
Folkestone Town Council

MATERNITY POLICY

(Adopted June 2008)

1. INTRODUCTION

- 1.1 Folkestone Town Council (FTC) will ensure supportive and fair treatment of employees during pregnancy, maternity leave and upon return to work.
- 1.2 This policy sets out the statutory rights and responsibilities of employees, including arrangements for antenatal care, pregnancy related illness and maternity leave and pay.

2. OBJECTIVES

- 2.1 The objectives of this policy are to ensure that:
 - Maternity is managed fairly and consistently.
 - The requirements of the Work and Families Act 2006 are adhered to.
 - The health & wellbeing of the employee and her baby are maintained.
 - Written clarification is provided of the process to be followed for maternity leave.
 - The principles of work life balance are considered for employees wishing to return to work following maternity leave.

3. SCOPE

- 3.1 These arrangements apply to all female employees regardless of grade or hours worked, where the expected week of childbirth begins on or after the 1 July 2008 and providing the employee has followed the Council's maternity policy & procedure.
- 3.2 Fixed term and temporary contracts.

Contracts which are due to expire during the period of maternity leave, will be extended to the end of any paid maternity leave period.

NB The expected week of childbirth means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

4. LEGAL RESPONSIBILITIES

4.1 Legislation.

The following legislation is relevant and has been taken into account in the drawing up of this policy;

- Work and Families Act
- Employments Rights Act 1996
- Employment Relations Act 1999
- Sex Discrimination Act 1975

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- The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002.
 - The Part-time workers (Prevention of Less Favourable Treatment) Regulations 2000
 - Management of Health & Safety at Work Regulations 1999
 - Health, Safety & Welfare Regulations 1992.

5. ROLES AND RESPONSIBILITIES

5.1 The Town Clerk will;

- Make suitable arrangements to ensure the implementation of this policy & its associated procedure, in a timely manner.
- Undertake appropriate risk assessments.
- Take appropriate action, as recommended, to eliminate/reduce risks.
- Act fairly, consistently and openly in all maternity situations.
- Ensure reasonable contact is maintained and apart from discussing return to work, employees should also be kept informed of other issues such as job vacancies, significant workplace developments and training opportunities.
- Discuss with the employee the concept of 'keeping in touch' days and how these can benefit both parties.

5.2 The Council will;

- Provide training, guidance and support to staff in implementing this policy
- Provide advice to staff throughout all maternity situations.
- Formally advise staff of the Council's maternity provisions.
- Keep accurate records, to enable the Council to fulfil its duties under the Work and Families Act 2006.
- Monitor compliance with the Work and Families Act 2006, in relation to employees' maternity rights.

5.3 Employees will;

- Ensure they comply with this policy and its associated procedure.

MATERNITY ENTITLEMENTS

1.0 Maternity Leave

1.1 Maternity Leave falls into 3 categories (compulsory, ordinary and additional)

1.2 The law requires all employees to take a minimum of 2 weeks maternity leave immediately after the birth of the child.

1.3 Ordinary Maternity Leave (OML)

1.3.1 All pregnant employees whose expected week of childbirth begins on or after 1 July 2008 are entitled to take up to 26 weeks ordinary maternity leave, followed by up to 26 weeks additional maternity leave, making a total of 52 weeks. This is regardless of the number of hours they work or their length of service.

1.3.2 Ordinary maternity leave can start any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her 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

- The employee's chosen start date
- The day after the employee gives birth or
- The day after any day in which the employee is absent for a pregnancy related reason in the 4 weeks before the expected week of childbirth.

1.3.3 During the period of ordinary maternity leave, the employee's contract of employment continues and she is entitled to receive all her contractual benefits, except for salary.

1.4 Additional Maternity Leave (AML)

1.4.1 Additional maternity leave begins on the day after ordinary maternity leave ends.

1.4.2 During the period of additional maternity leave, the employee's contract of employment remains in force, but only some terms of the contract will continue to apply. Normal contractual benefits will be suspended and the only terms that apply during additional maternity leave are

- Contractual notice provided by FTC
- Contractual notice to FTC
- Implied obligation of trust and confidence
- Redundancy payment in the event of redundancy
- Disciplinary and grievance procedures
- Implied obligation of good faith to FTC
- Terms relating to disclosure of confidential information, the acceptance of gifts or other benefits and the restrictions on participation on any other employment

2.0 Maternity Pay

2.1 Statutory maternity pay (SMP) is payable for up to 39 weeks during maternity leave. An employee is entitled to SMP if:

- She has been continuously employed for at least 26 weeks at the end of the qualifying week and she is still employed during that week. (Qualifying week means the 15th week before the expected week of childbirth).
- Her average weekly earning in the 8 weeks up to and including the qualifying week are not less than the lower earnings limit for National Insurance contributions.
- She is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth).
- She provides a MAT B1 form stating her expected week of childbirth and
- She gives FTC proper notification of her pregnancy in accordance with the Councils maternity policy & procedure.

2.2 For the first 6 weeks the employee will be paid an amount equal to 90% of the employees average weekly earnings.

2.3 SMP is paid for the remaining 33 weeks (or less if the employee returns to work sooner). SMP is paid at a rate set by the Government for the relevant tax year.

