

Maternity Scheme - Including Shared Parental Leave Version: 2.5

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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Related Forms/ Template Letters	<ul style="list-style-type: none"> • Application for Maternity Leave/Pay Form • Alteration to Original Maternity Leave Date Form • Early Return to Work Following Maternity/ Adoption Form • Completed KIT/SPLIT Day Form • Return to Work Following 52 weeks of Maternity/Adoption Leave Form
Related documents	<ul style="list-style-type: none"> • HR Guide: Shared Parental Leave • Maternity Scheme Teachers and Associated Professionals

Version Number	Effective Date	Details of Last Revision
2.5	25.09.20	Updated to align with Accessibility Regulations
2.4	02.04.19	Revision of Appendix 1 and links
2.3	20.11.14	Updated onto new policy template and addition of new Shared Parental Leave guidance

Equality Impact Assessment: November 2014

1. Maternity Leave

1.1 Introduction

- 1.1.1 The policy outlines the rights, obligations and entitlements including pay and leave provisions for new or expectant mothers at work and on maternity leave.
- 1.1.1 All pregnant employees are entitled to take up to 52 weeks maternity leave. This is made up of;
- Ordinary Maternity Leave (the first 26 weeks)
 - Additional Maternity Leave (the second 26 weeks)
- 1.1.2 Employees may also be entitled to pay during this period, depending on their average earnings and length of service.
- 1.1.3 Furthermore, the mother may decide to share parental leave with her partner.
- 1.1.4 Provisions for pay and the accrual of annual leave are slightly different for Teachers, who should refer to the [Maternity Scheme for Teachers and Associated Professionals](#), the SNCT Handbook of Conditions of Service (www.snct.org.uk) or contact Human Resources for further information regarding their pay and annual leave accrual.

1.2 Definitions

- 1.2.1 The terms and definitions listed below are used throughout this document;
- **Qualifying Week** is the 15th week before the expected week of confinement.
 - **Expected Week of Confinement** refers to the period of 7 days, beginning with midnight on Saturday/Sunday, in which the childbirth is expected to take place.
 - **Childbirth** means the birth of a living child or a stillbirth after a pregnancy lasting at least 24 weeks.
 - **Continuous Council Service** for the purposes of maternity leave continuous Council service will include continuous previous service with any public authority to which the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 applies.

1.3 Time Off for Antenatal Care

- 1.3.1 All pregnant employees are entitled to take reasonable paid time off, as required for antenatal care. They must provide evidence to the Council of the appointment, which can cover any appointment made on the advice of a doctor, midwife or health visitor. Antenatal care can include not only medical examination but also dental appointments, relaxation and parent craft classes.
- 1.3.2 However, employees should make every effort where possible to arrange these appointments out with working hours. Employees should complete a ‘Special Leave Request Form’ when requesting time off for antenatal appointments.
- 1.3.3 Prospective fathers or a mother’s partner can take time off to attend up to 2 antenatal appointments. Such time off is unpaid, up to 6.5 hours per appointment as required to accompany the expectant mother.

