



NEWHAVEN TOWN COUNCIL

Maternity Rights

1. General principles

- 1.1 It is Newhaven Town Council's policy to respect the statutory rights of employees who are pregnant or have recently given birth with regard to ante-natal care, pregnancy-related sickness and maternity leave. This document outlines those rights as well as your responsibilities.

2. Definitions

The definitions in this paragraph apply in this document.

Expected Week of Childbirth (EWC): the week, starting on a Sunday, in which your doctor or midwife expects you to give birth.

Qualifying Week: the fifteenth week before the EWC.

3. Notification

- 3.1 You must inform us as soon as possible that you are pregnant. This is important as there may be health and safety considerations (*see paragraph 6, Health and Safety*).
- 3.2 Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, you must tell us:
- a) that you are pregnant;
 - b) the Expected Week of Childbirth (EWC); and
 - c) the date on which you would like to start your maternity leave (*see paragraph 8, Starting Maternity Leave*).
- 3.3 You must provide a certificate from a doctor or midwife (usually on a MATB1 form) confirming your EWC.

4. Time off for ante-natal care

- 4.1 If you are pregnant you may take reasonable paid time off during working hours for ante-natal care. This may include any relaxation or parent craft classes that your doctor, midwife or health visitor has advised you to attend. You should try to give us as much notice as possible of the appointment.
- 4.2 We may ask you to provide the following, unless it is the first appointment:
- a) a certificate from the doctor, midwife or health visitor stating that you are pregnant; and

- b) an appointment card.

5. Sickness

- 5.1 Periods of pregnancy related sickness absence shall be paid in accordance with the same manner as any other sickness absence.
- 5.2 Periods of pregnancy related sickness absence, from the start of your pregnancy until the end of your maternity leave, will be recorded separately from other sickness records and will be disregarded in any future employment related decisions.
- 5.3 If you are absent for a pregnancy related reason during the four weeks before your EWC, your maternity leave will usually start automatically (*see paragraph 8, Starting Maternity Leave*).

6. Health and safety

- 6.1 We have a general duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.
- 6.2 We will provide you with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been, or will be, taken. If we consider that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work, we will take such steps as are necessary (and for as long as is necessary) to avoid those risks. This may involve:
 - a) changing your working conditions or hours of work;
 - b) offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
 - c) suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

7. Maternity leave

- 7.1 Shortly before your maternity leave starts, we shall discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.
- 7.2 All employees are entitled to up to 52 weeks' maternity leave, which is divided into:
 - a) Ordinary Maternity Leave (OML) of 26 weeks
 - b) Additional Maternity Leave (AML) of a further 26 weeks immediately following OML

8. Starting maternity leave

- 8.1 The earliest date you can start maternity leave is 11 weeks before the EWC (unless your child is born prematurely before that date).
- 8.2 You must notify us of your chosen start date in accordance with *paragraph 3*. We will then write to you within 28 days to tell you the date your entitlement to maternity leave will end if you take your full entitlement.
- 8.3 You can postpone your chosen start date by informing us in writing at least 28 days before the original chosen start date, or if that is not possible, as soon as reasonably practicable.
- 8.4 You can bring forward the chosen start date by informing us at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.
- 8.5 Maternity leave shall start on the earlier of:
 - a) your chosen start date (if notified to us in accordance with this policy); or
 - b) the day after any day on which you are absent for a pregnancy-related reason during the four weeks before the EWC; or
 - c) the day after you give birth.
- 8.6 If you are absent for a pregnancy-related reason during the four weeks before the EWC, you must let us know as soon as possible in writing. Maternity leave will be triggered under *paragraph 8.5 (b)* unless both parties agree to delay it.
- 8.7 If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible.
- 8.8 The law prohibits you from working during the two weeks following childbirth.

9. Terms and conditions during OML and AML

All the terms and conditions of your employment remain in force during OML and AML, except for the terms relating to pay:

- (a) benefits in kind (such as life insurance, health insurance, gym membership and use of a company vehicle if applicable) shall continue;
- (b) annual leave entitlement under your contract shall continue to accrue (*see paragraph 10, Annual Leave*)
- (c) pension benefits shall continue (*see paragraph 11*).

10. Annual leave

- 10.1 During OML and AML, annual leave will accrue at the rate provided under your contract.

- 10.2 In many cases a period of maternity leave will last beyond the end of the holiday year. Any holiday entitlement for the year that is not taken **OR** cannot reasonably be taken before starting your maternity leave, can be carried over to the next holiday year and must be taken immediately before returning to work, unless your manager agrees otherwise. You should try to limit carry-over to one week's holiday or less. Carry-over of more than one week is at your manager's discretion.

You should discuss your holiday plans with your manager in good time before starting your maternity leave. All holiday dates are subject to approval by your manager.

