

Maternity Policy

1. Introduction

This policy sets out the maternity rights of employees and gives details of the arrangements for antenatal care, pregnancy-related illness and maternity leave and pay.

The organisation recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the organisation's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant she should clarify the relevant procedures with HR to ensure that they are followed correctly.

The following definitions are used in this policy:

"Expected week of childbirth" means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

"Qualifying week" means the 15th week before the expected week of childbirth.

2. Principles

All pregnant employees (regardless of length of service) have the right in law to take up to 26 weeks' ordinary maternity leave and up to a further 26 weeks' additional maternity leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks' maternity leave. Additional maternity leave follows on immediately from the end of the period of ordinary maternity leave.

All employees who take maternity leave have the right to return to work at any time during either ordinary maternity leave or additional maternity leave (except during the first two weeks from the day of childbirth), subject to their following the correct notification procedures as set out within this policy.

3. Notification of Pregnancy

On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there are health and safety considerations for the organisation.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform the organisation in writing of:

- the fact that she is pregnant;
- her expected week of childbirth; and
- the date on which she intends to start her maternity leave.

The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it.

The employee is permitted to bring forward her maternity leave start date, provided that she advises the organisation in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises the organisation in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The organisation will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

4. Maternity Leave

Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her 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 her maternity leave was due to start, she must notify the organisation in writing of the date of the birth as soon as reasonably practicable.

From the 24th week of pregnancy if a child is born stillborn or dies following birth, the full maternity leave entitlement set out in this policy applies following the birth.

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

Ordinary Maternity Leave

During the period of ordinary maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Salary will be replaced by the appropriate maternity pay if eligible. Benefits in kind such as the use of a laptop and mobile phone will also continue if applicable; annual leave entitlement will continue to accrue and pension contributions will continue to be made provided that the employee is receiving salary or statutory maternity pay (SMP). Employee's contributions will be based on actual pay, while the employers' contribution will be based on the salary the employee would have received had she not taken maternity leave. Salary will be replaced by SMP depending on the employee's eligibility.

Employees are encouraged to take any outstanding annual leave due to them before the commencement of ordinary maternity leave. Employees are reminded that holiday must be taken in the current holiday year and therefore if the holiday year is due to

end during maternity leave, the employee should take the full year's entitlement before starting her maternity leave. However, as stated in the Staff Handbook, 9 days annual leave (pro rata if a part time employee) can be carried over into the following annual leave year.

Additional maternity leave

Additional maternity leave runs immediately from the end of ordinary maternity leave. During the period of additional maternity leave, the employee's contract of employment remains in force and she is entitled to receive all her contractual benefits, except salary. Salary will be replaced by the appropriate maternity pay if eligible. Any benefits in kind such as the use of laptops and mobile phones will continue if applicable and contractual annual leave will continue to accrue. However, as above, employees are encouraged to take any outstanding annual leave due to them before the commencement of ordinary maternity leave.

Salary will be replaced by statutory maternity pay (SMP) for the first 13 weeks of additional maternity leave if the employee is entitled to receive it. The remaining 13 weeks will be unpaid.

Pension contributions will continue to be made during the period when the employee is receiving SMP but not during any period of unpaid additional maternity leave. Employee's contributions will be based on actual pay, while the employers' contribution will be based on the salary the employee would have received had she not taken maternity leave. Salary will be replaced by SMP depending on the employee's eligibility.

5. Maternity Pay

Employees who have been continuously employed by the organisation for at least 26 weeks at the end of their qualifying week and are still employed during that week, will also qualify for statutory maternity pay, providing that: they are still pregnant 11 weeks before the start of the expected week of childbirth (or have already given birth); they have provided a MAT B1 form stating their expected week of childbirth; and their average weekly earnings are not less than the lower earnings limit for national insurance contributions.

Contractual Maternity Pay/Statutory Maternity Pay (SMP)

Statutory maternity pay is payable for up to 39 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. It is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Contractual maternity pay inclusive of SMP will be paid for up to 26 weeks during ordinary maternity leave. The organisation will pay full salary for the first 26 weeks of maternity leave followed by 13 weeks at a flat rate SMP. An employee is entitled to contractual maternity pay if:

- she has been continuously employed by the Council for at least 26 weeks and completed her probationary period at the end of the qualifying week and she is still employed during that week;

- her average weekly earnings in the eight weeks up to and including the qualifying week are not less than the lower earnings limit for National Insurance contributions;
- she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides a MAT B1 form stating her expected week of childbirth;
- she gives the Council proper notification of her pregnancy in accordance with the rules set out above.

