

## OP-02.014, Part 3, Maternity Provisions

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<b>In Case of Query Contact</b>	<b>Employee Relations, HR Department</b>
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## 1 Introduction

- 1.1 South Wales Fire and Rescue Service (“the Service”) has maternity provisions that lie within the framework of the statutory regulations supplemented by the joint national occupational scheme.
- 1.2 It is the policy of the Service to ensure the health, safety and welfare of new and expectant mothers and women who could become pregnant. Many women work while they are pregnant and many return to work while they are still breastfeeding.
- 1.3 Being pregnant or a new mother will not prevent you from working and developing your career with the Service. However, working conditions that would normally be considered to be acceptable may not be during pregnancy or whilst breastfeeding.
- 1.4 The term “new and expectant mothers” refers to a woman who is pregnant, who has given birth within the previous 6 months (either to a live child or miscarried after 24 weeks) or is breastfeeding.
- 1.5 Please note that this procedure contains terminology that employees may not be familiar with. There is a Glossary of Terms at the end of the document that explains these terms in greater detail.
- 1.6 The maternity regulations can be very complex and if, after reading this procedure, you need any further advice or guidance please do not hesitate to contact Employee Relations, HR Department at Fire Service Headquarters.
- 1.7 For advice for women who are trying to conceive including by means of assisted reproduction treatment, please refer to OP-02.014 Part 9 ([Link](#)).

## 2 Corporate Policy

- 2.1 This Organisational Procedure supports Corporate Policy 02 Our People.

## 3 Scope and Applicability

- 3.1 This procedure applies to all female employees who are, or in the future could be, a new or expectant mother. In other words, women who are or in the future could be pregnant, have given birth within the previous six months, or are breastfeeding.
- 3.2 The procedure applies to all pregnant employees regardless of their length of service. Managers must also familiarise themselves with its content in order to provide advice where necessary.
- 3.3 All employees are required to adhere to this procedure. Employees should note that any breaches of this procedure may lead to disciplinary action. Serious breaches of this procedure may constitute gross misconduct and lead to dismissal. Please refer to our disciplinary procedure OP-02.007 for further information.

- 3.4 The Service supports an environment of mutual respect and equality of opportunity. In accordance with the Equality Act (2010), this document has been Equality Risk Assessed to ensure all Protected Characteristics are considered. Should an employee perceive that an adverse impact does exist, it is their responsibility to bring it to the attention of the Diversity Officer. This document also complies with other relevant legislation.

## 4 Protection Against Discrimination because of Pregnancy and Maternity

- 4.1 Employees are entitled not to be subject to any type of unfavourable treatment because of their pregnancy; or because they have or are taking, or have proposed to take maternity leave. Such unfavourable treatment would amount to direct discrimination because of pregnancy and maternity and would be unlawful.

## 5 Responsibilities

### 5.1 Management Responsibilities

- 5.1.1 All line managers have a duty to conduct a generic workplace risk assessment for all their staff ([link](#) to HSGN, 14 Risk Assessment for guidance). Whilst conducting this risk assessment, note should be made of specific risks to new and expectant mothers. If any risks are identified management will inform those employees who may be affected, directly or through their health and safety representatives. This will include involvement in what is being proposed to reduce, remove or control the risks.
- 5.1.2 Where notification is received that an employee is pregnant, their line manager will undertake a further risk assessment of the workplace where the employee is located ([link](#) to Form H 23 – Health and Safety Assessment for New and Expectant Mothers). The risks will depend on the health of the mother and child at different stages of the pregnancy and the working conditions that the employee is exposed to.
- 5.1.3 Line managers should consider a referral to the Service Medical Adviser / Occupational Health Nurse for a maternity health assessment for all new or expectant mothers. Referral will be arranged via the HR Manager (Attendance Management).
- 5.1.4 Management will regularly monitor and review any assessment made to take account of possible risks that may occur at different stages of the employee's pregnancy. (Form H 23 to be used for this purpose [link](#)).
- 5.1.5 Line managers will need to complete the Maternity Procedures – Checklist for Managers in Appendix 1 ([link](#)). Once completed, the checklist will be sent to Employee Relations, HR Department for recording on the individual's Personal Record File (PRF).

