



# **East Herts Council**

## **Family Friendly Policy**

### **Policy Statement**

#### **Policy Statement No 16 (Issue No 5) April 2017**

(This policy replace the Maternity, Paternity & Adoption Leave Policy No 16 (Issue No 2) dated March 2013)

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## **GLOSSARY**

OML	Ordinary Maternity Leave
AML	Additional Maternity Leave
OMP	Occupational Maternity Pay
SMP	Statutory Maternity Pay
SMA	Statutory Maternity Allowance
EWC	Expected Week of Childbirth (Sunday to Saturday)
EDC	Expected Date of Childbirth
QW	Qualifying Week for the payment of SMP / SAP
MATB1	Maternity Certificate
SPP	Statutory Paternity Pay
OAL	Ordinary Adoption Leave
AAL	Additional Adoption Leave
SAP	Statutory Adoption Pay
OAP	Occupational Adoption Pay
KIT	Keeping in Touch (KIT) days
SPL	Shared Parental Leave
ShPP	Shared Parental Pay

## **1.0 Introduction**

- 1.1 This policy complies with all relevant employment legislation and provisions in the NJC Green Book. This policy reflects the recent legislative changes and is compliant with The Shared Parental Leave Regulations 2014, The Shared Parental Pay (General) Regulations 2014, The Maternity and Adoptions Leave (curtailment of statutory rights to leave) Regulations 2014, Employment Rights Act 1996, Child and Families Act 2014 and Equality Act 2010

## **2.0 Purpose and Scheme Coverage**

- 2.1 The purpose of this document is to provide employees and managers with information on maternity, paternity, parental, surrogacy and adoption leave entitlement.
- 2.2 This scheme is applicable to all employees of East Herts Council. Casual employees may not be eligible for maternity pay, please see section 7.6 for more information.
- 2.3 The council will endeavour to ensure that an employee does not suffer any detrimental treatment at work whilst exercising their rights to maternity, paternity, parental, surrogacy or adoption leave.

## **3.0 Notification of Pregnancy and Maternity Leave**

- 3.1 Employees are encouraged to tell their manager about their pregnancy as soon as they feel able to, especially if they are feeling unwell or work in an area that may put them at risk.
- 3.2 Employees should also contact the Health and Safety Officer as soon as possible to arrange a work station assessment and maternity risk assessment.
- 3.3 Employees need to notify Human Resources of their pregnancy, the expected week of childbirth and the date they intend to start their maternity leave at least 28 days before their maternity leave begins, or as soon as

reasonably practicable, by completing the Maternity Leave Form (Appendix 1). This should be signed by the employee, their manager and returned to Human Resources. Human Resources will reply within 28 days of notification stating the expected date of return from maternity leave. Please see Appendix 2 for a maternity timeline and Appendix 3 for a maternity leave checklist that employees should complete with their managers.

- 3.4 The original MATB1 should also be forwarded to Human Resources. The MATB1 gives confirmation of the expected date of childbirth. This is usually available from the midwife from 21 weeks of pregnancy. The council are unable to process maternity pay without the MATB1 form.

#### **4.0 Antenatal Care**

- 4.1 Any pregnant employee is entitled to take reasonable paid time off to attend antenatal care appointments. Antenatal appointments are those recommended by a registered medical practitioner, midwife or health visitor. These can include relaxation or parent craft classes as well as medical examinations, if recommended by a medical professional.
- 4.2 Employees must agree their time off arrangements with their manager in advance of the appointments and produce their appointment card where appropriate.
- 4.3 Employees on flexi-time should record time to attend appointments as described in the Flexi-Time Guidance in the section relating to hospital appointments.
- 4.4 Fathers/partners have a legal right to unpaid time off to attend up to two antenatal appointments. This also applies to agency workers after twelve (12) weeks on the same assignment. The council encourages managers to allow employees to take time off to attend antenatal appointments with their partners by taking flexi or annual leave. All requests are subject to line manager approval and will need to be considered in the context of cover available within the team during that period to ensure that the service provided is not disrupted.

## **5.0 Health and Safety**

### **5.1 Employer's Responsibility**

5.1.1 The council will take all reasonable steps to safeguard the health, safety and welfare of new, expectant or nursing mothers, and of their unborn children.

5.1.2 An assessment will be conducted on all risks to new or expectant mothers arising from their work activities and appropriate preventative or control measures will be implemented. This will be regularly reviewed to monitor the individual's ability to work safely and without risk. All problems identified will be addressed, so far as is reasonably practicable, and all risks will be adequately controlled and safe systems of work established. An assessment of the employees display screen equipment and workstation will be carried out and reviewed as required.

### **5.2 Line Managers' Responsibilities**

- Refer to any existing risk assessments for that work area or that type of work and consider, with the employee concerned, whether all potential risks have been covered. Amend the assessment to reflect current circumstances as necessary.
- Consider removing any identified hazard or preventing exposure to it. If this is not feasible put in place measures to control the risk of exposure.
- Undertake a risk assessment to cover any previously undocumented area of risk
- Consult with Human Resources if control measures are not considered adequate
- Monitor and regularly review the assessment as circumstances dictate
- Inform affected employees and provide any supervision, instruction or training as is deemed necessary
- Maintain records of risk assessments, control measures, details relating to any exposure to

hazardous substances and any other applicable information

- Send copies of the assessment to the Health and Safety Officer.

