

MATERNITY LEAVE AND PAY

1. Introduction

Hackney supports employees in achieving a balance between their lives at work and their lives away from work. This forms part of the Council's commitment to improving services and increasing opportunities for all. **Maternity Leave** is one of the family leave options available to Council employees.

2. Scope

This Policy applies to all employees except those working in schools.

3. Qualifying Criteria

3.1 All employees are entitled to **Maternity Leave** totalling 52 weeks, regardless of their length of service or number of hours worked.

3.2. To qualify for **Occupational Maternity Pay**:-

(i) An employee must have, at least:-

- 16 weeks continuous service with Hackney by the end of the 15th week before their 'expected week of childbirth'

or

- One year's continuous Local Government Service by the end of the 11th week before their 'expected week of childbirth'

- Must be returning to work at the end of their Maternity Leave for a minimum period of 3 months.

3.3. To qualify for **Statutory Maternity Pay**:-

(ii) An employee must have, at least:-

26 weeks continuous service with Hackney by the end of the 15th week before their 'expected week of childbirth'

And

(iii) Must earn at least the lower earnings limit (LEL) for National Insurance Contributions

3.4 Employees who do not earn the LEL or who do not have the qualifying service for maternity pay should refer to section 22.

4. Maternity Leave

4.1 The total leave entitlement is 52 weeks and is made up of:-

- 26 weeks Ordinary Maternity Leave; and
- 26 weeks Additional Maternity Leave

4.2 **Ordinary Maternity Leave** will start:-

- **On a date chosen by the employee**, which can be at any time after the beginning of the 11th week before the employee’s expected week of childbirth and up to the date the baby is born.
Maternity leave may be triggered before the chosen date where:
 - **The baby is born early.** *Maternity leave commences the date after the employee gives birth; or*
 - **The employee has sickness absence for a pregnancy-related reason in the four weeks before the expected week of childbirth.** *Maternity leave commences the date after the sickness absence.*
 Note: sickness absence may be disregarded at management discretion, which would allow the employee to continue to their chosen date. For example, where the absence was only for a day or two.

In summary, maternity leave is triggered by the date notified by the pregnant person, the actual birth of the baby, or pregnancy-related sickness immediately prior to the due date – whichever occurs first.

4.3 **Additional Maternity Leave** begins the day after Ordinary Maternity Leave ends (i.e. the Maternity Leave is a continuous 52 week period).

4.4 **Compulsory Maternity Leave** is the two week period commencing from the date of birth. During compulsory maternity leave the person who has given birth is not allowed to work. There is no discretion. Usually compulsory maternity leave will fall within the 26 weeks ordinary maternity leave period.

5. Maternity Pay

5.1 Maternity Pay will depend on the employee’s service and whether or not the employee intends to return to work for at least 3 months after their maternity leave ends.

5.1.1

For employees with at least 16 weeks service at 15 weeks before the expected week of child birth, see paragraph 4.2 (below)
If not:
For employees with at least 1 year’s local Government service at 11 weeks before the expected week of child birth, see paragraph 4.3 (below)
If not:
See paragraph 4.4 (below)

5.1.2

Employees with at least 16 weeks service with Hackney at 15 weeks before the expected week of child birth:	
Returning to work:	
Weeks 1 – 6 (6 weeks)	9/10 of a week's pay (includes Statutory Maternity Pay (SMP), where payable)
Weeks 7 – 24 (18 weeks)	Half pay plus SMP, where payable
Weeks 25 – 39 (15 weeks)	SMP, where payable
NOT returning to work:	
Weeks 1 – 6 (6 weeks)	9/10 of a week's pay (includes SMP, where payable)
Weeks 7 – 39 (33 weeks)	Statutory Maternity Pay (where payable)
<p>Important note: Employees with at least 26 weeks service with Hackney at 15 weeks before the expected week of childbirth are entitled to Statutory Maternity Pay (SMP), which will be paid to the employee of behalf of the Government and claimed back from the government.</p> <p>Employees with less than 26 weeks service with Hackney at 15 weeks before the expected week of childbirth are NOT entitled to Statutory Maternity pay but may be entitled to Statutory Maternity Allowance. This is paid directly by the government. Employees will have their MAT B1 returned to them and will be given a Form SMP1 to take to their local Job Centre Plus.</p>	

