

# Employees' Guide to Maternity Leave and Conditions

## Introduction

This guide will outline your entitlements and may help you to decide what you wish to do. The enclosed chart is for easy reference and briefly outlines your entitlements and the following paragraphs explain your rights and entitlements in further detail.

### 1. Employment Rights

Employment legislation gives employees certain rights regarding maternity leave and pay. The Green Book provides improved conditions, both in terms of pay and leave and therefore this guide concentrates on these entitlements.

### 2. Time Off for Ante-Natal Care

You have the right to paid time off to attend appointments in connection with ante-natal care during normal working hours. With the exception of the first appointment, you should show your appointment card to your manager for each occasion on which you wish to take leave to attend an appointment. Wherever possible, please seek appointment times, which will have the least effect on your department.

### 3. Occupational Health Service

You may contact the Occupational Health Provider, through your manager, at any time to discuss any problems/queries concerning your condition. Your manager may also ask you to visit Occupational Health if they are concerned about you working while pregnant.

### 4. Risks to Baby

Pregnant women are strongly advised to consult their General Practitioner to ensure that they are capable of continuing their duties at work without harming the baby, particularly if the duties involved driving or handling dangerous substances or working at night.

If the GP is concerned about the continuance of some or all duties, the Council must be informed in writing. If appropriate, the Council will seek suitable alternative employment for you while the risk remains. The Congenital Disabilities (Civil Liability) Act 1976 bestows a right of action to sue for damages upon an infant who has suffered damage before birth. In this respect, if the Council is not aware of the situation and circumstances, then liability for damage to the unborn child may be limited.

## 5. Maternity Entitlement Guide

The Council offers enhanced provisions for maternity leave and pay compared to the statutory entitlements as follows:-

Employee's Council service and circumstances by expected week of confinement	Employee's intention and entitlement		
	Wishes to return (par. 10 refers)	Latest date employee should return	Does not wish to return
<b>TYPE A</b> Less than 63 weeks service	52* weeks UNPAID maternity leave (employee may be entitled to SMP - see over).	52 * weeks from commencement of maternity leave.	Should resign giving required period of notice.
<b>TYPE B</b> More than 63 weeks service	52* weeks maternity leave including 39 weeks PAID maternity leave (see box below for breakdown). Intends to return for a minimum period of three months.	52 * weeks from commencement of maternity leave.	Should resign giving required period of notice.

### Entitlements to Maternity Pay are as Follows:

#### More than 63 weeks service

1 <sup>st</sup> – 6 <sup>th</sup> weeks	9/10 <sup>th</sup> of weekly wage including SMP.
7 <sup>th</sup> – 18 <sup>th</sup> weeks	Half pay plus low rate SMP provided that normal full pay is not exceeded, in which case the half pay will be reduced accordingly.
19 <sup>th</sup> – 39 <sup>th</sup> weeks	SMP only

#### Less than 63 weeks service

1 <sup>st</sup> – 6 <sup>th</sup> weeks	9/10 <sup>th</sup> of weekly wage including SMP.
7 <sup>th</sup> – 39 <sup>th</sup> weeks	SMP only.

## **6. Statutory Maternity Pay**

Statutory Maternity Pay (SMP) is a weekly allowance paid by the Department of Social Security (DSS). If you meet the following criteria, this allowance is paid to you by the Payments Section.

To qualify for SMP you must:

- have been continuously employed by the Council for at least 26 weeks continuing into the 15th week before your baby is due, this is known as your Qualifying Week.
- have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance (NI) contributions for 8 weeks ending the last normal pay day before the end of your Qualifying week.
- still be pregnant by the 11th week before your baby is due.

SMP is payable for 39 weeks and there are two rates, higher and lower.

Higher rate SMP is paid at 90% of your average weekly earnings for the first 6 weeks of your maternity leave. The following 33 weeks are paid at the lower flat rate of £172.48 per week.

Should you not qualify for SMP, you may still be eligible for Maternity Allowance and should contact Jobcentre Plus for more details.

## **7. If you intend to apply for Maternity Leave**

Your entitlements are as detailed in Section 5 - Maternity Entitlement Chart, which will be explained to you in detail by HR.

The earliest maternity leave can start is the beginning of the 11th week before the expected date of confinement.

Beyond this date, you have a degree of flexibility as to when you start your maternity leave providing you comply with the following guidelines

- ★ you must submit a completed maternity leave application form no later than 28 days before you intend to start your leave. If you are eligible for Occupational Maternity Pay (OMP), you must also sign to confirm your intention to return to work for a minimum period of 3 months, however you can elect to delay the payment of OMP until you have returned for 13 weeks.
- ★ you must submit a maternity certificate form, MATB1, available from your GP or Midwife at the same time.
- ★ your maternity pay will start on the first day of your maternity leave.
- ★ you may defer the start of your maternity leave by taking annual leave.
- ★ It is compulsory to have a minimum of 2 weeks leave from the date of birth and you must not work during this time.

