

Trowbridge Town Council

Working with the Community

Maternity Scheme

1. Introduction

The occupational maternity scheme applies to all pregnant employees of Trowbridge Town Council (“the Council”) who are working under a permanent or temporary contract of employment, regardless of the length of service and the number of hours worked per week.

2. Obligations

2.1 Employee

An employee should notify the Council of the following by the end of the 15th week before the baby is due (unless not reasonably practicable), or at the very latest, 21 days before her absence begins;

- a) in writing, that she is pregnant and the expected week of childbirth (“EWC”) (the Council can request the employee to produce a certificate from a registered medical practitioner or a certified midwife stating the expected week of confinement), and
- b) in writing, if requested by the Council, of the date of the beginning of her absence: and
- c) in writing, if requested by the Council, that she intends to return to work with her employer if that is her intention

2.2 Employer

On receipt of notification of maternity leave the Council will, within 28 days, send a response confirming the date on which the maternity leave will end (calculated in accordance with the chosen start date)

Any changes to the expected return to work will be confirmed in writing within 28 days from the date which the employee notified the Council of the change.

3. Ante-Natal Care

Any pregnant employee has the right to paid time off to attend for ante-natal care and must produce evidence of second and subsequent appointments if requested to do so by the Council.

4. Maternity Leave Entitlement

4.1 Ordinary Maternity Leave

Provided that they are working under a permanent or temporary contract of employment, all pregnant employees, regardless of length of service, EWC, or hours worked, are entitled to 26 weeks of ordinary maternity leave.

4.2 Additional Maternity Leave

All employees with a EWC on or after 1 April 2007 are entitled to additional maternity leave, regardless of length of service.

Additional maternity leave commences at the end of the period of ordinary maternity leave and lasts a further 26 weeks; therefore giving a full maternity leave entitlement of 52 weeks.

5. Commencement of Maternity Leave

Maternity leave can commence no earlier than 15 weeks before the EWC, unless the baby is born before that date. If the baby is born before the intended start of maternity leave the employee must notify the Council of the actual date of birth as soon as possible. If not already provided, a copy of the certificate showing the original date the baby was due must be sent to the Head of Service for Resources and Venues.

Employees may start maternity leave as close to the expected birth date as required. However, if they are absent from work for a pregnancy-related reason after the beginning of the fourth week before the EWC, their maternity leave will start automatically.

6. Maternity Pay

Statutory Maternity Pay ("SMP") is payable to employees who are pregnant and who:

- have undertaken all Employee Obligations (see 2.1)
- qualify for Ordinary Maternity Leave (see 4.1)
- have been employed by the Council continuously for a period of at least 26 weeks in the qualifying week
- is still pregnant at the 15th week before the baby is due, or has had the baby by then due to early birth
- has average weekly earnings in the qualifying period above the lower earnings limit for National Insurance purposes
- have stopped working for the Council

Payments for employees who have completed not less than 26 weeks continuous local government service at the 15th week before the EWC shall be as follows:-

- i) For the first six weeks of absence an employee shall be entitled to nine-tenths of a week's pay offset against payments made by way of SMP (lower or higher rate SMP as applicable) or Maternity Allowance ("MA") for employees not eligible for SMP.
- ii) If having declared her intention to return to work then for the subsequent 12 weeks she shall be paid half a week's pay without deduction except by the extent to which the combined pay and SMP (or MA and any dependants' allowances if the employee is not eligible for SMP) exceeds full pay.
- iii) For employees not intending to return to work payments during the subsequent 33 weeks shall be the employee's entitlement to SMP.
- iv) Payments made by the Council during maternity leave under ii) above shall be made on the understanding that the employee will return to Council employment for a period of at least 3 months, which may be varied by the Council on good cause being shown and, in the event of her not doing so, she shall refund the monies paid, or such part thereof, if any, as the Council may decide. Payments made to the employee by way of SMP are not refundable.

7. Relationship with Sickness

- a) Maternity leave will not be treated as sick leave and will therefore not be taken into account for the calculation of the period of entitlement to sickness allowance.
- b) Paid maternity leave and authorised unpaid maternity leave of up to and including 22 weeks duration shall be regarded as service for the purposes of the Council's sickness scheme.

8. Keeping in Touch Days

Employees may, if they wish to do so and at the Council's discretion, work for up to 10 days during their maternity leave period without losing their entitlement to maternity leave or pay.

Discussions will take place to determine the exact working pattern but regulatory requirements state that any work or training carried out on any one day will count as one day's work.

9. Right to Return to Work

- a) No employee may return to work during the first two weeks after giving birth
- b) Subject to c) below, an employee may return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. "Job", for this purpose, means the nature of the work which she is employed to do and the capacity and place in which she is so employed.
- c) Where it is not practicable by reason of redundancy for the Council to permit an employee to return to work in her job as defined in b) above, the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.
- d) Suitable alternative employment may also be offered to employees returning from additional maternity leave if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence. The work to be done should be suitable to her and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return to the job in which she was originally employed.
- e) If a general pay increase has occurred during a period of maternity leave an employee will be entitled to an appropriate increase in their salary on their return.

10. Exercising the Right to Return to Work

- a) An employee choosing to take her full maternity leave entitlement (52 weeks) need not give the Council prior notice of her return date. It will be assumed that their return will take place the first working day after the entitlement ends, in accordance with the date notified to her by the Council.
- b) If an employee wishes to return to work before the end of her full entitlement she must give the Council at least 8 weeks notice of her intended return to work date.

Any attempt to return without having given the required notice could result in the Council postponing the return until a date that provides it with the correct notice period. In such cases the Council will not, under any circumstances, postpone the employees return date to beyond the date in which her period of maternity leave is due to end.

If the Council fails to give written notice of a return date to an employee, the employee may return to work early, even if they have not given sufficient notice.

- c) An employee who is ill may postpone her return by submitting a doctor’s statement, indicating that she is incapable of work. This should be submitted before the notified date of return or, if no date of return has been advised, the expiry of the period of maternity leave. In such cases the Council’s sickness scheme shall apply to the absence.
- d) For an employee where, because of an interruption of work (whether due to industrial action or some other reason) it is unreasonable to expect her to return on her notified return date, she may instead return when work resumes, or as soon as reasonably practicable thereafter.
- e) For an employee where no date of return has been notified and there is an interruption of work (whether due to industrial action or some other reason) which makes it unreasonable to expect her to return to work before the end of the maternity leave period and in consequence she does not notify a date of return, she may exercise her right to giving at least 7 days’ written notice to the Council that she intends to return at any time before the end of 14 days from the end of the interruption.
- f) If an employee decides not to return from maternity leave she must give notice of her resignation to the Council in accordance with the terms of her employment contract.

11. Definitions

- a) **A Week’s Pay**
The term “a week’s pay” for the purposes of paragraph 5 b)(ii) for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Council to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week’s pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.
- b) **Qualifying week**
The 15th week before the expected week of childbirth (“EWC”)
- c) Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

Lance Allan – Town Clerk & Proper Officer

Signed

Dated

This procedure is effective from 5 March 2019 and will be reviewed every 4 years or more frequently if required.