5.1.3

Employees with at least 1 year's Local Government service at 11 weeks before the expected week of child birth: (but less than 16 weeks with Hackney at 15 weeks before)	
Returning to work:	
Weeks 1 – 6 (6 weeks)	9/10 of a week's pay (includes Statutory Maternity Allowance, if payable).
Weeks 7 – 18 (12 weeks)	Half pay.
Weeks 19 – 39 (21 weeks)	No pay from the Council
NOT returning to work:	
Weeks 1 – 6 (6 weeks)	9/10 of a week's pay (includes Statutory Maternity Allowance)
Weeks 7 – 39 (33 weeks)	No pay from the Council.
<p>Important note: Employees with less than 26 weeks service with Hackney at 15 weeks before the expected week of childbirth are NOT entitled to Statutory Maternity Pay but may be entitled to Statutory Maternity Allowance. This is paid directly by the government. Employees will have their MAT B1 returned to them and will be given a Form SMP1 to take to their local Job Centre Plus.</p>	

5.1.4

Employees with less than 16 weeks service with Hackney at 15 weeks before the expected week of child birth and less than 1 year's local government service at 11 weeks before the expected week of childbirth:	
Returning to work:	
Weeks 1 – 39 (39 weeks)	No payments from the Council. Statutory Maternity Allowance may be payable.
NOT returning to work:	
Weeks 1 – 39 (39 weeks)	No payments from the Council. Statutory Maternity Allowance may be payable.
Important note: Employees with less than 26 weeks service with Hackney at 15 weeks before the expected week of childbirth are NOT entitled to Statutory Maternity Pay but may be entitled to Statutory Maternity Allowance. This is paid directly by the government. Employees will have their MAT B1 returned to them and will be given a Form SMP1 to take to their local Job Centre Plus.	

- 5.2 After week 39, remaining maternity leave taken will be on no pay (i.e. weeks 40 – 52, if the full entitlement is used).
- 5.3 The employee's average earnings (for calculating maternity pay) are calculated using the 8 weeks before the 15th week before the expected week of childbirth.
- 5.4 Statutory maternity pay is subject to tax and National Insurance. Pension contributions will continue for the paid part of the maternity leave (but not for the unpaid part). Contact the Pension Team for further information.
- 5.5 Where an employee does not return to work in Local Government (or a related body) for at least 3 months at the end of their maternity leave, then the half pay element of contractual maternity pay must be repaid to the Council. Employees may opt to wait until they are certain about returning before receiving contractual maternity pay in order to avoid a debt.

6. Contractual entitlements (other than pay)

- 6.1 Contractual entitlements (other than pay) will continue throughout the entire period of maternity leave, including entitlements to annual leave and Bank Holidays.
- 6.2 Annual leave and bank holidays can be taken before or after the maternity leave (as agreed with the line manager) but not during the maternity leave.

Hackney does not normally allow more than 5 days carry over of annual leave into a new leave year. Employees should take their annual leave before going on maternity leave or get agreement in advance, if the carry over will be more than 5 days. This will make sure that no annual leave is lost. Time awarded for Bank Holidays (during the maternity leave period) may be carried forward.

7. Notification

7.1 The employee must:-

(i) **at least 15 weeks before the baby is due**, notify their manager:-

- that they are pregnant;
- the date the baby is due; and
- the date they plan to commence maternity leave

(ii) **at least 4 weeks before the baby is due:-**

- give their manager a completed MATB1 form

7.2 The employee may change the date they plan to begin maternity leave (to be either earlier or later than first planned) provided they give at least 21 days notice before the new start date (or as soon as is reasonably possible).

7.3 All information must be forwarded to Human Resources who will write to the employee within 28 days of the notification, to acknowledge that they will be taking maternity leave and to inform them of the date they must return to work (i.e. when the full 52 week entitlement will end).

8. Antenatal Appointments/Classes

8.1 Once the employee has notified their manager that they are pregnant, they are entitled to reasonable paid time off to attend antenatal appointments and classes (as advised by their doctor, their mid-wife or a registered health visitor).

8.2 Where possible appointments should be arranged for the beginning or end of the day and at times that will cause the least disruption to the service. Evidence of the appointment (such as the appointment card or a medical certificate) must be presented – except in the case of the first appointment.

