

Isle of Wight Council
MATERNITY PROVISIONS
March 2015

For Babies Born on or After 1 April 2015

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Author:	Liz Maidment, Senior HR Business Partner Human Resources ✉ liz.maidment@iow.gov.uk ☎ (01983) 821000 [6289]
Sponsor:	Claire Shand, Head of HR & Organisational Change Human Resources ✉ claire.shand@iow.gov.uk ☎ (01983) 821000 ext 6281
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3 Introduction

This policy sets out the statutory rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay.

The Isle of Wight Council recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees should clarify the relevant procedures with the HR Support team (human.resources@iow.gov.uk) to ensure that they are followed.

The following definitions are used in this policy:

'Expected week of childbirth' (EWC) means the week, starting on a Sunday, during which your doctor or midwife expects you to give birth.

'Qualifying week' means the 15th week before the expected week of childbirth.

'Employer' refers to the Isle of Wight Council / School

Please note that for babies born on or after 5 April 2015 Shared Parental Leave has been introduced to enable eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. For further information please refer to the Shared Parental Leave Provisions.

4 Notification of Pregnancy

On becoming pregnant, you can notify your manager at any time prior to the deadline but as soon as you have notified us we are under a duty to consider health and safety issues.

By the end of the qualifying week, you are required to inform your line manager, copied to HR Support Team, in writing of:

- the fact that you are pregnant;
- your expected week of childbirth; and
- the date on which you intends to start your maternity leave.

A template letter is attached at Appendix 1 for you to use if you wish.

You must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it.

You are permitted to bring forward your maternity leave start date, provided that you advise the council/school in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. You may also postpone your maternity leave start date, provided that you advise the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The HR Support Team will formally respond in writing to your notification of your leave plans within 28 days, confirming the date on which you are expected to return to work.

5 Time Off for Antenatal Care

Employees and agency workers will be entitled to take reasonable paid time off work (at normal rate of pay) to attend antenatal appointments as advised by your doctor, registered midwife or registered health visitor, once you have advised your line manager that you are pregnant

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 and Parentcraft 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 as possible.

Agency workers may take time off to attend an antenatal appointment once you have been employed with the Council for at least 12 continuous weeks (which may include more than one assignment). This period will not include any breaks due to holiday or other leave to which you are entitled, breaks due to workplace closure, breaks due to industrial action, breaks of up to 28 weeks in cases of sickness or jury service, and breaks of up to six weeks for any other reason. We will treat breaks due to pregnancy or childbirth up to 26 weeks after birth, and any statutory maternity, paternity or adoption leave, as time worked.

If you are an agency worker you may have to notify your agency as well. You should check with the agency about the process for notifying them.

5.1 Time Off to Accompany a Pregnant Woman to Antenatal Appointments

Employees and agency workers may be able to take paid time off to accompany a pregnant woman to antenatal appointments if any of the following apply:

- (a) you are the pregnant woman's husband or civil partner;
- (b) you live with the pregnant woman in an enduring family relationship and are not pregnant woman's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew;
- (c) you are the expected child's father;
- (d) you are one of a same-sex couple who is to be treated as the child's other parent through assisted reproduction; or
- (e) you are the potential applicant for a parental order in relation to a child who is expected to be born to a surrogate mother.

You may take paid time off to accompany a pregnant woman to up to two antenatal appointments. You must not take more than six and a half hours off for each appointment, including travel and waiting time.

You may request time off to accompany a pregnant woman to an antenatal appointment by providing your manager with a signed statement or an email confirming:

- (a) your relationship with the pregnant woman or expected child;
- (b) that the purpose of taking the time off is to accompany a pregnant woman to an antenatal appointment;
- (c) that the appointment has been made on the advice of a registered doctor, registered midwife or registered nurse; and
- (d) the date and time of the appointment.

You should endeavour to give your line manager as much notice as possible of such appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

If you are an agency worker you may have to notify your agency as well. You should check with the agency about the process for notifying them.