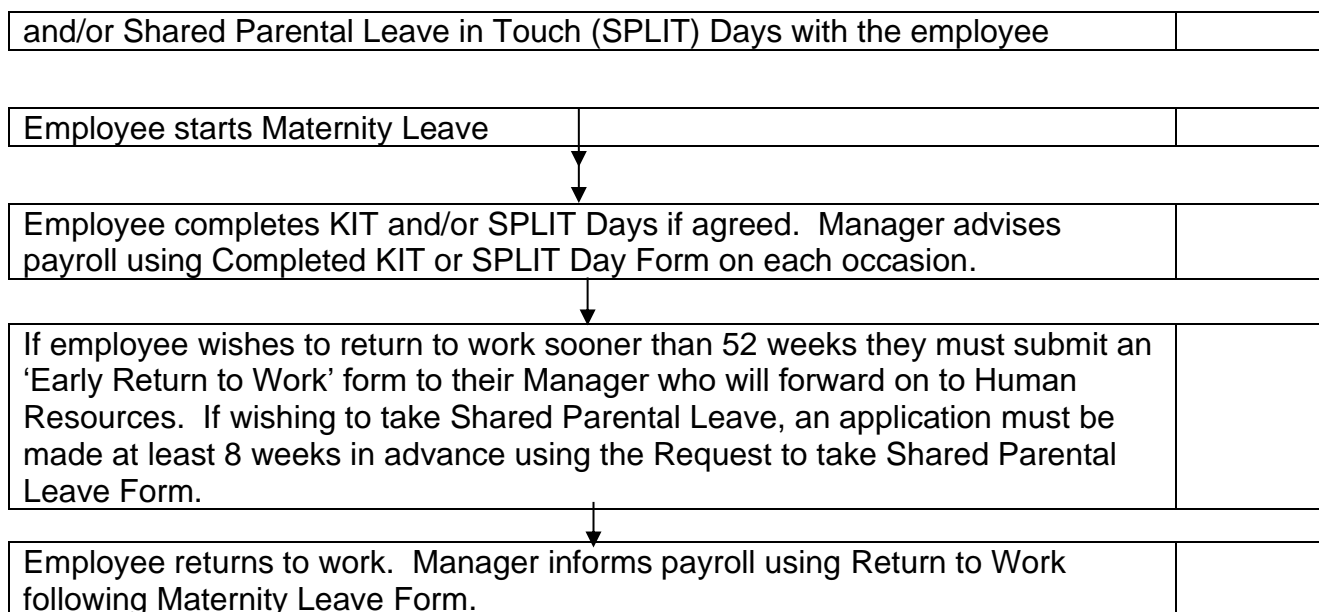
1.4 Overview of Maternity Scheme

The flowchart/checklist below provides an overview of North Ayrshire Council’s Maternity Scheme, and the following pages provide further information on maternity pay and provisions.

Maternity Scheme – Checklist

Once Completed

Midwife confirms that employee is expecting baby, (Mat B1 not necessarily provided at this stage).	
↓	
Employee informs manager and requests time off for antenatal appointments, providing evidence of appointment if required	
↓	
Manager reads the Health and Safety – ‘New and Expectant Mothers at Work Guidance’ to ensure the employee is able to continue in post safely	
↓	
Employee should locate and read a copy of the Maternity Scheme	
↓	
Employee formally submits Notification of Pregnancy – ‘Application for Maternity Leave/Pay form’ to Manager, who forwards on to Human Resources. The Mat B1 form must be attached.	
↓	
Human Resources write to the employee within 28 days, confirming the date the employee wants their Maternity Leave to begin, when they are due back to work and the type of maternity pay they are entitled to.	
↓	
Manager discusses Shared Parental Leave, Keeping in Touch (KIT) Days	



2. Maternity Leave

2.1 Maternity Leave

2.1.1 All employees are entitled to take up to 52 weeks maternity leave. This is made up of;

- **Ordinary Maternity Leave** (the first 26 weeks)
- **Additional Maternity Leave** (the second 26 weeks)

2.2 When can Maternity Leave Start?

2.1.1 An employee can choose to begin their Maternity Leave on **any date after the eleventh week before the expected week of the birth.**

2.1.2 However, Maternity Leave will start on whichever date is earlier of:-

- The employee's chosen start date
- The day after the employee gives birth (only in the event of an early birth)
- The day after the day on which the employee is absent on pregnancy related grounds during the four weeks before the expected birth, even if this is before the date which the employee has notified the Council that she wished her maternity leave to start.

2.1.3 The employee must have notified the council in accordance with the procedure set out below.

2.3 How do I notify the Council of my Pregnancy?

- 1.3.4 Employees must notify the Council by the Qualifying Week (15 weeks before the baby is due) of their pregnancy and when they want their maternity leave to start.
- 2.3.2 Employees should complete the **HR/MAT/01 'Application for Maternity Leave/Pay'** form and submit this to their Manager/Head of Service/, who will then forward on to Human Resources.
- 2.3.3 This form **must** be accompanied by a **Maternity Certificate, (Form MAT B1)** from a registered medical practitioner or midwife. This certificate, which is normally available around 15 weeks before the expected week of confinement, must state the expected date of childbirth.
- 2.3.4 The Council will respond in writing within 28 days of receipt of the notification of intent to start maternity leave. This response will set out the date the employee is expected to return to duty, and the type of maternity pay the employee qualifies for.
- 2.3.5 Employees can change their mind about the commencement date of their Maternity Leave, provided they advise the Council in writing at least 28 days prior to the new date using the **'Alteration to Original Maternity Leave Date'** form for this purpose.