9. Pregnancy Related Illness

9.1 Managers will keep a record of pregnancy-related sickness absence, and the absence will be offset against the employee's sick pay entitlements in the usual way. However, pregnancy-related illness will not count towards sickness triggers and formal management processes will not be used. Managers should keep in touch with the employee and discuss the absence to make sure that the employee is receiving any support required. Once maternity leave has ended any special protection will cease and subsequent sickness absence should be handled in the usual way. However, the earlier pregnancy/maternity related illness must continue to be discounted (e.g. for sickness triggers).

9.2 Employees will not qualify for Occupational Sick Pay or Statutory Sick Pay while on maternity leave.

9.3 For further information refer to the Council's Management of Sickness Absence Procedure.

10. Keeping in Touch Days (KIT)

10.1 Employees may work (or attend training) for up to 10 days during their maternity leave (ordinary or additional) without bringing the maternity leave to an end or losing SMP. Days may be worked either singly or in blocks; and can be worked before or after the birth. Maternity leave will not be extended by the number of days worked. The Council will 'top up' pay to 'normal pay' for days worked. 'Keeping in touch days' (KIT) are entirely voluntary and requires agreement from both the employee and employer. This can be agreed with the employee prior to commencing maternity leave.

10.2 Where an employee works part of a day, then this is a whole KIT day used.

10.3 KIT days are not prorata for part-time employees i.e. an employee who works fewer than 5 days per week is still entitled to 10 KIT days.

10.4 Employees **must not** work during the period of Compulsory Maternity Leave (i.e. the first two weeks after childbirth). This includes KIT days.

11. Contact during Maternity Leave

11.1 Managers should keep in reasonable contact with employees who are on maternity leave. The main purpose will be to discuss arrangements for the return to work; keeping in touch days that have been agreed; and to let them know about developments at work. How contact will be made and how frequently should be discussed with the employee before they go on maternity leave and (where possible) agreed.

12. Returning from Maternity Leave

12.1 When returning after **Ordinary Maternity Leave (OML)** (the first 26 weeks of the maternity leave), the employee is entitled to return to the *same job they had when they went on maternity leave*. This must be on the same terms and conditions they had, as if they had not been away.

12.2 When returning from **Additional Maternity Leave (AML)** (the following 26 weeks after OML), the employee is entitled to return to the same post on the same terms and conditions. However, if this is not reasonably practicable, then suitable alternative employment must be found. This must be on the same terms and conditions as if they had not been away.

12.3 Where a redundancy situation arises (during either ordinary or additional maternity leave) the employee is entitled to be offered a suitable and appropriate vacancy (if one exists). *For further guidance please refer to the Council's Redeployment Procedure.*

13. Returning Earlier than Expected.

- 13.1 An employee may return to work earlier than initially notified but must give at least 8 weeks notice of the new return date (preferably in writing). If 8 weeks notice is not given then the Council may delay the return date by 8 weeks in order to prepare for the return, so long as this is not later than the date initially notified.

14. Not Returning on the Expected Date

- 14.1 If the employee is unable to return to work because of sickness absence, then normal sickness absence rules will apply (see section 8).
- 14.2 If the employee is not able to return from maternity leave for other reasons, then they must contact their line manager as soon as possible. Not returning to work after 52 weeks of maternity leave (without contact and approval) will be seen as unauthorised absence.

15. Resigning While on Maternity Leave

- 15.1 Employees who resign while on maternity leave must give notice in accordance with their contract of employment. If the notice period is longer than the remaining maternity leave, they may be required to return to work to complete the notice period.

16. Requesting Flexible Working

- 16.1 The employee may request part-time or flexible working arrangements, which will be considered in line with the Council's flexible working policy.

17. Multiple Births

- 17.1 Maternity leave arrangements are unaffected by the number of babies born from a single pregnancy i.e. there is no additional leave (or pay) for twins or triplets.

18. Health & Safety

- 18.1 A work place risk assessment must be carried out for all pregnant people and for people who have recently given birth or are breastfeeding.

Managers should complete the attached Health and Safety Pregnancy Risk Assessment Questionnaire (*Appendix 1*) as soon as they are formally notified that an employee is pregnant and where someone returns to work and notifies their manager that they are breastfeeding.

