

## Maternity Leave Policy

This policy is designed to support employees to transition through pregnancy, maternity leave, and returning to work.

This policy does not form part of the Somerset Council Terms and Conditions and may be subject to change.

## Fertility Treatment

Employees will be granted reasonable leave with pay to attend medical appointments for reasons connected with fertility, this includes appointments for scans, tests etc. Further information can be found in the Special Leave Policy ([add link](#)).

## Notification

It is advised that employees notify their [line manager](#) of their pregnancy as soon as practicable to discuss their options for maternity leave.

A completed maternity leave application form ([add link](#)) must be returned to the [line manager](#) by the 15<sup>th</sup> week before the Expected Week of Childbirth (EWC). This form includes:

- confirmation of the pregnancy evidenced by a MATB1 Form
- the expected week of childbirth
- the date the employee would like to commence maternity leave

The [line manager](#) will complete the form and pass to [HR Admin and Payroll](#) who will respond within 28 days providing details of the employees expected date of return.

## Antenatal Care

A pregnant employee has the right to paid time off to attend antenatal care. This includes medical appointments, as well as relaxation and parenting classes recommended by a doctor, health visitor, or midwife. The employee must produce evidence of these appointments if requested to do so.

## Health and Safety Provisions

Pregnant employees, employees who have recently given birth, and those that are breastfeeding are covered by additional health and safety provisions. This protection applies from the time the employee notifies the manager that they are pregnant until six months after childbirth, or until they stop breastfeeding, whichever is latest.

Risk assessments must be carried out to consider any health and safety implications for the employee and their child. Template risk assessments and the Health and Safety Policy can be found here ([add link](#)).

## **Leave Entitlement**

All expectant employees regardless of service are entitled to a total of 52 weeks maternity leave. Maternity leave comprises of 26 weeks Ordinary Maternity Leave (OML) followed by a further period of 26 weeks Additional Maternity Leave (AML).

The leave can commence at any time from the eleventh week before the EWC. If an expectant employee is away from work due to pregnancy-related sickness in the 4 weeks before the EWC their maternity leave and pay will automatically begin.

Compulsory maternity leave refers to the two weeks commencing with the day of childbirth, when an employee who has given birth is not allowed to work by law. This forms part of the OML period.

## **Pay – UNIONS WISH TO CONSULT MEMBERS ON PAY THEREFORE THIS NEXT SECTION IS CURRENTLY OUT OF SCOPE FOR APPROVAL**

### Statutory Maternity Pay (SMP)

The eligibility criteria for SMP are that the employee:

- is pregnant (or the baby has been born) 15 weeks before the EWC
- has been employed by the Council for 26 weeks continuing into the 15<sup>th</sup> week before the EWC
- has earned average weekly payments equal to or more than the lower earnings limit for payment of National Insurance Contributions
- has provided their manager with notification of the pregnancy and the date they intend to start OML

NOTE: Returning to work is not an eligibility criterion for SMP.

An employee placed in legal custody will no longer be entitled to SMP.

### SMP Rates

SMP is paid at two rates (higher and standard). For the first six weeks of maternity leave, SMP will be equivalent to 90% of the employee's average weekly earnings for National Insurance Contributions. This is known as the higher rate.

For the following 33 weeks, SMP is paid at a fixed standard rate, which is set by the Government and is reviewed annually (If 90% of weekly earnings is less than the fixed

amount, then the lower amount will be paid). Statutory Maternity Pay is paid for 39 weeks in total.

Maternity Leave Pay Timeline – Statutory Maternity Pay	
First 6 weeks	90% of normal weekly pay
Following 33 weeks	SMP
Final 13 weeks	Unpaid

### Contractual Maternity Pay (CMP)

Contractual Maternity Pay is available to employees who have completed one year's continuous service by the 11th week before the EWC.

The contractual scheme provides maternity pay for 18 weeks. The first six weeks are paid at 90% of a week's pay. However, the CMP due will be offset by any SMP paid during the first six weeks of maternity leave.

