

Maternity Provisions Guidance

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1. Introduction

Advice on Maternity Provisions

These notes are for general guidance only. All pregnant employees should contact HR for further information about how these provisions affect them (see end of guidance notes for contact details).

The main terms and abbreviations used in the guidance notes are defined as follows:

- Statutory Maternity Pay (SMP) – statutory sum paid to qualifying employees
- Occupational Maternity Pay (OMP) – sum paid in addition to Statutory Maternity Pay to employees who fulfil additional conditions
- Maternity Allowance (MA) – allowance paid by Job Centre Plus to qualifying employees, if they are not entitled to Statutory Maternity Pay
- Expected Week of Childbirth (EWC) – the week during which the baby is expected to be born
- Maternity Certificate (MatB1) – certificate confirming Expected Week of Childbirth (issued by GP/Midwife)
- Qualifying Week (QW) – the 15th week before the Expected Week of Childbirth
- Maternity Pay Period – the weeks during maternity leave for which an employee receives maternity pay
- Continuous Service – continuous service with any local authority or recognised body

2. Health and Safety

An employee should notify her line manager as soon as possible of her pregnancy, in order that a [risk assessment](#) can be undertaken in relation to her current post and working conditions.

If an employee is prevented from working during her pregnancy as a result of health and safety legislation, she may be suspended on maternity grounds from her normal post. This would occur where she is unable to work in that post because she is pregnant, has recently given birth or is breast feeding a child. See also guidance in [New and Expectant Mothers at Work – Health and Safety Guidance](#).

In this situation any available suitable alternative work will be offered before suspension on maternity grounds.

3. Maternity Leave

The chart at [Appendix A](#) summarises the main provision. The following is a more detailed account of these provisions.

Entitlement to Maternity Leave

All employees, regardless of length of service or weekly hours are entitled to 52 weeks maternity leave (consisting of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternal Leave) or as much of that period as they wish to take. A minimum of

2 weeks maternity leave must, however, be taken. In the case of female employees engaged in certain types of manual work a minimum of 4 weeks maternity leave must be taken (contact HR for guidance).

If an employee has less than 26 weeks' continuous service by the beginning of her qualifying week, she will be entitled to 52 weeks leave (unpaid). See [checklist](#).

If an employee has 26 weeks or more continuous service by the beginning of her qualifying week, she will be entitled to 39 weeks paid leave and to remain absent for up to a further 13 weeks (immediately following the initial 39 weeks). See [checklist](#).

Ante-Natal Care

The employee will be allowed to take reasonable paid time off to attend for ante-natal care, on production of evidence of appointments.

An expectant father, intended parent in a surrogacy situation or the partner of a pregnant woman, is entitled to unpaid time off to accompany the pregnant woman to up to two ante-natal appointments made on the advice of a registered medical practitioner, midwife or nurse.

The time off will cover the duration of the appointment including travel time and is limited to a maximum of six and a half hours for each appointment. Approval must be sought from the employee's line manager prior to attending ante-natal appointments.

Sickness during Pregnancy

If an employee is sick during pregnancy she should submit medical certificates in accordance with normal sickness procedures. If, however, she is sick **for any reason connected with pregnancy or childbirth** after the beginning of the 4th week before the Expected Week of Childbirth (EWC) and she has not yet started maternity leave, she should advise HR as soon as is practicable and submit a medical certificate in the normal way. This period of sickness will automatically trigger the beginning of maternity leave for the employee.

Beginning Maternity Leave

Maternity Leave may not begin before the beginning of the 11th week before the Expected Week of Childbirth (EWC).

The employee may choose when to begin maternity leave after this date. If, however, she is absent from work after the beginning of the 4th week before the EWC due to pregnancy this will automatically trigger her maternity leave. (See section 3.)

Your maternity leave will automatically start on the day following childbirth if this occurs before you have started your maternity leave.

Notification to take Maternity Leave

The employee must inform her line manager in writing using the Application for Maternity Leave/Pay (form Mat.2) (with a copy to HR) **by the 15th week prior to her EWC**, indicating her expected week of Childbirth, the date that she intends to commence maternity leave and whether or not she intends to return to work following maternity leave.

The dates of the employee's maternity leave are determined by the expected date of childbirth specified on a Maternity Certificate (MatB1). The MatB1 Certificate is received from a registered medical practitioner or midwife approximately 14 weeks before the Expected Date of childbirth.

The employee should not, therefore, wait for her MatB1 Certificate before submitting the application for maternity leave. The employee must also submit the MatB1 to HR as soon as possible.