2.4 Health and Safety Considerations

- 2.4.1 In order for North Ayrshire Council to ensure the health and safety of new or expectant mothers, line managers should be notified by the employee in writing of the pregnancy as soon as this is confirmed by a registered medical practitioner or a registered midwife.
- 2.4.2 An employee who is pregnant or has recently given birth or is breast feeding and who cannot carry out their normal duties due to health and safety risks has the right to have their work modified as appropriate or be offered suitable alternative work or if such work is not available, to be suspended on normal pay. Please refer to Guidance on new and Expectant Mothers at Work. If there are any concerns about risks to health and safety of new or expectant mothers at work, they and/or their managers should be encouraged to seek advice from Health and Safety on (01294) 324653.

3. Maternity Pay

- 3.1 Employees may be entitled to maternity pay for **up to 39 weeks** of their maternity leave period, depending on their length of service and average weekly earnings. Maternity Pay can be made up of:-
- **Statutory Maternity Allowance (SMP), or**
 - **Occupational (including Statutory) Maternity Pay (OMP)**

Current statutory rates are usually updated annually in April and details can be found using the link in [Appendix 1 - Maternity Pay Rates](#).

3.2 Eligibility for Maternity Pay

3.2.1 In order to qualify for Maternity Pay, employees must satisfy all of the criteria set out below. If an employee does not meet the criteria for Occupational/Statutory Maternity Pay they may be entitled to receive Statutory Maternity Allowance.

Eligibility Criteria for Occupational/Statutory Maternity Pay: The employee must:

- have at least 26 weeks continuous service at the end of their qualifying week
- Be in receipt of average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions in the 8 weeks prior to the qualifying week (applies to Statutory Maternity Pay only).
- continue to be pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth)
- have notified the Council of the date on which they will cease work in accordance with the Council's notification requirements
- have provided the council with a **maternity certificate (Form Mat B1)**
- continue to be pregnant at the 24th week of pregnancy
- stopped working for North Ayrshire Council for the purposes of maternity leave
- not be in legal custody

Where an employee meets all the required conditions, they will be entitled to receive pay made up of Occupational Maternity Pay/Statutory Maternity Pay/Maternity Allowance for 39 weeks at the rates detailed below:-

The first 6 Weeks

Higher rate of SMP
(Nine Tenths of average weekly earnings)

The next 12 weeks

Half a 'Week's Pay'* plus standard rate SMP/MA, (where paid), (subject to maximum of full pay)

The next 21 weeks

SMP/MA (if eligible)

3.2.2 * A **'Week's Pay'** is the amount payable to the employee under the current contract of employment for working their normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 8 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

3.3 Maternity Allowance

3.3.1 Where an employee is excluded from entitlement to SMP, Payroll will complete the **benefits agency form SMP1** and send it to the employee, together with the form **Mat B1** (if she has provided it) within 7 days of the decision that she is not

entitled to SMP. The **SMP1 form** may enable the employee to claim Maternity Allowance.

3.4 Choosing to Defer Half Pay

- 3.4.1 Payments made by the Council under this clause are made on the understanding that the employee will return to Council employment for a period of at least three months. If the employee does not meet this requirement, she will refund to the Council the gross amount of half pay received. Sympathetic consideration can be given in special cases where it is felt that the application of this advice will cause undue hardship, in such cases a submission to waive the requirement to repay should be made in writing to HR Operations. Only time actually spent at work or on annual leave/public holiday will be taken into account and periods of sick leave/parental leave will be disregarded when calculating the three month return period.
- 3.4.2 If desired, an employee may defer the 12 weeks at half pay at the time of her leave to be paid either during her leave or once she returns to work for a period of three calendar months. Resignation within that period would forfeit the right to receive these payments (Except for SMP or Maternity Allowance to which the employee was entitled).

3.5 Start of Maternity Pay

- 3.5.1 Maternity Pay will start on the first day of the maternity leave period.
- 3.5.2 Once the employee qualifies for SMP, if she leaves her job or is dismissed after the 11th week before the Expected Week of Confinement, SMP will start on the day after her job ends. If the employee is dismissed before the 11th week before her expected week of confinement, her SMP will start when she reaches the 11th week.

