

Watford Borough Council

Maternity Leave Policy

1. Objective

This amended policy sets out the rights and responsibilities of employees who are expecting babies on or after 1st April 2007. It incorporates the provisions of the Work and Families Act 2006, the maternity provisions of the Employment Act 2002, and sets out the help and support offered by Watford Borough Council .

2. Introduction

As soon as you know that you are pregnant, you should tell your manager. This is in your own interests, and ensures that we can take any necessary steps to look after your health and safety and that of your baby. Once we are aware that you are pregnant, your manager will arrange for a risk assessment to be completed with you.

Early notice also allows us to let you know what your rights will be to maternity leave and pay.

Having told your manager that you are pregnant, you will need to obtain evidence of your expected week of childbirth (form Mat B1) from a registered medical practitioner (your GP or midwife) as soon as possible and give it to your manager.

3. Employee's Maternity-related Rights

As a pregnant "employee", you have certain rights under the law, some of which depend on how long you have been employed by Watford Borough Council. These rights are as follows:

- The right to (paid) time off work for antenatal care (see section 3.1)
- The right not to be dismissed on account of pregnancy or maternity leave (see section 3.2)
- The right to be suspended on full pay if your pregnancy makes you unable to carry out your normal job and alternative work is not available (see section 3.3)
- The right to be paid statutory maternity pay for up to 39 weeks (subject to certain conditions: see section 3.4)
- The right to take up to 52 weeks maternity leave and return to work

These rights are available to all female employees, regardless of whether they work full- or part-time (see section 3.5)

3.1 The right to (paid) time off work for antenatal care

If you are pregnant, you are entitled to reasonable paid time off for antenatal care, irrespective of your length of service or the number of hours you work. This applies to appointments made for you by your doctor or a midwife. Such time off will be on full pay. You will not be required to make up the hours lost.

You should give your manager as much notice as possible of your appointments and, after the first one, should show them the appointment card from the hospital or clinic. This will enable them to plan cover for you if necessary.

3.2 The right not to be dismissed on account of pregnancy or maternity leave

You have the right not to be dismissed or discriminated against for any reason connected with your pregnancy or maternity leave.

3.3 The right to be suspended on full pay if unable to carry out normal duties where there is no other suitable alternative work available

If, following an assessment of your condition and the work that you are normally expected to do, the Council agrees that you are unable to carry out your usual work, it will either try and make reasonable adjustments to the work or working conditions, or, if this is not possible, look for suitable alternative work for you. This will only be necessary where the work may cause harm to you/your baby. It is possible that any readjustments of your work may last until you take maternity leave.

If, despite its best efforts, the the Council cannot find suitable work for you to do, you will be suspended from work on full pay until the risks to you/your baby's health has passed or suitable alternative work becomes available.

These provisions do not apply where your doctor has signed you off sick, but only where you are able to come to work but are unable to carry out your particular job duties.

If you are suspended in these circumstances, you will still retain your entitlement to statutory maternity pay (if eligible) and your right to return to work after maternity leave.

3.4 The right to receive maternity pay (subject to qualifying conditions)

For maternity pay purposes an employee's length of continuous service will determine the type of maternity pay they receive unless they earn less than the lower earnings limit for National Insurance Contributions.

Employees with less than 26 weeks service, by the 15th week before the Expected Week of childbirth, or with earnings of less than the lower earnings limit for N.I. contributions are entitled to 26 weeks Maternity Allowance pay. Payroll will issue you with an SMP1 form which should be taken to the nearest Job Centre Plus or Social Security Office.

Employees with between 26 and 52 weeks continuous service, by the 15th week before the Expected Week of Childbirth:

Weeks 1 to 6	90% of average earnings
Weeks 7 to 39	39SMP
Weeks 40 to 52	Unpaid

Employees with over 52 weeks continuous service, by the 15th week before the Expected Date of Childbirth, are entitled to::

Weeks 1 to 6	90% of Full Pay
Weeks 7 to 18	50% of normal occupational pay plus any Statutory Maternity Pay A
Weeks 19 to 39	39SMP
Weeks 40 to 52	Unpaid

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.

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

The 12 weeks' at half of normal occupational pay", paid during weeks 7 to 18 will have to be repaid to the Council, if an employee does not return to work for a period of 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.

