



## Maternity Leave and Pay Policy and Procedure

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### Purpose [\(back to top\)](#)

The purpose of the Maternity Leave and Pay policy and procedure is to support employees who are new or expectant mothers.

### Scope [\(back to top\)](#)

This policy and procedure applies to all employees of Leicestershire County Council employed under the following conditions of service:

- National Joint Council for Local Government Services;
- School Teachers’ Pay and Conditions (centrally employed teachers).

This policy is not applicable to casual workers and to employees based in schools/colleges with delegated budgets.

### Principles [\(back to top\)](#)

The Council's commitment to equality of opportunity will be observed at all times during the operation of this procedure. This will ensure that employees are treated fairly and without discrimination on the grounds of race, nationality, ethnic or national origins, sex, marital status, disability, age, sexual orientation, trade union membership or activity, political or religious belief and unrelated criminal conviction.

## Roles and Responsibilities [\(Back to top\)](#)

Employee	Complies with maternity leave and pay conditions, notification procedures and deadlines, and submits relevant forms.
Line Manager	Instigates administrative arrangements with Employee Service Centre. Conducts workplace risk assessment. Maintains reasonable contact with employee during maternity leave.
HR Services	Provides advice and guidance on more complex queries about maternity leave and pay.
Employee Service Centre	Is first point of contact for advice to employees and managers on maternity leave and pay and undertakes necessary administration

## Eligibility for maternity leave [\(back to top\)](#)

The employee should inform her manager as soon as her pregnancy is confirmed so that a [workplace risk assessment](#) can be carried out in accordance [health and safety legislation](#).

All pregnant employees are entitled to a total period of 52 weeks' maternity leave (regardless of whether a multiple birth is expected) and to resume work afterwards irrespective of their length of service or whether they are full-time, part-time, permanent or temporary (although for temporary employees, the opportunity to resume work afterwards will depend upon the timescale of their contract).

Maternity leave is made up of three main elements:

- 26 weeks' Ordinary Maternity Leave (OML);
- 26 weeks' Additional Maternity Leave (AML); and
- Compulsory Maternity Leave (CML).

CML comprises the 2 weeks immediately after the birth of a baby when, by law, an employee is not permitted to work and is included in the Ordinary Maternity Leave period.

**IMPORTANT NOTE** This section refers only to the **amount of leave** that an employee can take; there are **differing pay provisions** depending on the employee's length of service and these are explained separately.

## Eligibility for maternity pay and notification of absence ([back to top](#))

To be eligible for maternity pay, the employee must formally notify her manager no later than the 15<sup>th</sup> week before her Expected Week of Childbirth (EWC) using either the [MAT 01](#) form or [MAT 02](#) form (depending on her length of service):

- that she is pregnant;
- her expected week of childbirth (EWC); and
- the date she intends to start her maternity leave.

The employee must send in her Form MatB1 (if available) with her [MAT 01](#) or [MAT 02](#) form. The Form MatB1 is the maternity certificate issued by the employee's doctor or midwife and is available from the 20<sup>th</sup> week before the EWC.

## Starting maternity leave ([back to top](#))

The employee can start her maternity leave on any day of the week and at any time from the beginning of the 11<sup>th</sup> week before the EWC unless:

- (i) the baby is born prematurely before she has commenced maternity leave, in which case maternity leave will commence on the day after the baby is born; or
- (ii) she is absent from work for (wholly or partly) pregnancy-related reasons during the 4 weeks prior to the EWC. Maternity leave will automatically start from the day following the employee's first day of absence but no earlier than the beginning of the fourth week. The employee's [Statutory Maternity Pay](#) will also start on this day for the full 39 weeks. If the employee is unwell and her absence is not related to the pregnancy, it will be recorded as ordinary sickness absence and will not affect her intended date of starting maternity leave.

The employee may wish to take some of her outstanding annual leave immediately prior to starting maternity leave. However, if the baby is born during the period of annual leave and this is within the 11 weeks before the EWC, maternity leave will start and the employee will be re-credited with the appropriate balance of annual leave.

On receipt of the employee's MAT01 or MAT02 form, the manager will arrange for the Employee Service Centre to write to the employee to confirm the commencement date of her maternity leave and the date on which she is expected to return to work if the full entitlement to maternity leave is taken. The employee may however choose to [return to work](#) at an earlier date.

### **Change of start date [\(back to top\)](#)**

If the employee wishes to change the notified start date, she must give the manager at least 28 days' notice of the revised date. The revised date can be earlier or later than the original date, subject to conditions (i) and (ii) above.

