



Colchester  
City Council

# Occupational Maternity Leave and Pay Scheme Policy

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## **Occupational Maternity Leave and Pay Scheme**

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## **Occupational Maternity Leave and Pay Scheme**

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### **1. Introduction**

- 1.1 The Council's maternity leave and pay scheme applies to all pregnant employees who have a substantive job with the Council regardless of service and number of hours worked. It does not apply to casual workers who are only entitled to statutory maternity provisions.
- 1.2 There are a number of abbreviations and definitions which are used when dealing with maternity pay and leave. The most common are:

#### **Statutory Maternity Pay (SMP) –**

This is the legal provision made for payment during and after pregnancy. SMP is paid at two rates, lower and higher.

#### **Occupational Maternity Pay (OMP)**

This is the amount of maternity pay which Colchester City Council pays in addition to Statutory Maternity Pay.

#### **Maternity Allowance (MA) –**

The benefit payment made to employees directly from the government who do not qualify for SMP.

#### **Maternity Pay Period (MPP) –**

This is the period during which SMP is payable.

#### **Week Baby Due (WBD) –**

This is the week during which the baby is due.

#### **Qualifying Week (QW) –**

This is the 15<sup>th</sup> week before WBD.

#### **Week –**

Seven days starting with a Sunday.

#### **A Week's Pay**

The term “a week's pay” for employees under occupational maternity pay is the amount payable by the authority to the employee under the current contract of employment for working her normal hours in a week. For Statutory Maternity Pay purposes “a week's pay” is determined by earnings falling in the relevant period, according to statutory guidelines.

#### **Confinement**

Confinement means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy.

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### **2. The Scheme in Operation**

- 2.1 **Antenatal Care** – pregnant employees have the right to paid time off to attend for antenatal care. Employees will be expected to provide evidence of these appointments on request.

#### **2.2 Maternity Leave Entitlement**

All pregnant employees included in the scheme may if they wish:

- start their maternity leave at the beginning of the 11<sup>th</sup> week before the WBD
- have 26 weeks Ordinary Maternity leave, and
- a further 26 weeks Additional Maternity Leave.

These are the maximum limits. An employee may either start her maternity leave later than the 11<sup>th</sup> week or return earlier. An **employee** may not return to work within two weeks of the birth.

If an employee wishes to remain at work later than 4 weeks before the WBD, she may be required to provide a certificate from her doctor stating she is fit to work.

#### **2.3 Statutory Maternity Pay (SMP)**

All pregnant employees are entitled to a maximum of 39 weeks' SMP if:

- The employee has been working for her present employer without a break in her employment for at least 26 weeks, ending with the qualifying week, which is the 15<sup>th</sup> week before the week the baby is due
- Their average weekly earnings in the 8 weeks up to and including the qualifying week (or equivalent period if they are paid monthly) have been at least equal to the lower earnings limit for National Insurance contributions
- The employee gives her employer proper advance notification of her intentions
- For the first 6 weeks payment will be at the rate of 90% of the average weekly earnings. For the following 33 weeks payment will be the lowest amount of either 90% of the average weekly earnings **or** the flat rate of Statutory Maternity Pay.

#### **2.4 Occupational Maternity Pay (OMP)**

##### **Entitlement**

Occupational Maternity Pay is paid to employees **provided** that they return to work for a minimum period equivalent to 20 weeks on their original contractual terms. If an employee returns to work on less hours than her original contract, then the 20 weeks will be extended to take this into account.

- 20 weeks half pay **plus** SMP, except where the combination of these payments exceeds the normal full pay, when a reduction will be made to bring it back to this amount

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- If the pregnant employee is not returning to work or has asked to defer her 20 weeks half pay then she will only be paid her SMP. If she has deferred her half pay and then subsequently returns to work, the deferred pay will be paid to her in the normal way.

Occupational maternity pay is calculated for payment based on the employee's contractual conditions and rate of pay as if they had been at work throughout the maternity leave. For example, if for the first 3 months of your maternity leave you would have been acting up to a higher graded post, then your occupational maternity pay would be calculated at this higher rate of pay for this period.