- 18.2 Hazards can include long hours; stress; noise; violence from customers; exposure to toxic substances such as pesticides; and manual handling etc.

18.3 Special consideration must be given to people who work at night, especially where they have a medical certificate stating that night work could affect their health and safety. The Council must offer them suitable alternative daytime time work that is no less favourable than their normal terms and conditions.

19. Rest Facilities

Rest facilities must be available to pregnant people, those who have recently given birth and those who are breastfeeding.

Where possible, a room will be made available to people who are breastfeeding or expressing milk. The room must be private (ideally lockable), comfortable and safe. Toilets are not sufficient for this purpose.

20. Surrogacy

20.1 The person who gives birth:

The person who gives birth is eligible for maternity leave and pay provided they meet the normal qualifying criteria. What the person plans to do with the baby after it's born has no bearing on their entitlements.

20.2 Surrogate parents:

The employee (and their partner) receiving the child will not normally be entitled to maternity or Adoption Leave (unless the baby is adopted through an approved adoption agency). Qualifying employees will be eligible for unpaid parental leave once they have a parental order.

21. Stillbirths

21.1 The person who gives birth is entitled to their full maternity rights if:-

- the baby is born dead after the 24th week of pregnancy (i.e. a 'stillbirth');
- or
- the baby is born alive at any stage of the pregnancy and dies.

22. Miscarriage

22.1 If the baby is born dead before the 24th week of pregnancy, then this is a 'miscarriage', and the person is not entitled to maternity leave or pay.

The employee may be absent on sick leave and this is treated in the same way as pregnancy-related illness for a two week period i.e. it is recorded separately and will not count towards sickness triggers. The two week protected period runs from the end of the pregnancy i.e. the date they lost the baby.

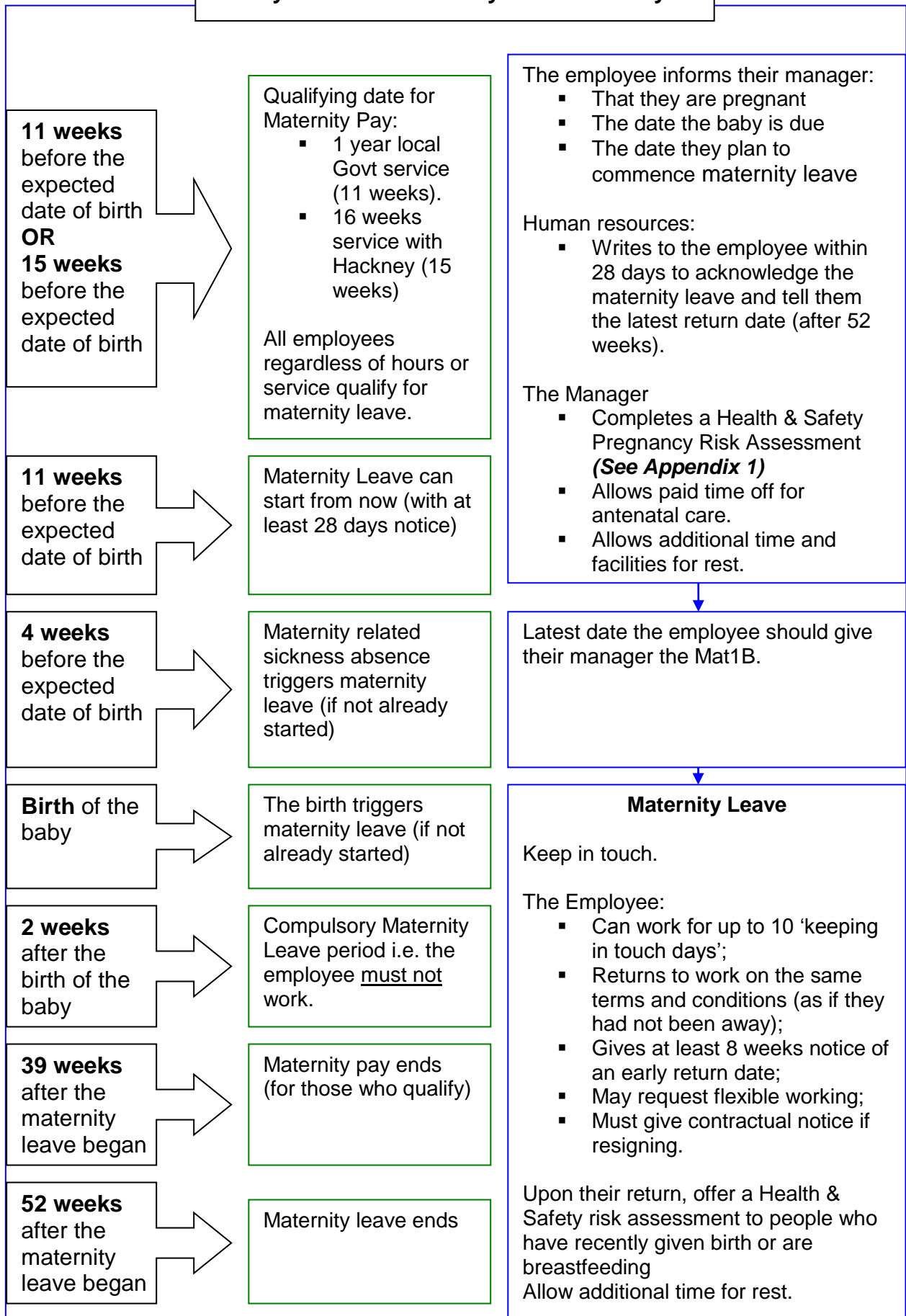
23. Employees who do not have the qualifying service or who fall below the Lower Earnings Limit (LEL)