### **5.3 Risk Assessment**

5.3.1 In determining and evaluating the level of risk the following factors must be taken into consideration:

- Exposure to physical agents such as noise, vibration or extremes of temperature
- Prolonged working postures, repetitive movements or poor ergonomic layout
- Night work
- Manual handling activities (these should be assessed and regularly reviewed)
- Exposure to ionising radiation, biological agents, mercury, lead and chemicals with particular risk factors such as harm to the unborn child, genetic damage etc.
- Any personal protective equipment provided as a last resort must be suitable for controlling the identified risks and be compatible with the changing physical size and shape of the user.
- Pregnancy is not a static condition and the nature and degree of risk will change as the pregnancy develops
- Physiological risks such as morning sickness, backache, varicose veins and tiredness
- Physical changes in body size and shape may affect work space, mobility, dexterity or balance

5.3.2 In some cases where the control measures prove to be inadequate and a significant risk to the new or expectant mother still exists the following steps must be taken:

- Temporarily adjust the working conditions and/or hours of work. If this is not reasonable to do or would not avoid the risk then:
- Suspend her from work (on leave with full pay) for as long as is necessary to protect her safety or health or that of her child. The suspension can be extended to night work if a signed certificate is received from a

registered medical practitioner or midwife stating that such a suspension is necessary for the woman's health or safety.

- 5.3.3 When it becomes apparent that any of these steps may be necessary, Human Resources should be approached for advice and guidance.

## **6.0 Maternity Leave**

### **6.1 Length of Maternity Leave**

- 6.1.1 An employee is automatically entitled to a period of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML), regardless of hours of work or length of service, where the appropriate notice has been given. This means an employee can remain on maternity leave for a total period of up to 52 weeks. Employees may receive Statutory Maternity Allowance, Statutory Maternity Pay and/or Occupational Maternity Pay during this period; depending on their eligibility (see section 7 on maternity pay).

- 6.1.2 Women are required by law to take a minimum of two weeks leave after the birth of the child.

### **6.2 Conditions applying to Maternity Leave**

- 6.2.1 Maternity leave may start on any day of the week and can commence no earlier than 11 weeks and any time up to the day before the expected date of childbirth (EDC) (except see 6.2.2 below). If the baby is born early (before the planned leave date) the maternity leave will begin from the day after the birth.

- 6.2.2 An employee who is absent from work due to a pregnancy related reason after the beginning of the fourth week before the expected week of childbirth (EWC) but before the date notified for maternity leave, the maternity leave begins automatically on the day after her first day of absence.



6.2.3 Employees have to be advised that if the baby dies or is still-born after 24 weeks pregnancy, the maternity scheme applies. Where this occurs before 24 weeks (miscarriage) or there is a termination, the needs of the employee and medical opinion will be considered in deciding the appropriate leave (be it sick leave or bereavement leave), according to the circumstances.

## **7.0 Maternity Pay**

7.1 The council operates two maternity pay schemes:

- Statutory Maternity Pay, which is a legal entitlement to a set weekly payment (providing employees meet the eligibility criteria set out below)
- Occupational Maternity Pay, which is an enhanced payment made by the council in accordance with their terms and conditions (eligibility for this payment depends on the criteria set out below).

Depending on the employee's length of service, they may have entitlement under one or both of these schemes.

## **7.2 Statutory Maternity Pay (SMP)**

### **7.2.1 Eligibility for SMP**

7.2.2 Statutory maternity pay is payable for up to 39 weeks during maternity leave. To qualify for SMP, employees must have been continuously employed in local government for at least 26 weeks, at the start of the 15<sup>th</sup> week before the EDC. This 15<sup>th</sup> week is known as the qualifying week (QW).

7.2.3 If an employee is not entitled to SMP, Payroll will issue them with a form SMP1, explaining why they are not entitled to SMP and how they can claim State Maternity Allowance (SMA). SMA is the same as lower rate SMP or 90% of average weekly earnings, whichever is less.

## **7.3 Rates of SMP**

- 7.3.1 For the first six weeks, SMP is paid at the higher rate, which is equivalent to 90% of average weekly earnings calculated over the period of eight weeks up to and including the qualifying week.
- 7.3.2 The standard rate of SMP is paid for the remaining 33 weeks (or less if they return to work sooner). This is paid at the lower of either the standard rate set by the Government or 90% of average gross weekly earnings.
- 7.3.3 Payment of SMP cannot start prior to the 11<sup>th</sup> week before the EWC. SMP can start from any day of the week in accordance with the date the employee starts their maternity leave.
- 7.3.4 SMP is treated as earnings and is, therefore, subject to PAYE and national insurance deductions.
- 7.3.5 SMP is payable whether or not the employee intends to return to work after maternity leave.

#### **7.4 Occupational Maternity Pay (OMP)**

- 7.4.1 To qualify for OMP, employees must have completed at least one year's continuous local government service at the 11<sup>th</sup> week before the EWC. If an employee has less than one year's continuous local government service at the 15<sup>th</sup> week before the expected week of childbirth, they will not qualify for OMP, but will still get SMP or SMA as appropriate.
- 7.4.2 If an employee is eligible for OMP, they will receive 12 weeks half pay after the six weeks at 90%, on top of the standard rate SMP (unless half pay plus standard rate SMP exceeds normal pay, see section 7.4.5). The 12 weeks half pay is calculated using the employee's pay at the point of going on maternity leave. OMP can be paid in two ways:
- Paid as it falls due (i.e. in their regular pay)
  - As a lump sum on their return to work

7.4.3 The qualifying week for SMP is the 15<sup>th</sup> week before the week the baby is due but the qualifying week for OMP is the 11<sup>th</sup> week before the week the baby is due. If the baby is born early, before or during the qualifying week and the employee would have completed 26 weeks employment but for the early birth, the continuous service rule for OMP is satisfied.

