

BASSETLAW DISTRICT COUNCIL

Human Resources Service

MATERNITY LEAVE GUIDELINES

INTRODUCTION

1.1 Purpose

The purpose of this policy is to outline the employment rights of expectant mothers including maternity leave, maternity pay, returning to work, and varying contracts of employment.

These guidelines have been produced, following changes to legislation, to reflect maternity leave and pay entitlements and responsibilities as they apply both to employers and to pregnant employees and employees who are new mothers whose baby is due on or after 1st April 2007.

1.2 Key Principles

Women who are pregnant are protected from suffering unfair treatment at work or dismissal on grounds related to their pregnancy. Employees who believe they have been treated unfairly can complain to an Employment Tribunal.

Employers are required by law to protect the health and safety of employees who are pregnant, have recently given birth or who are breastfeeding.

Pregnant employees have a basic right to paid time off to attend appointments for ante-natal care, provided evidence of such appointments is produced if requested to do so by her line manager.

This policy applies to all pregnant employees of Bassetlaw District Council regardless of the number of hours worked providing they meet any qualifying conditions such as length of service.

MATERNITY GUIDELINES

2.1 Maternity Leave: Employees Obligations

In order to take advantage of maternity leave, an employee should inform her Line Manager and Human Resource Service in writing, no later than the end of the 15th week before the week the baby is due (or as soon as is reasonably practicable):

- That she is pregnant;

- When the expected week of childbirth (this will normally be on the Maternity Certificate Form Mat.B1 issued by the doctor or midwife) is;
- The date of the beginning of her maternity leave (must be no earlier than the beginning of the 11th week before the expected week of childbirth)

If the child is born before maternity leave has begun, the day of the childbirth will be classed as the first day of maternity leave.

The earliest date maternity leave can commence is the 11th week before the baby is due.

An employee should contact their Line Manager if they are sick for a reason related to pregnancy during the four weeks before the expected week of childbirth. The Line Manager should then contact the HR Service with this information. If the illness is related to pregnancy, maternity leave will automatically begin on the day following the first day of absence for pregnancy related illness. If the illness is not connected with pregnancy, maternity leave will not start early and the employee should return to work at the end of the period of absence.

2.2 Maternity Leave: Entitlement

ALL employees are entitled to **52 weeks** maternity leave made up as follows:-

- 26 weeks ordinary maternity leave (OML) and;
- 26 weeks additional maternity leave (AML)

Any period of additional maternity leave will commence at the end of ordinary maternity leave.

Employees are required by law to take two weeks maternity leave commencing from the day of childbirth.

If the child is born early or stillborn after 24 weeks of pregnancy an employee

- Is entitled to maternity leave and pay
- Does not have to notify her employer of her intended maternity leave date (the maternity leave period begins automatically on the date of the birth)
- Is required to notify her employers that she has given birth as soon as she is reasonably practicable

Within 28 days of receipt of the initial notification the employer will write to the employee stating the expected date of return to work, should the employee take their full entitlement to maternity leave.

2.3

Maternity Pay

Women are entitled to either:

Statutory Maternity Pay (SMP) (if an employee has more than 26 weeks' continuous service they will be entitled to:

- SMP payable for 39 weeks ie:
 - first **6** weeks: 9/10's of average weekly earnings with no upper limit
- Next **33** weeks: lower rate of SMP (currently £112.75 per week or 90% of average weekly earnings if this is less than £112.75 per week).
- SMP is often referred to as a two tiered scheme with two rates known as 'the lower rate' and 'the higher rate'
- The average weekly earnings must not be less than the lower earnings limit for the payment of national insurance contributions.

In order to claim SMP an employee must provide medical evidence of the date the baby is due, this will normally be a MatB1 certificate provided by a midwife or GP.

