

# Family Friendly Policies - Maternity Leave

HR Service Effective from January 2019

## 1. Introduction

The following guidance is for employees under 'Green Book' terms and conditions. For other employees, please speak to your HR contact to check where your terms and conditions may vary.

## 2. Maternity Provisions

Once you become pregnant you are given certain rights and entitlements under UK employment legislation and your contract of employment. These include the right to maternity leave and the right to return to work after your child is born, subject to certain conditions.

## 3. Maternity Leave

All employees, regardless of service, will be entitled to 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total.

You must inform your line manager in writing as soon as you can of the following:

- that you are pregnant and the date your baby is due
- the date of the beginning of your maternity leave
- if you intend to return to work following your maternity leave

The MyView form should be used to apply for Maternity Leave and Pay. The form can be found on MyView via MyView Data Page>Employee Forms/Surveys>Absence Forms>Application for Maternity Leave and Pay.

You must take at least 2 weeks' maternity leave following the birth of your child.

You can change your mind about when you want to start your maternity leave providing you give at least 28 days' notice (unless this is not reasonably practicable because of pregnancy related sickness or premature birth).

Payments during your maternity leave will be made up of a combination of Statutory Maternity pay (SMP) and Contractual Maternity Pay (CMP) as detailed below.

If you return to work before exhausting your maternity leave/pay, the father of your child/your partner may be eligible for Shared Parental Leave/Pay. The rate of Shared Parental Pay will be the statutory rate. Qualifying conditions apply, and further guidance is available under a separate policy.

## 4. Statutory Maternity Pay (SMP)

This is an allowance paid by the Council, on behalf of the Government. It is payable for a period of 39 weeks, provided that you satisfy the conditions set out below and is payable regardless of whether or not you are intending to return to work and even if you leave for non-maternity related reasons:

- you have been employed continuously for 26 weeks up to and into the 15th week before the week your baby is due

- your average weekly earnings have been not less than the lower earnings limit for National Insurance contributions (in the 8 weeks ending with the 15th week before the week your baby is due)
- you are pregnant in the 15<sup>th</sup> week before the week your baby is due
- you have advised the Council of your pregnancy and given 28 days' notice of the date you wish to start your maternity leave
- you have provided medical evidence (MatB1 or approved substitute) of the date your baby is due within 21 days of the start of the SMP period

The amount of SMP payable will be:

- 90% of your average weekly earnings for the first 6 weeks of maternity absence
- the standard flat rate of SMP (or 90% of your average weekly earnings if lower) for the next 33 weeks

If you do not satisfy the conditions for payment of SMP, the HR Business Centre, will provide you with a form (SMP1), which will explain why and which you can use to claim Maternity allowance.

If you return to work before exhausting your maternity leave/pay, the father of your child/your partner may be eligible for Shared Parental Leave/Pay. The rate of Shared Parental Pay will be the statutory rate. Qualifying conditions apply, and further guidance is available under a separate policy.

## 5. Maternity Allowance (MA)

Maternity Allowance is a Government benefit, paid weekly, that you may be able to claim if you are pregnant or if you have just had a baby and are not entitled to SMP. The allowance can be paid for up to 39 weeks. It is only paid while you are not working.

Full up to date information on Maternity allowance can be found at <https://www.gov.uk/maternity-allowance>.

## 6. Contractual Maternity Pay

Employees with at least 1 year's continuous service at the 11th week before the week the baby is due will be entitled to 18 weeks Contractual Maternity Pay as follows:

Weeks	Entitlement
1 - 6	9/10 of a week's pay* (offset against payments made by way of Statutory Maternity Pay or Maternity Allowance).
7 - 18	half of a week's pay* without offset of SMP or MA (except to the extent that the half pay plus Statutory Maternity Pay or Maternity Allowance exceeds full pay) <b>provided</b> you have declared in writing that you will return to local authority (not just the current authority) employment for at least 3 months.

\* a week's pay includes all contractual allowances other than essential car user allowance which will continue in payment at full rate for the first 18 weeks and then at 50% for three months.

If you are eligible to receive the half pay element of Contractual Maternity Pay you can opt to have this paid to you over 18 weeks instead of the standard 12 weeks, or you can defer payment until you have returned to work. However, both these options are dependent on your return to work following maternity leave for a period of 3 months. Please contact your HR Contact for further information.

## 7. Maternity Benefits

As an expectant mother you may be entitled to certain government benefits. Details can be found at: <https://www.gov.uk/calculate-your-maternity-pay>.

## 8. Salary Sacrifice Contracts

If you have sacrificed salary in return for benefits or vouchers you may wish to review this arrangement in advance of your maternity leave, because your maternity pay will be calculated on the reduced salary. Please contact your HR Adviser at the earliest opportunity for advice. See also the Questions and Answers below.