7.4.4 If an employee does not return to work following their maternity leave or leaves within 13 weeks of returning to work, they will need to repay their OMP.

7.4.5 If half pay plus standard rate SMP would exceed normal pay, the 12 weeks of 50% enhanced pay will be spread over 20 weeks to ensure that the employee is not paid over and above their normal salary whilst on maternity leave. SMP will be paid as normal.

## 7.5 Summary of Main Benefits

Length of Service	OML	AML	SMP	OMP
Less than 26 weeks at QW	✓	✓	X (may be entitled to SMA)	X (may be entitled to SMA)
At least 26 weeks at QW but less than 1 year at 11 weeks prior to EWC	✓	✓	6 weeks at 90% of pay plus 33 weeks standard rate SMP	X
More than 1 year at 11 weeks before EWC	✓	✓	6 weeks at 90% of pay plus 33 weeks standard rate SMP	12 weeks half pay (unless half pay plus standard rate SMP exceeds normal pay)

## **7.6 Casual workers**

### **7.6.1 SMP**

7.6.1.1 Casual workers are eligible for SMP as long as they meet the continuous service and earnings conditions. Employees are considered to have continuous service as long as they work for at least one day in every week, a week beginning on a Sunday and ending on a Saturday.

7.6.1.2 If there are weeks where a casual worker did not work, this will not break their continuous service if the reason they did not work was one of the following:

- They were unavailable to work because they were off sick
- They were taking annual leave
- The council did not require them to work

7.6.1.3 If they did not work for the council in the 15th week before the week the baby is due for one of these reasons, they will still be able to claim SMP as long as they did further work for the council after that week.

7.6.1.4 Casual workers who are paid irregularly must find their last pay date before or in the 15th week before the week the baby is due, and count back eight weeks. This is their calculation period.

7.6.1.5 If casual workers do not qualify for SMP, they may be able to claim SMA.

7.6.1.6 Casual workers should seek advice from HR and Payroll if they think they are entitled to SMP.

### **7.6.2 OMP**

7.6.2.1 Casual workers may also be eligible for OMP if they have at least one year's continuous local government service at the 11<sup>th</sup> week before the EWC (please see 7.6.1.2 for details of what constitutes continuous service).

7.6.2.2 Casual workers should seek advice from HR and Payroll if they think they are entitled to OMP.

## **8.0 Returning to Work after Maternity Leave**

8.1 The council will assume that the employee will return to work on the date specified on their maternity leave form. No written confirmation is required to return to work on that day, although they will receive a letter from Human Resources to remind them of their return to work date.

8.2 If the employee wants to return to work from maternity leave earlier than previously planned or later than the previously agreed date she must give eight weeks' notice. If the employee fails to provide sufficient notice the employer may postpone the return so eight weeks' notice is given but may not postpone beyond this.

8.3 If an employee decides not to return to work at all after their maternity leave, they must give written notice of their resignation in accordance with the notice period in their contract of employment.

8.4 Where an employee is unable to return to work on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

8.5 For an employee where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect her to return on the due date, she may instead return when work resumes or as soon as reasonably practicable.

## **9.0 Paternity Leave**

### **9.1 Eligibility for Paternity Leave**

9.1.1 Employees will be eligible for Paternity Leave if they:

- Expect to have responsibility for bringing up the child **and**

- Will be taking leave to care for the child and/or support the mother/adopter **and**
- They must also be either the:
  - biological father of the child
  - mother/adopter's husband or partner (including same-sex relationships)
  - child's adopter or fosterer under the 'Early Permanence' Scheme
  - the intended parent (if they are having a baby through a surrogacy arrangement) **and**
- Have been continuously employed for at least 26 weeks by either:
  - the end of the 15th week before the baby is due up until the actual date of birth
  - the end of the week they are notified they are matched with their child to the actual date of adoption (UK adoptions)
  - the date the child enters the UK (for overseas adoptions)

## **9.2 Paternity Leave**

9.2.1 Employees who meet the criteria as set in 9.1.1 are entitled to two weeks paid Paternity leave. Paternity leave can be taken from the date of birth or up to eight weeks (56 days) from the birth and must be taken as one continuous period.

9.2.2 The council pays the two weeks paternity leave at full pay.

9.2.3 Employees should give Human Resources and their manager notice of the EDC by the 15<sup>th</sup> week before the baby is due. Please see Appendix 4 for the Paternity Leave form.

## **9.3 Shared Parental Leave**

9.3.1 Shared Parental Leave gives parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents are able to share a pot of leave, and can decide to be off work at the same time

and/or take it in turns to have periods of leave to look after the child. Please refer to the Shared Parental Leave (SPL) Policy for more information.

## **10.0 Adoption Leave**

### **10.1 Entitlement to Adoption Leave**

10.1.1 Employees can apply to take Adoption Leave if they are newly matched with a child by an adoption agency or they are fostering a child under the 'Early Permanence' scheme and are the primary adopter. There are no qualifying conditions for eligible adopters and employees may apply for adoption leave from the first day of employment with the council. Agency workers are eligible to this right at twelve (12) weeks in the same assignment.

10.1.2 Employees who have had an adoption match should complete the Adoption Match form and pass it to HR in order to secure their statutory entitlement. The adoption agency must be recognised in the UK.

