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## HUMAN RESOURCES

# Maternity Policy

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# I Introduction

- 1.1 This policy outlines to managers and to female employees who become pregnant what the maternity benefits are and what actions should or must be taken.
- 1.2 To qualify for maternity leave, a woman must be an employee of Royal Greenwich, working under a contract of employment.

## 2 Employee Responsibilities

- 2.1 Employee must provide notification to her manager  
Whilst the employee is not required by law to notify the manager of her pregnancy until the 15<sup>th</sup> week before her baby is expected, it would be helpful if she inform her manager as soon as she becomes aware of her pregnancy to allow the manager to put in place any health and safety protective measures.

The employee can do so by using the Employee Early notification of pregnancy letter or by providing a medical certificate confirming the pregnancy or antenatal appointment card.

The employee **must**, if she wishes to take maternity leave, notify her manager in writing of the following no later than the end of the 15<sup>th</sup> week before the week her baby is expected (by the 25<sup>th</sup> week of pregnancy):

- that she is pregnant
- the expected week of the birth
- the date that she intends to start her maternity leave.
- the employee **must** provide medical evidence of the date the baby is expected. This will normally be a maternity certificate, form MATBI.

- 2.2 The employee **must** ensure that she asks for form MATBI (available during her 26th week of pregnancy from her doctor or midwife) and provides it to her manager. Managers cannot accept medical evidence issued **more than 20 weeks** before the week the baby is due.

- 2.3 The employee must give her manager at least 28 calendar days notice, in writing; of the date she wants her maternity pay to start. This notice can be given at the same time as the notification to take maternity leave.

- 2.4 If the employee changes her mind about when she wishes her maternity leave to start she must give written notice of the new start date by whichever is the earlier of:

- 28 calendar days before the date she originally intended to start her leave
- 28 calendar days before the new date she wants to start her leave

It is recognised that in some cases it is not possible to give the required notice of starting maternity leave (e.g. if the baby arrives early). In such a case the employee **must** notify her manager, in writing, as soon as is reasonable practicable. Without

the proper notification and provision of medical evidence, maternity benefits will be affected.

**2.5** Following the birth, the employee must provide medical evidence of the actual date of birth.

## **3 Health and Safety**

### **3.1 Risk Assessment**

Managers must arrange a full risk assessment to identify any health and safety issues or risk for expectant mothers, or those given birth or miscarried within the previous 6 months or who are breast-feeding. The risk assessment in relation to a pregnant employee needs to take into consideration the potential risks to the unborn child and the employee.

### **3.2 Night Work**

Where the employee's job requires night work and her doctor confirms that her health and safety will be at risk if she continues to work at night, she will be entitled to be offered other available suitable alternative daytime work. Suitable alternative work must be both suitable and appropriate for her to do in the circumstances and on terms and conditions no less favourable than her normal terms and conditions. Where this is not possible, as an absolute last resort, the employee may be suspended (see 3.5) whilst pregnant, breastfeeding or if she has given birth within the last six months. She must provide a medical certificate to confirm this before the leave can be granted.

### **3.3 Antenatal appointments**

During pregnancy the employee is entitled to time off work with pay to attend antenatal appointments at a doctor's surgery or a hospital.

### **3.4 Protective Measures**

If a health and safety risk is identified (this must be using a proper risk assessment) it must be dealt with. The manager must take any protective measures to reduce it to its lowest acceptable level. In exceptional circumstances, where the risk identified is high, the manager can:

- temporarily change the method or hours of work
- offer available suitable alternative work (see section on night work)
- As a last resort, requiring the employee to stay away from work until suitable work can be found (i.e. is suspended).

The manager may ask the employee to provide a medical certificate or doctor's note before taking any of the measures above.

### **3.5 Suspension from work on maternity grounds**

Before temporarily suspending an employee, a manager must be able to show the gravity of the risk and that it could not be avoided by adjustments such as an alteration to working conditions or hours of work, or lack of suitable alternative

employment. Only if these options are not available or it would be unreasonable or unfeasible to do so, should there be suspension from work on maternity grounds. Suspension must be based on a proper analysis of the risk to health and not on discriminatory assumptions about what work a pregnant woman could do.

