

## B11 Maternity Policy

### 1 Policy

- 1.1 It is the aim of the Council to ensure that as far as possible all employees are able to combine their career and family responsibilities. The Council recognises that parenthood brings additional responsibilities and this policy contains information to ensure that all female employees are given their full rights when they are pregnant or have recently given birth.
- 1.2 The Council values the contributions of all its employees and every effort is made to support female employees throughout the maternity period and to encourage women to return to work from maternity leave.
- 1.3 The Council recognises that arrangements for cover during the period of maternity leave, as well as arrangements for communication during maternity leave, are important for ensuring smooth transitions at every stage.
- 1.4 The above forms the Council's policy as at July 2011, it should be noted that: -
  - the policy does not confer any contractual rights
  - the Council will retain the right to review the policy at any time. Changes may result from employee, management and trade union feedback and/or from changes in employment legislation. The Council, following consultation with recognised Trade Unions, will implement revisions and updates.
  - The policy will cease on the 1 April 2015.

### 2 Scope

- 2.1 This policy applies to all Council employees, including Head Teachers, Teachers and Chief Officers, regardless of the number of hours worked per week.
- 2.2 A Chief Officer is defined as a Deputy Chief Executive, Assistant Chief Executive, Director or a designated Deputy to one of the Directors.
- 2.3 The policy excludes the Chief Executive.
- 2.4 The policy is recommended for implementation by staff directly employed by schools, for example those based in Academies.

### 3 Principles

- 3.1 The Council will apply this policy fairly and consistently to all female employees, whether they work full or part time.
- 3.2 The Council will ensure that this policy is updated to reflect any changes in legislation.
- 3.3 No female employee will suffer detriment of any kind as a result of being pregnant or taking maternity leave.

## **4 Maternity Notification**

- 4.1 When a pregnancy is confirmed, and no later than the end of the 15th week before the EWC, the employee should notify her line manager and HR, in writing, of the following:
  - that she is pregnant
  - of the expected week of childbirth (EWC)
  - of the expected date of the commencement of maternity leave, which must not be a date earlier than the 11<sup>th</sup> week before the EWC.
  - The form MAT B1 must be enclosed signed by the GP or midwife with the letter, which confirms the EWC.
- 4.2 EWC means the week, beginning with midnight between Saturday and Sunday, in which it is expected that the child will be born.
- 4.3 The Council will ensure that the employee will not suffer detriment of any kind as a result of her pregnancy, including being excluded from such opportunities as training and development. It is equally unlawful under the Sex Discrimination Act to pass over a woman for promotion because she is pregnant.
- 4.4 The employee has the right to return to her own job after ordinary maternity leave or to a suitable alternative one if this is not practicable after additional maternity leave. The Council will seek to avoid potential redundancies during periods of maternity leave. In accordance with statutory requirements, where job losses are unavoidable, the employees on maternity leave will be given first consideration for any suitable alternative employment that may arise, in accordance with the Council's Managing Organisational Change Policy.

## **5 Time off for antenatal care**

All pregnant employees are entitled to take paid time off during normal working hours to receive antenatal care. Antenatal care includes appointments with the Midwife, GP, hospital clinics, relaxation classes and parentcraft classes. Evidence of appointments must be produced if requested by her line manager. Line managers must be advised of the appointment as far in advance of the appointment as possible.

## **6 Ordinary maternity leave (OML)**

All pregnant employees are entitled to take 26 weeks' ordinary maternity leave, irrespective of length of service or the number of hours worked each week, provided they comply with certain notification requirements.

## **7 Additional maternity leave (AML)**

If an employee qualifies for ordinary maternity leave then she will also qualify for Additional Maternity Leave. This is a further 26-week period that starts the day after her ordinary maternity leave ends.

## **8 Compulsory maternity leave**

Legislation prohibits an employee from returning to work during the two-week period immediately following the birth of a child or four weeks where the job involves manual handling.