10.1.3 Employees will not qualify for Statutory Adoption Leave or Pay if they:

- arrange a private adoption
- become a special guardian
- adopt a stepchild

### **10.2 Adoption Leave**

10.2.1 As with maternity leave, employees are entitled to a period of 26 weeks Ordinary Adoption Leave (OAL) and 26 weeks Additional Adoption Leave (AAL).

10.2.2 Adoption leave starts on the date the employee has specified or on the expected date of placement. Adoption Leave can start:

- up to 14 days before the child starts living with the employee (UK adoptions)
- when the child arrives in the UK or within 28 days of this date (overseas adoptions)

10.2.3 Employees who are the primary adopter have a legal right to unpaid time off to attend up to five (5) adoption meetings. The secondary adopter has the right to unpaid time off to attend up to two (2) appointments. The council encourages managers to allow employees to take time off to attend antenatal appointments with their partners by taking flexi or annual leave. All requests are subject to line manager approval and will need to be considered in the context of what cover is available within the team during that period to ensure that the service provided is not disrupted.

### **10.3 Adoption Pay**

10.3.1 Adoption pay mirrors maternity pay; please see section 7 for more details.

### **10.4 Placement Disrupted**

10.4.1 Where after starting the leave, an employee is notified that the child will not be placed, or after the child is placed, the child dies or is returned to the adoption agency, the employee will not be entitled to the full adoption leave period. In this situation the adoption leave will end eight weeks after the end of the week in which the disruption occurred. Additional discretionary or unpaid leave may also be granted in such instances, managers should contact HR for advice.

### **10.5 Notification of Adoption Leave**

10.5.1 Applications for leave should be made to HR and the line manager within at least 28 days of the expected date of placement or if the employee wants the leave to start on a predetermined date, notice must be provided at least 28 days before that date. Please see Appendix 5 for the Adoption/Surrogacy Leave form.

### **10.6 Returning to Work after Adoption Leave**

10.6.1 The council will assume that the employee will return to work on the date specified on their adoption leave form.



No written confirmation is required to return to work on that day, although they will receive a letter from Human Resources to remind them of their return to work date.

- 10.6.2 If the employee wants to return to work from adoption leave earlier than previously planned or later than the previously agreed date they must give eight weeks' notice. If the employee fails to provide sufficient notice the employer may postpone the return so eight weeks' notice is given, but may not postpone beyond
- 10.6.3 If disruption on the placement occurs during AAL, the employee should give eight weeks' notice, as soon as the disruption occurs.
- 10.6.4 Employees who fail to return to work after a period of adoption leave or resign before completing three months service on return from adoption leave will be required to repay their Occupational Adoption Pay (OAP).

## **11.0 Fostering Leave**

- 11.1 Employees who have a fostering arrangement are entitled to take up to 5 days discretionary leave in accordance with the General Leave Policy. The purpose of the leave is to allow the employee to attend training or meetings related to the Foster Care arrangement.
- 11.2 Additionally, employees with an 'Early Permanence' arrangement with a local authority will be entitled to Adoption leave, Paternity leave and Shared Parental leave in accordance with the council's policies.

## **12.0 Keeping in Touch (KIT) days**

- 12.1 An employee on maternity or adoption leave can do some work for the employer during their maternity / adoption leave pay period under their contract of service without losing their SMP / SAP for that week. They can work for up to 10 days, whether consecutive or not. This enables the employee to undertake odd days training or to go into work on occasion to 'Keep in Touch' (KIT). The employee would not lose their pay for the week in which the work is

done or need to end their maternity/adoption leave. Whether the employee just goes in for one hour or a whole day, it will still be counted as one day for KIT purposes.

- 12.2 This provision is designed to help ease the employee's eventual return to work and to make it easier for them to keep in touch with their employer during their leave from work.
- 12.3 Employees will be paid a full day's pay for each KIT day worked, minus any statutory or occupational maternity pay to ensure it does not exceed a normal day's pay.
- 12.4 Employees should complete a KIT day claim form (Appendix 6) for each KIT day worked and forward to Payroll for payment by the 6<sup>th</sup> of the month. Claim forms must be signed by an authorised manager.

### **13.0 Contractual Relationship during Absence**

- 13.1 Having granted a period of paid or unpaid leave, the contract of employment between both parties remains in existence and therefore a commitment to maintain confidence, trust and act in good faith during the period of leave.
- 13.2 Employees on periods of extended leave will be required to maintain regular contact with their manager and, if appropriate, inform them of any changes in circumstance which may affect their intention to return to work.
- 13.3 Managers should maintain reasonable contact with employees on maternity / adoption leave. The amount of contact that is reasonable depends on whether the employee prefers to have frequent or minimal contact with their manager. Managers should discuss how they will keep in touch with the employee before they begin their maternity / adoption leave. If the employee requests in writing not to be contacted whilst on leave, the manager should only contact the employee to advise them of situations which may affect the contractual relationship such as a restructure.

13.4 Employees can continue to access the intranet from home to view details of any permanent or temporary vacancies. If an employee does not have internet access they can contact HR to find out details of any vacancies.

13.5 Employees suspected of abusing the provisions of these procedures or fraudulently applying for leave will be subject to disciplinary investigation as detailed in the Disciplinary Procedure.

#### **14.0 Surrogacy Parents**

14.1 Where a child is born to a surrogate mother, the intended parents can become the child's legal parents by applying for a parental order (if the child is genetically related to one of the intended parents) or an adoption order (if neither intended parent is genetically related to the child). The child must live with the intended parents. Please see Appendix 5 for the Adoption/Surrogacy Leave form.

