

**Down District Council**

**Maternity Policy and Procedure**

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# **Down District Council Maternity Policy and Procedure**

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# **Down District Council Maternity Policy and Procedure**

## **1.0 Introduction**

**1.1** This document sets out Down District Council's Maternity Policy and Procedure and supersedes any previous Maternity Policy and Procedure which may have existed. It applies to all pregnant employees regardless of employment status whose babies are due on or after 1 April 2007.

**1.2** A glossary of the main definitions used in this document are set out in **Appendix 1** attached.

## **2.0 Maternity Leave Entitlement**

**2.1** The purpose of maternity leave is to allow the employee to give birth and to recover from giving birth in addition to bonding with and caring for the new child.

**2.2** All pregnant employees are entitled to take up to 52 weeks maternity leave regardless of length of service with the Council.

**2.3** The 52 week entitlement is a single continuous period made up of:

- 26 weeks Ordinary Maternity Leave (OML), and
- 26 weeks Additional Maternity Leave (AML).

**2.4** Whilst all employees are entitled up to 52 weeks maternity leave, a minimum of 2 weeks must be taken following the birth, known as Compulsory Maternity Leave (CML).

## **3.0 Health and Welfare**

### ***3.1 Ante Natal Care***

**3.1.1** All pregnant employees regardless of service are entitled to time off to attend ante natal care.

**3.1.2** Ante natal care is not restricted to medical examinations. It may, for example, include relaxation classes and parent craft classes provided these are advised by a registered medical practitioner, registered midwife or registered health visitor.

**3.1.3** With the exception of the first ante natal appointment the employee must provide her Line Manager on request:

- a certificate (MAT B1) confirming that she is pregnant e.g. issued by a doctor, a registered midwife or a registered health visitor.
- an appointment card (or similar document) showing that an appointment has been made.

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**3.1.4** All time off for antenatal care will be paid at the employee's normal rate of pay.

**3.1.5** Fathers do not have a legal right to time off to accompany their partners to antenatal appointments. However time off on annual/lieu leave or unpaid leave may be granted subject to normal application rules and service exigencies.

### ***3.2 Health and Safety***

**3.2.1** Once an employee has advised she is pregnant or has given birth within the last 6 months or is breastfeeding, her Line Manager in conjunction with the Health and Safety Advisor will carry out a specific risk assessment, with emphasis on the risks that could affect the health and safety of the new or expectant mother or her child.

**3.2.2** Where the assessment identifies any specific risks that cannot be avoided, the Council will take all necessary steps, in consultation with the employee, to ensure she is not exposed to these risks which might include changes to working conditions or hours of work, or alternative work. In some circumstances the employee may be suspended on full pay to protect her and her child.

**3.2.3** The Line Manager will regularly monitor and review any assessment made to take into account possible risks that may occur at different stages of an employee's pregnancy.

**3.2.4** If the Line Manager is concerned about an employee's health and fitness for work at any stage, he/she will discuss this with the employee and as part of the ongoing risk assessment. This may involve a medical referral to the Council's Occupational Health Service.

**3.2.5** The Council will also provide pregnant and breast feeding employees a place to rest and with suitable rest periods. Where possible, a private, healthy and safe environment will be provided for nursing mothers to express and store milk.

## **4.0 Notification of Maternity Leave**

### ***4.1 Intention to take Maternity Leave***

**4.1.1** It is in the interests of employees that they advise their Line Manager as soon as they know they are pregnant to ensure their own health and safety and that of their child are protected in the workplace. **(Refer to Section 3.2 - Health and Safety)**

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**4.1.2** However, the employee must notify Payroll Section in writing of her intention to take maternity leave (**Refer to proforma at Appendix 1**) by the end of the 15th week before the expected week of childbirth (EWC) (i.e. approximately 25 weeks pregnant) or as soon as reasonably practicable:

- that she is pregnant
- the date of the EWC
- the date when she intends to start maternity leave

and produce a certificate (MAT B1) from a registered medical practitioner or a registered midwife stating the expected week of childbirth.

**4.1.3** An employee can choose when to commence her maternity leave provided it is no earlier than the beginning of the 11<sup>th</sup> week before her EWC (except if she gives birth early where she has to start her maternity leave immediately).

**4.1.4** An employee may lose her right to start her maternity on her chosen date if she does not provide the required notification for start of maternity leave. The Council may make exceptions to this where it was not reasonably practicable for the employee to have given notice earlier (e.g. if she gives birth early).