6 Health and Safety

The council/school has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding. The council/school will provide you with information as to any risks identified in the risk assessment. If the risk assessment reveals that you would be exposed to health hazards in carrying out your normal job duties, the council/school will take such steps as are reasonably necessary to avoid those risks, such as altering your working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible for the council/school to alter your working conditions to remove the risks to your health and there is no suitable alternative work available to offer you on a temporary basis, the council/school may ask you to refrain from work on maternity grounds until such time as there are no longer any risks to your health. This may be for the remainder of your pregnancy until the commencement of your maternity leave. If you are not in work due to these circumstances, your employment will continue during this period and it does not in any way affect your statutory or contractual employment and maternity rights. You will be entitled to your normal salary and contractual benefits during the period, unless you have unreasonably refused an offer of suitable alternative employment.

Managers may find the following link useful in carrying out a risk assessment for a pregnant employee (schools should contact their HR or H&S adviser for further advice):

<http://wightnet.iow.gov.uk/documentlibrary/view/health-and-safety-manual-2-27-pregnant-workers>

7 Sickness Absence

If you are absent from work during pregnancy owing to sickness, you will receive normal statutory or contractual sick pay in the same manner as you would during any other sickness absence provided that you have not yet begun ordinary maternity leave. If, however, you are absent from work due to a pregnancy-related illness after the beginning of the fourth week before your expected week of childbirth, your maternity leave will start automatically.

If you are absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, you must notify your line manager in line with the Council's Attendance Management Policy and Procedure.

8 Maternity Leave

All pregnant employees are entitled to take up to 26 weeks ordinary maternity leave and up to 26 weeks additional maternity leave, making a total of 52 weeks. This is regardless of the number of hours you work or your length of service. Additional maternity leave begins on the day after ordinary maternity leave ends. Please note this only applies to those workers who are classed as an “employee”.

Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless your child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- your chosen start date;
- the day after you give birth; or
- the day after any day on which you are absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If you give birth before your maternity leave was due to start, you must notify your line manager in writing of the date of the birth as soon as reasonably practicable.

The law obliges you to take a minimum of two weeks of maternity leave immediately after the birth of the child.

You may also be eligible to opt into the Shared Parental Leave and Pay scheme by curtailing your entitlement to maternity leave/pay. For more information, please see the Shared Parental Leave Provisions.

8.1 Ordinary Maternity Leave

During the period of ordinary maternity leave, your contract of employment continues in force and you are entitled to receive all your contractual benefits, except for salary. In particular, any benefits in kind will continue; annual leave and bank holiday entitlement will continue to accrue; and pension contributions will continue to be made.

Salary will be replaced by statutory maternity pay (SMP) if you are eligible to receive it.

8.2 Additional Maternity Leave

During the period of additional maternity leave, your contract of employment continues in force and you are entitled to receive all your contractual benefits, except for salary. In particular, any benefits in kind will continue; annual leave and bank holiday entitlement will continue to accrue; and pension contributions will continue to be made.

8.3 Annual Leave

You are reminded that holiday must be taken in the calendar year that it is earned and therefore if the holiday year is due to end during maternity leave, you will need to take any outstanding annual leave due to you before the commencement of maternity leave, plus any entitlement to leave due to any bank holidays or additional statutory days that fall during your maternity leave. This means your annual leave entitlement for 12 months maternity leave

would be 39 days, including bank holidays (pro rata for part time). You can request to carry forward a maximum of one weeks' contracted hours annual leave entitlement from one year to the next under the Council's annual leave policy (ie 5 days leave if working a regular 5 day week at full time).

If your maternity leave period exactly coincides with the annual leave year you will need to agree with your line manager on one of the following options:

- That you take paid annual leave before starting maternity leave.
- That you cease maternity leave before your full maternity leave entitlement expires and take paid annual leave.

Term-time staff will be entitled to a lump sum payment in respect of accrued annual leave and bank holidays and this will be paid upon return to work.

8.4 Redundancy During Maternity Leave

There are statutory provisions for an employee where redundancy takes effect during maternity leave. Where such a situation occurs, you are entitled to be offered suitable alternative employment where there is a match against the person specification. Where an appropriate vacancy exists, the alternative employment under a new contract will begin on the day immediately following the day on which the previous contract comes to an end.

Where redundancy takes effect before maternity leave commences, there is no entitlement to preferential treatment with regard to being offered suitable alternative employment.