### **2.5 Short Term Contracts**

Any employee on a temporary or fixed term contract which expires during her maternity leave will not be entitled to Occupational Maternity Pay, although they may have an entitlement to SMP.

If the contract is due to end or is extended beyond a potential return to work date, Occupational Maternity Pay may be payable, however this will be decided by Human Resources on an individual basis.

### **2.6 Contact during Maternity Leave**

During the maternity leave period then reasonable contact may be made by either the employee or her manager.

The frequency and nature of the contact will depend on a number of factors, for example:

- the nature of the employees work
- any agreement made before the start of Maternity Leave
- the type of information that needs to be passed on, eg changes in work arrangements, or changes to return to work dates.

The frequency and way contact is made should be agreed before the employee starts her Maternity Leave.

### **2.7 Keeping-In-Touch (KIT) Days**

Employees are entitled to have up to 10 days "work" whilst on maternity leave. This is different to keeping in contact as above, as it allows the employee to carry out "work". Work could be attending a seminar/training day or attending team meetings. Arrangements for Keeping in Touch Days should be discussed and agreed between the employee and her manager before the start of Maternity Leave.

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These days can be taken at any time during the maternity leave period except for during the first two week after the baby is born.

These days can only be worked with agreement from both sides, an employee is entitled to say no, if offered the opportunity.

Payment for Keeping-In-Touch (KIT) days is the same salary, ie 1/30<sup>th</sup> of monthly salary or Time-Off-In-Lieu (TOIL) via the flex sheet if preferred.

**2.8 Maternity Pay and Local Government Pension Scheme** – all payments under the scheme and SMP/MA are treated as income and are liable for income tax and national insurance deductions. Local Government Pension is payable throughout the MPP and although the contribution is calculated at the lower rate of pay received, the contribution is credited at the full rate that would have applied had the employee not been on maternity leave. Contributions outside of the MPP are calculated on return from unpaid leave, but the employee does not have to make these contributions unless she wishes to. Payment if wished is made via an Additional Pension Contribution (APC) contract.

**2.9 Annual Leave** – employees continue to accrue annual leave until they commence maternity leave and are entitled to this whether or not they return to work.

Employees are also able to accrue annual leave whilst they are on their maternity leave. If an employee decides not to return to work after her maternity leave and her employment is terminated, any outstanding annual leave that she is entitled to, including the annual leave accrued during her maternity leave, will be paid in her last month's pay.

Whilst on maternity leave employees continue to accrue statutory holidays and these additional days therefore need to be added to any leave entitlement calculated.

Employees will only be able to carry over 5 days' leave to their new leave year. Therefore, arrangements should be made to ensure the employee is aware of her entitlements and speak to her manager regarding taking her annual leave. Some flexibility can be given over when the leave is taken.

**2.10 Relationship to Sickness Entitlement** – Maternity Leave is regarded as continuous service for the purpose of calculating sick leave entitlement, but maternity leave is not treated as sick leave and is not therefore taken into account when calculating sickness entitlement.

If an employee is absent due to sickness for reasons concerned with her pregnancy, after the 4<sup>th</sup> week prior to the WBD then this will be treated as the beginning of her maternity leave and not sick absence.

**2.11 Right to Return to Work** – employees on maternity leave have the right to return to work to the job she was employed in before she went on maternity leave. If this is not possible, then this will be confirmed in writing to the employee with the reasons, and where possible offered a post with similar responsibilities. Her terms and conditions of employment must not be any less favourable than they would have been had she not been absent.

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If the return to work is disrupted because of an interruption at work (for example, industrial action) then the employee may return as soon as work resumes or as is reasonably practicable.

### **3. Employee Responsibilities before Maternity Leave**

- Pregnant employees must advise their manager in writing and no later than the 15<sup>th</sup> week before their due date, the following:
  - i. that they are pregnant
  - ii. when they are due
  - iii. when they wish to start their maternity leave.