3.6 End of Maternity Pay

- 3.6.1 Maternity Pay stops being paid when an employee:-
- starts back to work before the end of her maternity pay period (when SMP/OMP is normally paid). This includes returning to work when sharing parental leave;
 - has received SMP/OMP for the determined period;
 - starts work after childbirth but before the end of her maternity pay period with an employer other than the Council by which she was employed during the qualifying week (SMP/OMP ceases on the Saturday of the week before the week in which she starts work);
 - dies (SMP/OMP ceases on the Saturday of the week in which the death occurred);
 - is arrested or sent to prison (SMP/OMP ceases with the last complete week within the maternity pay period before the employee is taken into custody).

3.6.2 Where SMP/OMP ceases to be payable, the employee will be notified in writing within 21 days, of:-

- the weeks for which the Council considers SMP/OMP is payable;
- the amount of SMP/OMP payable for such weeks;
- The weeks for which the Council considers SMP/OMP not payable and the reasons.

3.6.3 Where the reason is because the employee is taken into legal custody the Council will complete **form SMP1** and send this to the employee along with her **MAT B1** (this may enable the employee to claim Maternity Allowance).

3.7 Pay Increases during Maternity Leave

3.7.1 If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether Ordinary or Additional Maternity Leave) the higher or standard rate of SMP will be recalculated by Payroll to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively or that she may qualify for SMP if she did not previously.

4. Keeping In Touch (KIT) Days and Shared Parental Leave in Touch (SPLIT) Days

- 4.1 Except for the compulsory maternity leave period, i.e. the first two weeks after childbirth, an employee can agree to work, attend for training or any other activity which enables them to keep in touch with their place of employment for up to 10 days. "Keeping in touch" days do not need to be consecutive, do not bring the period of maternity leave to an end or extend the period of maternity leave.
- 4.2 In addition, employees taking Shared Parental Leave (see above for conditions) can work up to 20 days during shared parental leave.
- 4.3 The Service should discuss with the employee any arrangements for 'KIT' and/or 'SPLIT' days before the maternity leave or Shared Parental Leave period starts. Such days can only apply where there is agreement with the employee and their Service management as to both the activity and the timing. A maximum of 10 KIT days and 20 SPLIT days can be taken.
- 4.4 A KIT or SPLIT day will be defined as the employee's contracted day (full or part time) for which they will receive an all-inclusive payment based on their normal pay. If there is agreement for an employee to work less than their contracted day, this will count as a day but payment will be all-inclusive for the actual time worked. The appropriate manager is required to notify Payroll of such days using **Form 'Completed KIT/SPLIT Day'**.

- 4.5 Notwithstanding any arrangements for KIT or SPLIT days, the Service may make reasonable contact during Maternity/Shared Parental Leave to discuss such issues as the return to work, to be kept informed of other relevant issues e.g. significant workplace developments, training opportunities. Such reasonable contact does not constitute work and does not count towards the 10 KIT and/or 20 SPLIT days.

5. Returning to Work

- 5.1 Please note that the law requires that no employee may work for any employer for two weeks immediately following the date of childbirth. This is known as compulsory maternity leave.

5.2 Return to Work after 52 weeks (Full Period of Leave)

- 5.2.1 Employees will have been notified of the date they are expected to return to work after their Maternity Leave. They are not required to give the Council any notification of their return to work unless they wish to return to work before that date. Managers should inform payroll that the employee has returned using template '**Return to Work Following Maternity Leave**'.

5.3 Early Return to Work (before 52 weeks)

- 5.3.1 If an employee wishes to return to work before the end of their Maternity Leave entitlement of 52 weeks they must give the Council at least 28 days notice, in writing, of their early return to work. Employees should use form '**Early Return to Work**' (included in Maternity acknowledgement letter) for this purpose. Failure to provide notification may result in the Council postponing the employee's return to work to such a date that will give the Council 28 days' notice subject to this not being later than the end of the 52 week period of maternity leave, i.e. the return to work date previously notified by the Council.

5.4 Early Return to Work and Shared Parental Leave

- 5.4 Once an employee returns to work, entitlement to Maternity Leave ceases and any further periods of [Shared Parental Leave](#) will be paid at the [current rate](#) of Statutory Maternity Pay (subject to maximum pay entitlements – as per [Eligibility Criteria](#)).