9 Statutory Maternity Pay (SMP)

Statutory maternity pay (SMP) is payable for up to 39 weeks during maternity leave. You are entitled to SMP if:

- you have continuous Isle of Wight Council service of at least 26 weeks at the end of the qualifying week and you are still employed during that week;
- your average weekly earnings in the eight weeks up to and including the qualifying week are not less than the lower earnings limit for national insurance contributions;
- you are still pregnant 11 weeks before the start of the expected week of childbirth (or have already given birth);
- you provides a MAT B1 form stating your expected week of childbirth; and
- you give the council/school proper notification of your pregnancy in accordance with the rules set out above.

For the first six weeks, SMP is paid at the equivalent to 90% of the employee's average weekly earnings calculated over the period of eight weeks up to and including the qualifying week. For the purpose of calculating average weekly earnings, shift allowances, overtime payments, bonuses and commission are all included.

The remaining 33 weeks (or less if you return to work sooner) will be paid at a rate set by the Government for the relevant tax year, or 90% of your average weekly earnings calculated over the period of eight weeks up to and including the qualifying week if this is lower than the Government's set weekly rate.

If you become eligible for a pay rise between the start of the original calculation period and the end of your maternity leave (whether ordinary maternity leave or additional maternity leave), the rate of SMP will be recalculated to take account of the pay rise, regardless of whether SMP has already been paid. This means that your SMP will be recalculated and increased retrospectively, or that you may qualify for SMP if you did not previously. You will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise.

SMP is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Payment of SMP cannot start prior to the 11th week before your expected week of childbirth. SMP can start from any day of the week in accordance with the date you start your maternity leave.

SMP is payable whether or not you intend to return to work after your maternity leave.

If you are not entitled to SMP you may be entitled to receive maternity allowance payable by the Government.

Please note that if you opt into the Shared Parental Leave/Pay scheme, your statutory maternity pay will cease and you will receive payment through the Shared Parental Leave and Pay schemes. For more information, please see the Shared Parental Leave Provisions.

10 Contractual Maternity Pay

If you have at least one year's continuous Local Government service at the beginning of the 11th week before the EWC, and you have indicated that you will return to Local Authority employment (not just the current Authority) for at least three months immediately following your maternity leave, you will receive 12 weeks half pay during OML after the first 6 weeks without deduction except to the extent that the half pay plus SMP exceeds full pay. In the event of you not returning to Local Government employment at the end of your maternity leave period you will be required to refund to the Council the monies paid in respect of the half pay.

If you are being made redundant, or likely to be at risk of redundancy during your maternity leave, half pay will only be paid at the end of the maternity leave period if successful redeployment has taken place.

If no written notification is received of your intent to return to work, 12 weeks half pay will only be paid as a lump sum on your return to work.

Please note that if you opt into the Shared Parental Leave/Pay scheme, your contractual maternity pay will cease and you will receive payment through the Shared Parental Leave and Pay schemes. For more information, please see the Shared Parental Leave Provisions.

10.1 Staff Working Under Teachers Pay and Conditions

Employees working under Teachers Pay and Conditions with at least one year's continuous Local Government service at the beginning of the 11th week before the EWC, who have indicated that they will return to Local Authority employment (not just the current Authority) for at least 13 weeks immediately following their maternity leave, will receive four weeks full pay (offset against payments made by way of SMP or Maternity Allowance), two weeks at 90% pay (offset against payments made by way of SMP or Maternity Allowance) in addition to 12 weeks half pay. In the event of you not returning to Local Authority employment at the end of your maternity leave period you will be required to refund to the Council the monies paid in respect of the half pay. Where it is agreed a Teacher may return to work on a part-time basis they must return to work for a period which equates to 13 weeks service based on their previous contractual hours in order to be entitled to the contractual pay element.

If you are being made redundant, or likely to be at risk of redundancy during your maternity leave, half pay will only be paid at the end of the maternity leave period if successful redeployment has taken place.

If no written notification is received of your intent to return to work, 12 weeks half pay will only be paid as a lump sum on your return to work.