## **9 Taking maternity leave**

- 9.1 Ordinary leave may start at any time from the 11<sup>th</sup> week before the EWC. It is automatically triggered, however, at the point of childbirth if leave has not already started. If a woman is sick due to a pregnancy related illness at any time in the final four weeks of pregnancy the Council reserves the right to start the ordinary maternity leave. In these circumstances ordinary leave starts the day after the birth or after the first day of sickness.
- 9.2 Providing the Council has been properly notified of the date on which the maternity leave will start, the employee has the right to vary the date if the line manager is notified in writing at least eight weeks before the new date.
- 9.3 If there is an absence from work wholly or partly because of pregnancy on the first day after the beginning of the fourth week before the EWC, ordinary maternity leave will start the following day. As such, the line manager need not be notified that she intends maternity leave to start. However the line manager must be notified in writing of the absence from work and the reason for the absence and whether this is wholly or partly because of pregnancy.
- 9.4 Similarly, if the employee gives birth before the ordinary maternity leave has started, the ordinary maternity leave period will begin on the day that follows the day on which childbirth occurred. Again, in such circumstances the line manager need not be notified of the date on which she intends to start ordinary maternity leave. However her line manager must be notified in writing that the employee has given birth and the date on which the birth occurred.
- 9.5 If the line manager has been notified of the intended start date or that the ordinary maternity leave period has been triggered due to premature absence or premature childbirth, the Council will notify the employee, in writing:
  - of the date on which the ordinary maternity leave period will end
  - if the employee has advised that she wishes to take additional maternity leave, when the additional maternity leave period will end.

## **10 Miscarriage and Stillbirth**

A miscarriage or stillbirth earlier than the 25th week of pregnancy does not qualify a woman for maternity leave, Statutory Maternity Pay or Maternity Allowance. Any sickness absence from work following such an event should be treated as normal sickness. A stillbirth during or after the 25th week of pregnancy qualifies a woman for maternity leave and pay in the usual way. If a woman gives birth at any time to a living child, even if it is born before 25 weeks of pregnancy, she will be entitled to her usual maternity leave and pay. This applies even if the child later dies.

## **11 Returning from maternity leave**

- 11.1 The employee has the right to return following ordinary leave or within 26 weeks to the same job on the same terms and conditions as if she had not been absent. If there is a redundancy situation, she is entitled to be offered a suitable alternative job, if one exists. If for health and safety reasons she was doing a different job from her usual one while she was pregnant, she may be required to return to that different job for a short time if she is still considered at risk.
- 11.2 Provided the employee has completed one year's service she may extend her entitlement to maternity leave, ordinary or additional, by adding a period of unpaid parental leave to the end of it. A maximum of four weeks parental leave may be taken in any one year. If a woman extends her ordinary leave by up to four weeks' parental leave, the same return-to-work rights apply.
- 11.3 If she extends her leave by more than four weeks' parental leave, then if it is not reasonably practicable for her to return to the same job, an alternative can be offered but on the same terms and conditions.
- 11.4 After additional maternity leave the employee is also entitled to return to the same job, on the same terms and conditions as if she had not been absent. However, if there is some reason why it is not practicable for the employee to return to the same job she must be offered a similar job on terms and conditions that are no less favourable than her original job.
- 11.5 If there is no such suitable vacancy or if the employee unreasonably refuses to take a vacancy that is suitable, the Council can refuse to take the employee back. However, the Council cannot assume that the employee has resigned. If she does not do so voluntarily the employer must dismiss her. The potentially fair reason for the dismissal will normally be some other substantial reason.
- 11.6 If the employee does not want to return to work at the end of her maternity leave, she should submit the requisite contractual notice to terminate her contract.

## **12 Statutory Maternity pay**

- 12.1 If the employee has at least 26 weeks' continuous service and average weekly earnings, at the start of the 15th week before the child is born, are above the lower earnings limit for National Insurance then she will normally be entitled to receive Statutory Maternity Pay (SMP) whether or not she intends to return to work.
- 12.2 SMP is payable at two rates for a maximum of 39 weeks. For the first six weeks the higher rate will be paid which is 90% of salary. After this time the lower statutory rate will be paid for 33 weeks or 90% of normal weekly earnings if lower.

## **13 Council Maternity Pay**

- 13.1 To qualify for Council Maternity Pay the employee must have one year's continuous local government service at 11 weeks before the EWC.
- 13.2 Council maternity pay comprises:
  - i. Full normal weekly pay for the first 4 weeks and then 2 weeks at 9/10 of normal weekly salary.
  - ii. The following 12 weeks at half pay plus standard rate Statutory Maternity Pay, if she declares her intention to return to work after maternity leave. This is conditional on returning for at least 13 weeks on existing hours or if on different hours, a period that equates to 13 weeks. This is without deduction unless the combined half pay and Statutory Maternity Pay or Maternity Allowance exceeds normal full pay.  
Or:  
12 weeks at the standard rate of Statutory Maternity Pay when not intending to return to work  
Then in both cases:  
21 weeks at the Statutory Maternity Pay rate (or 9/10 of weekly pay if paid less than the weekly Statutory Maternity Pay rate).
- 13.3 Leave after the 39<sup>th</sup> week will be unpaid.
- 13.4 If the employee does not qualify for Council Maternity Pay she will still receive Statutory Maternity Pay.
- 13.5 Employees will be asked to sign an undertaking to confirm that they intend to return to work for at least three months full time following maternity leave, or a part time equivalent undertaking. If they subsequently choose not to return they will be required to pay back the 12 weeks half pay Council Maternity Pay.

