

GUIDE TO MATERNITY PROVISIONS

This guidance applies to all employees with the exception of teachers. Teachers should refer to [SNCT Handbook](#).

A guide to:

1. Entitlement to Maternity Leave
2. Entitlement to Paid Leave
3. Notification Procedures
4. Contact During Maternity Leave
5. Effect on Terms and Conditions of Service

SECTION 1 - ENTITLEMENT TO MATERNITY LEAVE

You will be entitled to maternity leave provided that you:

1. Continue to be employed at the last working day before the 11th week before the Expected Week of Childbirth
2. Continue to be pregnant at the 24th week of pregnancy
3. Cease to work for the Council because of pregnancy or childbirth
4. Satisfy the notification procedure criteria outlined in Section 3

All pregnant employees are entitled to take up to 52 weeks' maternity leave, regardless of length of service. Maternity leave is a single continuous period and consists of 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML).

SECTION 2 - ENTITLEMENT TO PAID LEAVE

- > Employees must have 26 weeks' qualifying service in order to be eligible for statutory maternity pay during maternity leave.
- > Employees who are only entitled to Ordinary Maternity Leave have no entitlement to any paid leave from the Council. You may be able to claim Statutory Maternity Pay (SMP) or Maternity Allowance (MA) from the DWP.
- > Employees who are entitled to Ordinary Maternity Leave and Additional Maternity Leave are eligible for the following payments, providing you are entitled to Statutory Maternity Pay.
- > Statutory Maternity Pay is payable for a maximum of 39 weeks. The maternity pay period can begin any time after the start of the 11th week before the Expected Week of Childbirth.

Service	Intention to Return to Work for at least Three Months	Payments
Less than 26 weeks' continuous service by the 15 th week before the Expected Week of Childbirth (OML)	N/A	Nil from Council. You may be able to claim SMP or MA from DWP.
At least 26 weeks' continuous service by the 15 th week before the Expected Week of Childbirth (OML & AML)	No and/or resigned/End of Fixed Term Contract	<ul style="list-style-type: none"> • 6 weeks @ 100% salary • 33 weeks @ SMP • Remaining period of leave is unpaid
At least 26 weeks' continuous service by the 15 th week before the Expected Week of Childbirth (OML & AML)	Yes	<ul style="list-style-type: none"> • 6 weeks @ 100% salary • 20 weeks @ 50% salary plus SMP • 13 weeks @ SMP • Remaining period of leave is unpaid
If continuously employed by any local authority since 30 June 1999 with at least 1 year's reckonable service by the 11 th week before the Expected Week of Childbirth and excluded from SMP	No	<ul style="list-style-type: none"> • 6 weeks @ 100% salary • Remaining period of leave is unpaid <p>You may be able to claim MA from DWP.</p>
If continuously employed by any local authority since 30 June 1999 with at least 1 year's reckonable service by the 11 th week before the Expected Week of Childbirth and excluded from SMP	Yes	<ul style="list-style-type: none"> • 6 weeks @ 100% salary • 20 weeks @ 50% salary • Remaining period of leave is unpaid <p>You may be able to claim MA from DWP. Please advise the Payroll & Reward Team if you receive SMP or MA from DWP.</p>

Entitlement to Statutory Maternity Pay is dependent on the following:

- You must have 26 weeks' continuous service by the 15th week before the Expected Week of Childbirth.
- Your average weekly earnings must be at least equal to the Lower Earnings Limit for National Insurance Contributions.
- You should give your employer at least 28 days' notice of your intention to take maternity leave or have good reason for providing less notice.
- You must submit your Maternity Certificate (MatB1) normally within 14 days before the start of your maternity leave and not later than within 3 weeks of the start of your Maternity Pay Period other than in exceptional circumstances.
- You should notify your employer of the birth of your baby within 4 weeks of the date of birth.
- You are not in legal custody at the beginning of your Maternity Pay Period.

