

### Maternity and paternity policy

#### 1.0 - Introduction

1.1 - This policy applies to all Medway Council employees regardless of the number of hours worked (except those appointed by School Governing Bodies, and teaching staff covered by the Pay and Conditions Document).

1.2 - The guiding principle of this policy is that an employee who becomes pregnant should suffer no discrimination or detriment in terms and conditions of employment (apart from remuneration) as a result of that pregnancy. This guidance principle is support by The Equality Act 2010, Working Families Act 2006, Employment Rights Act 1996 and the Employment Act 2002. best implemented by treating the employee on maternity absence in the same way as if she would have been treated if she were still at work.

#### 2.0 - Health and Safety

2.1 - On being notified that an employee is pregnant a Pregnancy Risk Assessment will be undertaken to ensure any risks to the health and safety and any adverse effects on pregnant or breast-feeding employees and their children, including the unborn, have been identified. If there is any risk appropriate action will then be undertaken to eliminate or reduce the risk to an acceptable level. If the risk remains the employee will be offered a temporary variation to working hours, duties or working conditions (on terms and conditions not substantially different from those on which she is normally employed). If no suitable alternative work is available, the employee will be suspended on full pay so long as the risk remains.

#### 3.0 - Ante-natal Care

3.1 ~~— Employees are entitled to statutory time off with pay. Time-off with pay will be granted.~~ After the initial appointment the line manager may request sight of the MAT B1 and/or evidence of the appointment.

#### 3.2 - Vitro Fertilisation (IVF) Treatment

Medical appointments related to IVF will be treated the same as any other medical appointment as per the Sickness Absence policy. If individuals need half a day or more to attend an appointment, and don't want this recorded as sickness absence, they may arrange with their manager to use annual leave, flexi or unpaid leave. Sometimes employees may not be able to work due to the effects of IVF treatment and this would be managed under the Sickness Absence Policy, however, any absence will not be counted towards any sickness absence triggers and would not be used for disciplinary purposes.

In the last part of the IVF process, fertilised eggs are placed inside the woman's body. This step is called embryo transfer. If one of the eggs attaches itself inside her

body, this is called implantation and she is regarded as pregnant. The individual will then need to wait two weeks to take a pregnancy test to confirm whether implantation was successful. Once an employee reaches the implantation stage of the process they should inform their line manager as from this point on, until they take a pregnancy test, they are considered pregnant and will be covered by the Maternity Policy. If the pregnancy is confirmed the individual would follow the normal Maternity process. It is important to note, that the individual will continue to be treated as pregnant for two weeks after they are informed that implantation was unsuccessful.

If individuals have any appointments related to their pregnancy, during the protected period detailed above, then this time off should be given to them paid as per the Maternity Policy. Managers should also give consideration to any health and safety risks and consider doing a pregnancy risk assessment.

#### **4.0 - Notification of Pregnancy**

4.1 - In order to assist the Council in its health and safety responsibilities it is advisable that notification is made at an early stage in the pregnancy and preferably written notification of pregnancy (using form [PMC003](#)) together with the MAT B1 should be given to the employee's line manager in or before the 15<sup>th</sup> week before the Expected Week of Childbirth\* (EWC); the minimum notice period is 28 days before the absence commences. That notification must include the fact that the employee is pregnant, the EWC and the intended start date of maternity leave (28 days notice of any subsequent change to this date must be given by the employee).

4.2 - The line manager should pass this notification to HR Services who will, within 28 days of this notification, reply in writing informing the employee of their entitlements.

#### **5.0 - Maternity Leave and Pay**

##### **5.1.0 - Commencement of Maternity Leave**

5.1.1 - The employee can choose to start their maternity leave at any time from the 11<sup>th</sup> week before the EWC up to the day of the birth (when maternity leave will automatically commence on the following day). If, however, the employee is absent for a pregnancy-related reason after the beginning of the 4<sup>th</sup> week before the EWC then maternity leave period will begin on the following day.

##### **5.2.0 - Maternity Leave and Pay Entitlement**

5.2.1 - All employees whose EWC is on or after 1<sup>st</sup> April 2007 will be entitled to take 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave.

**5.2.2 - Individual leaving employment prior to 11th week before expected week of childbirth (EWC)**

If the individual ceases employment with the council on or before the 11th week before their EWC they will not be entitled to contractual maternity leave or pay. The employee may be entitled to Statutory Maternity Pay in these circumstances and can check their entitlement on the Gov.Uk website <https://www.gov.uk/maternity-pay-leave>.

5.2.32 - During maternity leave employees will be entitled to the following pay:

<b>Employee Circumstances</b>	<b>Maternity Allowance from Department of Work and Pensions (DWP)</b>	<b>90% of your Pay for the first 6 weeks of Maternity Leave</b>	<b>50% of your Pay from week <del>6</del>7 to <del>12</del>8 of Maternity Leave (or <del>9/10ths of contractual pay if this is less than SMP and not to exceed full pay)</del>)</b>	<b>SMP from week <del>6</del>7 – 39 of Maternity Leave (or <del>9/10ths of contractual pay if this is less than SMP and not to exceed full pay)</del>)</b>
Less than 26 weeks service by the end of the 15 <sup>th</sup> week before the EWC <del>(or all employees whose earnings are below the Lower Earnings Limit)</del>	Employee to check with DWP	No	No	No
More than 26 weeks service by the end of the 15 <sup>th</sup> week <del>prior to</del> before the EWC but less than 1 year's service <del>at the 11<sup>th</sup> week before the EWC</del>	N/A	No	No	Yes <del>(and SMP from week 1-6)</del>
<del>More than 26 weeks service but less than 1 year's service at the 11<sup>th</sup> week before the EWC</del>	<del>N/A</del>	<del>Yes</del>	<del>No</del>	<del>Yes</del>

At least 1 year's service <del>at the 11<sup>th</sup> week before the EWC and not intending to return to work</del>	N/A	Yes	No	Yes
At least 1 year's service <del>at the 11<sup>th</sup> week before the EWC</del> and intending to return to work for at least 3 months	N/A	Yes	Yes	Yes

5.3 - If an employee declares their intention to return to work and receives the additional ½ pay for twelve weeks and then fails to return to work for a period of 3 months, they will be liable to repay the 12 weeks ½ pay element. This requirement may be waived in exceptional circumstances at the discretion of the Director.