6. Shared Parental Leave

- 6.1 Employees can choose to share parental leave. If an employee proposes to [return to work](#) early without using her full 52-week entitlement to maternity leave by giving proper notification of an early return in accordance with the rules set out above, she may be eligible to share up to 50 weeks of her outstanding maternity leave (and outstanding SMP) to her spouse, civil partner or partner, or the father of her child. This leave will be taken as shared parental leave (and pay where entitled).

6.2 Eligibility

- 6.2.1 A mother, father or partner seeking to take Shared Parental Leave must have worked for the Council for at least 26 weeks at the end of the 15th week before the week in which the child is due, and still be employed in the first week that Shared Parental Leave is to be taken (known as the 'continuity of employment test').
- 6.2.2 The employee's partner must pass the 'employment and earnings test' of working for 26 weeks in the 66 weeks leading up to the due birth date and have earned above the maternity allowance threshold in 13 of the 66 weeks
- 6.2.3 To qualify for Shared Parental Pay the employee must, as well as passing the 'continuity of employment' and 'employment and earnings' tests above, also have earned an average salary of the lower earnings limit or more for the 8 weeks' prior to the 15th week before the expected week of confinement.
- 6.2.4 It is the mother who decides whether to continue on maternity leave or opt to take Shared Parental Leave. Before shared Parental Leave can take place, the mother must have either stopped her maternity leave or have already given notice she intends to stop her leave and take Shared Parental Leave.
- 6.2.5 Details of eligibility requirements can be found online at <https://www.gov.uk/shared-parental-leave-and-pay>

6.3 Pay/Timescales

- 6.3.1 The mother can share her leave with only one other person. The earliest that shared parental leave may start is 2 weeks after the date on which the employee's child is born and it must end no later than 12 months after the date of birth. The mother must take the first 2 weeks as Maternity Leave and agree to reduce her remaining maternity leave entitlement. Shared Parental Leave for the father or partner will be paid at the current rate of Statutory Maternity Pay.
- 6.3.2 The minimum period of shared parental leave is one continuous week and the maximum period is 50 weeks. The employee sharing the leave does not require to return to work immediately as part of the sharing arrangement and can take time off at the same time as the father or partner, but the total shared time must not exceed 50 weeks.

6.4 Request/Authorisation

- 6.4.1 An employee opting for Shared Parental Leave must notify the Council of their entitlement to Shared Parental Leave, and complete an Application for Shared Parental Leave at least 8 weeks before an intended period of shared parental leave. Each eligible employee can give up to 3 separate notices of intention to take shared parental leave. Each notice can be for a block of leave, or the notice

may be for a pattern of "discontinuous" leave involving different periods of leave. If an employee requests discontinuous blocks of leave in a notification, the Council may refuse and require that the total weeks of leave in the notice to be taken in a single continuous block.

6.4.2 The **HR Guide to Shared Parental Leave** provides further information on sharing leave and pay.

7. Terms and Conditions During Maternity Leave

7.1 Salary Sacrifice Schemes

7.1.1 If an employee continues to be in salary sacrifice scheme during maternity leave, North Ayrshire council will meet the cost of the continued benefit in full for the duration of the maternity leave i.e. no later than 52 weeks from the start of maternity leave.

7.1.2 However, if an employee wishes to withdraw from a Salary Sacrifice Scheme e.g. childcare vouchers, they are required to notify Human Resources in writing 15 weeks before the qualifying week. Note: SMP is calculated by using an average of the eight weeks pay received immediately prior to the qualifying week. Therefore, if an employee suspends the salary sacrifice scheme during the period their SMP will not be reduced for the pay period of their maternity leave i.e. the first 39 weeks.

7.2 Annual Leave and Public Holidays

6.2.6 Annual Leave and Public Holidays will continue to accrue during the period of maternity leave. Employees should ensure that, wherever possible, they take their proportionate annual leave entitlement prior to their maternity leave commencing.

6.2.7 Where an employee returns from maternity leave with accrued annual leave, she should where possible endeavour to take these holidays before the 31st January in any year. However, where this is not practical employees may in consultation and agreement with their line manager take their annual leave after the 31st January. On her return from maternity leave, employees will be entitled to a day in lieu for each public holiday that coincided with the 52 week period of maternity leave.

6.2.8 It should be noted that in respect of annual leave entitlement, an employee may have a break in service due to maternity reasons for any length of time, as long as there was no paid employment during this time (except for keeping in touch days as noted below). On their return to the Council, their normal annual leave entitlement will not be affected by the break. In these cases, all reckonable service will count as qualifying service for annual leave.

