

Maternity & Adoption Leave and Pay

Maternity and adoption leave is available to all pregnant employees regardless of the hours worked. The amount of maternity or adoption pay awarded is dependent upon the employee's length of service.

Maternity leave - Initial Obligations on the Employee & the Council

The employee must notify the Council of her intention to take maternity leave by the end of the 15th week before her expected week of childbirth, unless this is not reasonably practicable. She must confirm:

- that she is pregnant
- the expected week of childbirth
- the date that she wants to start maternity leave; this date can not be any earlier than 11 weeks before the expected week of childbirth

and provide a certificate from a registered medical practitioner or a certified midwife, confirming the expected week of childbirth.

Once notification has been received, the Council must write to the employee, within 28 days of the notice, confirming the expected date of return if she takes her full entitlement. The 28-day timescale is counted from receipt of the notification described above.

An employee will be able to change her mind about when she wants to start her leave providing that she tells her employer at least 28 days in advance (unless this is not reasonably practical).

Maternity Leave

Maternity leave cannot start earlier than the 11th week before the expected week of childbirth.

All employees are entitled to 52 weeks maternity leave, regardless of their length of service. This is made up of:

26 weeks ordinary maternity leave and a further 26 weeks additional maternity leave.

Commencement of Maternity Leave

Employees may not commence maternity leave earlier than 11 weeks before the expected week of childbirth. If the baby is born prematurely maternity leave begins the day after the birth.

Maternity leave will normally commence on the date confirmed by the employee in their notification. However, if she has not already started her leave this will be triggered by the birth of her child or a pregnancy related absence from the beginning of the 4th week before the expected week of childbirth. Maternity leave and maternity pay will start on the following day.

The employee must not return to work sooner than two weeks after the birth.

Maternity Pay

Three different levels of payment apply dependent on an employee's service. To qualify for Statutory Maternity Pay (SMP) an employee must have been employed without a break for

at least 26 weeks by the 15th week before the expected week of childbirth and have average weekly earnings at least equal to the lower earnings limit for National Insurance contributions.

1. An employee with less than 26 weeks continuous service at the end of the 15th week before the expected week of childbirth will receive:
 - two weeks Parental Leave plus up to two weeks special paid leave.

If the employee does not qualify for SMP they may be able to claim Maternity Allowance (MA), using the claim form MA1. Further information on this option is available on the gov.uk website.

2. An employee with more than 26 weeks continuous service at the end of the 15th week before the expected week of childbirth, but less than 1 year's service as at 11 weeks before the expected week of childbirth will receive:
 - Week 1-6; 9/10ths of normal pay, offset against any SMP received or MA received.
 - Week 7-39; Standard rate of SMP or 9/10th of normal pay, whichever of these is the lower.
 - Week 40-52; Unpaid.

3. An employee with 1 year's continuous service as at 11 weeks before the expected week of childbirth will receive:
 - Week 1-6; 9/10ths of normal pay, offset against any SMP received or MA received.
 - Week 7-18; either:

a) Where the employee confirms their intention to return to work for at least three months after maternity leave, she will receive Half pay without deduction (note that the sum of half pay plus any SMP (or MA) cannot exceed the employee's full pay).

Should the employee subsequently not return to local authority employment for at least three months, this payment will be recovered.

b) Any employee not proposing to return to work for at least three months will receive:

Standard rate SMP (or MA) or 9/10th of normal pay if this is less.

- Week 19-39; Standard rate SMP (or MA) or 9/10th of normal pay if this is less.
- Week 40-52; Unpaid.

Adoption Leave and Adoption Pay

Initial Obligations on the Employee and the Council

Adopters must inform the Council of their intention to take adoption leave within seven days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. They will need to tell their manager:

- When the child is expected to be placed with them
- When they want their adoption leave to start
- And provide documentary evidence of their entitlement to adoption leave and pay¹. This must include:
 - the employee's name and address and that of the agency
 - the match date – e.g. the matching certificate
 - the date of placement – e.g. a letter from the agency.

The Council must respond to the employee within 28 days confirming the expected date of return if the full entitlement to adoption leave is taken.

Adopters will be able to change their mind about the date on which they want their leave and (if applicable) adoption pay to start, providing they tell their manager at least 28 days in advance, unless this is not reasonably practicable.

Adoption Leave

Adoption leave can commence from either:

- The date of the child's placement (whether this is earlier or later than expected), or;
- Up to 14 days before the date that the child is expected to start living with the employee.

Employees are entitled to 52 weeks' adoption leave consisting of 26 weeks' ordinary adoption leave and a further 26 weeks additional adoption leave.

Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

Adoption Pay

Three different levels of payment apply dependent on the employee's service. To qualify for Statutory Adoption Pay an employee must have been employed without a break for at least 26 weeks ending with the week in which they are notified of having been matched with the child and have average weekly earnings at least equal to the lower earnings limit for National Insurance contributions. They must have also confirmed in writing their intention to return to work for a period of three months to receive occupational pay.

1. An employee with less than 26 weeks continuous service at the end of the week in which they are notified of having been matched with the child will receive two weeks Parental Leave plus up to two weeks special paid leave.
2. An employee who has more than 26 weeks but less than 1 years continuous service ending with the week in which they are notified of being matched with a child, will receive:
 - Week 1-6; 9/10ths of normal pay, offset against any Statutory Adoption Pay received.
 - Week 7-39; Standard rate of Statutory Adoption Pay or 9/10th of normal pay, whichever of these is the lower.
 - Week 40-52; Unpaid.
3. An employee with one years' continuous service ending with the week in which they are notified of being matched with a child will receive:
 - Week 1-6; 9/10th of normal pay, offset against any Statutory Adoption Pay received
 - Week 7-18, either:
 - a) Where the employee confirms their intention to return to work for at least three months after adoption leave, they will receive half pay without deduction (note that the sum of half pay plus any Statutory Adoption Pay cannot exceed the employee's full pay).

Should the employee subsequently not return to local authority employment for at least three months, this payment will be recovered.

b) Any employee not proposing to return to work for at least three months will receive:

Standard rate Statutory Adoption Pay or 9/10th of normal pay if this is less.

- Week 19 – 39; Statutory Adoption Pay (SAP) or 9/10th of normal pay if this is less.
- Week 40 – 52; Unpaid leave.

Payments made to an employee should also take account of the following:

'Normal pay' is used to describe the amount payable under the employee's existing contract of employment. Where there are no normal contractual hours worked, the average pay is calculated over the last eight weeks proceeding the final complete week - excluding any week in which no earnings occurred.

Pay awards received by Council employees.

Employees on maternity leave are to be treated as though they were at work in respect of all other contractual benefits, e.g. car allowances.

For the purpose of the maternity scheme, previous continuous service will include service with any public authority to which the Redundancy Modifications Order 1999 (as amended) applies.

Employees are entitled to the same non-cash contractual benefits during additional maternity leave as they would have received during ordinary maternity leave.