your baby is born.

4. Contact during maternity leave

4.1 Keeping-in-touch (KIT) days

You can do up to 10 days work during your maternity leave, without bringing the leave to an end. These are called keeping in touch (KIT) days. Your maternity leave period will not be extended by KIT days.

KIT days cannot be taken during the first two weeks following the birth of your child.

KIT days are optional – both you and your manager must agree to them. Work may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

Any work you do as a KIT day, even as little as half an hour for example, will be counted as a whole day for the purposes of subtracting that KIT day from your KIT days allowance.

You will be paid for any hours worked and for these hours only. Payment will be in accordance with your contract of employment and you won't lose any statutory maternity pay (SMP) or maternity allowance (MA). In order to receive pay for KIT days, you will need to record the actual hours worked via universal timesheet, where you should clearly indicate that the time claimed is for a KIT day during maternity leave. The timesheet should be submitted to HR&OD Support.

If you do any further work after you have used up your 10 KIT days, you will lose a week's SMP/MA for the week in which you have done that work. If a week contains only KIT days, you will be paid MP/MA for that week. If a week contains your tenth KIT day and you do a further days work in the same week, you will lose SMP/MA for that week. However, statutory maternity pay, maternity allowance (MA) or contractual maternity pay during this period will be offset against any pay due.

4.2 Keeping informed

Your line manager should ensure that you are kept informed of any significant workplace developments. Your line manager may also make reasonable contact with you to discuss issues of return to work. This type of contact isn't considered 'work' and doesn't count towards the 10 KIT days.

5. Maternity pay

Your maternity pay starts when your maternity leave starts. Maternity pay is payable for the first 39 weeks of maternity leave. The remaining 13 weeks is unpaid.

The council's provides occupational maternity pay (OMP) in addition to statutory maternity pay (SMP). You may be entitled to one or both and you will be entitled to whichever set of provisions are most beneficial to you.

HR&OD Support will write to you to confirm how much SMP and/or OMP you are entitled to and when it will start and stop.

5.1 The qualifying week

It will be helpful to work out the date of your 'qualifying week'. The qualifying week is the 15th week before the week in which your baby is due. The definition of a week for this purpose is a period of 7 days that begins at midnight between Saturday and Sunday. You can use the [maternity calculator](#) to help work out your key maternity dates.

5.2 Statutory Maternity Pay only

You are entitled to 39 weeks SMP if you:

- have at least 26 weeks continuous service with the council by the 'qualifying week' AND
- earn on average at least as much as the lower earnings limit for National Insurance contributions which applies at the end of your qualifying week.

The 39 weeks SMP is:

- 90% of your average weekly earnings* (before statutory deductions) for the first 6 weeks
- lower rate SMP** or 90% of your average weekly earnings (which ever is lower) for the next 33 weeks).

*Your average weekly earnings is the average of payments made over the eight weeks prior to the end of the qualifying week.

**Lower rate SMP is an amount set by the government and is reviewed every April. To find out what the current rate is, visit the HMRC or gov.uk website or contact HR Operations.

5.3 Occupational Maternity Pay only

Occupational maternity pay (OMP) is provided by the council as a benefit to its employees. You *may* be entitled to OMP even if you are not entitled to SMP.

You are entitled to 18 weeks occupational maternity pay if you:

- have at least one year's continual local government service at the 11th week before the expected week of childbirth (EWC).

This is made up of:

- 90% of your contractual weekly earnings for the first 6 weeks (offset against any MA payments) and
- 50% of your contractual weekly earnings for the next 12 weeks **provided you return to work for at least 3 months following maternity leave.**

5.4 Statutory and occupational pay

If you are entitled to both statutory and occupational maternity pay, you will receive the better of these entitlements:

- 90% of your contractual weekly earnings offset against payments made by way of SMP for the first 6 weeks or 90% of SMP, whichever is the higher
- lower rate SMP or 90% of your average weekly earnings (whichever is lower) PLUS 50% of your contractual weekly earnings for the next 12 weeks* • You will then receive lower rate SMP or 90% of average weekly earnings (whichever is lower) for the next 21 weeks.

*provided you return to work for at least 3 months following maternity leave. Half pay and statutory maternity pay (SMP) must not exceed your normal full pay. If it does, the maximum paid will be equivalent to full pay.

5.5 Entitlement to SMP/OMP if you leave employment

SMP

If you qualify for SMP, you are entitled to receive it whether or not you intend to return to work at the end of your maternity leave.

If you leave your job voluntarily before the qualifying week, you will not be eligible for SMP.

If your employment ends at any time after the start of the 15th week before the week your baby is due you will continue to be eligible for SMP.

If you are taken into legal custody during your maternity pay period, you will no longer be entitled to any maternity pay.

OMP

In order to qualify for 12 weeks at 50% of your contractual weekly pay, you must return to work for a period of 3 months on a full or part time basis. If you inform your manager that you intend to return to work and then change your mind or return for less than 3 months then the 12 weeks of half pay will be recovered.