### **Time off for antenatal appointments [\(back to top\)](#)**

The employee is entitled to reasonable paid time off work to attend antenatal appointments made on the advice of her doctor, midwife or health visitor, regardless of her length of service or the hours she works.

The employee should inform her manager as soon as possible that she will be absent. At the employee's first antenatal appointment, she should be given an appointment card (or similar) which she should show to her manager in order to receive time off for subsequent appointments.

### **Maternity pay [\(back to top\)](#)**

Most of the employee's contractual terms and conditions will remain unchanged and in force during the period of maternity leave. However, with regard to pay, depending on the employee's length of service, she may be eligible for one or a combination of:

- Statutory Maternity Pay (SMP) or Maternity Allowance (MA);
- Occupational Maternity Pay (OMP).

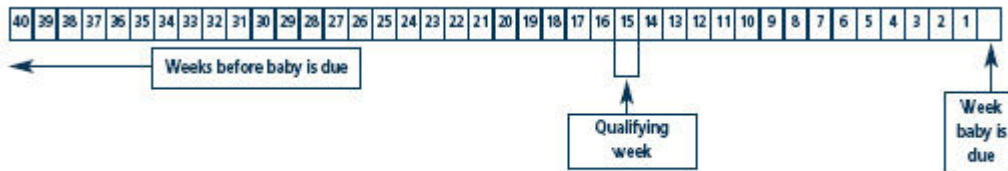
An important date in relation to maternity pay is the date on which the baby is due (which is not necessarily the same as the date when the baby is actually born). The week in which the baby is due is referred to as the Expected Week of Childbirth (EWC).

### **Statutory Maternity Pay (SMP) [\(back to top\)](#)**

The employee will be eligible for SMP for a total of 39 weeks (known as the Maternity Pay Period) if:

- she has 26 weeks' continuous service with the Council by the end of the 15<sup>th</sup> week before the EWC. This is known as the "qualifying week";
- she has not resigned or been dismissed before the beginning of the "qualifying week";
- her average weekly earnings are equal to, or greater than, the lower earnings limit for national insurance contributions.

The diagram below shows how to identify the "qualifying week".



*Diagram showing the qualifying week*

SMP can only be paid once the employee has commenced maternity leave.

If the employee returns to work before the end of her Maternity Pay Period (MPP), that is before the 39 weeks have elapsed, she will forfeit any outstanding SMP that would otherwise have been due.

Once the employee returns to work, her salary will be paid according to the contract of employment that is in force at that time. Therefore if the employee returns to work on reduced hours, her salary and other relevant terms and conditions will be pro rata to full-time hours from the date of her return.

SMP is not normally affected by [‘Keeping in Touch’ days](#) (KIT days). KIT days are explained in more detail later in this policy and procedure.

SMP will be paid regardless of whether the employee returns to work or not after her maternity leave.

SMP is treated as earnings and is subject to income tax and National Insurance contributions.

There are two rates of SMP:

- **Higher rate SMP**

Higher rate SMP is paid for the first 6 weeks of maternity leave. This is 90% of the employee’s average gross weekly earnings during at least the 2 months up to and including her last pay day before the end of her “qualifying week”. The period used for the calculation may vary depending on whether the employee is paid monthly or at other intervals.

- **Standard (or lower) rate SMP**

Standard (or lower) rate SMP is payable for 33 weeks following the first 6 weeks of maternity leave. This is paid at a rate set by the government for the relevant tax year.

If the standard rate of SMP is more than 90% of the employee’s average weekly earnings, she will be entitled to 90% of her actual earnings for the whole of her MPP instead of the standard rate.

**Occupational Maternity Pay (OMP) [\(back to top\)](#)**

Occupational Maternity Pay (OMP) is an additional payment of 12 weeks’ half pay that the employee is entitled to receive provided that:

- she has at least one year's continuous local authority service (with one or more qualifying authorities) at the beginning of the 11<sup>th</sup> week before the EWC; and
- she returns to work and completes 3 months' service (regardless of whether she returns on a full-time or part-time basis).

The combined OMP and SMP must not exceed the amount that the employee would normally earn.

**IMPORTANT NOTE** The maternity leave and pay provisions applicable to centrally employed teachers are available on CIS.

#### **OMP payment options [\(back to top\)](#)**

If the employee qualifies for OMP and indicates at the outset that she intends to return to work she can choose either:

- to receive OMP during her maternity leave alongside the standard (or lower) rate of SMP; or
- to have her OMP deferred and paid in a lump sum in the first available payroll after she returns to work.

If the employee has already indicated that she does not intend to return to work, OMP will not be paid. The employee will receive only SMP or Maternity Allowance.