### ***4.2 Changing the start of Maternity Leave***

**4.2.1** Once an employee has notified the date she wishes to start her maternity leave, she can change this date provided she notifies the new start date by whichever is the earlier of either:

- 28 days before the date she originally intended to start her leave, or
- 28 days before the new date she wants to start her leave.

**4.2.2** However, if it is not reasonably practicable to give this much notice (e.g. her baby is born early and her maternity leave starts immediately), the employee must give as much notice as possible in writing.

## **5.0 Commencement of Maternity Leave**

### ***5.1 The Start of Maternity Leave***

**5.1.1** The maternity leave period normally commences on the day the employee has notified Payroll Section as the date she intends it to start. However, there are some exceptions to this rule as set out in **Sections 5.2 – 5.4.**

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### ***5.2 Absence due to Childbirth before Intended Start Date***

**5.2.1** 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 birth. This happens even if the birth takes place before the start of the 11th week before the birth was originally expected.

**5.2.2** In this circumstance the employee must give notification of the date of the birth if it has already taken place and the date the birth was originally expected. (Evidence of the actual and expected dates of birth can be provided together on the maternity certificate (MATB1) provided by the registered medical practitioner or midwife).

### ***5.3 Pregnancy Related Absence***

**5.3.1** An employee who is absent from work due to illness, unrelated to her pregnancy, will normally be able to take sick leave until she starts maternity leave.

**5.3.2** However if the employee is unfit to work during the last 4 weeks before the EWC, either partially or wholly related to her pregnancy, the first day of absence will automatically trigger the start of maternity leave.

### ***5.4 Resignation or Dismissal***

**5.4.1** If an employee resigns or is dismissed before the date she has notified, or before she has notified a date, she loses the right to maternity leave but will still be eligible for Statutory Maternity Pay (SMP) if she is employed after the 15<sup>th</sup> week before the EWC.

## **6.0 Maternity Pay Entitlement**

**6.1** Maternity pay normally commences on the day the employee has notified Payroll Section as the date she intends to start her maternity leave, provided she starts her leave on that day. The exceptions to this rule are set out in **Section 5.0 - Commencement of Maternity Leave**.

### ***6.2 Maternity Pay Provisions***

**6.2.1** To qualify for Maternity Pay (MP) the employee must satisfy two basic rules:

- **The Continuous Employment Rule** (have recognised continuous service for at least 26 weeks before the qualifying week which is 15 weeks before the due date (approx 25 weeks pregnant).

- **The Earnings Rule** (average weekly earnings in the 8 weeks ending with the 15<sup>th</sup> week before the baby is due, must be at least equal to the lower earnings limit (LEL) for National Insurance)

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**6.2.2** If an employee meets both the “continuous employment and earnings” rules, she qualifies for MP, which will be a combination of SMP (payable for 39 weeks) and Occupational Maternity Pay (OMP). There are differences in how MP will be paid which are set out in **Section 6.3 – Continuous Employment and Earnings Rules**.

**6.2.3** If the employee is not entitled to maternity pay she will be given form SMP1 by Payroll Section to advise why she has no entitlement.

**6.2.4** An employee will be entitled to any agreed cost of living allowance rise but for her absence during maternity leave she would have received. Such entitlement (including any arrears) will be payable simultaneous to the date agreed for other employees.

**6.2.5** Details of current rates for all statutory allowances e.g. SMP, LEL can be obtained from Payroll Section.

### ***6.3 Continuous Employment and Earnings Rules***

**6.3.1** If the employee has completed less than 1 years recognised continuous service at 11 weeks before the baby is due (i.e. approx. 29 weeks pregnant) but satisfies the “continuous employment and earnings” rules above, she will be entitled to 9/10 of her average weekly earnings for the first 6 weeks or SMP whichever is higher, followed by SMP only for 33 weeks.

**6.3.2** If the employee has completed 1 years recognised continuous service at 11 weeks before the baby is due (i.e. approx. 29 weeks pregnant) and satisfies the “continuous employment and earnings” rules above, the following will apply:

- For the first 6 weeks, she is entitled to 9/10 of her average weekly earnings or SMP (whichever is the higher).
- For the next 12 weeks (providing she has stated her intent to return to work for at least three months after maternity leave), she is entitled ½ her average weeks pay and SMP (providing that the combined ½ pay and SMP added together does not exceed her normal weekly pay). If she does not intend to return to work after maternity leave, she is only entitled to SMP for these 12 weeks.
- For the next 21 weeks, she is entitled to SMP only.