## 5.2 Employee Responsibilities

- 5.2.1 It is the pregnant employee's responsibility to provide their line manager with verbal notification of their pregnancy, at the earliest opportunity. Once notification is received, the line manager can agree appropriate action with the employee. Written notification and confirmation of the pregnancy in the form of a certificate (MAT B1) from their GP or Midwife will be required.
- 5.2.2 The expectant mother will be involved in the undertaking of the risk assessment relating to their specific workplace. It is essential that information and advice from the GP or midwife is considered when undertaking the risk assessment, for example, high blood pressure, history of miscarriages. (Form H 23 to be used for this purpose [link](#)).
- 5.2.3 A summary of employee responsibilities and relevant information may be found in the maternity summary flowchart in appendix 2 ([link](#)).
- 5.2.4 A Glossary of Terms may be found in appendix 5 ([link](#))

## 6 Pre Maternity Leave

### 6.1 Notice of Intention to Take Maternity Leave

- 6.1.1 To exercise her right to maternity leave an employee **must** notify the Human Resources Department by completing the form P-17 ([link](#)) by the end of the 15th week before her Expected Week of Confinement (EWC). This will ensure that there is no delay in processing any maternity pay and benefits and will allow the employing department time to make any temporary staffing arrangements that may be necessary.
- 6.1.2 In order to work out the 15<sup>th</sup> week before the EWC firstly identify from the MAT B1 the Sunday before the baby is due (or the due date if it is a Sunday) and then count back 15 Sundays from there. That is the start of the 15<sup>th</sup> week before the EWC.
- 6.1.3 Please note that Employee Relations, HR Department cannot process an application until Form MAT B1 is provided by a registered medical practitioner or a registered midwife. However the employee does not have to wait until they have Form MAT B1 before submitting their application.
- 6.1.4 If at any time, the employee wishes to change the date on which they wish to commence maternity leave, they must notify Employee Relations, HR Department 28 days before the new intended start date, or if that is not reasonably practicable, as soon as possible thereafter.

**Note:** there may be a loss or delay in payment of any benefits due if the 28 days notice requirement is not met.

- 6.1.5 In the event of early (premature) confinement occurring, before the date the employee had planned to commence maternity leave, they should inform Employee Relations, HR Department as soon as possible and in any event within 28 days of the birth as special arrangements will need to be made.
- 6.1.6 All pregnant employees have the right to remain absent from work on maternity leave for up to 52 weeks. They must notify the Service at the application stage whether it is their intention to return to work or not. It will be assumed that, unless otherwise stated, the employee shall be returning to work at the end of their additional maternity leave period.
- 6.1.7 Employee Relations, HR Department will formally notify the employee of their expected date of return, based upon the information they have provided in Form P-17, within 28 days of receiving their Form MAT B1.

## 6.2 The Risks

- 6.2.1 The particular risks to the new and expectant mother may be both specific and non-specific and will vary with the working environment, work undertaken and each individual. Specific hazards are many and varied and may include:

- **Physical** – ionising radiation, electromagnetic fields, vibration, environmental (smoke, dust, vapours and fumes).
- **Chemical** – hazardous chemicals, lead and lead derivatives.
- **Mechanical** - manual handling, confined spaces, use of personal protective equipment.
- **Psychosocial** - fatigue, shift work, pre-existing medical conditions.
- **Biological** - infection (HIV, Hepatitis B, TB, Chickenpox).
- **Physiological** - sickness, nausea, backache, size, tiredness, balance, stress. It should be remembered that whilst these symptoms are synonymous with pregnancy, they may be exacerbated by certain working environments.

- 6.2.2 Some common risks could include:

- lifting/carrying of heavy load
- standing or sitting for long periods of time
- exposure to infectious diseases
- exposure to lead
- work related stress
- workstations and posture
- exposure to radioactive material
- other people's smoke
- threat of violence in the workplace
- long working hours
- excessively noisy workplaces
- lone working.

