

HUMAN RESOURCES
POLICY STATEMENT

MATERNITY POLICY

1. Introduction

- 1.1 This policy sets out the statutory rights of employees who are pregnant or have recently given birth and their entitlement to maternity leave and pay. It also provides general guidance to employees and managers.

2. Key Principles

The Council is committed to ensuring that:

- All employees are treated fairly and consistently.
- A safe and healthy working environment is provided.
- Opportunities are provided for maintaining contact during maternity leave, including 'Keeping in Touch' provisions.
- Statutory legislation and contractual entitlements are complied with.

3. Entitlement to Maternity Pay and Leave

Maternity Leave (Statutory Provisions)

- 3.1 All pregnant employees are entitled to take up to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave, making a total of 52 weeks. This is regardless of the number of hours they work or their length of service.

Additional maternity leave begins on the day after ordinary maternity leave ends.

- 3.2 Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of child birth (unless their child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- The employee's chosen start date.
- The day after the employee gives birth.

OR

- The day after any day on which the employee is absent for a pregnancy related reason in the four weeks before the expected week of childbirth.

If the employee gives birth before their maternity leave was due to start, they must notify the Council in writing of the date of the birth as soon as reasonably practicable.

- 3.3 The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child.

3.4 Statutory maternity pay is payable for up to 39 weeks during maternity leave.

An employee is entitled to SMP if:

- They have been continuously employed by the Council for at least 26 weeks by the beginning of the 15th week before the baby is due (i.e. the qualifying week).
- Their average weekly earnings in the eight week qualifying period are not less than the lower earnings limit for national insurance contributions.
- They are still pregnant 11 weeks before the start of the expected week of childbirth.
- They provide the original MAT B1 form (sent to HR/Payroll) stating their expected week of confinement.

AND

- They give the Council proper notification of their pregnancy in accordance with the rules set in this policy.

If an employee decides not to return to work after their maternity leave they do not have to pay back their SMP.

If a pregnant employee does not qualify for SMP they may be entitled to Maternity Allowance instead (if this is the case please contact Payroll who will provide the correct form that will need completing).

Maternity Allowance

Employees who do not satisfy the conditions outlined for SMP are not entitled to any payment from the Council; instead they should consider applying for a Maternity Allowance (MA).

MA may be payable for up to a maximum of 26 weeks and is based on the woman's employment and earnings in the 66 weeks ending with the week before the EWC (expected week of confinement).

For further advice, please contact HR/Payroll.

The Council's Maternity Scheme

Harlow District Council operates three separate categories of Maternity Leave/Pay provisions. They are as follows:

A. Employees with less than six months qualifying service.

These employees are entitled to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave, making a total of 52 weeks.

This includes two weeks compulsory maternity leave after the day of the birth.

Staff are not entitled to any maternity pay from the Council during these periods but can apply to the Government for a Maternity Allowance which may be payable. (Please contact HR/Payroll)

B. Employees with more than 6 months qualifying service (but less than a year).

An employee who has completed 26 week's continuous employment in the Council by the end of the qualifying week (15th weeks before the EWC) is entitled to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave, making a total of 52 weeks.

Harlow District Council supplements employee's entitlement to statutory maternity pay by offering the following allowances to staff that qualify for SMP:

- 6 weeks pay at 90% of average earnings.
- 12 weeks at SMP plus half pay or average earnings whichever is the lesser.
- 21 weeks at SMP.

The remaining period is unpaid.

Staff who do not qualify for SMP will not receive the above payments.

C. Employees with more than one year's continuous service.

An employee who has more than one year's continuous service by the end of the 15th week before the EWC is also entitled to additional Maternity Leave and runs for up to a further 26 weeks ordinary maternity leave and up to 26 weeks additional maternity leave making a total of 52 weeks.

Harlow District Council supplements employee's entitlement to statutory maternity pay by offering the following allowances to staff that qualify for SMP:

- 6 weeks pay at 90% of average earnings.
- 24 weeks at SMP plus half pay (unless this exceeds the individual previous average earnings).
- 9 weeks at SMP.

The remaining period is unpaid.

Employees who do not qualify for SMP will not receive the above payments.

4. Employee Responsibilities

- 4.1 A pregnant employee should inform their manager and HR as soon as possible. This will allow the manager and HR to:

- Arrange with the H&S Officer a pregnancy risk assessment for new and expectant mothers and ensure any necessary adjustments are made.
- Give time off for antenatal appointments (please complete an Authorised Absence Request Form if the appointment is in works time).
- Make arrangements for maternity leave and pay.

An employee's maternity leave will be triggered automatically if their baby arrives prematurely (i.e. the day after the birth).