**6.3.3** An employee can request to have her OMP paid over a mutually agreed period (up to 33 weeks maximum) with Payroll Section. Equally, if an employee has not yet decided whether she will be returning to work after maternity leave, she can opt to receive her 12 weeks half pay as a lump sum upon completion of 3 months back at work.

### ***6.4 Maternity Allowance***

**6.4.1** If the employee does not have recognised continuous service for at least 26 weeks in a row, 15 weeks before the baby is due, she may be eligible for Maternity Allowance (MA) providing that she has been employed or self employed for at least 26 weeks (not necessarily in a row), within 66 weeks up to and including the week the baby is due.

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**6.4.2** If the employee always earn less than the lower earnings limit for National Insurance she will not qualify for SMP but may be entitled to MA.

**6.4.3** To be entitled to MA the employee's average earnings must be at least equal to the Maternity Allowance Threshold (MAT). If she has more than one employer, all earnings will count when working out the average.

**6.4.4** To claim MA, a MA Claim Pack is available at the Job Centre, Social Security Office, Maternity Clinic or Health Centre. If the employee is not eligible for MA she may qualify for Incapacity Benefit. This will depend on her National Insurance contributions in recent years.

## **7.0 Confirmation of Maternity Leave**

**7.1** Once an employee has provided notice of her intended start date of maternity leave, Payroll Section will, within 28 days, confirm in writing to the employee the date on which maternity leave will end and her maternity pay entitlements.

**7.2** Where an employee subsequently changes the start date of maternity leave, confirmation of the revised date on which maternity leave will end will also be issued in writing by Payroll Section.

## **8.0 Other Circumstances**

**8.1** If an employee gives birth late she is not entitled to extra maternity leave beyond the date confirmed to her by Payroll Section.

**8.2** If an employee has a miscarriage or a stillbirth after 24 weeks of pregnancy, she will still be entitled to 52 weeks maternity leave thereafter and the appropriate maternity pay entitlements.

**8.3** If a miscarriage or stillbirth occurs before the 24<sup>th</sup> week of pregnancy, sympathetic consideration may be given by the Council to granting the employee a period of special unpaid leave.

## **9.0 Keeping in Touch Days**

**9.1** An employee, in agreement with her Line Manager, may attend work during her maternity leave, referred to as Keeping in Touch days (KIT days).

**9.2** An employee can work to 10 days under her contract of employment, with the exception of the 2 weeks CML (**Refer to Point 2.4**), without bringing her maternity leave to an end and without losing any maternity pay entitlements.

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**9.3** The type of work that an employee can undertake on KIT days would be an activity ordinarily classed as work under her contract of employment, for example, attending a conference or team meeting or undertaking a training activity.

**9.4** For all hours worked on a KIT day the employee will be paid at her normal rate of pay offset against any maternity payments received.

**9.5** Where an employee agrees to work for part of a KIT day, this will count as one day.

**9.6** An employee's maternity leave will not be extended to take account of any time she has carried out work during KIT days.

## **10.0 Reasonable Contact**

**10.1** Distinct from KIT days, the Council may make reasonable contact with an employee during her maternity leave. Similarly the employee can make contact with the Council.

**10.2** The frequency, nature and method of contact should be agreed by the employee and her Line Manager before the start of maternity leave.

**10.3** Reasonable contact might include, for example, discussing the employee's return to work and any plans to continue breastfeeding or to alter working arrangements. Such contact would not constitute work under the specified 10 KIT days.

**10.4** In any event the Line Manager will ensure that the employee is kept informed of promotional opportunities and other information relating to her job that she would normally be made aware of if she was at work.

## **11.0 Contractual Entitlements**

### ***11.1 Contractual Implications during Maternity Leave***

**11.1.1** During the 52 weeks of maternity leave (OML and AML) the employee's contract of employment continues for the purposes of calculating continuous service, for example, the right to a redundancy payment and other length of service benefits such as incremental progression and annual leave entitlement.

**11.1.2** During both OML and AML, an employee will not be entitled to benefit from contractual pay except for work carried out during KIT days (**Refer to Section 9.0 - Keeping in Touch Days**).

**11.1.3** Other contractual entitlements and benefits may vary depending on whether an employee is on OML or AML. Details regarding the main entitlements are set out below.

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### **11.2 Pension Scheme**

**11.2.1** If the employee is a member of NILGOSC her maternity leave will count as reckonable service. Therefore her pension contributions will automatically continue to be deducted based on the amount of pay she actually receives during maternity leave.

