

MATERNITY LEAVE AND PAY SCHEME

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Glossary of Terms

EWC	Expected week of childbirth - the week, beginning with midnight between Saturday and Sunday, in which it is expected that the baby will be born.
SMP	Statutory Maternity Pay
SML	Statutory Maternity Leave
QW	Qualifying Week
SSP	Statutory Sick Pay
OMP	Occupational Maternity Pay
OML	Occupational Maternity Leave
MA	Maternity Allowance

Manchester City Council

PART 1: STATUTORY MATERNITY LEAVE AND PAY

(for women whose babies are expected to be born on or after 5 October 2008)

1. ELIGIBILITY FOR STATUTORY MATERNITY LEAVE (SML)

1.1 All pregnant employees are entitled to a period of 26 weeks' ordinary maternity leave and 26 weeks Additional Maternity Leave, which begins at the end of ordinary maternity leave – a total of 52 weeks regardless of length of service.

2.0 ELIGIBILITY FOR STATUTORY MATERNITY PAY (SMP)

2.1 Eligibility for SMP is assessed at the 15th week before the EWC (the qualifying week (QW)).

2.2 SMP is payable for a period of 39 weeks and in order to receive SMP an employee must:

- a) have been continuously* employed by the City Council for at least 26 weeks leading into the QW;
- b) have average earnings in the eight weeks up to and including the QW (or the equivalent period if they are monthly paid) at least equal to the lower earnings limit for National Insurance contributions;
- c) still be pregnant at the 11th week before the EWC or have been confined by that time; and
- d) have commenced maternity leave.

2.3 If an employee is not entitled to SMP, she may be entitled to Statutory Maternity Allowance (MA). Within 7 days of determining that she is not entitled to SMP, the employee should be given Form SMP1 explaining why SMP is not payable together with any maternity certificate she has provided. The employee should then contact her local Social Security Office.

* For SMP purposes, only continuous service with the City Council counts towards eligibility. However, an employee with continuous local government service or continuous service with an employer covered by the Redundancy Payments

Cont'd overleaf

(Continuity of Employment in Local Government etc.) (Modification) Order 1999 may be eligible for payments under the Council's Maternity Scheme - see Part 2: Occupational Maternity Leave and Pay.

3. RATE OF SMP

- First 6 weeks @ 90% of average weekly earnings;
- Remaining weeks paid at standard rate of SMP or 90% of average weekly earnings (whichever is the lesser figure).
(From April 2008 the standard rate of SMP is £117.18 per week)

Average earnings are an average of the gross earnings in the eight weeks before the end of the QW and may not be the same as contractual pay.

4. NOTIFICATION REQUIREMENTS

4.1 For SML

To take advantage of the right to SML an employee must give notice (in writing to the Personnel Section of her Department), no later than the **end of the 15th week before the EWC** or as soon as reasonably practicable:-

- a) that she is pregnant;
- b) when the EWC will be (by means of a medical certificate);
- c) when she intends her maternity leave to start (which must be no earlier than the beginning of the 11th week before the EWC). This date can be changed as long as the employee gives notice of the new start date by whichever is the earlier of:-
 - i) 28 days before the date she originally intended to start her leave; or
 - ii) 28 days before the new date she wants to start her leave.

4.2 For SMP

To give notice and qualify for SMP, an employee must:-

- a) give **28 days' written notice** (to the Personnel Section of her Department), of the date she expects her SMP to start. (The employee can change her leaving date, but must give 28 days' notice); and
- b) provide medical evidence of the date her baby is due. This will normally be a maternity certificate (Form Mat B1) or other acceptable documentation from a doctor or midwife. The Mat B1 certificate should be provided by the end of the third week of what would be the maternity pay period. If there is an acceptable reason why the employee has not provided the MAT B1 certificate within that three week period the time limit may be extended to the end of the thirteenth week of her maternity pay

period, but no longer. Payment of SMP cannot commence until this evidence is provided.