#### **Repayment of OMP [\(back to top\)](#)**

If the employee does not return to work but has received OMP, she will be required to repay it in full.

If the employee returns to work but fails to complete 3 months' service, she will be required to repay either all or a proportion of OMP, depending how long she returned to work for.

#### **Maternity Allowance (MA) [\(back to top\)](#)**

If the employee does not have 26 weeks' continuous service with the Council by the end of the 15<sup>th</sup> week before her EWC, she is not entitled to receive SMP. However, she may be entitled to claim [Maternity Allowance](#) (MA) and in these circumstances, the ESC will send the employee the appropriate claim form.

#### **Withholding maternity pay [\(back to top\)](#)**

Maternity pay can be withheld if the employee:

- is taken into police custody; or
- continues working after childbirth; or
- works for another employer after childbirth or within the maternity pay period; or
- does not provide a Form MatB1 or similar; or

- gives late or no notification of her pregnancy and her intention to take maternity leave (unless there are mitigating circumstances such as hospitalisation).

The employee must notify her manager of any change in circumstances that affects her right to receive maternity pay.

<b>Local Government Services Maternity Pay – Quick reference guide (back to top)</b>			
<b>Maternity Pay Period</b>	<b>Type of Leave</b>	<b>Type of Pay and Pay Entitlement</b>	
	<b>OML, AML</b>	<b>26 weeks' or more continuous LA service by EWC</b>	<b>Less than 26 weeks' continuous LA service by EWC</b>
<b>Weeks 1 – 6</b>	OML	90% of your average weekly earnings inclusive of higher rate SMP	MA
<b>Weeks 7 - 18</b>	OML	Standard (i.e. lower) rate SMP plus *12 weeks half pay (OMP)	MA plus *12 weeks' half pay (OMP)
		<i>*To qualify for OMP the employee must have one year's continuous service at beginning of 11<sup>th</sup> week before her EWC OMP is repayable if the employee does not return/complete 3 months' service.</i>	
<b>Weeks 19 - 39</b>	AML	Standard rate SMP	MA
<b>Weeks 40 - 52</b>	AML	Unpaid	Unpaid

<b>School Teachers' Pay and Conditions Maternity Pay – Quick Reference Guide (back to top)</b>		
<b>Maternity Pay Period</b>	<b>Type of Leave</b>	<b>Type of Pay and Pay Entitlement</b>
<b>Weeks</b>		<b>Rates of pay</b>
1 - 4	OMP	Full pay, inclusive of SMP
5 & 6	OMP	90% of a weeks salary, inclusive of SMP
7 - 18	OMP	Half pay, plus SMP, providing total does not exceed full pay
19 - 39	SMP	SMP
40 - 52		Unpaid

## Pensions ([back to top](#))

For an employee who is a member of either the Local Government Pension Scheme or the Teachers' Pension Scheme, pension contributions will continue to be deducted each month from their salary during the **paid** period of their maternity leave. Contributions will be based on the levels of pay applicable at the various stages of maternity leave.

When an employee enters a period of **unpaid** maternity leave, it will not be possible to collect pension contributions.

### ➤ **Teachers' Pension Scheme**

For members of the Teachers' Pension Scheme, pension contributions cease at the end of the paid period of maternity leave and membership of the scheme is suspended. For further information, employees should contact Teachers' Pensions, Mowden Hall, Darlington, DL3 9EE or visit their website <http://www.teacherspensions.co.uk/contact/contactus.htm>. Alternatively they may contact the Employee Service Centre by telephone on 0116 305 8815 or email at [eschelpdesk@leics.gov.uk](mailto:eschelpdesk@leics.gov.uk).

### ➤ **Local Government Pension Scheme**

For members of the Local Government Pension Scheme, it is possible to make up "missing" contributions on their return to work so that the period of service concerned can be counted for pension purposes. An employee wishing to make up their contributions must notify the Pensions Section of their decision by completing and returning the [PEN MAT 04](#) form **within 30 days of their return to work**. The outstanding contributions can be paid either as a lump sum or, by agreement, in instalments.

## Continuous service ([back to top](#))

For employees employed under the conditions of service of the National Joint Council for Local Government Services, maternity leave counts towards the employee's continuous service for the purposes of calculating a redundancy payment, occupational sick pay and annual leave entitlement.

For employees who have a break in local government service for maternity reasons (or reasons concerned with caring for children or other dependants) previous service can be taken into account in respect of occupational sick pay and any future maternity leave provided that the break in service is not more than 8 years and the employee has not undertaken any other permanent full-time paid employment. For the purposes of entitlement to annual leave, the 8 years time limit does not apply provided that the employee has not undertaken any other permanent full time paid employment.