- 23.1 Employees who earn below the LEL have no right to statutory maternity pay. However, employees with the qualifying service (see section 1.2 above) will receive contractual maternity pay of 6 weeks at 9/10ths; plus 12 – 18 weeks at half pay (depending on service) i.e. you will have same entitlement as a fulltime employee (prorata).

The employee must return to work for a period of at least three months after maternity leave has ended to keep the half pay (weeks 12-18). Employees may opt to wait until they have decided whether or not they will return before receiving this payment (to avoid debt).

- 23.2 All employees who do not qualify for Statutory Maternity payments will be given Form SMP1 and will have their MAT B1 returned to them. Employees should contact Jobcentre Plus to find out if they are entitled to any other payments, such as Maternity Allowance.
- 23.3 All employees regardless of earnings or length of service are entitled to 52 weeks Maternity Leave.

Key Dates for Maternity Leave and Pay



Title:	Health and Safety Pregnancy Risk Assessment Questionnaire	Date:	
Department:		Employee Name:	
Description of Work:		Tele:	
Location:		Due Date:	
Manager Name:			

Hazards	Yes/No	Existing control measures	Risk Rating H/M/L	Further action necessary	Additional Comments
Does your work involve a) excessive workload or pressure etc		•		•	•
b) the manual handling of Loads		•		•	•
c) bending, stretching or twisting				•	•
d) standing or sitting for prolonged periods of time		•		•	•
f) potential exposure to infectious diseases		•		•	•
g) potential exposure to hazardous substances				•	•
h) potential threatening or violent behaviour				•	•
i) lone Working				•	•

Hazards		Existing control measures	Risk Rating H/M/L	Further action necessary	Additional Comments
j) Work with computers				•	•
Are there any travel aspects that may involve significant walking distance, steering, or excessive journey time?		•		•	•
Do you have suitable access to toilet facilities?				•	•
Do you have the opportunity to take breaks in suitable rest facilities?		•		•	•
Are you experiencing significant feeling of tiredness?		•		•	•
Has your local fire marshal been informed in case of an emergency?		•		•	•
Are there any tripping hazards or uneven surfaces in the working environment?				•	•
Do you have to work extended hours or shift work?		•		•	•
Are you wearing suitable footwear?		•		•	•

Hazards	Existing control measures	Risk Rating H/M/L	Further action necessary	Additional Comments
Do you have any pre-existing medical condition which may affect the pregnancy?	•		•	•

Additional Comments:

Health and Safety Action Plan for

Head of Service	Service:
Date:	Manager:

Action No	Action	Action By	Priority			Target date	Completed		Date Completed
			H	M	L		Yes	No	
1									
2									
3									