7.3 Application of Sick Leave Scheme Provisions to Maternity Leave

- 7.3.1 Maternity leave will not be treated as sick leave and will not be taken into account in calculating an employee's sick leave entitlement under the Sickness Leave and Allowance Scheme.
- 7.3.2 Absence on account of illness due or attributable to pregnancy or confinement, which occurs out with the period of maternity leave (whether before or after the period of maternity leave), will be treated as leave in accordance with the sickness leave and allowance provisions except as noted overleaf in respect of the four week period before the expected week of confinement.
- 7.3.3 Please note that maternity leave will start the day after the day the employee is absent on pregnancy related grounds during the 4 weeks before the expected birth, even if this is before the date which the employee has notified the Council that she wished her mat leave to start.

7.4 Rights on Return to Work

- 7.4.1 On resuming work, the employee has the right to return to the post in which she was employed under her original contract of employment and on terms and conditions no less favourable than those which would have been applicable had they not been absent.

7.4.2 Return to Work when Employee Terminates Employment

An employee who has terminated her employment due to pregnancy or childbirth, but the child does not live, will be entitled to return to work without the right to return to the same grade and salary as applied prior to the termination of employment unless the Council determines that this is not practicable. Any return to work in accordance with the foregoing is subject to:

- a suitable vacancy existing,
- the employee submitting in writing a doctor's statement that she is medically fit to return, and
- the employee proving 8 weeks' notice to the Council of her return to work

7.4.3 Redundancy

Where by reason of redundancy it is not practicable to allow the employee to return to work in their original post, the employee will be offered a suitable alternative vacancy where one exists provided that:-

- the work to be done in that post is suitable and appropriate to the circumstances, and;
- That the capacity and place of employment and terms and conditions of employment are not substantially less favourable than if the employee had

been able to return to the job in which she was employed prior to her absence.

Where a suitable alternative vacancy is not identified within the department of the original post, the employee will be eligible for redeployment under the Redeployment Policy and Procedure. The employee can request to go onto redeployment, in these circumstances, when she is ready during maternity leave to return to work should she be successfully redeployed. Redeployment will otherwise take place on 'return to work' following maternity leave, using the period of paid accrued annual leave and, if necessary, authorised unpaid leave to provide the appropriate period of time on redeployment.

7.4.4 Re-Organisation

Suitable alternative employment may also be offered in exceptional circumstances, other than redundancy (e.g. a general re-organisation), where these exceptional circumstances would have occurred if the employee had been able to return to the job in which she was employed prior to their absence.

7.4.5 Interruption of Work

If because of an interruption of work, (whether due to industrial action or some other reason) it is unreasonable for an employee to return on the notified day either at the end of or earlier than the last return date, they may instead return to work when work resumes, or as reasonable practicable thereafter.

7.5 Discrimination and Unfair Dismissal

7.5.1 The Equality Act (2010), as amended, contains express provisions prohibiting discrimination on the grounds of pregnancy or maternity leave. Under the Employment Rights Act 1996, the dismissal of an employee on the grounds of pregnancy is automatically unfair dismissal.

Appendix 1 - Maternity Pay

Statutory rates of pay are updated annually in April.

The current rates of SMP can be found online at:

<https://www.gov.uk/maternity-pay-leave/pay>

Type of Pay	Rate of Pay
Statutory Maternity Pay Higher Rate	<u>6 weeks</u>' at 90% of average weekly earnings* *The average weekly earnings are calculated as the average of the eight weeks pay received immediately prior to the qualifying week.
Statutory Maternity Pay Standard Rate	<u>33 weeks</u>' at £SMP* per week *If contractual earnings less than £SMP rate per week then SMP will be at 90% of employee's average weekly earnings. If earnings are less than national insurance lower earnings limit then Maternity Allowance may be payable.
National Insurance Lower Earnings Limit	£NI – LEL can be found online at: https://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions/rates-and-allowances-national-insurance-contributions
Occupational Maternity Pay	<u>12 weeks</u>' at Half Pay

Appendix 2 - Maternity Pay Flowchart

The flowchart below is a quick guide to the type of maternity pay an employee may be entitled to, subject to meeting all of the remaining qualification criteria. Employees should read the full policy to check they meet all of the entitlement criteria.