6.2.3 If the risk assessment shows there is a risk the Service is obliged to introduce preventative or control measures. Control measures are specific to each individual but could include temporary adjustment to working conditions or hours, temporary suitable alternative work or an agreed/approved period of absence from work.

### 6.3 Working Arrangements

6.3.1 Certain work activities may have adverse effects on new and expectant mothers at work, and women who may be trying to conceive by means of assisted reproduction treatment. By identifying these activities, the Service can protect individuals from any adverse health effects from work activities they undertake.

### 6.4 Type of Work

6.4.1 Operational personnel will, on notification that they are pregnant, immediately **cease to attend operational incidents**, taking part in drill yard activities and physical activities such as lifting heavy weights. When on duty, operational personnel will be allowed to carry out the following duties:

- maintenance of station administration
- community safety work
- classroom-based training, seminars, courses and OP updates
- observing drill yard activities
- projects assigned by their line manager; and
- any other appropriate duty.

RDS personnel will be placed on non-operational duties to undertake the above.

6.4.2 Fire Control and Support staff will usually continue in their normal role and job function. However, where the risk assessment identifies a particular risk to the employee their duties will be modified in agreement with their line manager.

### 6.5 Shift Patterns

6.5.1 It is acknowledged that each individual's personal circumstances will be different and these circumstances will be taken into account in deciding the most appropriate working pattern(s) as their pregnancy progresses.

6.5.2 Watch based Operational and Fire Control personnel will, on notification that they are pregnant, undergo a specific risk-assessment that will determine the working pattern options available to them. The Service will subsequently determine the most appropriate duty system; this will be working one of the following options:

- remain on their existing duty system;
- a duty system of four day shifts followed by four rota-days;
- the Day Duty system;
- temporarily transfer to the Orange Watch System.

- 6.5.3 Retained Duty System personnel will be placed on non-operational duties, working the respective number of positive hours per week (including their drill night) where appropriate duties exist.
- 6.5.4 Operational and Fire Control personnel working the Flexible Duty System will, on notification that they are pregnant, work the Day Duty shift system.
- 6.5.5 Day Duty personnel will undergo a specific risk-assessment that will determine the working pattern options available to them.
- 6.5.6 Trainee Firefighters will need to report their pregnancy to the Head of Training and Development. The employee will subsequently be removed from the trainee course. The employee will then work on the Day Duty shift system at a suitable location. Attendance at a subsequent training course following the pregnancy will be subject to medical confirmation.
- 6.5.7 In accordance with HSE guidelines, pregnant employees will be entitled to take more frequent rest breaks in agreement with their line manager.

## **6.6 Alternative to Remaining at an Operational Fire Station**

- 6.6.1 In instances where a pregnant WDS employee expresses a wish to find suitable alternative work in a non-operational environment this will be considered wherever possible. The employee will then work on the Day Duty shift system and will work at one of the Service's non-operational establishments (RDS personnel can also complete their non-operational duties at one of these establishments).

## **6.7 Health and Well Being**

- 6.7.1 There may be occasions during the pregnancy when upon the receipt of advice from the employee's doctor or midwife or the Service Medical Adviser / Occupational Health Nurse there is a medical condition that will impact on the specific risk assessment, for example, high blood pressure, history of miscarriages. In such cases a decision may need to be taken to protect the health, safety and welfare of the employee and the child that may result in the employee not being able to attend work in the manner of their choice. In these circumstances where agreement cannot be reached between both parties then the employee may be placed on leave (on full pay) for as long as necessary to protect the health and safety of the mother and child.

## **6.8 Sickness Absence during Pregnancy**

- 6.8.1 If an employee is not well during their pregnancy they should follow the normal sickness reporting procedures. The Service will record any pregnancy-related sickness absence separately from other sick leave, so that pregnancy-related sickness absence does not contribute towards trigger point warnings.

