

# Kenwyn Parish Council

## Maternity Leave Policy

This policy sets out the statutory rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay.

Kenwyn Parish Council recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant she should clarify the relevant procedures with the Clerk to ensure that they are followed correctly. The following definitions are used in this policy: "*Expected week of childbirth*" means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth. "*Qualifying week*" means the 15th week before the expected week of childbirth.

**Notification of Pregnancy** On becoming pregnant, an employee should notify the Clerk as soon as possible. This is important, as there are health and safety considerations for Kenwyn Parish Council.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform the Council in writing of:

- the fact that she is pregnant;
- her expected week of childbirth; and
- the date on which she intends to start her maternity leave.

The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it. The employee is permitted to bring forward her maternity leave start date, provided that she advises the Council in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises the Council in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

Kenwyn Parish Council will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

### **Time Off For Antenatal Care**

Once an employee has advised the Council that she is pregnant, she will be entitled to paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations. The employee should endeavour to give the Clerk as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

### **Health & Safety**

Kenwyn Parish Council has a duty to take care of the health and safety of all employees. They are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding.

The Council will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out her normal job duties, the Council will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible for Kenwyn Parish Council to alter the employee's working conditions to remove the risks to her health and there is no suitable alternative work available to offer her on a temporary basis, the Council may suspend her from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

### **Sickness & Absence**

If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically. If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify the Council in writing of this as soon as reasonably practicable.

## **Maternity Leave**

All pregnant employees are entitled to take up to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave, making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional maternity leave begins on the day after ordinary maternity leave ends. Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier).

Maternity leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy related reason in the four weeks before the expected week of childbirth. If the employee gives birth before her maternity leave was due to start, she must notify the Council in writing of the date of the birth as soon as reasonably practicable. The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child (four weeks in the case of factory workers).

## **Ordinary Maternity Leave**

During the period of ordinary maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. In particular, any benefits in kind will continue; contractual annual leave entitlement will continue to accrue; and pension contributions will continue to be made provided that the employee is receiving statutory maternity pay (SMP). Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave. Salary will be replaced by SMP if the employee is eligible to receive it. Employees are encouraged to take any outstanding annual leave due to them before the commencement of ordinary maternity leave. Employees are reminded that holiday must be taken in the year that it is earned and therefore if the holiday year is due to end during maternity leave, the employee should take the full year's entitlement before starting her maternity leave.

## **Additional Maternity Leave**

During the period of additional maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Any benefits in kind will continue and contractual annual leave entitlement will continue to accrue. Salary will be replaced by statutory maternity pay (SMP) for the first 13 weeks of additional maternity leave if the employee is eligible to receive it. The remaining 13 weeks of additional maternity leave are unpaid. Pension contributions will continue to be made during the period when the employee is receiving SMP but not during any period of unpaid additional maternity leave.

## **Statutory Maternity Pay**

Statutory maternity pay is payable for up to 39 weeks during maternity leave. An employee is entitled to SMP if:

- she has been continuously employed by Kenwyn Parish Council for at least 26 weeks at the end of the qualifying week and she is still employed during that week;
- her average weekly earnings in the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date are not less than the lower earnings limit for national insurance contributions;
- she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides a MAT B1 form stating her expected week of childbirth; and
- she gives the Council proper notification of her pregnancy in accordance with the rules set out above.

For the first six weeks, SMP is paid at the higher rate, which is equivalent to 90% of the employee's average weekly earnings calculated over the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date. The standard rate of SMP is paid for the remaining 33 weeks (or less if the employee returns to work sooner). This is paid at a rate set by the Government for the relevant tax year, or 90% of the employee's average weekly earnings calculated over the period between the last normal pay day before the Saturday at the end of the qualifying week and the last normal pay day at least eight weeks before that date if this is lower than the Government's set weekly rate.

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 maternity leave or additional maternity leave), the higher or standard rate of SMP will be recalculated 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.

The employee will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise. Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions. Payment of SMP cannot start prior to the 11th week before the employee's expected week of childbirth. Statutory maternity pay can start from any day of the week in accordance with the date the employee starts her maternity leave.

Statutory maternity pay is payable whether or not the employee intends to return to work after her maternity leave. Employees who are not entitled to SMP may be entitled to receive maternity allowance payable by the Government.

### **Contact During Maternity Leave**

Shortly before an employee's maternity leave starts, the Council will discuss the arrangements for her to keep in touch during her leave, should she wish to do so. Kenwyn Parish Council reserves the right in any event to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply to update her on developments at work during her absence.

### **Keeping In Touch Days**

Except during the first two weeks after childbirth (four weeks in the case of factory workers), an employee can agree to work for the Parish Council (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

Kenwyn Parish Council has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between the Council and the employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for the Council.

### **Returning To Work**

The employee will have been formally advised in writing by the Council of the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave. The employee is expected to return on this date, unless she notifies the Council otherwise. If she is unable to attend work at the end of her maternity leave due to sickness or injury, Kenwyn Parish Council's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence. While the employee is under no obligation to do so, it would assist the Council if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected. If the employee wishes to return to work earlier than the expected return date, she must give the Council at least eight weeks' notice of her date of early return, preferably in writing. If she fails to do so, Kenwyn Parish Council may postpone her return to such a date as will give the Council eight weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the Parish Council may require the employee to return to work for the remainder of the notice period.

### **Rights On And After Return To Work**

On resuming work after ordinary maternity leave, the employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. On resuming work after additional maternity leave, again she is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable for the Council to allow the employee to return to the same job, the Council may offer the employee suitable alternative work, on terms and conditions that are no less favourable than would have applied if she had not been absent.

An employee who worked full-time prior to her maternity leave has no automatic right to return to work on a part-time basis or to make other changes to her working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the

operational requirements of the Council's business. If an employee would like this option to be considered, she should write to the Clerk setting out her proposals as soon as possible in advance of her return date, so that there is adequate time for full consideration of the request.

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