## 9. Lease Cars

You may continue to use your lease car during the whole period of your maternity leave and contributions will continue. Depending on the scheme applicable. You may need to make up any missing deductions. Please contact the HR Business Centre for advice.

## 10. Annual leave and Bank Holidays

Your annual leave continues to accrue for the whole period of your maternity leave and your full entitlement should be taken during the leave year to which it relates. Therefore, if your return date is likely to be after the end of the current annual leave year, you should try to take your full leave entitlement before starting your maternity leave.

Any annual leave taken in excess of your entitlement will be reclaimed through your salary.

You are entitled to an additional day leave for each bank holiday that falls during your maternity leave. These additional days should also be taken during the leave year to which they relate.

## 11. Ante-natal Care

You have the right to take paid time off to attend ante-natal appointments. You should let your line manager know when your appointments are, and they may ask you to show proof of the dates and times.

## 12. Pension

Please check the [Local Government Pension Scheme \(LGPS\) website](#) for details.

If you have entered into a contract to buy additional LGPS membership, you must honour this by paying pension contributions based on your normal full pay while on maternity leave.

If you are paying AVCs for additional life cover, arrange to continue with these payments throughout your maternity leave or cover may cease.

If you need further details please contact the London Pensions Partnership.

## **13. Health and Safety**

As a pregnant employee there are specific provisions to ensure your health and safety whilst you are at work. These include the assessment of any workplace risk and the adoption of appropriate protective and preventative measures. This will be particularly relevant if you are working with any hazardous substances or work unusual hours or patterns or visiting clients in their own homes or those that might pose any risk.

It is in your own interests to tell your line manager as soon as you know that you are pregnant to make sure that you are given the protection of the health and safety legislation.

You will be required to complete the New and Expectant Mothers Risk Assessment form on My View which should then be submitted to your manager for review and authorisation. If any health risks are identified that require additional advice or support, then please speak to your line manager in the first instance. Advice will also be available from the HR Service. The Risk Assessment should be reviewed at reasonable intervals, because risk may change/vary at different stages of your pregnancy.

If you have any concerns about your health and safety in your work place you should speak to your line manager, in the first instance. Advice will also be available from the Health and Safety Team and HR Service.

## **14. Keeping in Touch Days**

You may agree with your manager to work up to 10 days during your maternity leave without affecting your statutory maternity pay or bringing your maternity leave to an end. You need not work a full day but any occasion that you do work will count as one KIT day (i.e. if you work a half day this will count as one of your 10 KIT days). Neither you nor your manager can insist that you work during this period although you will be paid for any hours that you do work (offset by any payment already in place).

Contact made to discuss your return to work and any other reasonable contact during your Leave does not constitute work for these purposes. Your manager will maintain reasonable contact with you during your Leave, for example, to discuss your plans for returning to work, to consider training or other support to ease your return to work, or to update you on work developments.

For health reasons you may not work during the first two weeks following the birth of your child.

## **15. Access to E-mail Account**

Your manager will inform Steria when you are going on leave and when you are due to return, and you will need to return your ICT equipment before you start your leave. You will also need to complete a Bexnet

pro-forma to nominate another member of staff to be given access to your e-mail account for the duration of your leave. If you wish you may retain access to your e-mail account - subject to the approval of your manager – you can request this at the same time. Access to your e-mails will be via Outlook Web Access.

Please be aware that if you choose not to retain access to your account (or your manager refuses access) it will not be possible to give you access to your account on Keeping in Touch days. Access will only be returned to you at the end of your leave period.

The relevant guidelines and pro-forma are available under Bexnet Accounts.

## 16. Table of Maternity Leave and Pay Entitlements

Your service	Entitlement
More than 26 weeks Bexley service and at least 1 years LG service at the 11th week before the due date	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML), plus 26 weeks Additional Maternity Leave (AML); 52 weeks in total.
Returning to work (MatLet1)	<b>Pay</b> 39 weeks Statutory Maternity Pay (SMP), paid at the same time as 18 weeks Contractual Maternity Pay, consisting 6 weeks @ nine-tenths of a week's pay and 12 weeks at half a week's pay (offset against SMP except to the extent that this exceeds full pay)
More than 26 weeks Bexley service and at least 1 years LG service by 11th week before the due date.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total. Employment terminates at end of 52 weeks, but you can choose to terminate earlier.
Not returning to work (MatLet2)	<b>Pay</b> 39 weeks Statutory Maternity Pay (SMP) paid at the same time as 6 weeks Contractual Maternity Pay @ nine-tenths of a week's pay (offset against SMP)
More than 26 weeks Bexley service by 15 <sup>th</sup> week before the due date but Less than 1 years LG service by 11th week before the due date.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total.
Returning to work (MatLet3)	<b>Pay</b> 39 weeks Statutory Maternity Pay. You do not qualify for contractual maternity pay.
More than 26 weeks Bexley service by 15th week before the due date but Less than 1 years LG service by 11th week before the due date.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total. Employment terminates at end of 52 weeks, but you can choose to terminate earlier.
Not returning to work (MatLet4).	<b>Pay</b>