11 Maternity Pay Reference Table

	Less than 26 weeks service at the 15th week before the EWC	26 weeks service at the 15th week before the EWC	One year's service or more at the 11th week before the EWC	Teachers with one year's service or more at the 11th week before the EWC
Weeks 1 - 4	Maternity Allowance paid by the Government	SMP (90% of a weeks pay)	90% of a weeks pay (offset against payments made by way of SMP)	Full pay (offset against payments made by way of SMP)
Weeks 5 - 6				90% of a weeks pay (offset against payments made by way of SMP)
Weeks 7 – 18		SMP	SMP plus half pay	
Weeks 19 – 39		Statutory Maternity Pay		
Weeks 40 – 52	Unpaid			

12 Pension Contributions during Maternity Leave

During any period of paid maternity leave (including any period when only SMP is paid); you must continue to pay pension contributions on the actual pay, if any, that you are receiving. Benefits will continue to accrue as if you were working normally on full pay.

LGPS Members

You can choose to buy back pension membership for any period of unpaid maternity leave through an age-related Additional Pension Contribution (APC) contract. The contributions will be calculated at the assumed pensionable pay, which is the pay you would have received but for the absence. Please contact the pensions team for information regarding this option.

If you were paying additional contributions to increase your membership, prior to your maternity leave, you will continue to pay these. These payments will be calculated at the rate of pay which you would have received had you not taken maternity leave. The additional membership continues to accrue in full.

Teachers' Pensions Members

There is no facility for you to continue to pay contributions during any period of unpaid maternity leave. You can, however, purchase additional pension contributions upon your return to work provided you return to pensionable employment. Please refer to the Teachers' Pensions website for further information: www.teacherspensions.co.uk

Firefighters Pension Scheme

You can choose to pay contributions for any period of unpaid maternity leave so that the period of absence will count in full for pension purposes. The contributions will be calculated on the rate of pay (or reduced pay) that you were receiving immediately before you commenced the period of unpaid maternity leave.

If you were paying additional contributions to increase your membership before going on maternity leave then you will continue to pay these. These payments will be calculated at the rate of pay you would have received had they not been on maternity leave. The additional membership continues to accrue in full.

13 Stillbirth

An employee who gives birth to a stillborn child at any time after more than 24 weeks pregnancy is entitled to take maternity leave and be paid statutory maternity pay (provided you are otherwise eligible for it) in the same way as an employee who gives birth at full term. In these circumstances, your maternity leave will start on the day after the day of childbirth (unless it has already begun prior to that).

14 Salary Sacrifice Schemes during Maternity Leave

14.1 Childcare Scheme

If you are participating in the Childcare scheme as at the date of commencement of your maternity leave, you may either continue in the scheme or withdraw from it, but you should in either event, contact the Staff Benefits Officer for further information by phoning 821000 Ext. 8845.

If you remain in the scheme then your monthly salary sacrifice reductions will continue to be taken from any Contractual Maternity Pay (reductions are subject to the requirement that your pay must remain above the National Minimum Wage rate after reduction of your salary sacrifice), but they cannot be taken from any Statutory Maternity Pay. For the avoidance of doubt, in the case of Teachers the salary sacrifice can be reduced from the 10% contractual pay element which is paid over and above Statutory Maternity Pay during the first four weeks (subject to NMW requirement). During your Ordinary Maternity Leave and Additional Maternity Leave periods you are entitled to continue to receive your 'contractual non-cash benefits' and therefore the Isle of Wight Council will be responsible for paying your monthly childcare costs during periods when you are not in receipt of any Contractual Maternity Pay.

You should note that if you have not indicated that you intend to return to work after your maternity leave and therefore have your 12 weeks contractual half pay paid to you as a lump sum upon return to work, this will be reduced by the value of the childcare payments that the IW Council has been responsible for paying during the relevant 12 week maternity pay period.

15 Contact during Maternity Leave

Shortly before your maternity leave starts, your line manager will discuss the arrangements for you to keep in touch during your leave. The council/school reserves the right in any event to maintain reasonable contact with you from time to time during your maternity leave. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

16 Keeping-in-touch Days

Except during the first two weeks after childbirth, you can agree to work for the council/school (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of your maternity leave to an end and without loss of a week's SMP. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes. Therefore if you only work one hour you will lose one of your ten KIT days but will only be paid for the one hour worked.

Managers should use the attached claim form (Appendix 2) to notify payroll of any keeping-in-touch days so that these can be paid appropriately.