Definition of Qualifying Service for Statutory Maternity Pay Purpose

- **Qualifying Service.** is when an employee has worked 26 weeks continuously for one employer without a break continuing into the 15th week before the expected week of childbirth.

Definition of Service for Occupational Maternity Pay Purpose

- **Continuous Service** is continuous service with any local authority, or other employer deemed by the Council to be appropriate.
- **Reckonable Service** applies only to those employed by the Council or any authority prior to 1 July 1999 and is all previous service with any local authority, or other employer deemed by the Council to be appropriate. This service does not have to be continuous.

Refer to the [Redundancy Payments \(Continuity of Employment in Local Government etc\) \(Modification\) Order 1999](#) for guidance.

Additional Maternity Leave – Salary Payments

Employees who qualify for pay during Additional Maternity Leave and who intend to return to work may elect to receive payment of 50% salary during maternity leave for up to 20 weeks or suspend payment until their return.

Should you elect to receive payment of 50% salary during your maternity leave and subsequently decide not to return, or you return for less than 3 months, you will be required to refund to the Council a proportion of the amount of half pay paid to you for the 20-week period. The proportion will be determined with reference to the percentage of the period worked in the three-month period.

Where a fixed term contract has insufficient time remaining to allow a return to work for 3 months or more, following maternity/adoption leave, the employee will not be eligible to receive the full 20 weeks of 5/10ths (half) pay. The Payroll and Reward Team will assess the level of half pay due (if applicable) based on contract status and period of return to work. Payment will be made either at the end of contract, or once the employee has returned to work for 3 months.

Definition of Normal Pay

Normal pay during maternity leave is normal basic pay plus any contractual payments, ie night working or shift working. If you are in receipt of half pay plus SMP, the Council will pay a sum equal to half normal pay, so that this sum when added to the SMP does not exceed your full normal pay.

During maternity leave, unlike your salary, what is being paid to you is based on weeks not months which may fluctuate, depending upon when you start your maternity leave.

SECTION 3 – NOTIFICATION PROCEDURES

The following sets out the obligations on both the employee and the employer:

Timescales	Employee Obligations	Employer Obligations
Not later than 15 th week before Expected Week of Childbirth	Provide at least 28 days’ written notification of your intention to commence maternity leave. Refer to Application Form for Maternity Leave and/or Pay (available from Employee Support)	Respond to the employee in writing, confirming their leave and pay entitlements normally within 14 days where practical but in any event within 28 days.
Not later than 14 days before the start of your maternity leave	Submit MatB1 to your Line Manager/Employee Support as soon as possible.	Line Manager/Employee Support will forward MatB1 to the Payroll & Reward Team to ensure SMP is paid, where applicable.
During maternity leave	Advise your Line Manager/ Employee Support of the date of birth of your child for information purposes.	Details to be held on personnel file.

During maternity leave Two months' written notice required	Should you wish to return before the end of the maternity leave to which you are entitled (date confirmed in letter from employer), you are required to give at least two months' written notice to your Line Manager/ Employee Support. Please note that, if you return before the end of the 26 weeks when SMP is being paid, entitlement to SMP ends immediately.	Line Manager/Employee Support will consider your request and confirm whether your proposed return date is acceptable. If insufficient notice is given, your return may be deferred by up to two months.
At least 28 days before your intended return date	Should you wish to Request to Work Flexibly, at least 28 days' notice should be given to your Line Manager using the Flexible Working Application Form	Your Line Manager will consider your request and respond to you in accordance with the Council's agreed application process and timescales.

SECTION 4 - CONTACT DURING MATERNITY LEAVE

□ *Keeping in Touch (KIT) Days*

KIT days have been designed to help ease your eventual return to work from maternity leave and make it easier for you to keep in touch with the Council during this period. This means you carry out up to 10 days' paid work during your maternity without bringing your leave to an end, and without affecting your SMP. This could be useful where managers wish to hold briefings on major changes within your Service or bring all employees together for training.

KIT days can only be arranged by mutual agreement between you and your line manager and can be used for any work done under your contract of employment. KIT days can be worked before or after the birth however, they cannot take place during the compulsory 2 week leave period immediately following childbirth.