The employee is entitled to receive wages or salary at her full normal rate for as long as the suspension continues unless she unreasonably refuses an offer of suitable alternative work, in which case no remuneration is payable for the period during which the offer applies. If she has both a statutory right and a contractual right to remuneration during maternity suspension, such entitlements can be offset against each other.

### **3.6 Duration of health and safety precautions**

Any health and safety precautions that are implemented will continue, if necessary, for up to six months after the birth, miscarriage, still birth or for a longer period if the employee is breast-feeding beyond this time.

Where suspension from work is necessary, this may continue up to the date notified by the employee as being the start of her maternity leave or the 36th week of her pregnancy, whichever occurs sooner. At the notified date, or the 36th week, the suspension will be replaced by maternity leave. Suspension may also occur during any period from the end of maternity leave up to six months after childbirth (or later if the employee is breast-feeding).

### **3.7 Effect of health and safety precautions on the employee's pay**

The employee will not lose any pay or other benefits if any precautionary measures are taken for health and safety reasons (except where unreasonably refuses to accept an offer of suitable alternative work). Where suitable alternative work is offered, the terms and conditions must not be substantially less favourable than the corresponding terms and conditions for their normal work.

Once maternity leave starts then any entitlement to maternity pay will be given in accordance with 'Maternity Pay' above.

### **3.8 Absence from work due to pregnancy related reason**

The employee's maternity leave will commence automatically on the day following the first day on which she is absent from work wholly or partly because of pregnancy after the beginning of the fourth week before the expected week of childbirth (EWC). For example, if the employee's maternity leave was due to start one week before her EWC but she is off sick for a pregnancy-related reason in the third week before her EWC, her maternity leave and statutory maternity pay will start automatically on the day after the first day of her illness, so sick pay will cease at this point.

The employee must notify her manager that she is absent from work wholly or partly because of pregnancy and of the date on which her absence for that reason began as soon as is reasonably practicable. Odd days of pregnancy-related illness may be disregarded at the manager's discretion if the employee wishes to defer the start of her maternity leave period. These statutory provisions do not

apply to sickness absence that is unrelated to the employee's pregnancy, in which case the employee can remain on sick leave and receive sick pay right up to the date she notified as the date on which she intends her maternity leave to start. If the employee is off sick when her maternity leave is due to start and the maternity leave start date is before the beginning of the fourth week before the EWC, the maternity leave will still start on the date the employee notified as the commencement date, regardless of the fact that she is off sick or the reason for the sickness absence.

## 4 Maternity leave and pay

- 4.1 The manager must write to the employee within 28 calendar days of receiving the employee's notification setting out the date on which her leave will end. The manager's notification should assume that the employee is taking at least the statutory amount of leave that she is entitled to.
- 4.2 If the employee has changed her leave date, the manager **must** notify her of the end date within twenty eight calendar days of the start of the leave.
- 4.3 To qualify for maternity pay the employee **must not** start maternity leave earlier than 11 weeks (29 weeks pregnant) before the baby is expected.
- 4.4 If the baby arrives earlier than the 29th week of pregnancy, or earlier than the employee's intended start date for maternity leave, she must as soon as is reasonably practicable provide evidence of the date the baby was expected and notify her manager, in writing; of the date of the birth.
- 4.5 Evidence of the expected date and the actual date of birth can be provided together on the MATBI, issued by a doctor or midwife. Maternity leave and pay would start on the day following the birth.
- 4.6 Royal Greenwich will make maternity payment(s) to the employee if she:
  - has the right amount of continuous service (see Levels 1-4 below)
  - qualifies for Statutory Maternity Pay (SMP), that is has been continuously employed for 26 weeks into the qualifying week (15<sup>th</sup> week before the expected week of childbirth) and for 8 weeks prior to the end of the qualifying week has earning on average not less than the lower earnings limit for national insurance (after 15 July 2012 £107 per week).
  - is still pregnant 11 weeks before the baby is expected or has had the baby by that time
  - has started her maternity leave

- has complied with the requirements to give notice and has provided medical evidence (usually a MAT B1).