6.8.2 An employee on maternity leave is not entitled to sick pay. If an employee on maternity leave is due to return to work and is ill, the day that the employee was expected to return to work will be the first day of their sickness absence. In such instances, the employee will need to notify their line manager in accordance with OP-02.013, Welfare and Attendance Monitoring and contractual sick pay will then be paid in the usual way.

## **6.9 Uniform**

6.9.1 Standard uniform issue will continue to be worn until it is impractical to do so. Pregnant operational firefighters and Fire Control personnel should liaise with the P2P Assistant, Procurement Department at Fire and Rescue Service Headquarters regarding the issue of maternity wear.

## **6.10 Antenatal Care**

6.10.1 Employees have the right to paid time off for antenatal care. When applying to Employee Relations, HR Department for such time off, employees should give as much advance notification as possible and provide the necessary evidence of their appointment(s).

6.10.2 The employee should endeavour to give her line manager 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.

## **6.11 Employees who are on Fixed Term Contracts who are Pregnant**

6.11.1 Pregnant employees on fixed-term contracts have the same entitlement to statutory maternity leave and pay as those on permanent contracts.

6.11.2 Although statutory maternity leave will come to an end on the expiry of a fixed-term contract, the right to statutory maternity pay continues, if the employee already qualifies for it.

6.11.3 The Service is not obliged to extend or renew a fixed-term contract that expires during the maternity leave period.

## **6.12 Salary Sacrifice and Childcare Vouchers**

6.12.1 There is a leaflet available from the Payroll, Pensions and Budget section, HR Department that gives information regarding salary sacrifice and childcare vouchers.

## **6.13 Compulsory Maternity Leave (CML)**

6.13.1 Under statutory regulations all employees are prohibited, under any circumstances, from returning to work during the two weeks following childbirth.

## **6.14 Ordinary Maternity Leave (OML)**

6.14.1 Every pregnant employee, regardless of her length of service, has the legal right to take up to 26 weeks' ordinary maternity leave. She may begin her ordinary maternity leave at any time on or after the beginning of the 11th week before her expected week of confinement.

## 6.15 Additional Maternity Leave (AML)

- 6.15.1 Every pregnant employee, regardless of her length of service has the right to take up to 26 weeks' additional maternity leave. This period of leave will commence at the end of the ordinary maternity leave period and means that a woman can be away from her post on maternity leave for around 52 weeks in total.
- 6.15.2 If an employee wishes to return to work early whilst on maternity leave she must give her employer **eight weeks'** notice of the revised date of return.

## 6.16 Statutory Maternity Pay (SMP)

- 6.16.1 An employee is entitled to Statutory Maternity Pay (SMP) if she has been employed by the Service for a continuous period of at least 26 weeks ending with the 15th week before the expected week of confinement and is still employed during that week. The employee will also qualify for statutory maternity pay, providing that they are still pregnant 11 weeks before the start of the expected week of confinement (or have already given birth; they have provided a MAT B1 form stating their expected week of childbirth; and their average weekly earnings are not less than the lower earnings limit for National Insurance contributions).
- 6.16.2 The standard rate of SMP is reviewed every April and is determined by the Government. SMP is treated as earnings and is therefore subject to PAYE and national insurance contributions in the normal way.

## 6.17 Employees not entitled to Statutory Maternity Pay (SMP)

- 6.17.1 If an employee does not qualify for SMP, because for example their average weekly earnings for SMP purposes are below the lower earnings limit for the payment of National Insurance, the Payroll, Pensions and Budget section, HR Department will issue the employee with Form MA1. This form will detail why the Service cannot pay SMP together with a letter indicating how to apply to the Department of Work and Pensions (DWP) for payment of any Maternity Allowance. If the employee qualifies for full pay during the first 18 weeks of maternity leave an amount equivalent to the flat rate Maternity Allowance will be deducted from their pay.
- 6.17.2 Please note that employees have an obligation under the Service's maternity procedure to both claim and declare their entitlement to Maternity Allowance should they not qualify to receive SMP from the Service under the criteria laid down by the Department of Work and Pensions (DWP). Once they receive notification from the DWP as to their entitlement/non-entitlement to Maternity Allowance, they should return a copy of the letter detailing the entitlement figures or non entitlement to the allowance, to the Payroll, Pensions and Budget section, HR Department as soon as possible. If they are not eligible to receive Maternity Allowance from the DWP they will receive a refund of the deductions previously made (if any) from maternity pay. However any maternity allowance received will be deducted from their next available pay if still in receipt of 18 weeks full pay from the Service.