3.5 The right to take maternity leave and return to work

All pregnant employees whose EWC (expected week of confinement), begins on or after 1 April 2007 are entitled to take up to 52 weeks' maternity leave i.e. 26 weeks of OML (Ordinary Maternity Leave) plus 26 weeks' AML (additional maternity leave) and then return to work after the end of their AML. This right applies to all female employees regardless of their length of service or the number of hours they work per week.

Employees are required by law to take a minimum of 2 weeks maternity leave from the date of the birth.

In order to qualify for statutory maternity leave, you must provide us with written notification stating both:

- That you are pregnant
- The date, in writing, on which you would like to begin your maternity leave

This information can be provided on the attached form (Notice of Maternity leave)

You must also provide a medical certificate (mat B1) stating the expected week of childbirth. This can normally be obtained from the 21st week of your pregnancy from your GP or midwife.

This notification must be received no later than the end of the 15th week before the EWC, subject to this being reasonably practicable.

We will reply to you within 28 days of receiving your notification and let you know the date on which your maternity leave period will end and when you will be expected back at work.

3.6 Changing the date of the start of your maternity leave

If you need to change the date on which you wish to start your maternity leave after you have already notified us, you may do so but you should try to do so at least:

- 28 days before the date changed
- 28 days before the new date **whichever is earlier**

If you cannot meet these requirements, you should tell us as soon as is reasonably practicable.

Within 28 days of receiving such notification, the Council will notify you of the revised date on which your maternity leave period will end.

You may choose when to start your maternity leave, including which day of the week, as long as it does not begin earlier than 11 weeks before the EWC. You may continue working up to the date of your childbirth provided that this does not contravene health and safety regulations. SMP, however, is payable only when you start your maternity leave - it cannot be paid over and above normal salary.

If, however, you are off sick due to a pregnancy-related illness at any time after the beginning of the fourth week before the EWC, the maternity leave period will begin automatically on the day after the first day on which you are absent from work due to that illness.

4. Qualifying for Additional Maternity Leave

You are entitled to up to 26 weeks AML once you are entitled to ordinary maternity leave.

5. Status of your Contract of Employment During Maternity Leave

5.1 Your contract during Ordinary Maternity Leave

During your OML (first 26 weeks), all terms and conditions of employment continue with the exception of pay, provided you meet the qualifying requirements as set out in section 3.4 above.

Examples of contractual terms and conditions you are entitled to continue benefiting from include: the accrual of holiday entitlement and continuation of contributions towards your pension, which we would normally make if you were not on maternity leave.

5.2 Your contract during Additional Maternity Leave

During AML, your contract of employment will continue unless either the Council or you end it, or it expires. During this time, you will continue to accrue your contractual holiday entitlement .

Other terms and conditions that apply during AML relate to the employer's duty of trust and confidence, and any terms that relate to notice of termination by the employer, redundancy pay, and grievance and disciplinary procedures. You must maintain your duty of good faith and abide by any terms relating to notice on termination, disclosure of confidential information, the acceptance of gifts or other benefits, and involvement in any other business.

Other contractual benefits will be temporarily withheld during AML and re-activated as soon as you return to work. If a salary increase falls due during maternity leave, it will be implemented on your return to work. You will also have your SMP recalculated to reflect the increase.

The Council's contributions towards your pension will be suspended during the unpaid part of AML. (ie weeks 34 to end of Mat leave) Any unpaid maternity leave will leave a gap in your pension record and you may wish to contact the pensions' administrators (SERCO) for advice on how to make this up. You may also wish to discuss any additional payments that they make such as AVCs or Added Years. Please note that time limits apply and employees should make contact with SERCO as soon as possible.

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. Returning to Work

Before you go on maternity leave, we will agree the date on which we expect you to return. This will usually be at the end of either your OML or AML, depending on which you decide.

If your EWC begins on or after 1 April 2007 and you wish to return earlier than this agreed date, you must give the Council eight weeks' notice (in writing). The Council are not obliged by law to allow you to return before the end of this eight-week period.

You do not need to give us notice if you are returning to work immediately after the end of the maternity leave period you are entitled to. We would, however, appreciate a week's notice as a matter of courtesy.