SMP is treated as earnings and is therefore subject to PAYE, National Insurance and pension deductions.

Payment of maternity pay cannot start prior to the 11th week before the employee's expected week of childbirth. Maternity pay can start from any day of the week in accordance with the date the employee starts her maternity leave. Maternity pay and SMP is payable whether or not the employee intends to return to work after her maternity leave.

Where applicable, the employee is required to give at least 28 days' notice of the date that she wants her statutory maternity pay to begin. If it is not possible for the employee to give 28 days' notice, for example if the baby arrives early, she should tell the organisation as soon as reasonably practicable.

Maternity Allowance

Employees who are not entitled to statutory maternity pay may be entitled to receive maternity allowance payable directly by the Government. If an employee is not entitled to statutory maternity pay, the organisation will provide the employee with an SMP1 form to allow her to pursue a claim for maternity allowance.

6. Time off for Antenatal Care

Once an employee has advised the organisation that she is pregnant, she will be entitled to take reasonable paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations.

The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

7. Health and Safety

The organisation has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding. If applicable, the organisation will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out her normal job duties, the organisation will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

The organisation is also required by legislation to provide on request (and as a result of the risk assessment mentioned above) appropriate rest facilities for employees who are pregnant or are nursing mothers.

In the unlikely event of it not being possible for the organisation to alter the employee's working conditions to remove the risks to her health and there is no suitable alternative work available to offer her on a temporary basis, the organisation may suspend her from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

The organisation's Occupational Health provider can provide further advice on health, safety and welfare during pregnancy if required. Employees who wish to discuss these matters with Occupational Health should contact HR to make an appointment. Occupational Health should not, however, be expected to give advice on the clinical aspects of ante-natal care and discussions are not intended to be a substitute for this, which should be obtained from a general practitioner or hospital in the usual way.

8. Sickness Absence

If an employee is absent from work during pregnancy owing to a pregnancy related illness or sickness (including miscarriage up to 24 weeks of pregnancy), she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify the organisation in writing of this as soon as reasonably practicable.

9. Contact During Maternity Leave

The organisation reserves the right to maintain reasonable contact with employees during maternity leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

10. Keeping in Touch Days

Employees can agree to work for the organisation (or to attend training) for up to 10 days during their maternity leave without that work bringing their maternity leave to an end and without loss of a week's statutory maternity pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

The organisation has no right to require employees to carry out any work and employees have no right to undertake any work during their maternity leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the organisation.

11. Return to Work Following Maternity Leave

The employee may return to work at any time during ordinary maternity leave or additional maternity leave, provided that she gives the appropriate notification. Alternatively, the employee may take her full period of maternity leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of maternity leave has elapsed (52 weeks), she must give at least eight weeks' notice in writing to the organisation of the date on which she intends to return.

While the employee is under no obligation to do so, it would assist the organisation if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.

The employee has the right to resume working in the same job if returning to work from ordinary maternity leave. If the employee returns to work after a period of additional maternity leave, she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the maternity leave period.

An employee returning from maternity leave has no automatic right to request a change to working hours or pattern. However, requests will be considered in line with the operational requirements of the organisation. Details of how to request a change to hours or pattern can be found in the organisations' Working Hours Policy.

If the employee decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to the organisation as soon as possible and in accordance with the terms of her contract of employment. If the notice

period expires after maternity leave has ended, the organisation may require the employee to return to work for the remainder of the notice period.

12. Transfer of Maternity Leave

If an employee proposes to return to work by giving proper notification, her spouse, civil partner or partner may be eligible to take additional paternity leave (and additional statutory paternity pay) once she has returned to work.

The earliest that additional paternity leave may commence is 20 weeks after the date on which the child is born and it must end no later than 12 months after the date of birth. The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks.

Further details should be obtained from the employee's spouse's or partner's employer. She will be required to submit a written and signed declaration form to that employer, which may also make additional enquiries of the organisation to verify its employee's entitlement to additional paternity leave and pay. Further details of this can be found in the organisations' Paternity Policy.

13. Agency and Fixed Term Contract Employees

The liability for the provision of maternity leave and SMP for agency employees lies with the employment agency they work for, not the Arts Council of Wales.

Employees on fixed term contracts with the Arts Council of Wales, have the same entitlement to maternity leave as permanent employees. If the contract is due to end before, or at the end of, the maternity leave they will not have the right to return to work. If the contract is due to end after the maternity leave period, the employee will be entitled to return to work and the employment will continue until the termination date of the contract.

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