**11.2.2** During unpaid maternity leave the employee is not required to make any contributions. However, she may within 30 days elect in writing to pay contributions for this period. Her contributions will be based on the pay she was receiving before her unpaid leave started.

**11.2.3** If the employee opts to repay, the Council will automatically pay the employer contributions for that same period.

**11.2.4** If the employee chooses not to repay, the corresponding period of unpaid leave will not count towards her total membership.

### **11.3 Annual Leave**

**11.3.1** Employees on maternity leave continue to accrue their normal annual leave entitlement during both OML and AML.

**11.3.2** The normal carry over of 5 days leave (pro-rata to part-time employees) at the end of the financial year as per the Council's Guidelines on Leave Provisions will apply.

### **11.4 Statutory Holidays**

**11.4.1** Employees are entitled to any Bank/Public/Extra Statutory holidays (pro-rata to part-time employees) which fall during the 26 weeks of OML only.

**11.4.2** Employees will be given an extra days leave (or equivalent hours if part-time) in lieu of each statutory holiday which falls in the OML period which will be added to their accrued annual leave entitlement.

**11.4.3** The normal carry over of 5 days leave (pro-rata to part-time employees) at the end of the financial year as per the Council's Guidelines on Leave Provisions will still apply.

**11.4.4** It is important therefore that an employee incorporates both annual leave (**Refer to Section 11.3**) and Statutory Holiday arrangements in her maternity leave preparations with her Line Manager particularly where she intends to take 52 weeks maternity leave. Employees should seek early advice from Payroll Section on how to plan the use of their leave entitlement to avoid losing same.

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### **11.5 *Essential Car User Allowance***

**11.5.1** If an employee is designated an essential car user, she will be entitled to her lump sum throughout the 26 weeks OML only.

## **12.0 Returning to Work**

### **12.1 *Return to work after Maternity Leave***

**12.1.1** The date on which an employee returns to work will normally be the first working day 52 weeks after her maternity leave began as previously notified to her by Payroll Section.

### **12.2 *Return to work while on Maternity Leave***

**12.2.1** If an employee wishes to return to work before the end of the full maternity leave period of 52 weeks she must give her Line Manager 21 days notice of her return to work (Refer to pro forma at **Appendix 2**). This notice applies if intending to return to work during both OML and AML.

**12.2.2** If an employee tries to return to work earlier than the end date of her maternity leave without giving the required 21 days notice, the Council may postpone her return until the full 21 days notice has been given, but not beyond the end of the AML period.

### **12.3 *Changing a return date***

**12.3.1** Where an employee subsequently decides to postpone her previously notified return to work date, she must give written notice of the new later date of return at least 21 days before the earlier date.

### **12.4 *Inability to return***

**12.4.1** If an employee is unable to return to work due to sickness on the date she has notified her intention to return to work from maternity leave (i.e. having complied with the notice requirement of 21 days) she must notify her Line Manager immediately (and provide a medical certificate if the absence is in excess of 7 days).

**12.4.2** Where an employee notifies her inability to return to work due to sickness absence without having complied with the 21 days notice requirement, she will be treated as remaining on maternity leave until such times as the required notice has been provided and completed, but not beyond the confirmed end of AML. If she is unable to return to work after the notice has expired, she must then re-notify her Line Manager immediately (and provide a medical certificate if the absence is in excess of 7 days).

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**12.4.3** Where there is an interruption of work (e.g. industrial action), the Council does not expect an employee to return on the due date. In such circumstances, the employee may instead return when work resumes, or as soon as reasonably practicable thereafter.

### **12.5 *Not returning to work***

**12.5.1** An employee who does not wish to return to work (either during or at the end of during her maternity leave) must give the period of notice required by her contract of employment.

**12.5.2** This notification must be in writing to the Line Manager specifying the date on which she wishes to terminate the contract.

**12.5.3** An employee who does not return to work for at least 3 months after maternity leave and has been paid OMP will be required to refund the Council the appropriate monies paid within an agreed period.

**12.5.4** For information on whether absence following maternity leave (e.g. due to sickness, career break or parental leave) counts towards the requirement to return to work for 3 months when OMP has been paid, please refer to the applicable policy.

### **12.6 *Return to Work – What Job***

**12.6.1** An employee who returns to work after either OML or AML is entitled to return to the same job on the same terms and conditions as originally employed unless a redundancy situation or other exceptional circumstances (e.g. general re-organisation) has arisen.