Practically an employee may wish to notify her manager about her pregnancy at an earlier date, and then confirm her maternity leave arrangements, and requirements regarding any entitlement to Occupational Maternity Pay at a later date, but no later than 15 weeks before her due date.

- If an employee wishes to change the start date of her maternity leave, this needs to be in writing and done either 28 days before her start date or 28 days before the new date, whichever is earlier.
- The employee passes her original MAT B1 certificate of expected confinement from her doctor or midwife, to her Manager.

#### **In addition to this employees must:**

- Continue to be employed by the Council (whether or not physically at work) until immediately before the beginning of the 11<sup>th</sup> week before WBD
- Confirm their decision whether to receive or defer her 20 weeks' half-pay
- Must remain at work for a minimum period equivalent to 20 weeks on her original contractual terms, on her return to work, otherwise she will be required to pay all or part of her 20 weeks' half-pay (not SMP/MA element).

### **4. Employee responsibilities whilst on Maternity Leave**

- Colchester City Council will assume a return date to work, as a year after the start of the Maternity Leave period, unless an employee has confirmed an alternative return date prior to Maternity Leave
- If an employee wishes to change this return to work date they must give 8 weeks' notice of the change, unless alternative agreements have been put in place with her manager

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- If the employee attempts to return to work earlier than the end of her maternity leave without giving her employer 8 weeks' notice, the employer may postpone her return until the full 8 weeks' notice has been given. However, the employer may not postpone her return to a date later than the end of her maternity leave period
- If an employee wishes to return to work on different hours, and this should be either discussed with her manager or they can exercise her right to request flexible working in writing. This should be done at least 6 weeks before her return to work date, as under the flexible working legislation the manager has 6 weeks to respond to the request
- If after having given this notice she is not able to return on that day, she may postpone her return by sending her manager a doctor's statement stating that she is incapable of work. Similarly, the Council can postpone an employee's return to work for up to 28 days after the notified date of return
- Not start work in her MPP after confinement for another employer who was not employing her at any time during the QW
- Not be in legal custody at any time in her MPP.

### **5. Employer's Responsibilities**

The Human Resources Service Centre will:

- Notify the employee of her entitlements (see information to be confirmed in writing)
- Notify the employee in writing of her return to work date within 28 days of receiving notification of when an employee wishes to start her Maternity Leave
- Request a MATB1 certificate of expected confinement, given to the employee by her midwife or G.P.

The manager will:

- Ensure that a pregnant worker's risk assessment is carried out as by the employee's manager as soon as the employee notifies her manager
- Discuss leave arrangements with the employee
- Discuss with the employee arrangements for contact and any "Keeping-In-Touch" (KIT) days during Maternity Leave, including the type of information the employee may wish to receive. Any arrangements should be put in writing
- Pass copies of all correspondence to the Human Resources Service Centre
- Allow the employee time-off for Ante Natal appointments.



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### 6. Termination of Contract

- 6.1 If the employee decides not to return from maternity leave, then the termination date should be the date they resign and not when the maternity leave started.
- 6.2 Annual leave is accrued through maternity leave (see section 2.9 for further information).

### Appendix

The following policies and forms should also be read alongside this document:

Policies	Forms
Employee terms and conditions	
Paternity Policy	Pregnant employees in the Local Government Pension Scheme (LGPS) - to advise CCC how they wish for their pension contributions to be paid during their maternity leave
Shared Parental Leave Policy	Risk assessment – new and expectant mothers

The policies and forms are shown on COLIN:

- [A-Z](#) – this link will take you to the "all in one place" page which has a short summary of the HR subject, what you need to do first, useful documents and links, and related items.
- [Staff Handbook](#).

### Document Information

<b>Title :</b>	Occupational Maternity Leave and Pay Scheme
<b>Date :</b>	July 2024
<b>EQIA :</b>	See HR EQIAs on the Council's website
<b>Review Frequency :</b>	Every three years or if change occurs

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