For each of the next 12 weeks, half a week's pay will be received plus SMP (provided that the combination of these two elements does not exceed the normal weekly pay) on condition that the employee has previously declared their intention to return to work for a minimum of three months following maternity leave. The return to work is inclusive of agreed holidays and is unaffected by any change to the hours worked on return.

Maternity Leave Pay Timeline – Contractual Maternity Pay	
First 6 weeks	90% of normal weekly pay
Following 12 weeks	50% of normal weekly pay plus SMP
Following 21 weeks	SMP
Final 13 weeks	Unpaid

If the employee is unsure whether they will return to work, they can opt to receive the 12 weeks half pay on their return to work. In which case the employee will receive SMP only and upon returning to work the half pay element of CMP will be paid.

If an employee fails to return to work for a minimum of three months, HR Admin and Payroll Services will automatically take the appropriate steps to recover the 12 weeks half pay element of CMP as necessary.

### Maternity Allowance

Those who do not qualify for SMP/CMP may be eligible for Maternity Allowance paid directly from the [Department of Work and Pensions](#).

### **Salary Sacrifice Schemes**

If an employee is participating in a Salary Sacrifice Scheme their maternity pay calculation will be based on their reduced salary after the salary sacrifice has been

deducted. Salary sacrifice will continue throughout OML and AML, including the period in which the employee is not receiving a salary. The value of the salary sacrifice can be deducted from any CMP as long as the employee is receiving at least the value of SMP.

If the employee has a lease car, they will be allowed to retain this for the duration of their OML and, if appropriate, AML. The employee will be required to maintain their level of contribution to the private use of the car for this period. Deductions will be made from maternity pay for this purpose however, it may be necessary to make a lump sum deduction to cover the period of unpaid leave or where the maternity pay does not meet the full cost of the contribution.

For further information please consult the Salary Sacrifice Guides ([add link](#)) or contact the [Payroll team](#).

### **Neonatal Leave**

An employee is eligible for neonatal leave if their baby requires neonatal care within 28 days of their birth (and is in hospital for 7 days or more) or is born prematurely (more than 4 weeks early). The employee will be offered special leave (and pay at the statutory parental leave rate) of one week off per week that the baby receives neonatal care up to a total of 12 weeks, this is to be taken after maternity leave.

### **Annual Leave**

An employee's annual leave entitlement, including bank holidays, will accrue throughout their maternity leave. If an employee does not return to work, they will be paid in lieu any leave accrued but not taken.

Where employees are taking maternity leave which crosses the leave year, they will be able to carry over automatically the outstanding leave. It is expected that the manager and the employee will discuss and agree in writing prior to maternity leave starting, how annual leave can best be taken.

### Employees on term-time only contracts

An employee on a term-time contract is in receipt of an extra payment, incorporated into their salary, which is paid in lieu of holiday entitlement. Consequently, instead of accruing holiday during maternity leave this element of salary will be paid on a pro-rata basis according to the period of leave taken.

### **Keeping in Touch**

It is mutually beneficial for contact between the employee and the Council to be maintained throughout maternity leave; to keep the employee informed of any changes and to better support their return to work. This is encouraged under the reasonable contact arrangements of the Maternity Regulations.

An employee can request or be offered (without obligation) a maximum of 10 days work during their maternity leave without bringing the leave period to an end. These days are known as Keeping in Touch (KIT) days. Working part of a day counts as one full day for KIT purposes, any pay received (paid at the employee's normal hourly rate) will be offset against any SMP (daily rate) or CMP (hourly rate). KIT days should be as close as possible in duration to a full working day, as such a manager should not agree to a KIT day being worked for less than the equivalent of two thirds of the normal working day other than in exceptional circumstances.

KIT days may not be worked during the two weeks compulsory maternity leave period.

Employees should use the Keeping in Touch days form ([add link](#)) to record any KIT days worked.