	39 weeks Statutory Maternity Pay. You do not qualify for contractual maternity pay.
Less than 26 weeks Bexley service by 15th week before the due date but more than 1 years LG service.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML), plus 26 weeks Additional Maternity Leave (AML); 52 weeks in total.
Returning to work (MatLet5).	<b>Pay</b> 18 weeks Contractual Maternity Pay, consisting 6 weeks @ nine-tenths of a week's pay and 12 weeks at half a week's pay. There is no entitlement to Statutory Maternity Pay but you may be eligible for Maternity Allowance.
Less than 26 weeks Bexley service by 15th week before the due date but more than 1 years LG service.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total. Employment terminates at end of 52 weeks, but you can choose to terminate earlier.
Not returning to work (MatLet6).	<b>Pay</b> 6 weeks Contractual Maternity Pay @ nine-tenths of a week's pay. You do not qualify for Statutory Maternity Pay but you may be eligible for Maternity Allowance.
Less than 26 weeks Bexley service by 15th week before the due date and less than 1 years LG service.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total.
Returning to work (MatLet7).	<b>Pay</b> You do not qualify for contractual or Statutory Maternity Pay but you may be eligible for Maternity Allowance.
Less than 26 weeks Bexley service by 15th week before the due date and less than 1 years LG service.	<b>Leave</b> 26 weeks Ordinary Maternity Leave (OML) plus 26 weeks Additional Maternity Leave (AML) i.e. 52 weeks in total. Employment terminates at end of 52 weeks, but you can choose to terminate earlier.
Not returning to work (MatLet8).	<b>Pay</b> You do not qualify for contractual or Statutory Maternity Pay but you may be eligible for Maternity Allowance.

## 17. Questions you may have before your baby is born

Question	Answer
What do I do now I know that I'm pregnant?	Let your line manager know so they can ensure you receive the appropriate health and safety protection and you receive no loss of pay for attending ante-natal appointments.
How do I apply for maternity leave and pay?	Inform your line manager as soon as you know what date you wish to begin maternity leave.  Complete and submit the Application for Maternity Leave and Pay form on MyView around the 15th week before the due date and no later than 28 days before the due date. You

	will then receive a letter confirming your maternity leave and pay entitlements.
What happens if I am not entitled to Statutory Maternity Pay (SMP) or contractual maternity pay?	You may be entitled to claim Maternity Allowance. Tops (Payroll Services) will send you a Maternity Allowance claim form.
What about time off for ante-natal care?	You can take paid time off for ante-natal care. You might be asked to show evidence of all but your first appointment.
What happens to the salary sacrifice arrangement that I have in place for childcare vouchers, etc?	<p>You should contact your HR Adviser as soon as possible for more information and advice. If, for example, you currently receive salary sacrifice childcare vouchers, the Scheme allows you to stop this arrangement during your maternity leave.</p> <p>Depending upon the timing, your average pay for calculating your maternity pay can then be at the higher rate (non-sacrificed salary).</p> <p>Alternatively, if you wish to continue to receive vouchers, your average pay for calculating your maternity payments will be lower (based on your sacrificed salary) but you will be able to continue to receive your childcare vouchers for the duration of your leave.</p>
When can I start my maternity leave?	You may begin your maternity leave any time between the 11th week before the due date and the due date.
What if I carry on working after the 11th week and fall sick?	If you are away sick after the 4 <sup>th</sup> week before the due date and the sickness is related to your pregnancy, the Council will automatically begin your maternity leave. Any sickness before the 4 <sup>th</sup> week will be treated as sickness absence, even if it is pregnancy related.
Can I take annual leave before or after my maternity leave?	<p>Yes, annual leave can be taken immediately before or after Maternity leave.</p> <p>You should try to take all your annual leave entitlement before going on maternity leave if you are not due to return to work before the end of the annual leave year.</p>



## 18. Questions you may have when your baby is born

Question	Answer
Am I entitled to any special provisions if I have a multiple birth?	Your entitlement to maternity leave and pay remains the same as if you were expecting one baby.  However, the parental leave entitlements are per child, i.e. if you have twins, you will be entitled to 13 weeks for each child.
What happens if I have a miscarriage or stillbirth?	Should you miscarry, or a stillbirth occurs after 24 weeks of pregnancy your maternity rights will remain, and you will be entitled to maternity leave and pay.  If you miscarry or a stillbirth occurs before 24 weeks of pregnancy, sick pay will be payable in accordance with the council's sickness scheme.
What if I have my baby prematurely?	You must let your local HR contact know as soon as possible, the date your baby was born.  Your maternity leave will be automatically triggered, and you must provide a new MATB1 certificate showing the date your baby was born.
What if I have my baby later than the expected date, how will this affect my return date?	The date your baby is born will not affect your return date.