14.2 Where a couple has a parental/adoption order in relation to a child, or is applying for one, one of the parents can be eligible for adoption leave and pay and the other can be eligible for paternity leave and pay. The couple must elect which of them will take adoption leave. An employee who takes adoption leave in these circumstances can curtail their adoption leave and take shared parental leave with the other parent, provided that the parents both meet the relevant eligibility requirements. Please see Shared Parental Leave Policy.

14.3 Employees who intend to apply for a parental/adoption order and expect to become the child's legal parents in a surrogacy situation have the right to unpaid time off work to accompany the birth mother to up to two antenatal appointments.

#### **15.0 Impact on Conditions of Service**

##### **15.1 Generally**

15.1.1 An employee returning to local government following a break for maternity, paternity or adoption reasons will be entitled to have previous service recognised for the purpose of calculating:

- Annual Leave
- Periods of Notice
- Sickness Payments
- Redundancy Payments
- Maternity Leave

15.1.2 There may be implications on other conditions of service. These have been detailed below.

## **15.2 Annual Leave**

15.2.1 The entitlement to annual leave continues to accrue whilst on maternity / adoption leave. Where the leave period straddles two annual leave years, annual leave accrued up to the end of the first leave year should be taken before the commencement of the leave period in order that it is not lost.

15.2.2 An employee requesting to return to work on a part-time contract will normally take all annual leave accrued on the full-time contract before the new working arrangements commence.

15.2.3 Employees are entitled to paid leave for each of the bank holidays that fall during their maternity / adoption leave and these should be taken upon their return to work.

## **15.3 Pension**

15.3.1 An employee who is a member of the Local Government Pension Scheme (LGPS) will continue to pay contributions; however, this will be based on the employee's individual contribution rate of their actual earnings during maternity / adoption leave.

15.3.2 An employee wishing to maintain their contributions or make contributions during the unpaid period of maternity /

adoption leave must contact Payroll before their leave commences.

- 14.3.3 For further guidance contact Payroll or the London Pensions Fund Authority (LPFA). An employee with a private pension should contact their pension provider for guidance.

#### **15.4 Council vehicles**

- 15.4.1 An employee in possession of a council vehicle must ensure that it is left with the council before they take maternity / adoption leave. The vehicle will be returned to the employee on their return to work.

#### **15.5 Student Loans**

- 15.5.1 Student loan repayments will continue throughout paid maternity / adoption leave until such point that monthly salary does not meet the income threshold set by the Student Loans Company. At this point, repayments will stop until the employee is earning above the income threshold. Employees should contact the Student Loans Company for more information.

#### **15.6 Council Property**

- 15.6.1 An employee will not be required to return items such as a mobile phone, laptop, security cards or uniforms throughout maternity / adoption / parental leave.
- 15.6.2 An employee not returning to the council's employ must ensure that all council property is returned with their notice of resignation.

#### **15.7 Childcare Vouchers**

- 15.7.1 Employees who become pregnant / are planning to adopt and are in the childcare voucher scheme must consider the implications of this before the period up to and including the qualifying week (weeks 17-25 weeks of pregnancy). This is because the salary sacrifice element of the scheme will have an impact on the calculation for

the employee's Higher Rate SMP / SAP and Occupational Maternity / Adoption pay. The employee's average earnings calculation, which is used to assess this payment, will be on the employee's salary sacrifice earnings amount and **not** on the employee's full salary.

15.7.2 Employees have the choice of:

- **Continuing their childcare vouchers.** Higher rate SMP / SAP and Occupational Maternity / Adoption pay will be reduced but the council will pay for the value of the childcare vouchers throughout the maternity leave period, including any unpaid maternity leave as childcare vouchers are classed as a non-cash benefit. The exception to this will be during the 12 weeks Occupational Maternity / Adoption pay when the employee will pay for the value of the vouchers. Employees should contact HR for advice if their Occupational Maternity / Adoption pay is not enough to cover the cost of the vouchers during this period. The employee will continue to receive their vouchers via the normal methods.
- **Ceasing their childcare vouchers before the 8 week period up to and including the qualifying week (weeks 17-25 weeks of pregnancy).** Employees can use the "lifestyle changes" clause to leave the scheme. Their SMP / SAP and OMP / OAP will not be reduced but they will be unable to re-join the scheme until their maternity / adoption leave has ended and they have returned to work.

15.7.3 Employees requiring further assistance on childcare vouchers and maternity / adoption leave should contact Human Resources for more information.

## **15.8 Rights upon Return to Work**

15.8.1 An employee has the right to return to the job in which they were employed under their original contract of employment and terms and conditions not less favourable than those, which would have been applicable to them if they had not been absent. Where this is not practicable

by reason of redundancy, an employee will be entitled to be offered suitable alternative employment where one exists.

15.8.2 Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (e.g. a general re-organisation), which would have occurred if the employee were not absent.

15.8.3 The work to be done should be suitable to the employee and appropriate to the circumstances. The capacity and place in which the employee is to be employed and the terms and conditions of employment should not be less favourable to the employee if the employee had been able to return to the job in which they were originally employed.

## **16.0 Flexible Working**

16.1 Please refer to the Flexible Working Policy for details on applying for Flexible Working.

16.2 Employees returning from maternity / adoption leave should make their request to work flexibly in sufficient time to enable arrangements to be looked at and considered. Therefore the request should be made at least 12 weeks before the anticipated return to work.

## **17.0 Parental Leave**

17.1 There is a right for both parents to take up to 18 weeks unpaid parental leave per parent per child, up until your child's 18<sup>th</sup> birthday. This leave is also available to parents who adopt a baby/child.