4.3 Employer's Acknowledgement of Notification and Notification of End of Leave

On receiving proper notification from the employee of the intended start date for maternity leave, the Personnel Section should notify the employee of the date on which her ordinary maternity leave will end. If the employee is entitled to additional maternity leave, the Personnel Section should notify the employee of the date on which her additional maternity leave will end.

5. COMMENCEMENT OF SML

- a) On the date notified, which must be **no earlier** than the 11th week before the EWC;
- b) On the day following the date of birth if the baby is born early; or
- c) On the day following the first complete day of absence from work for a pregnancy-related reason in the **four weeks** before the EWC.

6. COMMENCEMENT OF SMP

6.1 Payment of SMP will commence on:-

- a) on the following day on which the employee last worked before starting maternity leave;
- b) on the day following the date of birth; or
- c) the day following the first complete day of absence from work for a pregnancy related reason in the **four weeks** before the week the baby is due.

6.2 SMP is payable for up to 39 weeks even if the employee does not intend to return to work.

7. COMPULSORY MATERNITY LEAVE

An employee may not work for her employer immediately after childbirth. This period of compulsory maternity leave lasts for two weeks from the date of childbirth.

8. PREGNANCY RELATED ILLNESS

8.1 If absent through illness which is unrelated to her pregnancy, an employee will normally be able to take sick leave until the date of birth or until the date she has notified as the date of commencement of maternity leave.

8.2 If illness is **pregnancy-related**, the maternity leave period starts automatically on the day after the first day of absence following the beginning of the **fourth week** before the EWC.

8.3 Discretion can be exercised to disregard odd days of pregnancy-related illness if the employee wishes to defer the start of her maternity leave period.

9. **SICKNESS**

9.1 An employee who is entitled to SMP or MA is disqualified from receiving SSP throughout the 39 week period of entitlement to SMP.

9.2 This applies even if the employee returns to work and falls ill before the end of the 39 week period. If this happens, the employee returns to receiving SMP, not SSP.

9.3 Where an employee is unable to attend work at the end of her ordinary or additional maternity leave due to sickness, the normal contractual arrangements for sickness absence will apply and she should notify her manager on the first day of her sickness absence.

10. **DISMISSAL OR RESIGNATION**

10.1 If an employee who is entitled to SMP resigns or is dismissed after the start of the QW, payment of SMP (not OMP) will still have to be paid to her. Payment will begin in accordance with the date she has notified that she intends to commence maternity leave, or if employment ends before she has notified a date, from the later of:-

• the 11th week before the expected week of childbirth;

• the first complete week starting on a Sunday after the employment

ends.

10.2 If an employee indicates that she does not wish to return to work following maternity leave, she must give formal notice of her resignation or written confirmation that her employment will terminate by mutual agreement on a specified date.

11. **MULTIPLE EMPLOYMENTS**

11.1 An employee may work for the City Council under two or more distinct contracts of employment at the same time. If the Council pays NI contributions separately for each contract, eligibility for, and payment of, SMP will be assessed separately.

11.2 If an employee also has a job with another employer (i.e. not the City Council) she may be able to receive SMP from both the Council and the other Employer.

11.3 Employees should be careful to follow the notification requirements for the start of maternity leave for each employer.

12. **PREMATURE BIRTHS**

- 12.1 If an employee gives birth prematurely to a living child before the 25th week of pregnancy onwards, even in cases where the baby later dies, she will be entitled to SML, SMP or MA in the usual way.
- 12.2 If childbirth occurs before the date the employee has notified (or before she has notified any date), the maternity leave period starts automatically on the day after the date of the birth (even if this is before the beginning of the 11th week before the expected week of childbirth). In order to preserve her rights to maternity leave and SMP, the employee must as soon as is reasonably practicable give notice of the date of childbirth and (if she has not already given it) evidence of the date the baby was expected.