## 19. Questions you may have during your maternity leave

Question	Answer
What about my entitlement to annual leave and sick pay, will these be affected by my maternity leave?	Whilst you are on maternity leave, your entitlement to annual leave and sick pay will continue to accrue. This also counts towards your period of continuous service for the calculation of annual leave and notice periods.  You should try to take all your annual leave entitlement before going on maternity leave if you are not due to return to work before the end of the annual leave year.
What happens to Bank Holidays?	A substitute days leave will be provided for each bank holiday that falls during your maternity leave. As with your annual leave entitlement you will need to ensure that you take these additional days leave before the end of the annual leave year.
What happens to my e-mails while I am on leave?	You must nominate someone to have access to your account while you are on leave. However you can also retain access, subject to your manager's approval.

## 20. Questions you may have when you return to work

Question	Answer
Will I return to my original job?	<p>At the end of OML you are entitled to return to the same job. At the end of AML the entitlement is to return to a similar job. Usually you will be able to return to the same job.</p> <p>If a reorganisation takes place whilst you are on maternity leave you will be fully consulted and your rights explained.</p>
Can I work part-time on my return?	<p>You do not have an automatic right to return to work part-time. However, any request to do so will need to be considered reasonably, taking into account both your needs and those of the service.</p> <p>Information about flexible working arrangements can be found on the HR website under Family Friendly Policies.</p>
What happens if I decide not to return?	<p>You will need to write a letter of resignation to your line manager, giving the correct amount of contractual notice. If you have received the half pay element of your contractual maternity pay, you will be required to refund the payment in full (or such part as the Council may subsequently decide), to the extent to which that maternity pay exceeds your entitlement to SMP.</p>
What happens if I am not well enough to return following maternity leave?	<p>Absence can be extended with a doctor's certificate but will be recorded as sick leave.</p>
What happens contract temporary contract expires while I am on maternity leave?	<p>The right to return to your temporary post following maternity leave will be restricted to the temporary period for which you have been employed. Any termination date will continue to be effective.</p>

## 21. Returning to Work

It is assumed that you will take all of your maternity leave entitlement. If you wish to return before the end of your maternity leave, you should write to your line manager at least giving 21 days' notice. Where the correct notice period has not been given, we can ask you to postpone your return date to ensure that there is 21 days' notice.

If you are unable to return to work following maternity leave because you are ill, you must provide a doctor's certificate and this absence will be treated as sick leave.

If you have received the 12-week half pay element of contractual maternity pay, you must return to work for a period no shorter than 3 months to retain it, otherwise you will be required to refund the payment in full (or such part as the Council may subsequently decide), to the extent to which that maternity pay exceeds your entitlement to SMP.

## 22. Deciding Not to Return to Work

If you decide that you do not wish to return to work after the birth of your baby, before commencing your maternity leave, you will need to decide when you would like your contract of employment to end. The Council will assume that it will end at the end of your entitlement to maternity leave, but you have the choice of terminating your employment earlier. Whilst there should be no impact to the pay you receive, there are other implications, for example:

- if you decide to end your employment at the end of your entitlement to paid and unpaid maternity leave you will be entitled to elect to pay pension contributions on the whole of this period of employment and your continuous employment will be retained during the period
- your P45 will not be released until your last day of service which may affect your short-term tax liability if you have other taxable income during the period
- any benefits to which you are entitled, for example your lease car, will terminate at the same time as your employment

Please discuss your options with your HR Adviser if it is your intention not to return to work.

## 23. Whilst you are at work check list (tick box once actioned)

- Have you advised your line manager that you are pregnant?
- Have you completed the New and Expectant Mothers Risk Assessment form on MyView and submitted the form to your manager?
- Have you completed the Maternity Leave and Pay form via Myview?
- Have you informed your line manager of the date you intend to commence maternity leave (remember to give at least 28 days' notice in writing of this date)?
- Have you written to your HR Contact to confirm the date you intend to commence your maternity leave?
- Have you discussed the implications of any salary sacrifice arrangements that you have?
- After twenty weeks of your pregnancy ask your midwife for form MATB1 and send this to your HR Contact.
- If you have a lease car, have you given the HR Business Centre one month's notice of your start date for maternity leave?
- Have you made plans to take all of your annual leave entitlement before the end of the leave year?

### Returning to work before the end of your maternity leave

- If you wish to return to work before the end of your maternity leave, have you given your manager the correct period of notice, in writing, of the date you intend to return to work?
- Have you given correct notice of your intended date of return to work to the HR Service?

Remember to get in touch with the HR Service if you have any concerns or queries.