

Forest Heath District Council and  
St Edmundsbury Borough Council

Maternity and Paternity  
Leave and Pay

Policy and Procedure

2014



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**Glossary****EWC Expected Week of Childbirth**

This is the week your doctor or midwife states your baby is due. It starts on a Sunday and runs to the following Saturday.

**QW Qualifying Week**

This determines whether your length of service qualifies you for Statutory Maternity Pay. The qualifying week is the 15th week before your EWC. You must have 26 weeks continuous service including part of the QW to be eligible for Statutory Maternity Pay.

**MATB1 Maternity Certificate**

A form supplied to a pregnant woman by her doctor or midwife as evidence of the expected week of childbirth. You must give this form to the Council as evidence of your EWC.

**SMP Statutory Maternity Pay**

Statutory Maternity Pay is a legal entitlement (dependent on satisfying the qualifying requirements) to a weekly payment which replaces your normal earnings to enable you to take time off around the birth of your baby. SMP is paid via the Council at higher rate SMP (9/10 pay) for the first six weeks, followed by 33 weeks at the standard rate per week, or 90 per cent of normal weekly earnings, whichever is lower.

**OSPP Ordinary Statutory Paternity Pay**

The statutory minimum payment available to fathers or adoptive fathers taking leave within eight weeks of the child's birth or adoption.

**CMP Contractual Maternity Pay**

This is maternity pay from the Council due to you under your Contract of Employment.

**OML Ordinary Maternity Leave**

A period of 26 weeks' leave that may begin at any time on or after the beginning of the 11<sup>th</sup> week before a pregnant woman's expected week of childbirth.

**AML Additional Maternity Leave**

A further period of 26 weeks' leave taken immediately following ordinary maternity leave.

**OPL Ordinary Paternity Leave**

A period of one weeks' leave or two consecutive weeks' leave, usually taken within eight weeks of the child's birth or adoption.

**APL Additional Paternity Leave**

Eligible employees are entitled to take up to 26 weeks' additional paternity leave within the first year of their child's life or the first year after the child's placement for adoption, provided that the mother or the primary adopter has returned to work, and the child is 20 weeks old.

**LEL Lower Earnings Limit**

This is the limit below which National Insurance is not due.

**KIT days Keeping in touch days**

Days during which an employee on maternity, paternity or adoption leave can agree with their employer to work. The employee can work for up to 10 days during his or her maternity, paternity or adoption leave period without bringing that period of leave to an end and without the loss of a week's statutory maternity, paternity or adoption pay as a result of carrying out that work.

**1. Introduction**

- 1.1 This policy sets out the rights of employees to statutory maternity and paternity leave and pay. This policy and procedure should be followed by all employees of Forest Heath District Council and St Edmundsbury Borough Council.
- 1.2 All pregnant employees are entitled to 52 weeks maternity leave **regardless of the number of hours worked and length of service**. If you have 26 weeks continuous service by the 15<sup>th</sup> week before the baby is due (known as the qualifying week) you are also entitled to 39 weeks Statutory Maternity Pay subject to qualifying requirements. If you have more than one year's continuous service, you will also be eligible for additional contractual maternity benefits.
- 1.3 You are not entitled to your normal pay during maternity leave, but you are entitled to all other non-remuneration benefits and terms and conditions that you would otherwise have i.e. annual leave, discounted gym membership, essential car user allowance, lease car, mobile phone, laptop, childcare vouchers, eye test and public holidays.
- 1.4 Your rights come partly from statute and partly from your Contract of Employment.

**2. Keeping you safe whilst at work**

- 2.1 We strive to create and maintain a healthy and safe working environment. As soon as you know you are pregnant you must notify your manager, confidentially if you wish, who will carry out a risk assessment as soon as possible to identify any particular risks. You should also read the relevant section of the Health and Safety policy.
- 2.2 If you wish to continue working after 36 weeks of pregnancy you will be asked to carry out a further risk assessment with your manager. If you work more than 50 per cent of your time at home, the risk assessment should be carried out based on your home and the Health and Safety Manager should be contacted in these circumstances.
- 2.3 You must complete a further risk assessment with your manager when you return to work.