It is your choice when you would like to receive this element of your occupational maternity pay. You can decide to:

- receive the 12 weeks 50% of your contractual weekly earnings whilst you are on maternity leave
- hold your 12 weeks of 50% pay until you have returned to work and completed the 3 months service

5.6 SMP for further pregnancies

Please note that if you are on additional maternity leave (AML) and then have a further pregnancy, the lower earnings limit for NI contributions will still apply and you

may not qualify for statutory maternity pay (SMP) for a second period of maternity leave.

5.7 Government benefits

If you're not eligible for SMP, you may be able to claim maternity allowance (MA) from the government. Visit: www.gov.uk/maternity-allowance/overview to understand if you may be eligible, how much you may get and how to claim. You can download the MA1 claim form online. Alternatively, you can contact Jobcentre Plus on 0345 608 8610. You will be asked to provide an SMP1 form, which will confirm you are not entitled to SMP. This form will be issued by HR&OD Support. You will also need payslips for the 13 week period you have chosen.

You can use the benefits calculator at: www.gov.uk/maternity-pay-leave/extra-help to find out if you also have any entitlement to child benefit, tax credits and employment and support allowance.

6. Further guidance

6.1 Returning to work

You have the right to return to work after maternity leave if you wish to do so. If you are not able to return to your job because of redundancy, you are entitled to be offered a suitable alternative vacancy where one exists.

If you're returning to work at the end of your 52 week entitlement, you don't need to do anything. This date will have already been set as your return to work date in your confirmation letter from HR&OD Support.

If you want to return to work before the end of your full entitlement (52 weeks) or before a previously notified return date, you will need to provide appropriate notice. [See 2.2.](#)

Breastfeeding on return to work

You should provide your manager with written notification that you are breastfeeding before you return to work where possible and give details of the nature of your request. Do you wish to make a temporary adjustment to working hours to go home or to nearby childcare to breastfeed your baby, or would you like to be provided with somewhere to rest and to express and store milk during working hours? You will need to discuss your individual requirements with your line manager.

In addition, you may also want to discuss what information you/your manager will share about your choice with your colleagues, particularly where it may help them understand how their job roles may change for a short period.

Your manager should undertake a [risk assessment](#) as soon as you return to work and this should be kept up to date until 6 months from the date you return or until you stop breastfeeding, whichever is later.

Flexible working arrangements

You may wish to consider requesting flexible working arrangements for your return to work.

If you want to change your working arrangements on an on-going basis, view the [flexible working guidance](#) to find out more and to help you consider your options. All requests to work flexibly will be viewed positively. Please note that any change in your contract on your return from maternity leave will be permanent and you will not have the right to return to your previous contract, unless a trial period is agreed.

Deciding not to return

If you are undecided as to whether to return to work following your maternity leave, you can leave your options open until after you have had your baby.

If you decide you do not want to return to work following maternity leave, you should give notice in accordance with your normal notice period. If you specify the date on which you wish to terminate the contract (e.g. the date you were due back at work), statutory maternity leave will continue as planned. If you are entitled to Statutory Maternity Pay, this will continue for the full 39 weeks provided that during this period you do not start work for an employer who did not employ you in the 15th week before the EWC.

6.2 Maternity leave and your employment contract

While you are on shared parental leave, your employment service is regarded as continuous. This means you continue to build up your entitlement to benefits such as annual leave and sick pay entitlements. Entitlement to any salary sacrifice benefits, such as [childcare vouchers](#) also continues when you take shared parental leave.

If you are unable to take your leave entitlement during maternity leave, you are able to [carry over your leave entitlement](#).

6.3 Impact on your pensions

If you are a member of the **Local Government Pension Scheme (LGPS)**, the amount of pension you build up won't be affected by any period of shared parental leave. This means that if you have a period of reduced pay or no pay during shared parental leave, your pension is still worked out using an average of your usual pensionable pay.

If you are a member of the **Teachers Pension Scheme (TPS)** and are receiving pay during your shared parental leave then your pensionable service will continue and your contributions will be based on the pay you get while you're on leave. If you're not receiving pay, however, you cannot choose to continue to make pension contributions during the unpaid period of leave – these days will be regarded as 'excluded days'. More information about the TPS can be found [on the TPS website](#)

If you are a member of the **National Health Service Scheme (NHS Pensions)**, please refer to the [paid and unpaid leave guidance on the NHS Pensions website](#). This website is being updated to reflect any changes due to the 2015 Scheme.

If you choose to take any additional unpaid leave, see the guidance on [pension contributions and unpaid leave](#).

6.4 The stillbirth of death or a baby

If you give birth to a stillborn baby after 24 weeks of pregnancy or your baby is born alive after that date but then later dies, you remain entitled to the benefits of maternity leave and pay.

If you are affected by miscarriage, stillbirth or death of a baby, a range of useful services and resources are available from [employee wellbeing](#). A staff counselling service is also offered.