

WATFORD BOROUGH COUNCIL

MATERNITY LEAVE SCHEME

1 Introduction

1.1 This policy sets out employees' entitlements under the Council's Maternity Leave scheme and the action to be undertaken by them and the Council. This policy implements the Regulations made under the Employment Act 2002.

1.2 Key Headings

The Council's Maternity Scheme falls into the following areas:

Eligibility

Time off for Antenatal care

Maternity Leave

Maternity Pay and Benefits

Protection against unfair treatment or dismissal

Returning to Work

2 Eligibility

2.1 The Maternity scheme applies to all employees of the Council, including casual and temporary employees. Rights to maternity pay and leave will vary depending on length of service (see sections 4&5). Employees will only have statutory maternity rights for as long as they remain employees. Where their contract terminates during their maternity leave, this will end their maternity leave as well as their employment, as long as the reason for the termination of the contract is not pregnancy-related.

2.2 The Scheme does not cover the self-employed.

3 Time off for Antenatal Care

3.1 All pregnant employees, regardless of how long they have worked for the Council, are entitled to reasonable paid time-off to attend antenatal appointments with their doctor, midwife etc, including relaxation and parenting classes. Employees must be prepared to give their manager as much notice as possible of appointments and on request be prepared to show an appointment card or letter to confirm the time and date.

3.2 An employee who feels they have been unreasonably refused time off should follow the Council's grievance procedure.

4 Maternity Leave

4.1 Notifying the Council to be eligible for Maternity Leave

- 4.1.1 To take advantage of maternity leave employees must notify the Council in writing no later than the 15th week before the baby is due or as soon as reasonably practical. Employees will need to confirm they are pregnant and give the expected (or actual) date of the birth.
- 4.1.2 Forms ML1 are available for this purpose to notify the HR Department and your Line Manager.
- 4.1.3 At this stage, employees do not have to say whether or not they wish to return to work.
- 4.1.4 Maternity Certificate (form MATB1) obtained from an employee's doctor or midwife at the 28th week of pregnancy will confirm the Expected Date of Childbirth. This should be sent to the Human Resources Department as soon as an employee receives it.
- 4.1.5 The Human Resources Department will respond to the written notification within 28 days setting out the date on which the employees leave will end. (See section 7.2 about returning to work earlier than this end date.)

4.2 Starting Maternity Leave

- 4.2.1 An employee can start her maternity leave any time from the 11th week before the Expected Week of Childbirth. If an employee is absent with an illness which is related to the pregnancy during the 4 weeks before your baby is due, maternity leave will start automatically.

4.3 Ordinary Maternity Leave

- 4.3.1 All pregnant employees, regardless of their length of service, are legally entitled to take 26 weeks' leave. This leave may be paid or unpaid depending on a women's length of continuous service (see section 5.1). At the discretion of the Head of Service, a woman may extend this unpaid period.

4.4 Additional Maternity Leave

- 4.4.1 To qualify for Additional Maternity Leave an employee must have completed 26 weeks continuous service by the 15th week (the "qualifying week") before the Expected Week of Childbirth. Additional Maternity Leave can be taken immediately after Ordinary Maternity Leave for a further 26 weeks, making a total of 52 weeks' maternity leave.
- 4.4.2 Women who have transferred without a break from other local government organisations may count their earlier service.

4.4.3 Women with less than 26 weeks' service at the qualifying week but who were made redundant by a local authority in the previous eight years should contact the Human Resources Department for advice.

4.5 Compulsory Maternity Leave

4.5.1 The law states that employees must take two weeks maternity leave from the date of childbirth; this minimum amount of leave is compulsory for health and safety reasons.

4.6 Annual Leave and Public Holidays

4.6.1 Whilst on maternity leave employees will continue to accrue annual leave and leave for public holidays as set out in your contract of employment.

4.6.2 Employees must consult their manager in the normal way before arranging any annual leave. While on maternity leave women will be allowed to carry over their annual leave entitlement from one leave year to another.

4.6.3 Employees may wish to stop working earlier by taking annual leave immediately before their maternity leave or postpone their return to work by taking some annual leave immediately after maternity leave. Employees will be treated as being back on the payroll but their actual return to work will be delayed.