17.2 Employees must have more than one year's continuous service in local government and must either be the parent of the child, named on the child's birth/adoption certificate or have legal parental responsibility for the child.

17.3 The council will endeavour to make parental leave available to those with parental responsibilities but who do not fall under the legal definition. This might include foster parents, adoptive parents prior to placement,

grandparents with a significant parenting role and stepparents. Cases will be considered on an individual basis, employees should contact HR for more information.

- 17.4 Employees can take parental leave at the end of maternity/adoption /shared parental leave providing they give 21 days' notice.
- 17.5 To apply for parental leave employees should write to their Head of Service who will forward the request to Human Resources and take advice. Employees must give 21 days' notice before their intended start date.
- 17.6 The limit on how much parental leave can be taken a year is 4 weeks. Unless the child is disabled, leave should be taken in blocks of one week. A 'week' equals the length of time an employee normally works in a week.
- 17.7 Managers cannot turn down a request for parental leave, but can ask employees to postpone it if it would cause significant disruption to the business, e.g. if leave was requested:
- over a period of peak seasonal production
  - at the same time as other employees have requested leave
  - when the employee's absence would unduly harm the business
- 17.8 If a manager needs to postpone a request for parental leave, they must consult with the employee about a new date and must write to the employee within seven days of receiving the employee's notification explaining why the leave needs to be postponed and confirming the new start and end date. Managers must allow the employee to take the same amount of parental leave as they originally applied for. If the postponement goes past the end of the entitlement period (e.g. after the child's fifth / eighteenth birthday), they must still be allowed to take the leave.
- 17.9 Any parental leave taken in previous employment is deducted from an employee's parental leave entitlement.



## **18.0 Review**

- 18.1 This policy will be reviewed every three years or sooner if there are any changes in legislation requiring amendments to be made.



# APPENDIX 1: MATERNITY LEAVE FORM

This form should be returned to HR no later than 28 days before you go on leave. Please ensure you have read the Maternity policy before completing this form.

### To be completed by employee

<u>Personal Details</u>		
Title: _____	Name: _____	Surname: _____
Employee No. _____	Nat Ins No. _____	Section: _____
Address: _____		
_____	Post Code: _____	Tel No. _____

<u>Leave and Pay Details</u>	
I have attached my MATB1 <input type="checkbox"/>	My MATB1 is to follow <input type="checkbox"/>
Maternity Leave Start Date: _____	Maternity Leave Return Date: _____
(These dates should exclude any annual leave)	

<b>Entitlement A</b>	I have more than 1 year continuous local government service by the Expected Date of Childbirth (EDC).	<input type="checkbox"/>
<b>Entitlement B</b>	I have 26 weeks continuous local government service by the 15 <sup>th</sup> week before EDC, but less than 1 year continuous local government service by the EDC.	<input type="checkbox"/>
<b>Entitlement C</b>	I do not have 26 weeks continuous local government service by the 15 <sup>th</sup> week before EDC. (Please seek advice from the Job Centre Plus for SMP)	<input type="checkbox"/>

Pay Options – please indicate the number of weeks to be paid at each rate	Please specify the number of weeks		
	Entitlement A	Entitlement B	Entitlement C
Up to 6 weeks at 90% pay			Please seek advice from Job Centre Plus
Up to 12 weeks SMP	n/a		
Up to 12 weeks SMP & 50% enhanced pay	<b>Select one option</b>		
Up to 12 weeks SMP & 50% enhanced pay (deferred until 3 months after return to work)		n/a	
Up to 21 weeks SMP			
Up to 13 Additional Maternity Leave (Unpaid)			

<u>Agreement</u>	
<ul style="list-style-type: none"> <li>I will make arrangements with payroll with regard to my pension &amp; car contributions.</li> <li>I will give 12 weeks' notice if I wish to be considered for flexible working arrangements.</li> <li>I will give 8 weeks' notice should I wish to change my return date from maternity leave.</li> <li>I agree to refund any amounts owed to the council should I decide not to return to work after receiving OMP (50% Enhanced Pay) or if an overpayment is made.</li> <li>I will return all council property should I not return to work after maternity leave (including mobile phone, laptop, ID Badge, Uniform etc.)</li> </ul>	
Signed: _____ (Employee)	Date: _____
Signed: _____ (Authorised Officer)	Date: _____

### To be completed by HR & Payroll

Received by HR _____ (Init.) _____ (Date) _____	Written to _____ (Date) _____
Received by Payroll _____	_____



## Guidance Notes

Please read below for guidance on how to complete the Maternity Leave Form.

### Personal Details

Please ensure that every section is completed.

### Leave & Pay Details

Maternity leave and pay are separate entities.

**Maternity leave** dates should exclude any annual leave taken before or after. If you give birth earlier than expected, maternity leave will start from this point and leave will be adjusted.

### **Maternity pay**

Dependant on your continuous local government service, employees are entitled to different options regarding their maternity pay. Please select 1 statement that applies to you.

Pay options – the 3 columns correspond to the entitlements above. Please ensure you only complete the column that applies to you.

The rate that maternity leave is paid decreases after a given amount of weeks. You should indicate how many weeks you would like to be paid at the set rate in the relevant box. The number of weeks should all add up to the number of weeks you are on maternity leave.

### Guidance for Entitlement A

- Up to 6 weeks at 90%.
- Up to 12 weeks of **either**; SMP + 50% enhanced pay **or** SMP + 50% enhanced pay (which will be deferred until 3 months after return from maternity leave).
- Up to 21 weeks of SMP.
- Up to 13 weeks of additional (unpaid) maternity leave.