13. **STILLBIRTHS OR MISCARRIAGES**

- 13.1 If a miscarriage occurs earlier than the 25th week of her pregnancy, an employee will not qualify for any SML, SMP or MA. If she takes a period of sickness absence from work, she should be paid sick pay in the usual way.
- 13.2 If an employee has a stillbirth from the 25th week of pregnancy onwards, she will be eligible for SML, SMP or MA in the usual way.

14. **WORK DURING THE MATERNITY LEAVE PERIOD – “Keeping in Touch Days”**

- 14.1 Employees may, in agreement with their employer, do up to ten days work during the maternity leave period for which they will be paid known as “Keeping in Touch Days” without affecting their maternity leave/pay.
- 14.2 Both the employer and employee must agree these days. An employer may not require an employee to work during her maternity leave if she does not wish to, nor does she have a right to if the employer does not agree.
- 14.3 If the employer offers the employee an opportunity to work a “Keeping in Touch Day”, the employee is entitled to refuse the opportunity without suffering a detriment.
- 14.4 The type of work to be undertaken should be agreed between the employee and employer. They may be used for any activity that would usually be classed as work under the woman’s contract, but can be to attend a conference, undertake training or attend a team meeting.
- 14.5 Work undertaken by the employee during a “Keeping in Touch Day” is work done under the employee’s employment contract and is therefore entitled to be paid for that work.

14.6 “Keeping in Touch Days” may be worked anytime during the maternity leave period except during the first two weeks after the baby is born during the Compulsory Maternity Leave period.

15. **RETURN TO WORK**

15.1 Notification

- a) An employee does not have to give advance notice if she intends to return to work immediately after the end of ordinary maternity leave or additional maternity leave (as notified to her - see para. 4 above).
- b) If she intends to return to work before the end of ordinary maternity leave or additional maternity leave, she is required to give at least 28 days’ advance notice.
- c) Employees who do not wish to return to work after ordinary or additional maternity leave must give the notice of termination required by her contract of employment.

15.2 Entitlements on Return

- a) An employee who returns to work after ordinary maternity leave is entitled to return to the same job on the same terms and conditions as if she had not been absent.
- b) An employee who returns to work after additional maternity leave is also entitled to return to the same job on the same terms and conditions as if she had not been absent. If, however, there is some reason (other than redundancy) why it is not reasonably practicable for her employer to return to her original job, she is entitled to be offered suitable alternative work on terms and conditions no less favourable than if she had continued to be employed in her old job.
- c) Employees who wish to vary their working pattern on return from maternity leave have the right to request a flexible working pattern.

16. **PAYMENT OF SMP**

16.1 The calculation and payment of SMP will be processed by the Corporate Service’s Payroll Team in accordance with appropriate notification from Departmental Personnel Offices.

16.2 SMP will be paid, based on entitlement, on normal contractual pay days. Generally the payment of SMP will equate to the pay period in which it is paid.

17. APPEALS

An employee who disagrees with the City Council's decision not to pay SMP should be given a form SMP1 stating the reason(s) for the decision and her Maternity Certificate should be returned to her. The employee can then apply to the Social Security Office for a formal decision from an Adjudication Officer. Both the Council and employee can appeal against an Adjudication Officer's decision.

18. DISENTITLEMENT FROM SMP

An employee will not be entitled to SMP, or will cease to be entitled to SMP, if any of the following apply to her:-

- a) she was not employed by the City Council at any time during the QW;
- b) she has not been employed by the City Council for a continuous period of 26 weeks continuing into the QW;
- c) her average weekly earnings in the calculation period are below the lower earnings limit for NI contributions applicable in the QW;
- d) she gives late notification to claim SMP and the reason for this is not acceptable to her Department (see para. 4 above); before a decision is taken in such a case, Departments should discuss the matter with the Employee Relations Team in Corporate Personnel;
- e) she does not give medical evidence or does not give it within an acceptable time, (see para. 4 above);
- f) she starts work for another employer in her maternity pay period after confinement;
- g) she is in legal custody at any time in her maternity pay period;
- h) her baby was stillborn before the 25th week of the pregnancy.