5.4 - Relevant employees can request that the additional ½ pay for 12 weeks is distributed in another mutually agreed way. An employee may also choose to defer the additional ½ pay for 12 weeks' and receive this pay after having completed the necessary 3 months service after returning to work.

5.5 - Line managers should keep in touch with employees who are on maternity leave and intending to return to work. The employee should be advised of vacancies within the council, significant workplace developments and learning and development opportunities.

## 6.0 - Employment Conditions

### 6.1 - Annual Leave

During maternity leave annual leave will accrue, Public Holidays will be granted and sick leave entitlement will be earned. However, when choosing a date to commence maternity leave employees should take into account the rules governing the carry over of annual leave from one leave year to the next. Alterations to this rule will only be made in exceptional circumstances and at the discretion of the Director. It is important therefore that employees ensure that annual leave is used up prior to commencing maternity leave to ensure that no entitlement to leave is lost. Annual leave requested at the end of the maternity leave period will be with the approval of the line manager as with all annual leave requests.

### 6.2 - Pension

**Individual employees are advised to check to see how their pension contributions will be affected.** In summary, when commencing maternity leave and whilst in receipt of maternity pay, pension contributions will be based on the pay entitlement of the employee. On returning from leave the employee has the option of paying pension contributions for the period of unpaid maternity leave. This will be based on the amount of pay in receipt at the end of the paid element of maternity leave. For pension purposes, if contributions are paid, the period of maternity leave

will be treated as if the employee had remained at work and the absence had not occurred.

### 6.3 – Car Allowance

Employees who have Essential Car User status are entitled to receive the appropriate lump sum allowance during their period of maternity leave. Payment in full will be made for the full period of maternity leave.

6.4 - Employees with lease cars shall retain the use of the car during the maternity leave period and continue to make contributions through the payroll system.

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

6.5.1 - Employees on maternity leave are able to work up to ten KIT days during their period of maternity leave. Working for part of a day will count as one KIT day.

6.5.2 - The employee will be paid for the hours worked on the KIT day, less any Statutory Maternity Pay/Occupational Maternity Pay already in payment for that day.

### 7.0 - **Returning To Work**

7.1 - It will be assumed the employee will return to work at the end of appropriate maternity leave period. If they wish to return to work before this date they must notify their line manager in writing before their new intended return date, or if that is not reasonably practical, as soon as reasonably practicable (7 days notice is required if they are on ordinary maternity leave or 21 days notice if they are on additional maternity leave). Where the required notice is not given, line managers may postpone the early return to meet the notice periods set out above, but not beyond the end of the maternity leave period. Return to work is not permitted within 2 weeks of childbirth.

7.2 - Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

7.3 - An employee will be able to return to the job she was employed in before she commenced her maternity leave and on terms and conditions no less favourable than those that would have applied had she not been absent.

7.4 - If a re-organisation occurs whilst the employee is on maternity leave she will be treated as if she was not absent. For example, if the employee's post becomes redundant due to a reduction in staffing levels, she is entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done is suitable to her and appropriate to the circumstances, and the capacity and place in which she is employed and on terms and conditions that are not substantially less favourable than those of her original post. It is unlawful for an employee to be selected for redundancy because she is on maternity leave or for any reason associated with her pregnancy.

### 8.0 – **Paternity/ Maternity Support Leave**

8.1 - A block of five or ten days paid leave of absence is granted to the child's father or the partner of the mother at or around the time of birth, ~~to provide assistance and support~~ (this leave is also granted in relation to an Adoption).

8.2 - Should the child's father or the partner of the mother wish to take additional leave, they should refer to the Shared Parental Leave policy.

8.3 - Paternity Leave should be taken at the time of birth or within 56 days of the child's birth or, if the child is born early, up to 56 days after the Expected Week of Childbirth (EWC).

8.4 - Employees must notify their line manager of their intention to take Paternity Leave by the 15<sup>th</sup> week before the EWC. They should inform their line manager of the EWC, whether they wish to take five or ten days leave and the date they wish to start their leave (28 days notice is required for any change to this date). All employees requesting Paternity Leave should sign the self-certification and request form and supply a copy of the expectant mother's MAT B1 certificate (or Matching Certificate for an Adoption). The line manager will send these documents to HR Advice, 3<sup>rd</sup> floor, Gun Wharf.

8.5 - Paid Paternity Leave granted under these contractual arrangements runs concurrently with the statutory provision of Ordinary Paternity Leave and Statutory Paternity Pay which means that ten days will be the maximum leave granted. The contractual pay will be reduced by the amount of Statutory Paternity Pay received (where eligible) so that full pay is not exceeded

## **9.0 - Right to apply to work flexibly**

9.1 - Parents of young, or disabled children have a statutory right to request flexible working. Eligible employees are parents of children aged under 17, or of disabled children aged under 18. In considering any request, the line manager has to strike an objective balance between the business and operational needs and the preferences of the individual employee ~~and her personal circumstances~~. Full details of this right and the procedure to be followed have been included in the Council's Flexible Working Scheme.