

CREWE TOWN COUNCIL MATERNITY RIGHTS AND OBLIGATIONS

1. INITIAL OBLIGATIONS/NOTIFICATION OF PREGNANCY

You are required to notify your Line Manager of the following at least 28 days before you want your maternity absence to begin and in order to meet the requirements of Statutory Maternity Pay (SMP).

That you are pregnant.

Of the expected week of childbirth

Of the date you want your maternity leave to start. This cannot be earlier than the 11th week before the week baby is due.

Although the latest you can leave it is 28 days before you want your absence to begin, it is advisable to inform your Line Manager as early as you are able, to ensure your Health and Safety rights are implemented and so that you can take your entitlement to time off for ante natal care. It is perfectly acceptable to inform your line manager of the pregnancy as early as you want, to take advantage of your rights, but not put your official written notification in until at least 28 days before wishing to commence maternity leave.

For the Council's part we will respond to your notification within 28 days, advising of your return to work date, along with your maternity pay entitlements. If you take your full entitlement to maternity leave your return to work will be 52 weeks from the start of your leave.

2. Ante-Natal Care

Under the terms and conditions governing your employment you are entitled to paid time off for ante-natal care so long as you can show:

- You are pregnant
- That the appointment was made on the advice of a GP, Registered Midwife or Consultant.
- That the purpose of the appointment is to receive antenatal care

You are therefore asked to produce a certificate from your GP, Midwife or Consultant with evidence of appointments before being granted time off for the first time. Time off must be granted for any appointment that is made on medical grounds and, therefore, will obviously cover appointments for scans and tests.

Ante-natal care includes not only medical examinations but also relaxation classes and parent craft classes **if** recommended by your doctor or midwife.

3. Maternity Leave Entitlement

- All employees are entitled to maternity leave of 52 weeks regardless of service. 26 weeks known as ordinary maternity leave and 26 weeks known as additional maternity leave.
- Maternity leave will start automatically before the chosen start date in two situations:
 1. Trigger by premature birth – this will start the maternity leave on the day **after** the date of birth.
 2. Trigger by sickness –if you are absent from work due to a pregnancy related reason after the beginning of the fourth week before the expected week of confinement (EWC), but before the date you have notified as your start date, the maternity leave begins automatically on

the day after the first day of absence

- Maternity leave shall commence no earlier than 11 weeks before the week baby is due or from the time of childbirth if that is earlier. The week baby is due always starts with a Sunday, for example if baby was expected on Tuesday 30th June then the week baby is due would be from Sunday 28th June to Saturday 3rd July.

4. Maternity Pay

- a) If you have at least one year's continuous service at the 11th week before week baby due you will be entitled to the following:

Weeks 1-6 inclusive 9/10 of a week's pay (offset against payments made by way of Statutory Maternity Pay (SMP))*

Weeks 7 –18 inclusive where you have declared in writing you intend to return to work you will receive half pay without deduction except to the extent that the half pay plus SMP or Maternity Allowance (MA) exceeds full pay. This half pay is paid on the understanding that you will return to local authority employment for at least 3 months.

If you are not intending to return you will receive your entitlement to SMP only.

If you receive the half pay and do not return, then you must repay the Occupational Maternity Pay to the Council. SMP does not have to be repaid.

Weeks 19-39 inclusive For the remaining 21 weeks you will receive your Entitlement to SMP.

- SMP is 90% of average earnings for the first 6 weeks, then it is in accordance with statutory payments and remains a taxable payment. If you are in receipt of an honorarium your maternity pay will be based on your substantive grade, and not the rate of your honorarium, as you will not be covering work of a higher grade during your maternity leave.

- b) If you have less than 1 years continuous service at the 11th week before the week baby is due you will receive your entitlement to SMP, which will be as follows:

Weeks 1-6 inclusive 6 weeks at 9/10 of average pay.

Weeks 7-39 inclusive SMP or 90% of average pay whichever is the lower.

In order to receive this you must have 26 weeks service by the end of the 15th week before the week baby is due and your average earnings in the 8 weeks prior to this must equal the lower earnings limit.

If you do not meet this criterion then Payroll Services will issue you with an SMP1 form so that you maybe able to claim Maternity Allowance from the Benefits Agency.

Please note that if your baby is born early you may be overpaid and this will be recovered from you.

5. PENSION

- a) During any period of unpaid maternity/adoption leave you will not make any contributions. However, at the end of the maternity or adoption leave period you can, within 30 days elect to pay contributions for this unpaid period to allow it to count as pensionable service.

6. Right to Return

- (a) Subject to (b) to 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.
- (b) Where it is not practicable by reason of redundancy for the authority to permit her to return to work in her job as defined in (a) 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 in the job in which she was originally employed.
- © Suitable alternative employment may also be offered 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.
- (d) **Exercise of the Rights to Early Return to Work**
All employees shall notify the authority in writing 21 days before the day on which she proposes to return if this is before the end of the maternity leave period. The authority may postpone her return to work until a date not more than 21 days after the notified date of return. To do this the authority's notification shall be conveyed to the officer before the notified date of return and shall give the reasons for postponing her return until the later date.