Women, who do not meet the threshold for SMP, may be eligible for maternity allowance payable direct from Jobcentre Plus. Maternity Allowance pays, as from 9 April 2012, a standard weekly rate of £135.45 or 90 per cent of average gross weekly earnings (before tax), whichever is the smaller.

**4.7** If she cannot satisfy all of the above conditions she will still be entitled to maternity leave, and Royal Greenwich may grant some pay as set out at Level Four below.

**4.8** Although women are entitled to a possible 52 weeks leave, some couples may choose to divide the period of leave entitlement between them using Shared Parental Leave (SPL). Shared Parental Leave enables eligible parents to choose how to share leave in order to care for their child during the first year of birth. All eligible employees have a statutory right to take a period of Shared Parental Leave. For further information on SPL please refer to the Shared Parental Leave Policy.

**4.9** References to ‘a week’s pay’ mean the average pay in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no pay was earned

**4.10.** The four levels of maternity benefits are as follows

	<b>Level One</b>	<b>Level Two</b>	<b>Level Three</b>	<b>Level Four</b>
<b>Application</b>	Where the employee returns to Royal Greenwich’s employment for at least 13 weeks	Where the employee returns from maternity leave to another local authority employment for at least 13 weeks	Where the employee does not return from maternity leave to any local authority employment for a minimum of 13 weeks	Where the employee has less than 26 weeks continuous service
<b>Continuous Service</b>	At least 26 weeks continuous service with Royal Greenwich or other previous local authority named in the Redundancy Payments Modification Order.	At least 26 weeks continuous service with Royal Greenwich or other previous local authority named in the Redundancy Payments Modification Order.	At least 26 weeks continuous service with Royal Greenwich or other previous local authority named in the Redundancy Payments Modification Order.	Less than 26 weeks continuous service with Royal Greenwich or other previous local authority named in the Redundancy Payments Modification Order.

	<b>Level One</b>	<b>Level Two</b>	<b>Level Three</b>	<b>Level Four</b>
<b>Date Service requirement must be met</b>	15 weeks before the baby is due	11 weeks before the baby is due	15 weeks before the baby is due.	15 weeks before the baby is due
<b>Return to work</b>	Return to work for Royal Greenwich at least 13 weeks immediately after the expiry of maternity leave	Return to another local authority for a minimum of 13 weeks	Does not return to work for a local authority or does not continue for at least 13 weeks afterwards.	-
<b>Date leave can start</b>	11 weeks before the birth (at the earliest)	11 weeks before the birth at the earliest	11 weeks before the birth at the earliest	11 weeks before the birth at the earliest
<b>Leave entitlement</b>	52 weeks counting from the Sunday following the date of birth (at the latest).	52 weeks leave	52 weeks leave	52 weeks maternity leave
<b>Pay entitlement</b>	<p>39 weeks maternity:</p> <p>12 weeks x full pay (inclusive of any SMP). <b>Maternity Allowance (MA)</b> will be deducted if she does not qualify for SMP.</p> <p>6 weeks x half a week's pay plus (if entitled) SMP or MA.</p> <p>12 weeks x half a week's pay (inclusive of SMP or MA) or SMP/MA alone, if greater.</p> <p>9 weeks at SMP or MA.</p>	<p>39 weeks maternity pay</p> <p>6 weeks x full pay inclusive of any SMP. MA will be deducted if the employee does not qualify for SMP.</p> <p>12 weeks x half a week's pay plus (if entitled) SMP or MA,</p> <p>21 weeks SMP or MA (if entitled).</p>	<p>39 weeks maternity pay:</p> <p>6 weeks full pay (inclusive of any SMP). MA will be deducted if the employee does not qualify for Statutory Maternity Pay</p> <p>33 weeks SMP (if the employee is entitled to this).</p>	<p>One week full contractual pay, which will be paid by Royal Greenwich.</p> <p>An amount of Maternity Allowance etc. payable by the Department of Social Security if she qualifies under their rules.</p>