**3. Maternity Leave**

- 3.1 All pregnant employees are entitled to 26 weeks ordinary maternity leave (OML) plus 26 weeks additional maternity leave (AML) making 52 weeks maternity leave.
- 3.2 You may not return to work two weeks from the date of childbirth. This is called compulsory maternity leave.

- 3.3 Ordinary maternity leave can start at any time after the beginning of the 11<sup>th</sup> week before the EWC (unless the baby is born prematurely before that date in which case it will start earlier).
- 3.4 Additional maternity leave will start immediately after ordinary maternity leave (from week 27).

**4. Giving notice to take maternity leave**

- 4.1 You are required to give 28 days notice of the start of your maternity leave, if reasonably practical. The notification must be in writing to Human Resources and must be no later than the end of the 15<sup>th</sup> week before the baby is due (or as soon as is practicable) stating:
1. that you are pregnant;
  2. the expected week of childbirth;
  3. the start date of your maternity leave (this can be any day of the week);
  4. the date you intend to return to work after your maternity leave; and
  5. the arrangements for payment of your contractual maternity pay and pension (if applicable).
- 4.2 Human Resources will respond within 28 days of receipt of your letter setting out the end date of the additional maternity leave or confirm the date you have stated that you intend to return to work.
- 4.3 The start date of maternity leave may be changed by giving 28 days notice and Human Resources will respond within 28 days of the notification. You must also supply the original copy of your MATB1 certificate confirming the expected date of childbirth, which is provided by the doctor or midwife after the 20<sup>th</sup> week of pregnancy.
- 4.4 If your baby is born early, maternity leave starts at the latest, the day after the birth. If you are absent from work with a pregnancy related illness during the last four weeks of your pregnancy, maternity leave will start automatically on the day after the first day of absence.
- 4.5 If you resign or are dismissed before the date you have notified, or before you have notified a date, you lose the right to maternity leave, but you will still be eligible for statutory maternity pay if you are employed after the 15<sup>th</sup> week before the expected week of childbirth. If you are dismissed prior to or during maternity leave you forfeit the right to contractual maternity pay from the date of dismissal.

**5. Maternity Pay**

**5.1 Statutory Maternity Pay (SMP)**

You are entitled to receive SMP providing you are still employed at the 15<sup>th</sup> week before the expected week of childbirth if you:-

- a) have 26 weeks' continuous local government employment by the qualifying week;
- b) are earning above the lower earnings limit (LEL) for the payment of national insurance contributions;
- c) are still pregnant at the 11th week before the EWC;
- d) have stopped all work wholly or partly because of pregnancy or childbirth; and
- e) provide evidence of EWC (normally MATB1).

SMP is 39 weeks' pay made up of the following;

- 6 weeks at 90 per cent of your average weekly earnings **plus**
- 33 weeks payable at the SMP rate set by the Government for the relevant tax year (or at 90 per cent of average weekly earnings for full 39 weeks if earnings are less than the SMP rate).

SMP is reviewed annually by the Inland Revenue (HMRC) and is subject to tax and national insurance deductions.

If you have more than one job you may be able to get SMP from each employer. Employees who are not eligible for SMP may be entitled to receive maternity allowance payable directly by the Government. The Council will provide the employee with an SMP1 form used to apply for maternity allowance.

You will not be required to repay any SMP payments if you do not return to work.

## 5.2 Disentitlement from SMP

You will lose your entitlement to SMP in the following circumstances;

- lack of medical evidence (i.e. no MATB1);
- working for the Council or another employer during maternity leave (except for KIT days); or
- being taken into legal custody.

The onus is on the employee to inform her employer of the above.

## 5.3 Contractual Maternity Pay (CMP)

In addition to SMP you will be entitled to contractual maternity pay if you have:

- a) completed one year's continuous local government service at the 11<sup>th</sup> week before EWC; and
- b) declared an intention to return to work for three months following maternity leave.

Contractual maternity pay is an additional 12 weeks at half pay.

The 12 weeks' half pay can be paid as it becomes due (i.e. from week seven onwards) and the employee can choose to have this paid during maternity leave spread over a mutually agreed distribution (up to a maximum of 33 weeks), or as a lump sum three months after returning from maternity leave.