Managers are also responsible for ensuring that a record is kept of the number of keeping-in-touch days undertaken and the attached form (Appendix 3) can be used for this purpose.

The council/school has no right to require you to carry out any work, and you have no right to undertake any work, during your maternity leave.

Any work undertaken, will be paid at your normal salary less SMP or Maternity Allowance or contractual maternity pay already being paid. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, you will lose a week's SMP for any week in which you agree to work for the council/school, if SMP is paid, and will automatically end your maternity leave period if on unpaid maternity leave.

17 Returning to Work

You will have been formally advised in writing by the HR Support Team of the date on which you are expected to return to work if you take your full 52 week entitlement to maternity leave. You are expected to return on this date, unless you notify the council/school, copied to HR Support Team otherwise. If you are unable to attend work at the end of your maternity leave due to sickness or injury, the council's/school's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

While you are under no obligation to do so, it would assist your line manager if you confirm as soon as convenient during your maternity leave that you will be returning to work as expected.

If you wish to return to work earlier than the expected return date, you must give the council/school at least 8 weeks' notice of your date of early return, preferably in writing. If you fail to do so, the council/school may postpone your return to such a date as will give the council/school 8 weeks' notice, provided that this is not later than the expected return date.

If you decide not to return to work after maternity leave, you must give notice of resignation as soon as possible and in accordance with the terms of your contract of employment. If the notice period would expire after maternity leave has ended, the council/school may require you to return to work for the remainder of the notice period.

18 Rights on and after Return to Work

On resuming work after ordinary maternity leave, you are entitled to return to the same job as you occupied before commencing maternity leave on the same terms and conditions of employment as if you had not been absent.

On resuming work after additional maternity leave, again you are entitled to return to the same job as you occupied before commencing maternity leave on the same terms and conditions of employment as if you had not been absent.

However, if it is not reasonably practicable for the council/school to allow you to return to the same job, the council/school may offer you suitable alternative work, on terms and conditions that are no less favourable than would have applied if you had not been absent.

If you worked full-time prior to your maternity leave you have no automatic right to return to work on a part-time basis or to make other changes to your working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of the council's/school's business. If you would like this option to be considered, you should write to your line manager setting out your proposals as soon as possible in advance of your return date, so that there is adequate time for full consideration of the request. The procedure for dealing with such requests is set out in the Council's Flexible Working Policy.

19 Staff Benefits

The Isle of Wight Council has a scheme available to help you save money on your childcare costs. Details of the scheme will usually be sent to you shortly after the start of your maternity leave. Alternatively, full details of the scheme can be found on the Staff Benefits section of the intranet;

<http://wightnet2000.iow.gov.uk/staff/staff%5Fbenefits/Childcare%5FInitiative/>

If you don't have access to the Council's Intranet then please access the Council's Extranet, this can be accessed from any PC at home or work. The link is: <http://www.iwight.com/wightnetextra/> To logon you will need to input your name eg, John Smith, the password is: vine. Once logged on click on Staff Benefits and then from the list on the left click on Childcare Scheme.

20 Further Guidance

You may be entitled to receive benefits if you are pregnant or have recently had a baby. You can check whether you may qualify to receive financial or other support at the following web link <https://www.gov.uk/browse/benefits/families>

21 Appendix 1 – Employees Model Letter

To (Line Manager)

From
Job Title
Department/school
Work Base

cc: HR Support Team (enclosing **original** MAT B1 certificate)
OR School’s HR/payroll provider

Dear

NOTIFICATION OF PREGNANCY

I hereby wish to confirm that I am pregnant.

My expected date of confinement is, I enclose my form MATB1.

I wish to commence maternity leave on

*I intend to return to work following maternity leave, and wish to be paid half pay (if entitled) during my maternity leave.

*I am not sure of my intentions regarding my return to work following my maternity leave and therefore wish for my half pay to be with held.

Yours sincerely

Signed:

Dated:

Enc

*Delete as appropriate

23 Appendix 3 – Keeping-in-touch Day Record

Name		Post	
Department/ School		Date Maternity Leave Commenced	
Personnel Number		Date Baby Born	

Day Number	Date	Hours Worked	Date Claim Submitted to Payroll
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			