If an employee is entitled to the period of 12 weeks at half pay (see section 4.) she is required to declare that she will return to work for at least three months following maternity leave. Should the employee fail to return for this three month period, she will be required normally to repay the 12 weeks of half pay. The Council may, however, vary the requirement for the employee to return for the three month period if she is able to show good cause.

HR will reply within 28 days of receiving the application, to confirm the employee's maternity leave/pay entitlement.

Working during Maternity Leave

The employee may undertake up to 10 days work ('Keeping in Touch' days) for the Council during maternity leave (except during the first two weeks after childbirth) with normal pay under her contract of employment. This will not affect her Statutory Maternity Pay. The employee and line manager should agree in advance for this to happen as well as the type of work to be undertaken. This provision is particularly helpful for team meetings or training.

Any work done on any day during the maternity leave period will count as a whole working day, however, up to the 10 day maximum. The days do not have to be consecutive. If an employee comes in for a one-hour training session and does no other work that day, she will have used up one of her 10 days. This provision is not a requirement on either side and the maternity leave will not be extended due to these days being worked. (Keeping in Touch Day Application Form and FAQs)

Contact with Line Manager during Maternity Leave

The line manager should keep in contact with the employee and make reasonable time to discuss plans for returning to work, or to keep her informed of important changes or developments at the workplace.

The employee should be informed of any relevant promotion opportunities or job vacancies that arise during maternity leave. Arrangements for receiving this information should be made prior to the commencement of the maternity leave. This contact does not constitute work and is not included within the 10 work days provided for in section 3. above.

Notification of Return to Work after Maternity Leave

If the baby is born during a week other than the EWC the employee should contact HR as soon as is reasonably practicable as this may affect her date of return to work.

If the employee intends to return to work earlier than the last date of return to duty notified by HR she must inform her line manager in writing (with a copy to HR) at least 8 weeks before she intends to return from maternity leave, of the date that she proposes to return.

If the employee is unable to return to work on the expected date due to sickness, the normal notification and certification provisions of the Council's sickness scheme will apply. The employee will not be required to provide a medical certificate before returning to work at the end of her maternity leave, unless she has been unable to return at the due date because of sickness.

Annual Leave/Public Holiday Entitlement

Entitlement to annual leave is unaffected by maternity leave and it is accrued as if the employee was at work. The employee is entitled to public holidays which fall during the period of Ordinary Maternity Leave and Additional Maternity Leave.

Should the employee not return to work after maternity leave she will be entitled to a proportion of the year's annual leave up to the end of her maternity pay period and to any public holidays which arose before that date.

Should the employee return to work on reduced hours (i.e. on a job-share or part-time basis), her annual leave entitlement will be calculated based on a period of full-time service up to the date that she has returned from maternity leave and a period of part-time service, from the date that she has commenced job-share/part-time hours.

Parental Leave

The Council provides for Ordinary Parental Leave which allows the parent 18 weeks of unpaid leave up to the child's 18th birthday.

The Council's Flexible Working Policy gives more detail on this provision.

4. Maternity Pay

Entitlement to Maternity Pay

An employee will be advised of her entitlement when she applies for maternity leave. The chart at Appendix A summaries the main provisions. The following is a more detailed account of these provisions.

If an employee has less than 26 weeks continuous service by her qualifying week, she will be entitled to 52 weeks leave, with no pay. She may, however, be entitled to Maternity Allowance.

If an employee has 26 weeks or more continuous service by her qualifying week, she will be entitled to 39 weeks paid leave, as follows:-

First 6 weeks at 9/10ths pay (including SMP) Following 12 weeks at half pay (plus SMP) Following 21 weeks at SMP, with any further maternity leave at no pay (up to a maximum of 13 weeks).

Entitlement to Statutory Maternity Pay

To qualify for Statutory Maternity Pay an employee must:

- continue to be employed by The Highland Council during all or part of the Qualifying Week (the 15th week before the EWC)
- have continuous employment with The Highland Council, other local authority or other recognised body for at least 26 weeks before the end of the Qualifying Week
- continue to be pregnant at the 24th week of pregnancy
- have stopped work wholly or partly because of pregnancy or childbirth
- inform the Council, in writing, by the 15th week prior to the EWC of the date of the beginning of absence due to maternity or childbirth
- submit a Maternity Certificate (MatB1) at least 28 days before the absence begins (see section 3.)

An employee is excluded from receiving Statutory Maternity Pay if, at the beginning of the Maternity Pay Period, she:-

- has average weekly earnings less than the lower earnings limit for National Insurance contribution liability
- fails to meet the qualifying conditions outlined above

An employee is also excluded if at any time during her Maternity Pay Period she is in legal custody. The Council will provide the employee with a form SMP1 to explain why. Legal custody means being detained by the Police, usually arrested and/or in prison.