11. Pensions

- 11.1 During OML, and any further period of paid maternity leave, we shall continue to make any employer contributions that we usually make into a money-purchase pension scheme, based on what your earnings would have been if you had not been on maternity leave, provided that you continue to make contributions based on the maternity pay you are receiving.
- 11.2 The period of OML and any further period of paid maternity leave counts towards any final-salary pension scheme as pensionable service, provided you make the necessary minimum contributions based on the maternity pay you are receiving.
- 11.3 During unpaid AML we shall not make any payments into a money purchase scheme, and the time shall not count as pensionable service under any final salary scheme. You do not have to make any contributions but you may do so if you wish, or you may make up for missed contributions at a later date.

12. Redundancies during maternity leave

In the event that your post is affected by a redundancy situation occurring during your maternity leave, we shall write to inform you of any proposals and invite you to a meeting before any final decision is reached as to your continued employment. Employees on maternity leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

13. Maternity pay

- 13.1 Statutory maternity pay (**SMP**) is payable for up to 39 weeks. SMP will stop being payable if you return to work sooner (except where you are simply keeping in touch in accordance with paragraph 14. See *paragraph 14, Keeping in Touch*). You are entitled to SMP if:
- a) you have been continuously employed for at least 26 weeks at the end of your Qualifying Week and are still employed by us during that week;
 - b) your average weekly earnings during the eight weeks ending with the Qualifying Week (the **Relevant Period**) are not less than the lower earnings limit set by the government;
 - c) you provide us with a doctor's or midwife's certificate (MATB1 form) stating your EWC;

- d) you give at least 28 days' notice (or, if that is not possible, as much notice as you can) of your intention to take maternity leave; and
- e) you are still pregnant 11 weeks before the start of the EWC or have already given birth.

13.2 SMP is calculated as follows:

- a) First six weeks: SMP is paid at the **Earnings-Related Rate** of 90% of your average weekly earnings calculated over the Relevant Period;
- b) Remaining 33 weeks: SMP is paid at the **Prescribed Rate** which is set by the government for the relevant tax year, or the Earnings-Related Rate if this is lower.

13.3 SMP accrues from the day on which you commence your OML and thereafter at the end of each complete week of absence, measured from Sunday to Saturday. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.

13.4 You shall still be eligible for SMP if you leave employment for any reason after the start of the Qualifying Week (for example, if you resign or are made redundant). In such cases, if your maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

- a) the week following the week in which employment ends; or
- b) the eleventh week before the EWC.

13.5 If you become eligible for a pay rise before the end of your maternity leave, you will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that your SMP will be recalculated and increased retrospectively, or that you may qualify for SMP if you did not previously qualify. We shall pay you a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

14. Keeping in touch

14.1 We may make reasonable contact with you from time to time during maternity leave.

14.2 You may work (including attending training) for up to 10 days during maternity leave without bringing your maternity leave or SMP to an end. The arrangements, including pay, would be set by agreement. You are not obliged to undertake any such work during maternity leave. In any case, you must not work in the two weeks following birth.

14.3 Shortly before you are due to return to work, we may invite you to have a discussion whether in person or by telephone about the arrangements for your return to work. This may include:

- a. updating you on any changes that may have occurred;

- b. discussing any necessary training required;
- c. discussing any changes to working arrangements (for example if you have made a request to work part-time. See *paragraph 20*, Returning to Work Part-Time).

15. Expected return date

- 15.1 We shall write to inform you of the date we expect you to return to work (the **Expected Return Date**). This letter shall be sent within 28 days of the day you notify us of your chosen start date. If your start date has been changed (either because you gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected Return Date.
- 15.2 We expect you to return on the Expected Return Date unless you tell us otherwise. It is helpful to us if you confirm during your maternity leave that you will be returning to work as expected.

16. Returning early

- 16.1 If you wish to return to work earlier than the Expected Return Date, you must give us 8 weeks notice. It is helpful if you give this notice in writing.
- 16.2 If insufficient notice is given, we may postpone your return date until 8 weeks after you gave notice, or to the Expected Return Date if sooner.

17. Returning late

- 17.1 If you wish to return later than the Expected Return Date, you should either:
 - a) request unpaid parental leave in accordance with our parental leave policy, giving us as much notice as possible but not less than 21 days; or
 - b) request paid annual leave in accordance with your contract, which will be at our discretion.
- 17.2 If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and our usual sickness policy will apply.
- 17.3 In any other case, late return will be treated as unauthorised absence.

18. Deciding not to return

- 18.1 If you do not intend to return to work, or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period, otherwise we may require you to return to work for the remainder of the notice period.
- 18.2 Once you have given notice that you will not be returning to work, you cannot

change your mind without our agreement.

18.3 This does not affect your right to receive SMP.

19. Your rights when you return

19.1 You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been if you had not been absent.

19.2 However, if you have taken any period of AML or more than four weeks parental leave, and it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

20. Returning to work part-time

We will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on case-by-case basis. There is no absolute right to insist on working part-time, but we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the business. It is helpful if requests are made as early as possible.