**12.6.2** In such circumstances the employee is entitled to be offered suitable alternative employment. Where a suitable alternative position does not exist it may be necessary to return the employee in a supernumerary capacity for a period of time.

**12.6.3** In the case of redundancy, the employee on maternity leave will be advised of the situation and any final decision will be normally deferred until her return to work.

## **13.0 Work Life Balance Arrangements**

**13.1** The Council offers a range of options to help employees and their partners balance caring responsibilities and work, such as:

- Flexible Working Arrangements
- Paternity Leave
- Time off for Dependents
- Parental Leave
- Career Break

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**13.2** It is important, where an employee intends to request any such arrangement upon her return to work e.g. career break or part-time hours, that she discusses her intentions in good time with her Line Manager to confirm her eligibility and ensure compliance with the agreed procedure including timescales.

**13.3** Copies of the range of work life balance policies are available on the Council's intranet site - W: Drive/Human Resources/Policies or by contacting Human Resources.

### **14.0 Review**

**14.1** The Maternity Policy and Procedure will be kept under review by the Council and amended as required in consultation with employees and, where appropriate, their elected trade union representatives.

### **Equality Impact Assessment**

This Policy has been assessed under Down District Council's Equality Impact Assessment process and has been screened out as having no impact on any of the groups designated in Section 75 of the Northern Ireland Act 1998.

## **Glossary**

**Ordinary Maternity Leave** – this constitutes the first 26 weeks of a continuous period of 52 weeks maternity leave entitlement.

**Additional Maternity Leave** – this constitutes the final 26 weeks of a continuous period of 52 weeks maternity leave entitlement.

**Compulsory Maternity Leave** – this is the first two weeks following the birth during which the employee cannot carry out work.

**Mat B1 Form** - the certificate from a registered medical practitioner or registered midwife which confirms the expected week of childbirth (EWC)

**Expected Week of Childbirth** – this is the week in which the baby is due to be born.

**Statutory Maternity Pay** – This is the allowance specified by the Government which is payable subject to the employee meeting certain qualifying conditions. This amount is usually increased annually in April.

**Occupational Maternity Pay** – This is enhanced maternity pay available to employees in accordance with their terms and conditions of service.

**Maternity Allowance** – This is a maternity benefit which employees may be eligible to receive if they do not qualify for SMP.

**Keeping in Touch Days** – these are days during which an employee can agree to come to work, up to a maximum of 10 days, during her maternity leave without bringing it to an end.

**Job** – this means the nature of the work the employee is employed to do and the capacity and place in which she is so employed.

**Appendix 2**

**Notification of Intention to take Maternity Leave**

**To be completed by the employee and returned to Payroll Section**

<b>I have read the Council's Maternity Policy and Procedure and fully understand the content.</b>	
<b>Employee Name:</b>	
<b>Job Title:</b>	
<b>Department:</b>	
<b>Location:</b>	
<b>Contracted Hours</b>	
<b>Staff No:</b>	
<p>1.(a) I am pregnant and my baby is due week commencing: _____ and I intend to start my maternity leave on: _____</p> <p><b>Or</b></p> <p>(b) I have given birth and my baby was born on: _____</p> <p>2. My Mat B1 Certificate is attached/will follow* <b>(You must submit your Mat B1 Certificate at least 28 days before you go on maternity leave)</b></p> <p>3. I intend/do not intend* to return to work for a period of at least 3 months after my maternity leave. <b>(If you do not return to work for at least 3 months after your maternity leave, the Council will reclaim any OMP made to you - Refer to Section 12.5)</b></p> <p>4. <b>I understand my entitlement to maternity leave is 52 weeks.</b> I would like my 12 weeks half pay averaged over ___ weeks. (Please specify: <b>up to 33 weeks maximum</b>)</p> <p>Signature: _____ Date: _____</p> <p><b>*Delete as appropriate</b></p>	

**Office Use**

Received by:		Date received:	
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**Notification of Early Return to Work**

**To be completed by the employee and returned to Line Manager**

**Please read the following information carefully**

You will be expected to return to work at the end of your full 52 weeks maternity leave entitlement i.e. on the date previously confirmed to you by the Payroll Section. You only need to fill this form in and return to the Payroll Section if you want to return earlier than that date. **You must give 21 days notice of your early return to work date.**

<b>Employee Name:</b>	
<b>Job Title:</b>	
<b>Staff No:</b>	

I plan to return early to work from maternity leave and my intended date of return is: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Office Use**

Date received:		Received by:	
Date forwarded to Payroll Section:		By:	