### **Return to Work**

An employee, regardless of length of service, has the right to return to the job in which they were employed prior to taking OML (the initial 26 weeks leave). Employees returning from AML (more than 26 weeks leave), have the right to return to their previously held job or in cases where this is not possible (due to redundancy or reorganisation) to a job on terms and conditions no less favourable than if they had not been absent. "Job" for this purpose, means the nature of the work, which they are employed to do, and the capacity and place in which they are employed.

### Redundancy Protection

Employees at risk of redundancy during maternity, adoption, or shared parental leave are to be offered potential redeployment ahead of other employees. For further information please consult the Redundancy Policy ([add link](#)).

### Establishing a Return Date

An employee is not formally required to provide notice of the intended date of return if it is at the end of 52 weeks maternity leave. However, the employee is encouraged to give an indication of their anticipated return to work date. If an employee does not do this it is automatically assumed that they will return following their full entitlement of leave (after 52 weeks).

### Early Return to Work

An employee must provide 8 weeks' notice if they wish to return to work early. If the required notice period has not been given or a change in circumstances make this return date unmanageable, a discussion should take place to agree a mutually convenient date that is no later than the end of the AML.

An employee's return to work cannot be delayed providing they have given formal notice to return as outlined above or the return date is the end of their full entitlement (52 weeks).

### Not Returning to Work

An employee may decide not to return to work. If they are not returning, they should provide the appropriate written notice.

### Sickness on Return Date

If the employee is unable to return after AML due to ill health as certified by a doctor, their employment continues as if they had returned from maternity leave. The absence will be treated as sick leave and handled in accordance with the Sickness Absence Management Policy ([add link](#)).

### **Career Breaks**

Employees seeking a career break directly following maternity leave will, if possible, let the Council know of their intention before going on leave. Employees are advised not to resign and commit to a career break until after the birth. Further information on career breaks can be found by consulting the policy ([add link](#)).

### **Flexible Working Requests**

All employees have the right to request flexibility in working arrangements. Further information can be found in the Flexible Working Policy ([add link](#)).

### **Breastfeeding**

An employee planning to continue breastfeeding upon their return to work should make their line manager aware so that arrangements can be made, and a further risk assessment completed. The risk assessment ([add link](#)) ensures that the employee is not exposed to conditions that may affect them or their child. While breastfeeding and/or expressing, paid time off will be granted as required. The Council has facilities for breastfeeding and/or expressing milk. Further information on this can be found in the Breastfeeding Guidance ([add link](#)).

### **Pension**

If the employee is a member of the Local Government Pension Scheme, deductions for pension will be made automatically on all SMP received during the paid period of maternity leave. Consequently, periods of paid leave will count towards pension.

If an employee wishes, they can elect to pay contributions for the unpaid period of AML when they return to work in order that this period can be counted for pension purposes. Further information on this can be found in the Pensions Policy ([add link](#)) or by contacting Peninsula Pensions ([add contact details](#)).

### **Shared Parental Leave**

New Parents are entitled to statutory shared parental leave (SPL) if they meet eligibility requirements. Further information can be found in the Shared Parental Leave Policy ([add link](#)).

### **Bereavement**

Parents who experience the death or still birth of a child will be supported through the Somerset Council Parental Bereavement Leave Policy ([add link](#)). In circumstances where the baby dies or is still born after the 24th week of pregnancy then normal maternity entitlements will apply.

Where miscarriage or still birth occurs earlier than the 24th week of pregnancy, sympathetic consideration will be given to compassionate leave ([add link](#)). In the event of a miscarriage the employee's protected period, as laid out in the Equality Act 2010 ([add link](#)), will last for two weeks.

The Pregnancy and Early Infant Loss Managers Guide ([add link](#)) contains information, guidance, and signposting to supporting organisations for both employees and managers.

Version	1
Date	
Relevant Legislation	Equality Act 2010 The Maternity and Parental Leave Regulations 1999