The 12 weeks half pay is refundable **gross** if the employee does not return to work for a period of at least three months because of resignation or dismissal. This three month period is not calculated on a pro-rata basis for part-time employees. If you are uncertain about returning to work it is suggested that you consider deferring payment of your half pay until you have returned to work for three months.

If combined SMP and CMP exceed your normal full pay, you will only receive your normal pay.

If you have no entitlement to SMP, CML or maternity allowance, you will still be entitled to 52 weeks unpaid maternity leave.

#### 5.4 Pension

If you are a member of the pension scheme, pension contributions will be deducted from the SMP, CMP and KIT days worked whilst on maternity leave.

**During Ordinary Maternity Leave:** counts as membership under the scheme, and you will pay contributions at your normal percentage rate based on the pay you actually receive during your OML. If OML is unpaid, it still counts as membership but you do not contribute to the pension scheme.

**During Additional Maternity Leave:** counts as membership under the scheme during paid leave only. You will pay contributions at your normal percentage rate on any pay you are entitled to and KIT days worked during your AML. Any unpaid leave will not count towards reckonable membership unless you opt to pay contributions for this period within 30 days of your return to work or resignation. If you do not pay contributions, the period does not count as membership under the scheme.

If you defer payment of your CMP until you have returned to work for three months, contributions will be paid on your normal monthly salary plus your 12 weeks half pay lump sum.

Contact Human Resources for further information.

### 6. **Contact during maternity leave**

6.1 The Council reserves the right to maintain reasonable contact with employees during maternity leave. This may be to discuss plans for



returning to work, to discuss any special arrangements to be made or training to give updates on developments at work during their absence.

**7. Keeping in touch (KIT) days**

- 7.1 You can agree to work a maximum of 10 days (or 10 part days) by mutual agreement during your maternity leave. These are known as keeping in touch (KIT) days and will not end your maternity leave. The number of KIT days will not be reduced for part time employees i.e. employees working 3 days a week still can take up to 10 KIT days. KIT days can be taken either before or after the birth, but not during the compulsory maternity leave.
- 7.2 KIT days will be paid as either a half or full day depending on the number of hours you work. If you work less than half of your standard working day you will be paid a half day KIT day. If you work more than half of your standard working day you will be paid at your full normal daily rate which will be offset against a day's SMP.
- 7.3 If you work a KIT day on a day which is normally a non-working day, or if you have an irregular working pattern, you will be paid either a half or full day based on an average of your weekly working hours.
- 7.4 KIT days will not extend the overall period of maternity leave.
- 7.5 If you are a member of the pension scheme, pension will be deducted at your normal contribution rate, and the days will count for reckonable service.
- 7.6 KIT days can be used for any activity which would form part of the employment e.g. attend team meetings, staff briefings, training. This is a voluntary scheme and it is helpful to discuss these arrangements with your manager before the start of your maternity leave.

**8. Right to return to work**

- 8.1 The date you are due to return to work will be the first working day 52 weeks after the start of maternity leave, unless you have notified otherwise. If you have already given notice to return to work as part of your initial letter no further notice is required.
- 8.2 You have the right to amend your return to work date by giving 8 weeks' notice in writing. If less than 8 weeks' notice is given, your return to work may be postponed until the full 8 weeks' notice has been given or until the end of the 52 weeks maternity leave, whichever is the sooner. There is no entitlement to pay if your return to work is postponed.

**9. Decision not to return to work**

- 9.1 If, whilst on maternity leave, you decide that you do not wish to return to work, you should give written notice of resignation to your manager and Human Resources as soon as possible and in accordance with the terms of

your Contract of Employment. You should specify the date of termination, which could be the end date of the 52 weeks' maternity leave, in which case you will continue to receive any maternity pay due and to accrue annual leave during the notice period.

**10. During Ordinary Maternity Leave**

- 10.1 If you return to work before or at the end of OML you are entitled to return to the same job that you left on the same terms and conditions as if you had not been absent – unless a redundancy situation has arisen.

**11. During Additional Maternity Leave**

- 11.1 If you return to work during AML you have the right to return to the same job or, where that is not practicable, a suitable alternative role, which is no less favourable than your original job with regard to the terms and conditions of employment – unless a redundancy situation has arisen.