Maternity Allowance

If an employee is excluded from Statutory Maternity Pay for any reason, The Highland Council will provide her with her MatB1 Certificate and an SMP1 form which explains the reason that Statutory Maternity Pay cannot be paid. The employee should send the form SMP1 to her local Job Centre Plus office with a Maternity Allowance (MA) claim form. If the employee meets the qualifying conditions based on recent employment and earnings they may receive up to 39 weeks Maternity Allowance.

Current Level of Payments

Payment will be the lesser of SMP and 90% of the employee's earnings. Statutory rates for SMP and MA can be found on the [Government](#) website.

Car Lease/Loan

If an employee has deductions made from salary for car loan or car lease payments, she should contact the Director of Finance to arrange for these payments to continue during the unpaid period of her maternity leave.

Salary Sacrifice Schemes

The Council has operated several employee benefit schemes based upon salary sacrifice. This is when an employee gives up the right to receive part of their gross pay in return for some form of non-cash benefit such as bicycle loans, [childcare vouchers](#) or Home Computing equipment.

In these cases, employees should seek confirmation with Payroll as to how their salary sacrifice payments will be managed in relation to maternity leave.

Pension Benefits

Any unpaid period during an employee's maternity leave will not count in the calculation of her future pension benefits unless she agrees to pay the appropriate contributions. On the employee's return to work, the Pension Section of the Finance Service will contact the employee to ask if she wishes to buy back the pension that she lost during this time.

APPENDIX A: SUMMARY OF MATERNITY LEAVE/PAY ENTITLEMENTS

SERVICE	NOTIFICATION OF INTENTION TO TAKE MATERNITY LEAVE	COMMENCEMENT OF MATERNITY LEAVE	LENGTH OF MATERNITY LEAVE	MATERNITY PAY	NOTIFICATION OF RETURN TO WORK FOLLOWING MATERNITY LEAVE
Less than 26 weeks continuous service by the 15 th week before the Expected Week of Childbirth (EWC)	<p>Employee must inform line manager in writing (copy to HR) by the 15th week prior to EWC, that she intends commencing maternity leave, indicating:</p> <ul style="list-style-type: none"> EWC (submitting MatB1 Certificate asap) Intended date of commencement of maternity leave 	<p>(i) Employee may not begin Maternity leave before the beginning of the 11th week before the EWC</p> <p>(ii) Employee may choose when to commence maternity leave after the 11th week before the EWC. If, however, employee is absent from work after the beginning of the 4th week before the EWC due to pregnancy, childbirth or pregnancy related sickness, maternity leave will automatically be triggered</p> <p>(iii) Maternity Leave can begin on any day of the week.</p>	<p>Employee is entitled to up to 52 weeks maternity leave</p> <p>Employee must take a minimum of 2 weeks maternity leave</p>	<p>No pay. Employee may, however, be entitled to Maternity Allowance, payable through Job Centre Plus</p>	<p>If the employee is returning to work before the end of her additional maternity leave entitlement then the employee must inform her line manager in writing (copy to HR) at least 56 days before she intends to return to work of the date she proposes to return</p>
At least 26 weeks continuous service by the 15 th week before the EWC	<p>Employee must inform line manager in writing (copy to HR) by the 15th week prior to EWC, that she intends commencing maternity leave, indicating:</p> <ul style="list-style-type: none"> EWC (submitting MatB1 Certificate asap) Intended date of commencement of maternity leave Intention to return to work or not for at least 3 months following maternity leave 	<p>(i) Employee may not begin maternity leave before the beginning of the 11th week before the EWC</p> <p>(ii) Employee may choose when to commence maternity leave after the 11th week before the EWC. However, if employee is absent from work after the beginning of the 4th week before the EWC due to pregnancy, childbirth or pregnancy related sickness, maternity leave will automatically be triggered</p> <p>(iii) Maternity Leave can begin on any day of the week</p>	<p>Employee is entitled to up to 52 weeks maternity Leave</p> <p>Employee must take a minimum of 2 weeks maternity leave</p>	<p>(i) First 6 weeks of the maternity pay period at 9/10th pay including SMP</p> <p>(ii) Following 12 weeks of maternity pay period at half pay plus SMP</p> <p>(iii) Following 21 weeks at SMP only</p> <p>(iv) Any further period of maternity leave at no pay (up to a maximum of 13 weeks)</p>	<p>If the employee is returning to work before the end of her additional maternity leave entitlement then the employee must inform her line manager in writing (copy to HR) at least 8 weeks before she intends to return to work of the date she proposes to return</p>