## **8. Sick Leave**

Any sickness absence before the 4th week before the expected week of confinement (EWC) shall be treated and paid as normal sick leave, regardless of the reason for the sickness.

Absence after the 4th week before the EWC for health reasons not connected with the pregnancy will also be treated as sick leave. However, if you are absent for a pregnancy related reason after the beginning of the 4th week before the expected birth, your maternity leave will start automatically from the fourth day of such absence.

The employee must notify her Manager that she was absent for a pregnancy related reason as soon as is reasonably practicable. This means that the maternity leave period may commence even though this was not the intention of either the employee or her Manager.

## **9. Keeping in Touch Days**

Under maternity leave regulations an employee on maternity leave can do 10 days' (or less) work during her maternity leave without bringing her maternity leave to an end. Working for part of a day will count as one day and employees will be paid their usual standard rate of pay for the hours worked. Such days will be by mutual arrangement, including the timing and type of work to be undertaken. These days are intended to encourage employees on maternity leave to keep abreast of developments within HDC as a whole as well as their own department. They may include attending team meetings, attending training or undertaking any work which they may do as determined by their contract of employment. However, they are more than social visits or visits to discuss the employees return to work.

Managers cannot insist on an employee attending any 'keeping in touch' days. Equally, an employee on maternity leave cannot insist on being given any work to do. However, Managers are encouraged to arrange such days should the employee on maternity leave wish to attend them.

An employee on maternity leave does not have the right to extend her maximum maternity leave due to the fact that she has attended 'keeping in touch' days.

Employees on maternity leave cannot attend 'keeping in touch' days during the first two weeks following the birth of the child.

## **10. Returning to Work Early**

You are asked to discuss your anticipated date of return to work with your Manager before the start of your maternity leave.

HR will write to you asking you for written confirmation that you intend to return to work, either 7 weeks after the birth or 11 weeks from the commencement of your maternity leave, whichever is later. You should reply to such a letter within the time scale given, or in some circumstances you may forfeit your right to return.

Whether or not you receive a letter from the HR Department, you are required to give eight weeks notice in writing of the date of your return. This is particularly important to remember if you change your plans to return. Your Manager may, in special circumstances, delay your return for up to 4 weeks.

You have the right to return to your job under the original contract and on no less favorable conditions. If you would like to explore the possibility of returning to reduced or different hours, you should discuss this with your Manager at the earliest opportunity and preferably before the start of your maternity leave.

If you have received extended Maternity Pay, your obligation to return for three months is not affected if you change your hours of work.

#### **11. Failure to Return to Work**

If you receive extended Maternity Pay and you fail to return to work for a minimum period of three months, you must refund the whole of the maternity pay received less any SMP paid at either higher or lower rate. The Council may waive this right in very exceptional circumstances if it considers reclaiming the money may cause hardship or distress.

#### **12. Annual Leave and Public Holidays**

You continue to accrue annual leave during the full period of maternity leave: during both paid and unpaid maternity leave. In agreement with your Manager, you may anticipate this leave and take it before your maternity leave commences.

Any period of time spent on maternity leave does qualify for the purpose of entitlement to additional annual leave based on years of service.

There are no provisions for payment in lieu, or carry over of annual leave and Bank Holidays falling during any part of either paid or unpaid leave. However, Senior Management Team (SMT) may use their discretion to allow up to 5 days annual leave to be carried over in accordance with the HDC annual leave system.

You should discuss any outstanding leave with your Manager prior to the commencement of maternity leave.

#### **13. Pension Scheme**

If you paid pension contributions prior to your maternity leave, then you will be required to contribute to the scheme during your paid maternity leave. The Payroll Section will write to you to explain the procedures whilst on maternity leave.

#### **14. Employees on Fixed Term or Training Contracts**

- If you are on a fixed term contract, HR will give advice on an individual basis.
- STUDENTS - the maternity provisions apply equally to you. The consequences of maternity leave on your training programme and length of further training will be explained to you.

## **15. Increments**

Your incremental date will not be deferred during your period of paid and unpaid leave. If your incremental date falls during your paid maternity leave, this will be reflected in the Maternity Pay you receive. It will not affect SMP.

## **16. Income Tax and National Insurance**

Maternity Pay is taxable and National Insurance payable under the normal pay as you earn arrangements

## **17. If you do not wish to apply for Maternity Leave**

If you intend to work up to or beyond the 11<sup>th</sup> week before the expected week of confinement, you may be eligible to receive statutory maternity pay as detailed in the entitlement table (section 5).

You will need to complete an application form to receive SMP even if you are leaving.

If you do not wish to return to work following the birth of your baby, you should resign giving the required amount of notice in the normal way.

## **18. Eventual Return Possible?**

If in the future you would like to return to the Council, we would be delighted to hear from you. You are welcome to ring HR and inquire about current vacancies or ring your previous Manager. ***Please keep in touch!***

## **19. Further Information**

When you have decided what you wish to do, please discuss this with your Manager who will ask you to see a HR Adviser to complete the necessary forms and explain this guide to you in further detail.

Please do not hesitate to contact HR at any time during your pregnancy or maternity leave.