2.4 Providing the employee has completed 1 years continuous Local Government service by the start of their maternity leave, they will be entitled to Occupational Maternity Pay, this is an additional amount of pay, which tops up statutory pay in the following way:

- For the first 6 weeks an amount which together with statutory maternity pay will equal 90% of normal pay.
- For the following 12 weeks, an amount equal to 50% of normal pay plus statutory maternity pay, providing that both payments do not exceed normal salary. This entitlement must be requested and would be required to be paid back if the employee fails to return to work after maternity leave for a minimum period of 3 months. (This will either be paid on a monthly basis with the Statutory Maternity Pay or as a lump sum following return to work).

- 21 Weeks SMP

2.5 If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of their maternity leave (whether Ordinary Maternity Leave or Additional Maternity Leave) the higher or standard rate of SMP will be recalculated to take account of the employee's pay rise regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively, or that she may qualify for SMP if she did not previously. The employee 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.

2.6 SMP is treated as earnings and is therefore subject to PAYE and NI deductions.

2.7 Payment of SMP cannot start prior to the 11th week before the employees expected week of childbirth.

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- 2.8 SMP can start from any day of the week in accordance with the date the employee starts her maternity leave.
 - 2.9 SMP is payable whether or not the employee intends to return to work after her maternity leave.
 - 2.10 Employees who are not entitled to SMP may be entitled to receive Maternity Allowance payable by the Government and will be provided with Form SMP1 by the Payroll Department.

3.0 Premature Birth

- 3.1 Where an employee's baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term.
- 3.2 When an employee's baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence.
- 3.3 Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the birth.
- 3.4 Where an employee's baby is born before the 11th week before the expected week of childbirth and the baby remains in hospital, the employee may split her maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after the childbirth and the rest of her leave following her baby's discharge from hospital.

4.0 Still Birth

- 4.1 If a pregnancy ends in a still birth after the 24th week of pregnancy, the employee is entitled to maternity leave and pay.

5.0 Miscarriage

- 5.1 Where an employee has a miscarriage before the 25th week of pregnancy, normal compassionate or sick leave provisions will apply as necessary.

6.0 Time off for antenatal care

- 6.1 Once an employee has advised FTC that she is pregnant, she will be entitled to take reasonable paid time off work to attend antenatal appointments, as advised by her doctor, registered midwife or registered health visitor.
- 6.2 Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor had advised her to attend, in addition to medical examinations.
- 6.3 If requested to do so, employees should provide evidence of appointments for antenatal care. The employee should endeavour to give her line manager as much notice as possible and try to arrange them as near to the start or end of the working day.

7.0 Sickness absence

- 7.1 If an employee is absent from work during pregnancy, owing to sickness, she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence, providing that she has not yet begun ordinary maternity leave.
- 7.2 If, however, the employee is absent from work due to a pregnancy related illness after the beginning of the 4th week before her expected week of childbirth, her maternity leave will start automatically on the first day of sickness.

8.0 Annual Leave & Bank Holidays

- 8.1 Annual leave continues to accrue, in accordance with an employees contract of employment, whilst employees are on Maternity Leave.
- 8.2 Employees are encouraged to take any outstanding leave due to them before the commencement of ordinary maternity leave. Employees are reminded that leave must be taken in the year that it is earned and therefore if the leave year is due to end during maternity leave, the employee should take the full years entitlement before starting her maternity leave.
- 8.3 Annual leave accrued during maternity leave can either be added to the end of the maternity leave or paid to the employee on their return.
- 8.4 If an employee requests to reduce their hours on returning to work, then all accrued annual leave must be taken prior to the employee reducing their hours or have the leave paid to them.
- 8.5 Bank holidays continue to accrue in line with FTC's annual leave arrangements and the employees contract of employment and can either be added to the end of the maternity leave or paid to the employee on their return.
- 8.6 If an employee requests to reduce their hours on returning to work, then all accrued bank holiday leave must be taken prior to the employee reducing their hours or have the leave paid to them.

9.0 Pension

- 9.1 Pension contributions by the employer and employee will continue to be made, whilst the employee is in receipt of pay.
- 9.2 Contributions due during any period of unpaid maternity leave can be made up upon return to work. Provisions can be made to repay this in reasonable instalments.

10.0 Returning to work

- 10.1 An employee who intends to return to work at the end of her full 52 weeks maternity leave will not be required to give any further notification to FTC.
- 10.2 If she is unable to attend work at the end of her maternity leave due to sickness or injury, FTC's normal procedures for sickness absence will apply.
- 10.3 In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 10.4 On resuming work after maternity leave, the employee is entitled to return to the same job as she occupied before commencing maternity leave, on the same terms and conditions of employment, as if she had not been absent.
- 10.5 If it is not reasonably practicable for FTC to allow the employee to return to the same or similar job following additional maternity leave, FTC may offer the employee suitable alternative employment, on terms & conditions that are no less favourable than would have applied if she had not been absent.
- 10.6 If an employee wishes to return to work on different hours or work pattern, FTC has a duty to facilitate this wherever possible.

NB If an employer declines to allow an employee to make changes to her work patterns following her return from maternity leave, this may amount to indirect sex discrimination contrary to the Sex Discrimination Act 1975. This is regardless of whether or not the employer has duly complied with the statutory procedure for consideration of a flexible working request. In practice, employers will need to consider properly any requests made in line with operational requirements and, if they are declined, be able to establish that there is a sensible business justification requiring that employees work for set hours, at set times or on the company's premises.