## Contact during maternity leave ([back to top](#))

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

Keeping-in-touch days are intended to help the employee keep in touch with their workplace during maternity leave and can also help ease their eventual return to work. KIT days can be used, for example, for attending a training course, team meeting or Personal Development Review meeting, or to participate as a member of an interview panel.

An employee may undertake up to, but not exceeding, 10 KIT days during their maternity pay period without bringing their maternity leave to an end or affecting their SMP (see note below). KIT days can be worked separately or in a block, and either as full or part days, by agreement between the employee and their manager.

The employee is paid at their normal rate of pay for the hours/days worked as KIT days and this will be offset against their SMP. The hours worked should not exceed the employee's normal weekly contracted hours. The manager is responsible for completing and certifying a [form](#) for payment of the hours/days worked.

**IMPORTANT NOTE** If an employee has worked 10 KIT days and then does further work for the Council during their maternity leave, they will lose SMP for each week in which they work. If an employee works their 10<sup>th</sup> KIT day and then does a further day's work in the same week, they will lose SMP for that week. In this context, a week means any period of 7 days e.g. if the employee's SMP started on a Thursday, a week will run from Thursday to Wednesday.

The Council cannot require an employee to undertake KIT days and the employee has no entitlement to be offered them. The amount and type of work that is to be done should be mutually agreed between the employee and her manager, subject to the above provisions.

### **Reasonable contact during maternity leave**

A manager is entitled to make reasonable contact with the employee during their maternity leave, e.g. to discuss her plans for returning to work or whether the employee might be seeking to change her hours of work or pattern of working. The employee will also need to be kept up to date about any changes that may be taking place in the organisation.

Details of job vacancies are available on the Council's website. If an employee is unable to access the website and would like to receive a copy of the Council's Vacancy Bulletin, this can be arranged by their manager on request.

### **Casual employment**

The employee should not undertake casual employment with another employer or through an agency during her maternity leave as her earnings could affect her entitlement to maternity pay.

## Returning to work ([back to top](#))

### Employee's rights

If an employee returns to work at the end of their OML, they are entitled to return to the same job on the same terms and conditions.

If an employee returns to work at the end of their AML, they are entitled to return to the same job, but if that is not reasonably practicable, to another suitable job on comparable terms and conditions.

### Deferring the decision to return

The employee may defer her decision about returning to work until after the birth of her baby. In these circumstances, her 12 weeks' [OMP](#) will be withheld until after her return to work (see [OMP Payment Options](#)).

### Returning before the end of OML

If the employee decides to return to work before the end of her entitlement to OML (i.e. before 26 weeks), she must inform her manager in writing **at least 7 days** before the date on which she wishes to return.

### Returning at the end of AML (*i.e. at 52 weeks*)

If the employee intends to take the full amount of maternity leave and return at the end of her AML (i.e. after 52 weeks), she will be expected to present herself for work on the return date stated in the letter acknowledging her maternity leave. The employee need not therefore give notice of her date of return.

### Returning before the end of AML

If the employee wishes to return before the end of her AML (i.e. after 26 weeks but before 52 weeks), she must inform her manager in writing **21 days** before the date on which she wishes to return.

**IMPORTANT NOTE** Since arrangements may have been made to cover the employee's absence on maternity leave, the employee is requested to give as much notice as possible in any of the above circumstances.

### Delaying or changing the return date

The employee can delay her return to work by taking any outstanding annual leave she may already have earned but not taken prior to commencing maternity leave, together with the annual leave which has accrued during her absence. Normal annual leave approval and booking arrangements apply.

If the employee has already notified her manager of her intended date of return and then changes her mind, she must give 21 days' notice of the new date, regardless of whether this is earlier or later than the date originally notified. The employee may change her mind more than once, but must give 21 days' notice each time.

### **Delayed return due to sickness**

If the employee is unable to return to work at the end of her maternity leave owing to sickness, she must provide a medical certificate. Normal sickness absence reporting arrangements will apply.

This provision applies whether or not the employee has taken the full 52 weeks' maternity leave or has notified her manager of her date of return.

### **If the employee decides not to return to work ([back to top](#))**

If the employee decides not to return to work at any time during her maternity leave or at the end of her maternity leave, she must notify her manager in writing. Her resignation will take effect on the date her maternity leave would otherwise have ended. Normal contractual notice periods will apply.

### **Statutory right to request flexible working ([back to top](#))**

As a parent of a child age under 16 years, the employee has a statutory right to request flexible working, which could be returning on reduced hours, on a different working pattern or to a different work location.