**12. Statutory Paternity Leave and Pay**

- 12.1 You are entitled to take up to two weeks' statutory paternity leave if you are the child's biological or adopting father or partner (male or female) to support the mother or to look after the baby. To qualify for statutory paternity leave you must have 26 weeks' continuous service before the 15<sup>th</sup> week before the baby is due, continue to be employed by the Council until the date the baby is born, and have average weekly earnings which are at least equal to the Lower Earnings Limit (LEL) for national insurance contributions.

- 12.2 You will be paid the weekly rate of Ordinary Statutory Paternity Pay (OSPP) current at that time, or if your earnings are less than OSPP you are entitled to 90 per cent of your average weekly earnings. If your earnings are below the LEL, or you are not entitled to OSPP, you may be entitled to other support from the Department for Work and Pensions.

- 12.3 You must take paternity leave within 8 weeks of the birth or adoption, and the two weeks must be complete and consecutive weeks. You cannot start paternity leave before the child is born. You should give written notice of your intention to take paternity leave 15 weeks before the expected date of childbirth, or as much notice as is practical.

**13. Transfer of maternity leave (Additional Paternity Leave)**

- 13.1 If an employee chooses to return to work by giving the relevant notification, her spouse, civil partner or partner may be eligible to take Additional Paternity Leave (APL) once she has returned to work.

- 13.2 The earliest that APL may commence is 20 weeks after the date on which the child is born (or adopted) and it must end no later than 12 months after the date of birth (or adoption). The minimum period of APL is two

consecutive weeks and the maximum period is 26 weeks. This must be taken as complete weeks and as one continuous period.

- 13.3 The employer must be given 8 weeks' notice in writing confirming the start date of this leave by the employee wishing to take APL.

**14. Additional Paternity Pay**

- 14.1 If the mother has not taken her full entitlement to statutory maternity pay when she returns to work, the outstanding amount transfers to the father who is taking APL.

**15. Parental Leave**

- 15.1 Subject to eligibility criteria, both parents are entitled to take unpaid parental leave. Please refer to the Parental Leave Policy.

**16. Time off for antenatal care**

- 16.1 You have a right to a reasonable amount of paid time off to attend antenatal care appointments and will be required produce evidence of the appointments if requested to do so by your manager.

- 16.2 Reasonable requests for time off for parenting classes will be considered.

**17. Rest facilities**

- 17.1 We provide rest facilities for those employees who are pregnant or breastfeeding or who have given birth within the previous six months.

**18. Unable to return to work due to illness**

- 18.1 If you are unable to return to work at the end of your maternity leave due to illness you will revert to the sick leave and pay you are entitled to in accordance with your Contract of Employment. You will be able to self-certify for the first seven days of absence and a certificate from your GP will be required from day eight onwards.

**19. Flexible working**

- 19.1 If you wish to vary your working arrangements on your return from maternity leave this will be considered in accordance with the Flexible Working Policy. Any requests should be discussed with your manager in the first instance and will be given due consideration and will not be unreasonably refused; but requests will be considered in the light of maintaining the efficient requirements of the service. Where changes to working are not possible the reasons will be fully discussed and put in writing.

- 19.2 Returning on a different basis (e.g. part time from full time) will affect some of your entitlements, such as annual leave. Further advice should be obtained from your manager or Human Resources.
- 19.3 Returning part time does not affect your entitlement to retain your 12 weeks at half pay, providing you return to work for the minimum period of three months.

**20. Annual leave**

- 20.1 You will continue to accrue annual leave throughout your maternity leave. If you return to work on a part time basis, your annual leave entitlement will be accrued on a pro-rata basis from the date of the contractual change.
- 20.2 It is advised that, wherever possible, employees take all of their annual leave entitlement for the current leave year before maternity leave starts, this should however be agreed with your manager. Annual leave which cannot be taken may be carried forward into the subsequent leave year however, only one week's leave may be carried forward to the end of May by agreement.
- 20.3 Subject to approval with your manager, annual leave can be taken in the first weeks back at work, effectively extending the maternity leave period. However any such period of annual leave is subject to operational requirements.