4.7 Other Leave Entitlements for Parents

4.7.1 The Council has a range of policies designed to support employees with children and other dependants. More information can be found on the following under the relevant headings:

4.7.2 Job Sharing, Career Break, Maternity Support Leave, Dependency Leave, Parental Leave, Adoption Leave and Requests for Flexible Working. These are available from the Human Resources Department.

5 Maternity Pay and Benefits

5.1 SUMMARY OF MATERNITY PAY				
Type of Pay →	90% Occupational Pay (weeks 1-6)	50% Occupational Pay (weeks 7-18)	Statutory Maternity Pay (SMP) (weeks 1-26)	Maternity Allowance (MA) (weeks 1-26)
Length of Service ↓				
Less than 26 weeks service				√
Between 26- 52 weeks service	√		√	
Over 52 weeks continuous service	√	√	√	

5.2 Maternity Pay and Length of Continuous Service

5.2.1 For maternity pay purposes an employee's length of continuous service will determine the type of maternity pay they receive.

5.2.2 Employees with less than 26 weeks service, by the 15th week before the Expected Week of childbirth, are entitled to 26 weeks Maternity Allowance pay. (see below)

5.2.3 Employees with between 26 and 52 weeks continuous service, by the 15th week before the Expected Week of Childbirth, are entitled to Statutory Maternity Pay for the first 26 weeks of their Maternity Leave as follows:

- Weeks 1 to 6 90% of average earnings
- Weeks 7 to 26 SMP (£100.00 a week as at April 2003)
- Weeks 27 to 52 Unpaid

5.2.4 Employees with over 52 weeks continuous service, by the 15th week before the Expected Date of Childbirth, are entitled to Statutory Maternity Pay for the first 26 week of their maternity Leave. In addition employees will receive 12 weeks at ½ their normal Occupational Pay during weeks 7 to 19 of Maternity leave, see below:

- Weeks 1 to 6 90% of Full Pay (SMP or MA offset)
- Weeks 7 to 18 50% of Full Pay (plus any SMP or MA)
- Weeks 19 to 26 SMP (£100 per week)
- Weeks 27 to 52 Unpaid

5.2.5 Any SMP received in weeks 1 to 6 will be offset against the 90% full pay but any SMP paid in weeks 7 to 18 will be added to an employee's half-pay.

5.2.6 The 12 weeks' half pay during weeks 7 to 18 will have to be repaid to the Council if an employee does not return to work for 3 months. If employees are not sure about coming back to work they may ask that these payments be held until their return. Employees would then be paid the money in a lump sum. Alternatively the equivalent amount (i.e. 6 weeks' pay) may be paid on any other distribution agreed between the employee and the Council – please contact Human Resources for details.

5.3 Definitions of types of Maternity Pay

5.3.1 Maternity Allowance

5.3.1.1 Maternity Allowance is paid. If an employee does not qualify for Occupational Pay and/or SMP. Payroll will return their MATB1 Form together with an exemption form called an SMP1 Form. An employee should take the forms to their local Social Security/Jobcentre Plus office to claim Maternity Allowance (MA).

5.3.1.2 Maternity Allowance is offset against Occupational Pay during the first six weeks of maternity leave, in the same way as SMP.

5.3.2 Statutory Maternity Pay (SMP)

5.3.3 Statutory Maternity Pay is paid to women who qualify. It has minimum earnings and continuous employment conditions (26 weeks at the 15th week before the Expected Week of Childbirth). SMP will be offset against Occupational Pay during the first six weeks of maternity leave.

5.3.4 SMP will cease if an employee starts paid work.

5.3.5 Employees may not receive more in Occupational Pay and state benefits combined than they would if they were working normally. If in any week the amount of pay from the Council plus any SMP, MA or other benefits exceed the normal pay, the amount of Occupational Pay from the Council will be adjusted to ensure that this rule is followed.

5.4 Occupational Pay and Other Benefits during Maternity Leave

5.4.1 Occupational Pay is calculated as the normal pay that an employee would have received if they had been at work.

5.4.2 An employee should not be any worse off as a result of their pregnancy and are entitled to all your contractual benefits, other than pay, whilst they are on paid or unpaid maternity leave.

5.4.3 This means that an employee should not miss any pay rises or salary increments that she would normally have received. In the event of a backdated pay award Occupational Pay/SMP will be re-calculated.

5.4.4 With the agreement of their line manager employees on maternity leave can attend training events, however employees are under no obligation to attend training events during their absence. Employees should be given time off in lieu for attending such events (pay cannot be given while in receipt of SMP).