	<b>Level One</b>	<b>Level Two</b>	<b>Level Three</b>	<b>Level Four</b>
<b>Conditions affecting Payment</b>	<p>The full benefit will be paid only after the employee has declared in writing her intention to return to the employment of Royal Greenwich at the expiry of her maternity leave.</p> <p>If, for any reason, the employee does not remain in the employment of Royal Greenwich for at least 13 weeks immediately following maternity leave, she will lose her entitlement to pay at Level One.</p> <p>In such case she will be entitled to pay at Level Two or Three as appropriate.</p> <p>Excess amount paid will be recovered by Royal Greenwich including by means of a deduction from final salary.</p>	<p>The full benefit will be paid only after the employee has declared in writing her intention to return to the employment with another local authority.</p> <p>If for any reason, the employee does not comply with this requirement, she will lose her entitlement to pay at Level Two.</p> <p>In such case she will be entitled to pay at Level Three as appropriate.</p> <p>Excess amount paid will be recovered by Royal Greenwich including by means of deduction from final salary.</p>		
<b>Other Conditions</b>	<p>If the employee reduces her hours of work by agreement, the 13-week period will increase accordingly on a pro-rata basis.</p>	<p>Employee must inform Royal Greenwich if she fails to continue in employment with the other local authority for 13 weeks.</p>	<p>To terminate employment at the end of her maternity leave, her contractual notice needs to be given so as to expire at the end of the 52 weeks.</p>	

At the half pay element of Maternity leave the pay combined with SMP (or MA and any dependants allowances if not eligible for SMP) must not exceed the employee's normal week's pay.

If the employee reduces her hours of work by agreement, the 13-week period will increase accordingly. (Example if the employee reduces her hours from 35 hours to 17.5 hours per week), employees will be required to remain in employment for 26 weeks.

## **5 Return to work**

**5.1** The employee must not carry out any work at all for Royal Greenwich for at least two weeks after the birth of the baby. This period is called the 'compulsory maternity leave period'. If the baby is late her maternity leave is extended to include this period.

### **5.2 Keeping in Touch days**

During her maternity Royal Greenwich is legally entitled to make reasonable contact with the employee in order to see how she is and to keep her up-to-date with work matters. In addition the employee may return to work for up to 10 days. The days may be worked individually or in blocks as agreed with her manager but cannot be worked in the two weeks of compulsory maternity leave period immediately after birth. Maternity Pay entitlement will remain unaffected during Keeping in Touch days. If the employee returns to work for more than 10 days she will forfeit SMP.

Work can include attending training or any other activity to assist the employee in "keeping in touch with the workplace". Any days that are worked do not have the effect of extending the total duration of the leave period. There is no obligation for Royal Greenwich to offer work during this period or any obligation on the employee to accept work.

Royal Greenwich will pay the employee the normal remuneration for that that day but reduced by the value of a current day's worth of SMP. This will ensure that the employee receives overall normal pay for any KIT day worked plus SMP for the remainder of the week. Royal Greenwich will then recover a full week's statutory pay from HM Revenue and Customs as offsetting has to done on a weekly basis. Once the employer and employee have agreed which dates will be work days, managers should inform Human Resources to ensure the employee's pay details are adjusted in order for them to receive pay.

### **5.3 Notification about returning to work**

An employee is not required to forewarn her manager if she intends to return to work the day after her maternity leave ends but if she wishes to return to work before the end of the ordinary and additional maternity leave, she must give her manager eight weeks notice of her return date or any earlier return date.

If an employee attempts to return to work earlier than the end of her additional maternity leave and this notice has not been given, the manager may postpone the leave to such date which does give eight weeks notice provided that is not later than the end of the maternity leave period.

An employee taking maternity leave who chooses to curtail or give notice to reduce their entitlement of 52 weeks maternity leave to enable their partner to take Shared Parental Leave, will also need to co-operate with the notices to be given to her partner's employer. Good communication by the employee is therefore important in order to accommodate return to work requests.