If you decide to undertake KIT days, whether you only work a few hours or a whole day, it will still be counted as one day for "KIT" purposes and you will be paid for the hours actually worked. For example, it cannot be agreed that you will work 20 half days.

KIT days are often useful to help trial childcare arrangements. The payment that you receive for a KIT day will be determined by the stage you have reached during your maternity leave. TOIL may be used where possible, as an alternative.

□ *Reasonable Contact*

In addition to KIT days, the Council has the right to make reasonable contact with you during maternity leave. You are therefore encouraged to maintain reasonable contact with your Line Manager and Human Resources. Such contact could involve talking about return to work plans or updating staff about what has been happening in the workplace.

In addition, you can expect your Line Manager to forward you copies of newsletters and to notify you of any significant changes that may impact on you on your return. Examples of significant changes would include organisational changes within your Service, changes in your team/section and changes to working practice.

Contact during maternity/adoption leave should be in line with the needs of the employee and the team and will vary from situation to situation. It is advised to agree how often contact will be made and by what means, prior to the employee commencing their adoption/maternity leave.

The needs of the employee may change during the period of the adoption/maternity leave and managers should adjust levels of contact as required to ensure the employee feels supported throughout. Should there be any changes within the Council, including any potential development opportunities for the individual, the agreed schedule of contact should be adjusted to ensure the employee is not disadvantaged.

Further guidance on keeping in contact with and supporting employees during periods of maternity/adoption leave can be found here [Planning maternity leave - Managing pregnancy and maternity - Acas](#)

SECTION 5 – EFFECT ON TERMS AND CONDITIONS OF SERVICE

- ***What Happens if I Am Unwell Prior to Starting My Maternity Leave?***

- Maternity leave will start automatically if you are absent from work for a pregnancy-related illness during the four-week period before the start of your Expected Week of Childbirth.
- If the reason for your absence is unconnected with your pregnancy, e.g. broken leg, you may be certified by your GP as medically unfit up to the start of your Expected Week of Childbirth.

However, if you have already given written notice of the date you intend to start your maternity leave, your leave will automatically start from not later than your chosen date, regardless of the reason for your illness or injury.

- ***What Happens if My Baby is Born Early?***

Your maternity leave will automatically start the day after your baby is born.

- ***What Happens if I fall Pregnant while on Maternity Leave?***

Your entitlement will be dependant upon your individual circumstances. Your average weekly earnings in the eight weeks up to and including the qualifying week must not be less than the lower earnings limit for national insurance contributions in order to qualify for SMP. You must notify your Line Manager/Employee Support as soon as you have received your MatB1 Form so that your entitlement and options can be identified and discussed with you. You may be required to return to work earlier than expected in order to qualify for further SMP.

- ***Health and Safety Implications***

Both you and the Council have a responsibility to ensure no risks are taken during pregnancy and on your return to work if you are breastfeeding. This is one of the main reasons you should inform your Line Manager/Human Resources early into your pregnancy. It is essential that a [risk assessment](#) is carried out as soon as practical during your pregnancy and again if you have returned to work within six months of the birth of your baby, or are still breastfeeding. Guidelines have been issued to Services on the type of risk assessment to be carried out which include assessing working arrangements, equipment used, chemicals used, working conditions, etc.

□ **Ante-Natal Care**

You are eligible for reasonable paid time off work to attend antenatal appointments as advised by your doctor, registered midwife or registered Health Visitor.

In order to be entitled to take time off for antenatal care, you are required to produce a certificate from your doctor, registered midwife or registered health visitor, stating that you are pregnant.

Except in the case of the first appointment, you 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, breastfeeding and parent craft classes that your doctor, midwife or health visitor has advised you to attend, in addition to medical examinations.

You should endeavour to give your 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.