Employees that fall into Entitlement A have the option of 12 weeks of 50% enhanced maternity pay; this must be repaid to the council if they do not return to the council after maternity leave. For employees unsure whether they will return, they can select the option which will pay the 50% enhanced maternity pay, 3 months after they return.

### Guidance for Entitlement B

- Up to 6 weeks at 90%.
- Up to 12 weeks at SMP.
- Up to a further 21 weeks of SMP.
- Up to 13 weeks of additional (unpaid) maternity leave.

### Guidance for Entitlement C

Job Centre Plus will pay your SMP; you should provide a copy of your MATB1 to HR and take the original to Job Centre Plus.

### Agreement

Please read the agreement carefully before you sign this form. It should then be countersigned by your line manager (authorised officer) before you forward to HR.



## APPENDIX 2: PREGNANCY AND MATERNITY LEAVE TIMELINE

Week	Pregnancy
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	Employees currently in receipt of childcare vouchers who plan to stop them due to the impact on Higher Rate SMP and Occupational Maternity pay must do so this week.
18	
19	
20	
21	The midwife will usually issue the MATB1 form from the 21st week of pregnancy
22	
23	
24	If the baby dies or is still-born after 24 weeks pregnancy, the maternity scheme still applies
25	The 15 <sup>th</sup> week before the EDC is known as the qualifying week. To qualify for SMP, employees must have been continuously employed in local government for at least 26 weeks at the start of the qualifying week.
26	
27	
28	
29	The 11th week before the EDC is the earliest maternity pay can commence (except in cases of premature birth)
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	Expected Week of Childbirth

Employees must consider when they are going to notify their manager of their pregnancy

The midwife will usually issue the MATB1 form from the 21st week of pregnancy

If the baby dies or is still-born after 24 weeks pregnancy, the maternity scheme still applies

The 15<sup>th</sup> week before the EDC is known as the qualifying week. To qualify for SMP, employees must have been continuously employed in local government for at least 26 weeks at the start of the qualifying week.

The 11th week before the EDC is the earliest maternity pay can commence (except in cases of premature birth)

Employees need to notify Human Resources of their pregnancy, the expected week of childbirth and the date they intend to start their maternity leave at least 28 days before their maternity leave begins, or as soon as reasonably practicable, by completing the Maternity Leave Form

If the employee is off sick for pregnancy related reasons during the 4 week period before the expected birth date maternity leave will automatically begin on the day after the first day of absence within the 4 week period (regardless of the length of absence)

Week	Maternity Leave	
1	<b>Ordinary Maternity Leave</b>	Compulsory Maternity leave (this is part of Ordinary Maternity Leave)
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27	<b>Additional Maternity Leave</b>	
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		
41		Flexible working requests should be submitted at least 12 weeks before the anticipated return to work
42		
43		
44		
45		
46		
47		
48		
49		
50		
51		
52		
		If an employee decides not to return to work at all after their maternity leave, they must give written notice of their resignation in accordance with the notice period. This may be one to three months, depending on the contract of employment.



## APPENDIX 3: MATERNITY LEAVE CHECKLIST

Action	You	Your Manager	HR
Inform your manager of your pregnancy.	✓		
Contact the Health and Safety Advisor to arrange a health and safety risk assessment.	✓		
If any risks are identified in the health and safety risk assessment, take action to mitigate these.	✓	✓	
Request time off for ante natal care (e.g. midwife appointments) with your manager.	✓		
Read the Maternity Policy.	✓		
If you currently have childcare vouchers, speak to HR about your options before you are 17 weeks pregnant because the salary sacrifice element of the scheme will have an impact on the calculation for Higher Rate SMP and Occupational Maternity pay.	✓		
Complete the maternity leave form, confirming when you want to start maternity leave and how long you want to take off. Get the form authorised by your manager and send to HR.	✓	✓	
Send your MATB1 to HR, either with the maternity leave form if you have it, or as soon as you receive it afterwards.	✓		
HR will send you a letter upon receipt of your maternity leave form, confirming your maternity leave dates, entitlements and date due back to work.			✓
Take the annual leave you have accrued to date before you start your maternity leave.	✓		
Agree communications required during maternity leave and provide as required.	✓	✓	
HR will send you a letter during your maternity leave, reminding of your return date.			✓
If appropriate, your line manager will contact you to ensure you are fully informed and consulted in the event of any organisational restructure.		✓	
Contact your Manager or Human Resources if you have any questions or concerns during your leave.	✓		
Inform your Manager in writing if you wish to return to work earlier or later than planned, giving at least 8 weeks' notice.	✓		

Inform your manager in writing if you wish to curtail Maternity leave and invoke Shared Parental leave	✓		
Attend voluntary keeping in touch days in agreement with your Manager.	✓	✓	
Complete the KIT day claim form and send to Payroll to ensure payment for any agreed keeping in touch days.	✓		
Complete a flexible working request if you want to apply to change your working pattern at least 12 weeks before planned return date.	✓		
Respond to flexible working request in writing, following the Flexible Working Policy.		✓	
Take any accrued annual leave before you return to work.	✓		
Hold welcome back 1-1 meeting with you during your first week back.		✓	
Carry out a further risk assessment if you are still breastfeeding or the baby is under 6 months old (during your first week back at work).		✓	



# APPENDIX 4: PATERNITY LEAVE FORM

Please complete this form to claim your Statutory Paternity Pay (SPP) and forward to HR at least 15 weeks before the expected due date.