5.5 Pensions

5.5.1 Member of the Local Government Pension Scheme (LGPS), will continue to have their contributions deducted from their Occupational Pay and SMP in the normal way.

5.5.2 Any unpaid maternity leave will leave a gap in an employees pension record and they may wish to contact the pensions' administrators for advice on how to make this up. Employees may also wish to discuss any additional payments that they make such as AVCs or Added Years. Please phone the LGPS local administrators, ITNet, on 01992 555462. Please note that time limits apply and employees should make contact with ITNet as soon as possible.

5.5.3 If employees are in a personal pension scheme they may wish to contact the scheme or your financial advisor to discuss the implications of any unpaid leave.

6 Protection Against unfair treatment or dismissal

6.1 Dismissal for a maternity related reason is unlawful.

6.2 Employees returning from maternity leave are entitled to return under their original contract of employment on terms and conditions not less favourable than those which would have been applicable to them if they had not been absent. 'Job', for this purpose, means the nature of the work that they are employed to do and the capacity and place in which they were employed.

6.3 This does not apply if an employee is on a fixed term temporary contract, which clearly expires for a reason that, is not maternity related e.g. external funding of a project ends. If a fixed-term contract or casual arrangement does expire, any SMP will continue in payment.

6.4 Employees on Maternity leave whose posts are subject to deletion or reorganisation should not be treated any differently to other members of staff. They must be kept informed and consulted by their line manager in the same way as other employees affected.

6.5 The Council's Employment Agreement applies to employees on Maternity Leave.

7 Returning to Work

7.1.1 Managers must arrange a suitable Induction for returning employees, which should include changes in personnel, work procedures, projects and Council initiatives.

7.1.2 Normally an employee will be expected to return to their previous job, which must be held open for her.

7.2 Informing employees of their return date

7.2.1 The Council must write to an employee notifying her of the date which they are expected to return at the end of their maternity leave. This must be done within 28 days of receiving her maternity notification.

7.2.2 Unless otherwise arranged, the date on which an employee will return to work will be either the first working day after the end of your 26 weeks' Ordinary Maternity Leave or, if qualifying for Additional Maternity Leave, the first working day after the end of the 52 weeks' Ordinary and Additional Maternity Leave combined.

7.3 Notice to Return Early

7.3.1 If an employee wishes to return before the end of your Ordinary or Additional maternity leave, she is required to give the Council notice in writing as follows:

- If on Ordinary Maternity Leave 7 days' notice
- If on Additional Maternity Leave 21 days' notice

7.4 Sick Leave on Returning to Work

7.4.1 An employee who is sick at the end of their Maternity Leave will need to provide the Council with medical certificates for the periods of absence and be treated as being on sick leave under the Council's normal rules.

7.5 Changing Working Patterns

7.5.1 Employees do not have a legal right to come back to a different job or under different terms but the Council does have a legal duty to formally consider requests for changes in working patterns and to give written reasons for any refusal. The Council's policy on Flexible Working would apply in these circumstances.

7.6 Deciding Not to Return to Work

7.6.1 Employees are required to give the Council contractual notice if they do not wish to return to work (or a reasonable period of time if this is not possible).

7.6.2 Employees will be required to repay the 12 weeks Occupational Pay at half-pay if they do not return to work for at least 3 months; SMP is not repayable.

7.6.3 Employees not returning to work will have their final pay adjusted to take into account any outstanding holiday or other benefits due. Similarly any outstanding loans must be repaid in full and any Council property returned.

NOTICE OF MATERNITY LEAVE

FORM ML1

Please complete this form and give it to your Line Manager.

To

From

Date

Please note that I am pregnant and have applied to the HR Department for my entitlement to maternity leave and pay.

My baby is due on

My Maternity Leave will start on

I have ticked the statements which apply to me:

- I intend to be absent for up to 26 weeks on Ordinary Maternity Leave.
- I have at least 26 weeks' service at the qualifying week and I intend to be absent for the Ordinary and Additional Maternity Leave periods of up to 52 weeks.
- At this stage, I wish to retain my right to return to work.
- I am certain that I will not be returning to work after my maternity leave.

Signed Date

Please give this form to your Line Manager as soon as possible but no later than 28 days before the start of your maternity leave. Please read the Council's Maternity Policy before filling in this form. If you need further advice, please contact the Human Resources Department.