From 1 October 2014, the Children and Families Act (2014) introduces a statutory right for prospective fathers or a mother's partner to take time off to accompany the mother to two ante-natal appointments. Prospective fathers or partners (including same sex couples) wishing to do so should use flexi leave or annual leave.

□ **Annual Leave**

All employees will accrue annual leave during maternity leave. Prior to going on maternity leave, your proportionate annual leave will be calculated up to the end of the 26-week Ordinary Maternity Leave period. This may be taken before your maternity leave starts or on your return.

Annual leave and authorised public holidays accrued during the unpaid 26-week Additional Maternity Leave period may only be taken upon your return to work.

All annual leave should be taken following discussion with your line manager, generally within the current leave year (where time allows) or at the earliest opportunity within the following leave year.

□ **Public Holidays**

All employees will be entitled to a day off in lieu for each authorised public holiday that falls within your entire maternity leave period. An authorised public holiday is one to which you would normally be entitled, ie one that is observed by your employee group.

Any days off in lieu of public holidays should only be taken upon your return to work following discussion with your line manager. Generally, any days off in lieu of public holidays should be taken within the current leave year (where time allows) or at the earliest opportunity within the following leave year.

□ **Pension Contributions**

You will continue to pay pension contributions during your paid period of maternity leave.

Please note that Local Government Pension Scheme payments will not be made if you are on a period of authorised unpaid leave. If you are in the 50/50 section of the LGPS and you go onto authorised unpaid leave, you will be placed in the main section of the LGPS from the beginning of the next pay period.

If you wish to buy back any lost pension when you return to work, you must complete an [Additional Pension Contribution Form](#) which is available on our [Retirement and Pensions page](#) on the Council's website and submit it to payrollandreward@pkc.gov.uk in order to obtain a written statement showing the total amount of lost pensionable pay during your period of absence. If you complete this process within 30 calendar days of your 'return to work' date, Perth & Kinross Council will contribute to the cost of missed pension contributions, with the split being 1/3rd employee, 2/3rds employer. Your 'return to work' date for this purpose is the first working day after the period of unpaid leave so it is important that you act early to benefit from the cost sharing provision. To start this process, please read the [Guidance Notes](#) and send the completed Application to the Payroll & Reward Team.

It is possible to complete this process outwith the 30-calendar day period, however no contribution will be made by Perth & Kinross Council, resulting in you being liable for the full amount.

□ **Right to Request to Work Flexibly**

On returning to work from maternity leave, you may wish to consider changing the hours that you work, the times when you work, or you may wish to work at home for all or part of your working time.

Requests to work flexibly should be made to your Line Manager, using the Flexible Working Application Form. You should allow as much time as possible for your Line Manager to consider your application and for any necessary arrangements to be put in place prior to your return, if your request is approved.

□ **Career Breaks**

Career breaks may be linked onto the end of a period of maternity leave. However employees who choose to take a career break following the end of their unpaid Additional Maternity Leave and have received payment of 50% of their salary during this period will be required to return to work for the 3 month period prior to the commencement of the career break.

□ **Maternity Benefit on Resignation**

If you qualify for Additional Maternity Leave but do not intend to return to work and you submit your resignation, the Council will pay maternity pay for 6 weeks @ 100% salary and 33 weeks @ SMP. This is provided your resignation takes effect no earlier than the 11th week before your Expected Week of Childbirth.

□ **Other Benefits**

During Ordinary Maternity Leave and Additional Maternity Leave periods, you are entitled to the same terms and conditions of employment as if you had not been absent. You have the right to return to the same post. For further details of this provision, you should consult with Human Resources.

□ **Special Provisions**

Where an employee is eligible for Maternity Leave but has chosen instead to terminate their employment, and the child has unfortunately not survived, the employee shall be entitled to return to employment with the Council, although not necessarily to the same post, grade or salary, provided that:

- a) A suitable vacancy exists, and
- b) They give their Line Manager/Human Resources at least 28 days' notice in writing of the proposed date of their return to work which must be within the relevant maternity leave period, and
- c) They submit a written statement from their GP which indicates that they are medically fit to resume work.