Or

Maternity Allowance

If an employee does not qualify for SMP and earns an average of £30 a week or more averaged over a 13 week period) they will be entitled to:

- Maternity allowance from the Benefits Agency (only if you have paid enough NI Contributions) worth £112.75 a week for 39 weeks (or 90% of their earnings for 39 weeks if this is less than £112.75 a week). The Salaries and Wages Unit will send the employee a Form SMP.1, which they need to send to the DSS with their Mat.B1 to apply for Maternity Allowance

Occupational Maternity Pay

Occupational Maternity Pay (OMP) is an additional period of payment which applies to employees who declare in writing that they are intending to return to work following maternity leave. Any OMP payments made by the Authority during maternity leave are made on the understanding that the employee will return to Local Authority employment for a period of at least 3 months.

In addition to SMP, employees will receive 12 weeks at half pay, this payment commences from the 7th week.

This is under the requirement that earnings including SMP during the additional pay period are restricted to full pay, ie:

- If an employee earns £112.75 per week, the basic rate of SMP will be

£101.48 (ie restricted to 90% of earnings of employees earning £112.75 or less) and the additional pay for this employee will be £11.27 per week for 12 weeks, ie £135.24 in total.

Further information can be obtained from www.direct.gov.uk in the Benefits and Financial Support Section.

2.4 Returning to Work

Within 28 days of receipt of the initial notification the employer will write to the employee stating the expected date of return to work, should the employee take their full entitlement to maternity leave and the employee is expected to return to work when she has taken her full maternity leave entitlement.

There is no requirement for the employee to notify the date of their return to work unless they wish to return earlier (this is the ordinary and additional added together, i.e 52 weeks), in which case the employee must give 8 weeks' notice of their intended date of return.

If an employee attempts to return to work earlier than the end of their OML or AML without giving 8 weeks' notice, the employer may postpone the return until the full 8 weeks' notice has been given. However, the employer may not postpone a return to a date later than the end of the maternity leave period.

This also applies if the employee only wishes to take the 39 weeks OML.

If an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way and normal absence reporting procedures.

If an employee decides not to return to work after her maternity leave she must give her Line Manager the notice of termination required by her contract of employment.

If an employee decides to resign once they have returned to work they are required to give their contractual notice. If they have received OMP and have not returned to work for at least 3 months, then they will be required to repay this amount.

2.5 Contractual Benefits

Employment remains continuous throughout any period of maternity leave all normal terms and conditions of employment, except for remuneration (monetary wages or salary) are retained.

An employee on OML is guaranteed the right to return to the same job. The employer must keep the employee notified of any changes in the service whilst on maternity leave. If there is a restructuring or the post is made redundant the employee will be offered a suitable alternative vacancy where one exists

An employee on AML is entitled to return to the same job unless this is not reasonably practicable in which case she is entitled to be offered suitable alternative work on

terms and conditions no less favourable than those of her original job.

2.6 Contact during Maternity Leave

During the maternity leave period, a Line Manager may make reasonable contact with an employee, and in the same way an employee may make contact with her Line Manager. The frequency and nature of the contact will depend on a number of factors, such as the nature of the work and the employee's post, any agreement that the Line Manager and employee might have reached before maternity leave began as to contact, and whether either party needs to communicate important information to the other (such as news of changes at the workplace that might affect the employee on her return).

The contact between Line Manager and employee can be made in any way that best suits either or both of you. For example, it could be by telephone, by email, by letter, involving the employee making a visit to the workplace, or in other ways.

Line Managers should keep the employee informed of promotion opportunities and other information relating to her job that she would normally be made aware of if she was working.

Arrangements for staying in touch should be discussed before maternity leave starts. This might include agreements on the way in which contact will happen, how often, and who will initiate the contact. It might also cover the reasons for making contact and the types of things that could be discussed.

2.7 Work During the Maternity Leave Period – “Keeping in Touch Days”

You may, by agreement with your Line Manager, do up to ten days' work – known as “Keeping in Touch Days” – under your contract of employment during the maternity leave period.

The type of work that you undertake on Keeping in Touch days is a matter for agreement between the employee and the Line Manager. They may be used for any activity which would ordinarily be classed as work under the woman's contract, for which she would be paid, but could be particularly useful in enabling a woman to attend a conference, undertake a training activity or attend for a team meeting for example.