19. ANTE NATAL CARE

- a) All pregnant employees are entitled to paid time off for ante natal care;
- b) All time off for ante natal care must be paid at the employee's normal rate of pay;
- c) Ante natal care may include relaxation and parent craft classes, as well as medical examinations;
- d) These rights apply regardless of the employee's length of service.

Except in the case of her first appointment, the employee must produce:-

- a) a certificate from a registered medical practitioner, registered midwife or registered health visitor confirming that she is pregnant; and
- b) an appointment card or some other document showing that an appointment has been made.

20. TERMS AND CONDITIONS OF EMPLOYMENT DURING MATERNITY LEAVE

20.1 During maternity leave an employee has a statutory right to continue to benefit from the terms and conditions of employment which would have applied to her had she been at work instead of on maternity leave, apart from remuneration.

20.2 For example:-

- a) annual leave will continue to accrue during maternity leave. Bank Holidays should also accrue as they fall, with a substitute day's leave being provided.
- b) essential car user allowance should be paid throughout the maternity leave period.

21. OTHER LEAVE ENTITLEMENTS FOR PARENTS

Maternity Support Leave -	up to two weeks' paid leave (see City Council's Maternity Support Leave Scheme)
	Parental Leave - up to 13 weeks <i>unpaid</i> leave (up to 18 weeks for disabled children) (see City Council's Parental Leave Scheme)
	Time off for Dependants - right to reasonable amount of unpaid time off work to deal with an emergency or unexpected situation involving a dependant (see PC 1274 - Special Leave)

PART 2: OCCUPATIONAL MATERNITY SCHEME

(for women whose babies are expected to be born on or after **5 October 2008**)
(Excluding Teachers)

1. GENERAL PROVISIONS

1.1 The City Council's Occupational Maternity Scheme applies to all pregnant employees with over 1 year's continuous local government service.

1.2 The Scheme provides for:-

- previous continuous service with other Local Authorities to count towards establishing entitlements;
- additional periods of earnings-related payments to employees with over 1 year's continuous local government service who intend to return to work at the end of their maternity leave; and
- employees intending to return to work at the end of their maternity leave, being able to spread the additional earnings-related payments over a mutually agreed period.

2. SERVICE REQUIREMENTS & PAY

2.1 **Employees with between 1 and 2 years' continuous Local Government service at 11 weeks before EWC**

	6 weeks @ 90% pay	less SMP or state maternity allowance receivable.
plus	12 weeks @ 50% pay **	without deduction of SMP or MA receivable except to the extent to which this exceeds full pay.
plus	8 weeks @ SMP	

26 weeks Ordinary Maternity Leave

plus	13 weeks @ SMP
plus	13 weeks unpaid leave

26 weeks Additional Maternity Leave

Total 52 weeks Maternity Leave

2.2 **Employees with 2 years or more continuous Local Government service at 11 weeks before EWC**

11 weeks @ 90% pay ** less SMP or state maternity allowance receivable
plus 13 weeks @ 50% pay ** without deduction of SMP or MA receivable except to
the extent to which this exceeds full pay
plus 2 weeks @ SMP

26 weeks Ordinary Maternity Leave

plus 13 weeks @ SMP
plus 13 weeks unpaid leave

26 weeks Additional Maternity Leave

Total 52 weeks Maternity Leave

** In order to receive the additional periods of earnings-related payments under the Occupational Maternity Scheme an employee should declare in writing that she intends to return to work following maternity leave.

If she does not remain at work for three months after the date of her return to work, the City Council can reclaim monies paid to her under the Occupational Maternity Scheme after the sixth week, but not any SMP payable.

2.3 **PAYMENT OF OMP**

- a) The calculation and payment of OMP will be processed by the Corporate Service's Payroll Team in accordance with appropriate notification from Departmental Personnel Offices.
- b) OMP will be paid, based on entitlement, on normal contractual pay days. Generally the payment of OMP will equate to the pay period in which it is paid.
- c) Employees unsure of returning to work for at least three months can opt in writing to have OMP payments, other than the first six weeks, deferred and paid only if they return to work.