#### **5.4 Notice required if not returning to work**

Although an employee does not have to give notice that they intend to return to work at the end of maternity leave, if she does not intend to return, she should give at least the period of notice required by her contract of employment. It is important therefore that the decision not to return is not made at the last minute as this could result in a breach of contract. The same principles apply to an employee who does not intend to return after a period of Shared Paternity Leave. The reason for the notice is also practical, in order to plan work and put employee back on the payroll system.

If the employee fails to return to work following the end of the return date notified by the manager, and there is no justifiable reason for her continuing absence, this will be treated as unauthorised absence. Attempts will be made to confirm the situation with the employee. No pay will be made and a failure to return will result in termination of employment.

#### **5.5 Where the employee is returning from maternity leave to another employer**

Unless agreed otherwise, maternity leave will end at the date notified by the manager and employee will need to submit their resignation giving contractual notice to coincide with this date to terminate their employment. She would then continue her employment with the new employer.

#### **5.6 Returning to work on varied terms**

If the employee returning from maternity leave wants to vary their working arrangements to accommodate their child care arrangements such as breast feeding, a flexible working request needs to be made. A statutory request can be made under the Royal Greenwich's Flexible Working Scheme and a decision will be made no later than 6 weeks after a written request is made. Requests therefore need to be made in good time before returning.

#### **5.7 Breast-feeding after the employee has returned to work**

If an employee intends to breastfeed her baby following her return to work, she is asked to inform her manager in writing so that support can be given. Where an employee or manager is worried about the attitudes of work colleagues, the request and details will be kept confidential.

Breastfeeding can be carried out directly if childcare or home is close to work or with express milk (taking milk from the breast by hand or using a pump) so that someone else can feed the baby while the mother is at work. As not all Royal Greenwich offices have special facilities in place such as the Town Hall and Woolwich Centre, local arrangements e.g. provision of space in a fridge and access to a clean, warm and private room with a comfortable chair for privacy will be made. Note that toilets are not a suitable place to express milk including disabled toilets which may seem ideal as they have the required space and privacy. An electronic socket is required where a pump is being used and a hand wash basin for cleaning and sterilising equipment. The employee may request extra breaks or an extended lunch to express milk and these requests should be granted. It is useful for the employee to explain to the manager the frequency and duration for expressing milk as not all managers will have knowledge of breast feeding.

## **6 Terms and condition during and after maternity leave**

### **6.1 The contract of employment**

Maternity leave counts as continuous employment for statutory employment protection rights. Terms relating to remuneration do not continue during maternity leave but vary according to length of service as shown in the table 4.10. All other terms continue to apply including:

### **6.2 Annual leave**

Maternity leave (paid and unpaid) is regarded as continuous service for the purpose of awarding extra days annual leave (e.g. some employees receive extra days annual leave after five years' continuous service).

The contractual amount of annual leave continues to accrue for up to 52 weeks maternity leave. Thereafter, annual leave will accrue at the rate stated under the Working Time Regulations (the rate is a proportion of 4 weeks annual leave).

If the employee cannot take annual leave because of being on maternity leave, she can carry over the annual leave to the following leave year. Annual Leave accrued can be taken before and after maternity leave. Calculations on annual leave over the maternity period can be confusing so HR can provide advice where needed.

### **6.3 Public Holidays**

Employees will be entitled to be given a day's leave for each bank holiday that falls during the OML and AML period. The same applies to any concessionary days fixed by Royal Greenwich. In practice this means there is an obligation to provide a substitute leave day for the bank holidays that she was unable to take during her maternity leave period.

## **6.4 Sickness**

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 to sickness leave.

If, at the end of maternity leave, the employee is prevented from returning to work because of sickness, she must immediately tell her manager and then provide a doctor's certificate to cover her continuing absence in the normal way. Her sickness absence will be treated in the normal way including any appropriate action under the sickness management procedure.

## **6.5 Childcare Vouchers**

Royal Greenwich will continue to provide childcare vouchers throughout the full 52 weeks of maternity leave because they are regarded as a non-cash benefit. Where enhanced maternity pay is being paid, salary sacrifice will continue as normal out of own salary as long as the reduction in salary means the employee does not go below the statutory maternity pay levels. Statutory maternity pay cannot be sacrificed, therefore an employee cannot fund the childcare vouchers out of her statutory maternity pay. In this case, Royal Greenwich will fund the childcare vouchers. The same applies with unpaid additional maternity leave where Royal Greenwich will also provide childcare vouchers.