First Name: _____	Surname: _____
Payroll No: _____	Nat Ins. No: _____
Job Title: _____	Department: _____
The baby is due on: _____ <b>OR</b> The baby was born on: _____	

Please note that paternity leave must be taken in **weekly blocks**.

I would like my SPP / Paternity leave to start on: _____
I want to be away from work for _____ week(s)

You must be able to tick all three boxes below to get Statutory Paternity Pay and paternity leave.

I declare that:

I am:	
- the baby's biological father, or	
- the mother/adopter's husband or partner (including same-sex relationships), or	
- the child's adopter, or	
the husband or partner (including same-sex relationships) of the child's adopter or fosterer under the 'Early Permanence Scheme	<input type="checkbox"/>
I have responsibility for the child's upbringing	<input type="checkbox"/>
I will take time off work to support the mother or care for the child	<input type="checkbox"/>
I have provided a copy of my partner's MATB1 form	<input type="checkbox"/>

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Employee)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Line Manager)

### To be completed by HR & Payroll only

Received by (Init.) \_\_\_\_\_ Date: \_\_\_\_\_

Acknowledge: \_\_\_\_\_ Forward to payroll: \_\_\_\_\_





# APPENDIX 5: ADOPTION/SURROGACY LEAVE FORM

This form should be returned to HR no later than 28 days before you go on leave. Please ensure you have read the Maternity, Paternity, Adoption, Surrogacy and Parental Leave Policy before completing this form.

**To be completed by employee**

<u>Personal Details</u>		
Title: _____	Name: _____	Surname: _____
Employee No. _____	Nat Ins No. _____	Section: _____
Address: _____		
_____	Post Code: _____	Tel No. _____

<u>Leave and Pay Details</u>	
I have attached my Matching Certificate/Parental Order <input type="checkbox"/>	My Matching Certificate/Parental Order is to follow <input type="checkbox"/>
Adoption/Surrogacy Leave Start Date: _____	Adoption/Surrogacy Leave Return Date: _____
(These dates should exclude any annual leave)	

<b>Entitlement</b>	I have 26 weeks continuous local government service by the expected matching date of the adoption.	<input type="checkbox"/>
--------------------	--	--------------------------

Pay Options – please indicate the number of weeks to be paid at each rate	Please specify the number of weeks	
	Entitlement	
Up to 6 weeks at 90% pay		
Up to 12 weeks SAP & 50% enhanced pay	<b>Select one option</b>	
Up to 12 weeks SAP & 50% enhanced pay (deferred until 3 months after return to work)		
Up to 21 weeks SAP		
Up to 13 Additional adoption leave (Unpaid)		

<u>Agreement</u>	
<ul style="list-style-type: none"> <li>I will make arrangements with payroll with regard to my pension &amp; car contributions.</li> <li>I will give 12 weeks' notice if I wish to be considered for flexible working arrangements.</li> <li>I will give 8 weeks' notice should I wish to change my return date from adoption leave.</li> <li>I agree to refund any amounts owed to the council should I decide not to return to work after receiving OAP (50% Enhanced Pay) or if an overpayment is made.</li> <li>I will return all council property should I not return to work after adoption/surrogacy leave (including mobile phone, laptop, ID Badge, Uniform etc.)</li> </ul>	
Signed: _____ (Employee)	Date: _____
Signed: _____ (Authorised Officer)	Date: _____

**To be completed by HR & Payroll**

Received by HR _____ (Init.) _____ (Date) _____	Written to _____ (Date) _____
Received by Payroll _____	_____



## Guidance Notes

Please read below for guidance on how to complete the Adoption/Surrogacy Leave Form.

### Personal Details

Please ensure that every section is completed.

### Leave & Pay Details

Adoption leave and pay are separate entities.

Adoption dates should exclude any annual leave taken before or after.

### **Adoption pay**

The rate that adoption leave is paid decreases after a given amount of weeks; you should indicate how many weeks you would like to be paid at the set rate in the relevant box. The number of weeks should all add up to the number of weeks you are on adoption leave.

### Guidance for Entitlement

- Up to 6 weeks at 90%.
- Up to 12 weeks of **either**; SAP + 50% enhanced pay **or** SAP + 50% enhanced pay (which will be deferred until 3 months after return from adoption leave).
- Up to 21 weeks of SAP.
- Up to 13 weeks of additional (unpaid) adoption leave.

Employees have the option of 12 weeks of 50% enhanced adoption; this must be repaid to the council if they do not return to the council after adoption leave. For employees unsure whether they will return, they can select the option which will pay the 50% enhanced adoption pay, 3 months after they return.

### Agreement

Please read the agreement carefully before you sign this form. It should then be countersigned by your line manager (authorised officer) before you forward to HR.



## APPENDIX 6: KEEPING IN TOUCH (KIT) DAY CLAIM FORM

Please complete this form to claim payment for KIT days worked during maternity / adoption / leave. Forms must be submitted to Payroll by the 6<sup>th</sup> of the month. **Please note a maximum of 10 full KIT days can be worked during maternity / adoption / leave.**

**Name:** \_\_\_\_\_

**Payroll No.**

--	--	--	--	--	--

**Job title:** \_\_\_\_\_

**Department:** \_\_\_\_\_

Date	Time (rounded to 15 mins)		Reason	Total Hours	Payroll Use	
	From	To			Code	Amount

**Total Claimed:**

--

I certify that the above hours were worked on the dates shown for the reason given

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

This claim has been examined and verified for payment by

Signed: \_\_\_\_\_

Date: \_\_\_\_\_