Detailed information about the [Statutory Right to Request Flexible Working](#) is available on CIS.

### **Breast feeding ([back to top](#))**

The Council is committed to supporting mothers who wish to continue [breastfeeding](#) following their return to work. More detailed information is available on CIS.

### **Annual Leave, Public Holidays and Concessionary Days ([back to top](#))**

Employees are encouraged to take any outstanding annual leave they have earned but not yet taken before starting their maternity leave.

During maternity leave, the employee will continue to accrue annual leave together with any public holidays and concessionary days that fall during this period.

The employee may take in full the leave she has accrued during the period of maternity leave. However, the employee is not permitted to carry forward excess leave beyond the first year after her return into subsequent annual leave years.

### **Essential Car User Allowance and Car Leasing ([back to top](#))**

An employee with essential car user status will continue to receive the essential car user lump sum throughout their maternity leave period.

If the employee participates in the Council's lease car scheme, they must notify ESPO of their maternity leave at the earliest opportunity. The employee may retain their lease car during their maternity leave, but must contact the Employee Service Centre to set up a direct debit payment to cover their monthly contributions during the **unpaid** period of their leave.

## **Health and safety during pregnancy** ([back to top](#))

Under health and safety legislation, a workplace [risk assessment](#) must be carried out on all expectant mothers. If the duties of the job are likely to cause the employee harm, steps must be taken to remove or reduce the risk. Specifically, consideration should be given to:

- adjusting the employee's working hours if she is a night worker and her medical practitioner certifies that it would be detrimental to her health to continue working nights;
- removing the employee from any duties that might pose a risk to her health and safety;
- transferring the employee to an alternative job on comparable terms and conditions;
- "suspending" the employee from work on normal pay until the commencement of her maternity leave if no suitable alternative work is available or would not remove or reduce the risks to her.

## **Miscarriage, stillbirth or neo-natal death** ([back to top](#))

In the event that the employee has a miscarriage (i.e. before the 24<sup>th</sup> week of pregnancy), she will not be entitled to maternity leave or maternity pay. Her absence will be treated as sickness absence and normal sick pay provisions will apply.

If the employee has a stillbirth (i.e. after the beginning of the 24<sup>th</sup> week of pregnancy), she is entitled to receive maternity leave and pay, which will commence on the day after the stillbirth occurred.

If the baby is born alive but dies later, the employee is entitled to full maternity leave and pay.

## **Child care vouchers** ([back to top](#))

Child care vouchers are a "salary sacrifice" scheme. They are paid through the employer and are a way of saving money on child care fees as a percentage of the employee's payment is exempt from income tax and National Insurance contributions.

The Council's child care vouchers scheme is provided and administered by an external provider. Further information is available on CIS.

If an employee already participates in the Council's child care vouchers scheme, they will continue to be eligible to receive child care vouchers during their maternity leave, including the unpaid period.

**Glossary of terms and abbreviations ([back to top](#))**

<b>Additional Maternity Leave (AML)</b>	26 weeks' leave following the period of Ordinary Maternity Leave.
<b>Childbirth</b>	Childbirth means the live birth of a child or a stillbirth after a pregnancy lasting at least 24 weeks.
<b>Compulsory Maternity Leave (CML)</b>	The 2 weeks immediately following the birth when the employee is not permitted to work (included in the Ordinary Maternity Leave period).
<b>Expected Week of Childbirth (EWC)</b>	The week beginning at midnight between Saturday and Sunday in which the baby is due to be born.
<b>Form MatB1 or Maternity Certificate</b>	The certificate issued by a doctor or midwife showing the date that the baby is due. It is available from the 20 <sup>th</sup> week before the expected week of childbirth.
<b>KIT days</b>	Keeping- in-Touch days.
<b>Maternity Allowance (MA)</b>	Women who do not qualify for SMP may be entitled to claim Maternity Allowance (MA).
<b>MAT 01 form</b>	Maternity leave request form (for employees with more than 41 weeks' service).
<b>MAT02 form</b>	Maternity leave request form (for employees with less than 41 weeks' service).
<b>Maternity Pay Period (MPP)</b>	39 week period during which either SMP or Maternity Allowance is paid.
<b>Occupational Maternity Pay (OMP)</b>	Maternity pay paid under the employer's maternity pay provisions.
<b>Ordinary Maternity Leave (OML)</b>	The first 26 weeks of maternity leave.
<b>PEN MAT 04 form</b>	Form to elect to pay LGPS pension contributions for period of unpaid maternity leave.
<b>Statutory Maternity Pay (SMP)</b>	The employee's statutory entitlement to maternity pay.