## **14 Contractual benefits**

Contractual benefits during the statutory ordinary and additional maternity leave period (apart from remuneration) will continue.

## 15 Allowances

The following are impacted upon by an employee receiving reduced pay during the maternity period:

- Essential Car User allowance
- Car Loans
- Season Ticket Loan
- Pension
- Childcare Vouchers

## 16 Holidays

Both the full statutory annual leave entitlement and any additional contractual entitlement are accrued throughout both ordinary maternity leave and additional maternity leave.

## 17 Additional Paternity Leave (APL)

- 17.1 When an employee on maternity leave returns to work, additional paternity leave may be possible for eligible employees. This will enable the father of the baby and / or the husband or partner (including same sex partner or civil partner) to take up to 26 weeks' leave to care for their new child. This leave and pay is only available to qualifying employees if the mother, or co-adopter, has returned to work. Special provisions apply if the mother or co-adopter dies during their maternity or adoption leave or pay period.
- 17.2 Eligible employees can start their additional paternity leave any time from 20 weeks after the child is born. The leave must have finished by the child's first birthday. A minimum of two weeks and a maximum of 26 continuous weeks' leave can be taken. For an employee to qualify for additional paternity leave they must:
- be the father of the baby and/or the husband or partner (including same-sex partner or civil partner) of a woman who is due to give birth on or after 3 April 2011 - a partner is someone who lives with the mother of the baby in an enduring family relationship but not an immediate relative
  - have, or expect to have, the main responsibility for the baby's upbringing, apart from any responsibility of the mother
  - have at least 26 weeks' continuous employment with the Council ending with the qualifying week - the 15th week before the expected week of childbirth
  - continue to work for the Council from the qualifying week into the week before they wish to take additional paternity leave - weeks run Sunday to Saturday
  - be taking the time off to care for the baby.

17.3 Maternity leave and APL do not have to run back-to-back. The mother does not have to take 20 weeks' leave before returning to work but, if she takes less, there would have to be a gap before the father could start APL (because this cannot start until 20 weeks after the birth). Leaving a gap may mean that some additional statutory paternity pay (ASPP) is lost. The father/partner could be entitled to ASPP if there is at least two weeks of the mother's 39-week statutory maternity pay, or maternity allowance, period left to run and this period cannot be put 'on hold'.

17.4 Additional statutory paternity pay is payable to eligible workers who meet the eligibility criteria for additional paternity leave and:

- they are taking time off to care for their child during their partner's 39 week statutory maternity pay, maternity allowance or statutory adoption pay
- their partners have returned to work.

17.5 To qualify for additional statutory paternity pay the employee must have:

- average weekly earnings at or above the lower earnings limit for National Insurance contributions in force at the end of the qualifying week - currently £97 per week
- at least two weeks of the mother's or adopter's statutory maternity pay or maternity allowance period remaining

The qualifying week is either:

- the 15th week before the expected date of birth
- the week the adopter was matched with a child for adoption (for UK adoptions)
- the later date of either: the end of the week in which official notification is received or the end of the week in which they complete 26 weeks' continuous employment (for overseas adoptions).

17.6 Full details on the eligibility and notification process for additional paternity leave can be found in the Paternity Leave Operational Guidelines.

## **18 Grievances related to maternity rights**

If there is dissatisfaction with any decision made in respect of an employee's maternity rights, she should instigate the formal grievance procedure as set out in the Council's Grievance policy.

## **19 Health and safety**

The Management of Health and Safety at Work Regulations 1999 require the Council to conduct 'suitable and sufficient' assessments of risks. This requirement includes a specific obligation, where a workforce includes women of childbearing age, to assess the safety issues that may pose a risk to a new, expectant or breastfeeding mother or her baby. This requirement applies regardless of whether there are employees of this nature at any particular time.

## **20 Keeping in Touch Days**

20.1 During maternity leave both parties may make reasonable contact with each other as they see fit. The Council must keep the employee informed of promotion opportunities, or changes affecting the workplace.

20.2 The 'Keeping in Touch' (KIT) provision allows an employee on maternity leave to go into work for up to ten days, which may be separate days or a single block, without losing any Statutory Maternity Pay or triggering the end of the maternity leave. This provision does not allow the line manager to insist that an employee on maternity leave should come into work, nor does it confer a right on the employee to be offered any work. Detail of how to manage the KIT days can be seen in the Operational Guidelines.

## **21 Operational Guidelines**

Full detail relating to the management of the Maternity Policy can be found in the accompanying Operational Guidelines.

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