- (e) Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness absence policy in the normal way. For delays due to industrial action, work will be resumed as soon as reasonable.

If your baby is due after 3rd April 2011 you have the choice to transfer up to six months maternity leave to the child's father should you wish to, which can be taken by the father once the mother has returned to work.

Further information on this is available by following the links on www.direct.gov.uk Or accessing the Paternity Leave guide on the intranet.

7. Relationship with sickness and annual leave/bank holidays

- (a) Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement of sickness leave.
- (b) Ordinary and additional maternity leave is regarded as continuous service for the purpose of sickness and maternity schemes and annual leave.
Annual leave continues to accrue during both ordinary and additional maternity leave.
- (c) Bank holidays that fall within the 26 weeks ordinary maternity leave and 26 weeks additional maternity leave will continue to accrue, and a substitute day will be provided.

8. Right to Request Part time / changed hours

If and when you decide to return to work after maternity leave you have the right to request changed hours if you wish, either on a temporary or permanent basis. The Council has an obligation to consider your request, and to look at whether this can be accommodated within your service area/job.

In order for full consideration to be given to any request, you should notify your Line Manager and HR of your wishes at least 4 weeks before you intend to return. The right to request part time / changed hours does not equate to a right to have this request granted, as this depends upon the nature of your work and your job, however every attempt will be made to reach a mutually acceptable arrangement before you return to work. The Council has the right to delay your return from maternity leave for up to 28 days in order to make the necessary arrangements to accommodate this, so it is recommended that you make any such request as soon as you are able.

9. Annual Leave during Maternity Leave

During the period of your maternity leave, whether paid or unpaid, you will accrue holiday entitlement for the period of absence. You may wish to consider taking any accrued holiday leave as part of your total period of absence before you return to work. The benefit to you of doing this will depend on when you are planning to start and finish your maternity leave. Please discuss this with HR, who can discuss the options with you. You should be aware that you will not normally be allowed to carry over more than the 5 days allowed for in the Holiday and other Leave policy into any subsequent leave year. You should also be aware that if you do not return to work, or return on reduced hours, your holiday entitlement will be reduced on a pro-rata basis, and may necessitate the recovery of

an overpayment.

10. Definitions

- (a) **A Week's Pay** – Please liaise with HR Services if you have a query in relation to the definition of a weeks pay.
- (b) **Childbirth** - Childbirth means the live birth or a stillbirth after a pregnancy lasting at least 24 weeks.
- (c) Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

11. Maternity Support Leave

Maternity support leave of 5 days with pay shall be granted to the child's father or the partner of an expectant mother at or around the time of birth. Alternatively leave may be granted to a sole carer who is nominated by the mother in the long term absence of the child's father to provide full time care and assistance at or around the time of birth. Evidence of sole caring responsibility may be requested. Maternity Support Leave must be taken within 56 days of the date of birth. In addition, providing the employee has 26 weeks continuous service by the end of the 15th week before the week baby due they are entitled to a second weeks leave paid at the current statutory paternity rate.

If the baby is born early, leave can be taken at any time between the actual date of birth and the end of the 8 week period, running from the Sunday of the week the baby was originally due.

12. Parental Leave

Please see the Parental Leave guide on Brian under HR Policies and Procedures; or if you do not have access to Brian HR Services can provide you with a copy. Further information is also available on www.direct.gov.uk

13. Paternity Leave

Details of the Paternity Leave scheme are available on the Intranet under HR Policies and Procedures, or if you do not have access to the Brian HR Services can provide you with a copy. Further information is also available on www.direct.gov.uk

14. Keeping in Touch Days

It may be that you want to keep in touch with new working arrangements, or any other changes during your maternity leave. Maternity leave regulations provide that you will be able to do 10 days work during your maternity leave without bringing your maternity leave to an end. Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace. There is no obligation for you to work during your maternity leave, and likewise you cannot insist that you are given work to do. You will continue to receive your SMP for any week in which you do work, and additional payment will be subject to agreement with your Line Manager prior to any day worked.

Where an employee works on a KIT day during the ordinary maternity or adoption leave period, both the employee and the employer will pay pension contributions based on the pay the employee receives for that day.

N.B. Maternity leave will not be extended due to the fact that work has been carried out during the maternity leave period.

15. Reasonable Contact

The maternity regulations make it clear that an employer and employee are allowed to make reasonable contact during maternity leave to discuss such issues as the return to work. This would not constitute 'work' and would not therefore count towards the 10 Keeping In Touch Days. The Regulations specifically provide that such contact will not bring the maternity leave period to an end.

In addition, the Council will also ensure that an employee is kept informed of other issues, such as job vacancies, significant workplace developments and training opportunities.

16. Essential Car User Allowance

Essential car user allowance will be paid for Ordinary Maternity Leave and Additional Maternity Leave periods where applicable.

Agreed by F&R 6th December 2016