Some women will choose to opt out of the scheme before maternity leave because their reduction in salary means they are better off receiving tax credits.

## **6.6 Fixed term contracts**

Pregnant employees on fixed term contracts have the right not to be treated less favourably than a comparable permanent employee as regards their contractual terms and benefits. There is the same entitlement to SMP and enhanced maternity pay as employees on permanent contracts subject to same qualifying requirements.

Any non-renewal of a fixed term contract is a dismissal and will have to be justified in the usual way in writing, for example stating the reason such as a project coming to an end. There is no legal requirement to extend a fixed-term contract, or renew it, so that it covers the maternity leave period. If the contract expires and is not renewed during the period of statutory maternity leave, this will bring the maternity leave to an end but will not affect the obligation to pay SMP. The work can continue until the expiry of the contract and be carried out by another employee to cover the employee's absence until the work comes to an end.

It is automatically unfair to dismiss a woman because she is pregnant or intends to take maternity leave even if this means that she is unable to work for the majority of the contract.

## **6.7 Redundancy**

If a redundancy situation arises at any stage during an employee's maternity leave, it may not be possible to continue to employ her under her existing contract of employment. In these circumstances, she must be offered any suitable alternative

vacancies that exist. The terms and conditions of the new job must be not substantially less favourable than her original job.

A failure to comply with these requirements could result in the dismissal being unfair. Redundancy can only be regarded as fair where there is no suitable alternative work to offer her and every effort has been made to avoid her dismissal. Note that, on dismissal:

- her maternity leave period comes to an end, but
- her entitlement to statutory maternity pay (SMP) continues until the end of the 39-week SMP period (if it hasn't already ended)
- Management must provide written reasons for dismissal

If an employee is offered a suitable alternative job and unreasonably refuses it, she will lose her right to redundancy pay.

The normal procedural requirements relating to redundancy dismissals apply equally to fixed-term employees and any breach could lead to the dismissal being unfair. To be eligible for a redundancy payment, an employee must have a minimum of two years continuous employment.

## **6.8 Pensions – The Local Government Pension Scheme (LGPS)**

### **Contributions to LGPS during paid maternity leave:**

If the employee belongs to the LGPS, Royal Greenwich will continue to deduct her pension contributions from the pay actually received. This means that she will pay the same percentage rate of pension contributions even after her maternity pay reduces and she is only receiving half pay or SMP. Her scheme membership will continue to accrue in full.

### **Contributions to a LGPS during unpaid maternity leave:**

During any unpaid period in the first 26 weeks of maternity leave, the employee will be deemed to have paid basic pension contributions and her service will count in full for pension benefits, i.e. as if she had been at work.

During any unpaid period from week 27 onwards of maternity leave, the employee will have a choice about paying pension contributions or not, otherwise the employee and employer will contribute as normal during the maternity pay period.

If she chooses to pay, she must tell the Pension Section. The amount to be paid will be based on the pay she received immediately before her pay stopped, and the period of payment will count in full for pension benefits. She need not pay the contributions during her maternity leave; if she wishes, she can make the payments after she has returned to work but to do this she must tell the Pension Section within 30 days of returning to work or of ceasing employment (if earlier). If she

does not pay, the unpaid part of her maternity leave will not count at all for pension benefits (but depending on her length of scheme membership this may not make a significant difference to her pension when she retires).

#### **6.9 Additional Voluntary Contributions (AVCs) and buying extra LGPS Pension:**

If the employee has deductions made from her pay for either of these, Royal Greenwich will continue to deduct the contributions from her maternity pay. If she wishes to continue paying deductions when her pay reduces or ceases, she must discuss this with the Pension Section so that the shortfall in contributions can be repaid on returning to work.

## **7 Further Information**

For further information on this policy, please contact Human Resources.

**HR Professional Services**

**November 2015**