**21. Bank/Public Holidays**

- 21.1 You will be entitled to a day off in lieu for each bank or public holiday that falls during your period of maternity leave. For any bank/public holiday that falls on what would have been a normal working day, you will be entitled to the number of hours you would have worked on that day. For any bank/public holidays that fall on a non-working day, you will be entitled to one fifth of your working week. These hours will be added to your accrued annual leave entitlement upon your return to work.

**22. Childcare vouchers**

- 22.1 If you are participating in our childcare voucher scheme (or any other salary sacrifice scheme) you can either:
- remain in the salary sacrifice scheme and continue to receive contractual non-cash benefits throughout your maternity leave; OR
  - opt out of the scheme so your salary is higher for the purpose of calculating your maternity pay during the qualifying period.
- 22.2 If you wish to change your current arrangements regarding childcare vouchers (increase, decrease, opt in, opt out) you must inform Human Resources **in writing before the qualifying week**. Whatever

arrangement is in place by your qualifying week will then continue until you return to work at the end of your maternity leave.

- 22.3 If you remain in the scheme we will deduct the value of these non-cash benefits from CMP only as far as possible. If you choose to take CPM as a lump sum at the end of your maternity leave this value will be deducted from the lump sum before payment as far as possible.
- 22.4 Further information about the scheme is on the intranet.

### **23. Redundancy**

- 23.1 In the case of a job becoming redundant whilst the job-holder is on maternity leave, the Council will consider the employee for any other suitable alternative work that becomes available. The employee will have the right to be considered for such work, even though they are on maternity leave. Any such offer will be made before the current employment ends and the new employment will commence immediately to preserve continuous service.
- 23.2 If there is no such work available, the employee will be made redundant and receive redundancy pay in line with the statutory and contractual entitlements plus all maternity pay that they would otherwise have been entitled to.
- 23.3 Maternity leave counts as continuous service for redundancy purposes and does not adversely affect your right to a redundancy payment.

### **24. Industrial Action**

- 24.1 If industrial action or any other interruption of work makes it unreasonable for the employee to return on the date that she has specified, she may, instead, return when work resumes.

### **25. Probationary Period**

- 25.1 If you commence your maternity leave during your probationary period you will have your probationary period extended and will complete the outstanding period when you return to work.

### **26. Job Vacancies**

- 26.1 You will be kept informed of vacancies to enable you to apply for vacancies in the normal way during your maternity leave.

### **27. Concerns**

- 27.1 If you have any concerns in relation to your pregnancy you should contact your manager or Human Resources who will ensure that sensitive consideration is given to any issues raised. A counselling or occupational

health service is also available through Human Resources to offer support and advice if needed.

- 27.2 If an employee suffers a miscarriage or the baby dies before 24 weeks of pregnancy, the employee will be eligible for sick leave or possibly special/compassionate leave, according to the circumstances.
- 27.3 If a baby is stillborn or dies from 24 weeks of pregnancy, the mother is still entitled to maternity pay and leave.
- 27.4 If a baby is born prematurely, and survives, we will consider requests for extended leave on an individual basis.
- 27.5 Requests for reasonable time off for IVF treatment will be considered by your manager or Human Resources dependent on individual circumstances and operational business need. This time off will be unpaid.

**28. Enquiries and Change Control**

- 28.1 All enquiries relating to this document should be directed to Human Resources.
- 28.2 This policy will be subject to a review every two years and will be initiated by the Head of Human Resources and Organisational Development. Suggestions for any changes to this document should also be forwarded to the Head of Human Resources and Organisational Development.
- 28.3 Further information on maternity and paternity leave and pay is available from Human Resources.

**Revisions**

<b>Date of review or revision</b>	<b>Reason</b>	<b>Author</b>
April 2007	Increase in SMP	Lin Webster
April 2008	Increase in SMP	Lin Webster
April 2009	Increase in SMP	Lin Webster
April 2010	Increase in SMP	Lin Webster
May 2011	Changes in legislation	Bronwen Stacey
February 2012	SMP & SPP actual rates removed	Lin Webster
February/March 2014	Joint FHDC and SEBC policies	Victoria Abbott