Any work done on any day during the maternity pay or maternity leave period, even if this is a one-hour training session, will be recorded as having used one of the Keeping on Touch Days. The days may be undertaken at any stage during the maternity leave period, by agreement with your Line Manager, with the following exception:

- During the first two weeks after the baby is born

If a Keeping in Touch day is used, the employee will receive their normal payment for that day, but reduced by the value of a current day's worth of SMP.

Keeping In Touch days need to be recorded and the Time Management System should be used to record these.

2.8

Requests to Vary Working Hours

Job Share

Job Sharing is an arrangement where two people voluntarily share the duties and responsibilities of one post. Remuneration and other benefits are shared between the job sharers in proportion to the hours each has worked.

Interested employees should notify their Head of Service in writing of their request to Job Share, no less than 3 months prior to their return to work date.

Within 15 working days of receipt the Head of Service will consider the request and discuss it with the employee, their Line Manager and their Human Resource Advisor.

The Head of Service will then reply in writing to the employee stating whether the post is suitable for a job share or not.

The existing employee will continue to work full-time (if practicable) until a suitable Job Sharing partner is appointed.

Flexible Working Parents

Employees who are responsible for a child under 6, or a disabled child under 18 have the right to request a flexible working pattern and places a duty on managers to consider such a request. Any agreed change to the working pattern is a permanent change.

Further details are available from Human Resource Service.

Voluntary Reduced Work Time

Any requests for a temporary reduction in working hours should be made to Unit Manager or Head of Service.

OTHER TERMS AND CONDITIONS

The following sections outline what other terms and conditions apply to the employee.

3.1

Continuous Service

If an employee returns to Local Government service following a break for maternity reasons, she is still entitled to have previous service taken into account.

3.2

Annual Leave

Can still accrue the same annual leave as if they were at work throughout the period of ordinary and extended maternity leave

Is allowed to carry over annual leave from one leave year to the next

Can stop work at the beginning of the 11th week before the EWC, for example, if the employee has 2 weeks annual leave outstanding, they could take the first 2 weeks at home as annual leave and then your maternity leave would start

Are allowed to extend their maternity leave by using accrued annual leave

If an employee returns to work on a job share/part time basis, their leave entitlement will be calculated on a full time basis up to when the job share post starts and calculated on a pro rata basis thereafter

3.3 Pension

An employee can continue to pay contributions whilst on maternity leave to avoid a break in pensionable service

If maternity leave exceeds the paid maternity leave period, employees may opt to pay the contributions on their return to work either as a lump sum or through instalments

3.4 Trade Union Subscriptions

Subscriptions will continue to be deducted whilst an employee is receiving payment

3.5 Essential Car User

Employees will continue to receive the appropriate lump sum payment for the remainder of the month in which maternity leave commences and for a further 3 months thereafter. For the next 3 months, payment will be at the rate of 50% of the lump sum payment. After this time no lump sum payment will be payable until the employee returns to work. If the employee does not return to work for 3 months, she will be required to pay back the lump sum allowances received during maternity leave

3.6 Breastfeeding

Facilities will be provided for pregnant or breastfeeding workers to rest, breastfeed, and store breast milk. These should be conveniently situated in relation to sanitary and private facilities and, where necessary, include the facility to lie down

All breastfeeding women shall be afforded nursing breaks paid at full pay. Wherever practicable, a total period of at least one and a half hours during a full day should be available for the purposes of breastfeeding

3.7 Health and Safety

If it is assessed that any of the duties an employee is undertaking may put the baby's or their health at risk, arrangements will be made to remove the risk, or, if this is not possible, the employee's duties may be reorganised or they may be relocated for a temporary period, however, your conditions of service will be protected during this period. A risk assessment will be carried out by your Unit Manager and the Health and Safety Unit

If you require any further details or advice on these guidelines, please do not hesitate to contact your Human Resource Advisor.