Employees may wish to 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.

By law, you may not under any circumstances return to work within two weeks of the birth of your baby.

If you are too ill to come back to work at the end of your maternity leave, Watford Borough Council's normal sickness procedure will apply and you should let us have a doctor's certificate to cover your absence.

If you return to work at the end of OML, you have the right to return to the job that you left.

If you return to work at the end of AML, you have the right to return to either the same job or one that is similar in terms of duties, skills, status and rewards.

7. Working During your Maternity Leave - Subject to Committee Decision

You are now entitled to work during your maternity leave on a 'keeping-in-touch' (KIT) day without bringing your maternity leave to an end or losing your SMP. You can work for up to 10 KIT days during your maternity leave but you cannot work on such a day until at least two weeks after the birth of the child.

You and your employer must agree that you will work on a KIT day. You do not have to work on such a day if you do not wish to do so.

Before you work on a KIT day, you and the Council must agree the amount of pay that you will receive for working on that day and the amount of weekly pay for a week during which you worked on a number of KIT days. An application for Kit days should therefore be completed and returned to HR before you work.

You will normally normally be paid at your usual daily rate of pay which will then be offset against your maternity pay. The amount of weekly pay for a week during which you worked on a KIT day cannot be lower than the weekly rate of statutory maternity pay to which you are entitled.

Eg. Employee earns £50 for working a Kit day and £108.85 for a weeks SMP =

£108.85 divided by 5 = £21.77

*£108.85 minus £21.77 = £87.08 plus £50 = **£137.08***

The total duration of your maternity leave period will remain at 52 weeks regardless of whether or not you work on a KIT day.

8. Contact During Your Maternity Leave

The Council is entitled to make reasonable contact with you during your maternity leave. We may contact you, e.g. to discuss whether or not your planned date of return to work has changed or is likely to do so, or to discuss any flexible working arrangements that would make your return to work easier. We will also contact you if there are going to be any changes to your job, your department or the Council, which may affect you.

You are also entitled to make reasonable contact with your manager or HR during your maternity leave, e.g. to discuss any flexible working arrangements that would make your return to work easier.

9. General Advice

You are strongly encouraged to use your right to return to work. If you resign instead of taking maternity leave, you forfeit your right to return to work at a later date.

All periods of time that you take off work as maternity leave are subsequently counted as continuous service for the purposes of calculating any service-related statutory rights (e.g. redundancy payments). Thus, once you return to work, your length of service with us is calculated as if you had never been absent.

10. Other Leave Entitlements for Parents

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

Job Sharing, Career Break, Maternity Support Leave (including Paternity Leave), Dependency Leave, Parental Leave, Adoption Leave and Requests for Flexible Working. These are available from the Human Resources Department or on the Intranet.

11. Redundancy during Maternity Leave

If a redundancy situation arises at any stage during an employee's maternity leave which means it is not practicable for the employer to continue to employ her under her original contract of employment, she is entitled to be offered (before that contract ends) a suitable alternative vacancy, where one is available. This includes a vacancy with an associated employer or with a successor to the original employer.

The new contract must take effect immediately on the ending of the original one and must be such that:

- the work to be done by the employee is both suitable and appropriate for her to do in the circumstances.. The Council may choose to assess by a selection process whether the employee has the right skills and experience to be offered a role which she did not assimilate into , under the Council's Employment Agreement

and

- the capacity and place in which she is to be employed and the other terms and conditions of her employment are not substantially less favourable to her than if she had continued to be employed under the original contract.

12. Entitlements on redundancy during maternity leave

If an employee on ordinary or additional maternity leave is made redundant, her maternity leave period comes to an end. She is entitled to receive from her employer a written statement of the reasons for her dismissal, regardless of whether or not she has requested one, and regardless of her length of service. The employee should also receive her normal notice entitlement, or pay in lieu of notice.

The employee may also be entitled to a redundancy payment.

If you have any queries regarding your rights or obligations under this maternity policy, you should raise them in the first instance with the HR department.

Cg/w/hrpoliciesreg/drafts/mat

NOTICE OF MATERNITY LEAVE

FORM ML1

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

Name:.....

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 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.