3. **COMMENCEMENT OF OMP AND OML**

- 3.1 Under the Occupational Maternity Scheme an employee may start her maternity leave at the **14th week** before the EWC. She can also bring forward the commencement of her OMP to the 14th week before the EWC.
- 3.2 This means that the pay at 90% of contractual pay will be paid from the 14th week and not the 11th week. The periods of pay at 90% and 50% remain unchanged, as does the maximum total absence of 52 weeks i.e. the leave

before confinement can be a maximum of 14 weeks, with 38 weeks following confinement.

- 3.3 The maternity pay period (i.e. the 39 week period in which SMP is payable) will not begin until the 11th week before the EWC. However, leaving before the 11th week will not prejudice the employee's rights under the Occupational Scheme, nor her entitlement to SMP payments.

N.B. Where an employee does not qualify for OMP (i.e employees with less than 1 year's continuous Local Government service at the 11th week before the EWC), provided she has at least 26 weeks' continuous service with the City Council at the 15th week before the EWC, then maternity leave will not begin before the 11th week before the EWC, when SMP becomes payable.

4. **RETURN TO WORK**

4.1 Notification of Early Return to Work

- a) If an employee wishes to return to work **before** the end of ordinary maternity leave, she is required to give at least 7 days' advance notice.
- b) If an employee wishes to return to work **before** the end of additional maternity leave, she is required to give 21 days' advance notice.

4.2 Return to work for at least three months

If the employee does not remain at work for three months after the date of her return to work, the City Council can reclaim monies paid to her under the Occupational Maternity Scheme after the sixth week, but not any SMP payable.

5. **OTHER PROVISIONS**

Provisions with regard to:-

- Notification
- Compulsory Maternity Leave
- Pregnancy Related Illness
- Sickness
- Dismissal or Resignation
- Multiple Employments
- Premature Births
- Stillbirths or Miscarriage
- Work during the Maternity Leave Period
- Ante Natal Care
- Terms and Conditions of Employment

are as detailed in Part 1: Statutory Maternity Leave and Pay

6. **WHERE BOTH PARENTS ARE EMPLOYED BY THE CITY COUNCIL**

When both parents are employed by the City Council, parents have the right to decide which one may take maternity leave, not earlier than 12 weeks following the beginning of the week of confinement and the right to return to work will then be applied to that parent.

PART 3: IMPLICATIONS FOR PENSION SCHEME MEMBERS

1. Members entitled to occupational or statutory maternity pay will pay contributions based on actual payments made.
2. The employer's contributions are based on the normal pay the employee would have received but for being on maternity leave.
3. **The employee will accrue full pensionable service during the period of paid maternity leave even though she will have paid contributions on less than her normal pay.**
4. **For periods of unpaid maternity leave this is not counted for pension purposes unless they opt in writing:-**
 - within 30 days of returning to work, or
 - within 30 days of leaving if she does not return to work, or
 - such longer period as her employing authority may allow

to make contributions for any period of unpaid maternity leave at the rate paid on the last day of paid maternity leave. In such a case the employer must pay contributions based on the normal full pay the employee would have received but for being on unpaid maternity leave.

5. For members who are not due any occupational or statutory maternity pay due to short length of service, all maternity leave is unpaid. During the ordinary maternity leave the employer pays contributions on the employee's normal pay however the employee pays nothing and the period counts for pension purposes.
6. During the period of additional maternity leave any period of unpaid leave is not counted for pension purposes unless the employee opts in writing :-
 - within 30 days of returning to work, or
 - within 30 days of leaving if she does not return to work, or
 - such longer period as her employing authority may allow

to make contributions for any period of unpaid maternity leave at the rate paid on the last day prior to maternity leave. In such a case the employer must pay contributions based on the normal full pay the employee would have received but for being on unpaid maternity leave.