If an employee is absent from work because of sickness related to their pregnancy at any time after the beginning of the 4th week before the baby is due, the Council will require them to start their maternity leave on the first day of complete absence.

Payment of statutory maternity pay cannot start prior to the 11th week before the employee's expected week of childbirth. It can start from any day of the week in accordance with the date the employee starts her maternity leave.

The employee must give a minimum of 28 days written notice of starting maternity leave and indicate that they wish to preserve their right to return to work if this is their intention.

5. Manager's Responsibilities

- 5.1 The manager should ensure that HR are notified of any pregnancy so that they can send the Maternity Leave and Pay Employee Guidelines to the employee and arrange a pregnancy risk assessment.

HR will remind the manager of the need to review risk assessments for new and expectant mothers.

If any risks are identified, managers should consider appropriate alterations to working conditions e.g. rest breaks, flexible working, suitable alternative employment, leave of absence. They can also discuss annual leave and bank holiday entitlement and the taking of pro-rata leave before maternity leave commences. As part time employees have bank holidays calculated additional to their annual leave the bank holidays that fall within the duration of their maternity leave will not be deducted from their entitlement.

- 5.2 The manager should also:

- Discuss the planned maternity leave period with the employee.
- Consider how to cover the employee's period of absence.
- Prior to the employee starting maternity leave, meet with them to discuss how the employee prefers to maintain contact throughout the leave period e.g. for job vacancies, training opportunities, WIS and organisational news.

- Once the employee notifies the line manager of their maternity leave, the manager should forward the letter to HR.
- Notify HR of any changes to the agreed return date.
- When the employee returns, the manager should notify HR immediately of the relevant details.
- If the employee resigns after maternity leave, complete leaver documentation and return it to HR.

6. Antenatal Care

All pregnant employees are entitled to paid time off to attend antenatal care appointments regardless of length of service. Employees should arrange this in advance with their supervisor and must produce evidence of appointments if required to do so. Whenever possible, appointments should be arranged early or late in the day to minimise disruption to the service.

The employee should also complete the relevant Authorised Absence request form.

7. Health and Safety

- 7.1 The Council takes the well-being of the employee and their baby seriously and will give consideration to any health and safety implications. If an employee has any such concerns, they should discuss them with their manager or the Council's Health and Safety Officers.
- 7.2 Pregnant employees have the responsibility to notify the Council at their earliest opportunity. Until this takes place, they should be aware of their responsibility for their own well-being whilst at work.
- 7.3 Once an employee has notified the Council in writing that they are pregnant, their line manager and the Health & Safety Officer will carry out a specific risk assessment as soon as possible.

Where a risk has been identified, preventive and protective measures will be implemented to eliminate the risk as far as is reasonably practicable. If this is not possible, the line manager must alter the working conditions or hours of work to avoid placing the employee at risk.

If the risk still cannot be avoided then suitable alternative work (i.e. medical redeployment) should be considered. If this is not available then the employee should be suspended on health grounds and receive full pay (until such time as there are no longer any risks to her health)

The manager should also refer the employee to the Occupational Health adviser or seek advice from the Health and Safety Adviser and or Human Resources

8. Sickness Absence

- 8.1 Should an employee be absent from work prior to the commencement of maternity leave with sickness that is not pregnancy related, normal sickness absence procedures apply.
- 8.2 Where the absence from work is associated with the pregnancy then advice should also be sought from the Council's HR Manager (or their representative).

Where an employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before their expected week of childbirth, their maternity leave will start automatically.

- 8.3 Should an employee be unable to return to work following their maternity leave entitlement as a result of sickness, a fit note will be required and normal sickness arrangements will apply. An Occupational Health assessment may also be required at this stage.

9. Return to Work.

- 9.1 The employee will have been formally advised in writing by HR of the date which they are expected to return to work if they take their full 52 week entitlement to maternity leave.
- 9.2 The employee is expected to return on this date, unless they notify the Council otherwise. If they are unable to attend work at the end of their maternity leave due to sickness or injury, the Council's normal arrangements for sickness absence will apply. In any other case, late return without prior agreement will be treated as an unauthorised absence.
- 9.3 While the employee is under no obligation to do so, it would assist the Council if they confirm as soon as convenient during their maternity leave that they will be returning to work as expected.
- 9.4 If the employee decides not to return to work after maternity leave, they must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment.
- 9.5 All pregnant women have the right to return to their substantive job on the same terms and conditions at the end of their maternity leave. Where this is not practicable by reason of redundancy or re-organisation, the Council should ensure the employee is offered suitable alternative employment (i.e. on no less favourable terms and conditions than their original post).

10. Early Return to Work

- 10.1 An employee needs to give eight weeks written notice of an early return to work.
- 10.2 If an employee has not given the correct notice of an early return to work, the manager may postpone the return to ensure that eight weeks notice is given.

- 10.3 The employee is permitted to bring forward or postpone their maternity leave start date, provided that they advise the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable.

11. Postponement of Return

- 11.1 If the employee attempts to return to work early without giving their manager 8 weeks notice, the Council may postpone their return until 8 weeks notice has been given but the return date must not be later than the end of the Maternity Leave period.

In these circumstances the employee is not entitled to receive wages or salary if they return to work during the period of postponement.

- 11.2 There is no provision for postponement of return to work by an employee after the end of the 52 week Maternity Leave period. If they are still ill, the normal Council rules on sick leave would be applicable.

If the employee does not return on the due date, the Council will deal with the non-attendance by referring to appropriate Council Policies and Procedures.

12. Early Birth

- 12.1 Where the baby is born before planned maternity leave starts, maternity leave will start on the day after the baby is born. Where this happens, the employee should inform their manager and HR as soon as is reasonably possible.

13. Death of Baby

- 13.1 If there is a stillbirth or the baby dies after 24 weeks of pregnancy, the employee will still be entitled to maternity leave and pay as stated in this policy.

If this happens before 24 weeks, the employee will not be entitled to maternity leave and pay. However, HR should be informed as soon as reasonably possible so a suitable arrangement regarding time off and return to work can be discussed and agreed.

14. Communication with Employees

- 14.1 It is our policy that employees on maternity leave who intend to return to work are kept informed about significant changes at work. Managers should ensure before an employee starts their maternity leave what contact they would like and what job circulars, newsletters, information on training and workplace development opportunities should be provided.

- 14.2 Where an employee would prefer not to receive information from the Council or their manager, they should clearly indicate this is the case.

15. Keeping in Touch Days

- 15.1 Employees are allowed to work during their maternity leave (i.e. 'Keeping in Touch Days') without bringing their maternity leave to an end or losing entitlement to SMP.

Individuals can work for up to 10 days and there are no restrictions on when these days are taken as long as the two weeks compulsory maternity leave period immediately following birth is avoided.

'Keeping in Touch Days' must be by agreement between the employee and their line manager in consultation with the HR department. There is no obligation on the employee to undertake work or on the line manager to provide work.

Employees will be entitled to payment for the 'Keeping in Touch Days' at an amount agreed with their line manager and reflecting the nature of the work completed.¹

Managers should review the individual risk assessment to ensure any potential health and safety issues are addressed before any 'Keeping in Touch Days' are worked. They should also notify the HR Payroll team of any days worked and the appropriate remuneration. (Payment for actual hours worked and therefore the Manager should advise Payroll of the hours worked

16. Transfer of Maternity Leave/Additional Paternity Leave

- 16.1 Employees who return to work before they have exhausted their entitlement to maternity and any outstanding SMP may be eligible to transfer up to 26 weeks of their outstanding maternity leave and pay. Please see the Council's Paternity Leave Policy for further details.

17. Flexible Working

- 17.1 Employees have a statutory right to apply for flexible working arrangements and the Council has a duty to consider these requests seriously. Please see the Council's flexible Working Policy for further details.

18. Terms and Conditions of Employment

- 18.1 Employees who request or take maternity leave will not suffer any discrimination or detrimental effect in terms of their employment with the Council in line with the Equal Opportunities and Diversity Policy.

Annual Leave & Bank Holiday Entitlement

- 18.2 Employees are encouraged to take any outstanding annual leave before commencing additional paternity leave as their holiday entitlement must be taken in the year it is earned.

Whilst on maternity leave, annual leave accrues in accordance with the contract of employment and should be taken in the financial year it is accrued. Bank holidays that fall during maternity leave also accrue and these should be taken in the financial year that they are accrued.

Pension

- 18.3 Employees who wish to opt out of pension payments during their maternity leave should contact the HR Payroll team.

Probationary Period

- 18.4 If an employee commences maternity leave before satisfactorily completing their probationary period, the probation will continue on their return from leave in order to complete the period.

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June 2013

Related Policies

Special Leave Policy and Procedure

Flexi Scheme

Career Break Scheme

Homeworking Policy

Parental Leave Procedure

Flexible Working Policy

Adoption Leave

Paternity leave

Policy Author:	Nigel Delbarre, HR Manager
Approved & Authorised:	
Dated authorised:	

Revision History

Date of this revision: September 2013

Date of next planned revision: September 2014

Revision date	Summary of Changes	Changes marked
September 13	Amendment to accrual of bank holidays	-