## 6.18 Maternity Leave and Pay

All eligible employees are entitled to the following:

Weeks 1-6	Full pay (offset against payments made by way of SMP or Maternity Allowance)
Weeks 7-18* (see Section 8: Returning to Work)	If you have <b>decided to return</b> to work after your maternity leave you will continue to receive full pay. The full pay will be made without deductions except by the extent to which the combined pay and SMP (or Maternity Allowance and any dependants' allowances if you are not eligible for SMP) exceeds full pay. If you are <b>not returning</b> to work you will receive basic rate SMP only, provided you qualify (see below).
Weeks 19-39	For the next 21 weeks you will receive your SMP entitlement, provided you qualify
Weeks 40-52	Unpaid Leave

**Note:** A week's pay for employees, whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Service to the employee under their contract of employment for working her normal hours in a week. Where there are no normal working hours, or where an individual has been working additional hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

## 6.19 Pension Arrangements

- 6.19.1 If an employee is a new parent and has a period of relevant child related leave the amount of pension that they build up won't be affected. Relevant child related leave covers all periods of ordinary maternity leave and any paid additional maternity leave.
- 6.19.2 Therefore if an employee has a period of reduced contractual pay or no pay during relevant child related leave their pension is still worked out using an average of their usual pensionable pay (before the reduction in pay took place).
- 6.19.3 The employee will only pay their contributions on any pay that they receive.
- 6.19.4 If the employee decides to take a period of **unpaid** additional maternity leave they will not build up pension benefits. However, they can elect to cover the period of pension "lost" by taking out a Shared Cost Additional Pension Contribution (SCAPC) contract.
- 6.19.5 Where a SCAPC contract is taken out the cost is shared 1/3rd to the employee and 2/3rds to the Service, provided that the employee makes an election to buy the "lost" pension within 30 days of returning to work.

6.19.6 If an employee would like to take out a SCAPC contract they will first need to contact the Pension Liaison Officer or the Payroll, Pensions and Budget section in order to find out their pensionable pay. The employee will then need to access the following Internet site ([link](#)) to calculate lost contributions. They would then need to get back in touch with the Pensions Liaison Officer to arrange for the relevant deductions to be made from their pay.

## 6.20 Probation Period

6.20.1 Where a new recruit's probationary period is interrupted due to maternity leave, the probationary period will be extended to take account of the maternity leave period.

# 7 Maternity leave

## 7.1 Commencement of Maternity Leave

- 7.1.1 Employees have the right to choose when to start their maternity leave, but this cannot be before the 11th week before their EWC. Unless the baby is born prematurely in which case maternity leave will begin the day after the baby is born.
- 7.1.2 The maternity pay period will normally commence on the date that has been agreed between the employee and Employee Relations, HR Department. However, where the baby is born before this date, the commencement of maternity leave will be regarded as the day following the date of childbirth.
- 7.1.3 There is a further exception that affects those employees who have decided that they wish their maternity leave to commence later than the 4th week before their EWC. In such cases, if the employee is absent from work due to an illness that is wholly or partly pregnancy related at any time from the beginning of the 4th week before their EWC, their maternity leave will automatically start. The start date of their maternity leave will be the second day after the 4<sup>th</sup> week before their EWC.
- 7.1.4 In order to safeguard the welfare of the expectant mother and child, all employees who wish to commence their maternity leave after the beginning of the 4th week before the expected week of confinement will be asked to provide a Fit Note. This certificate, obtainable from their registered medical practitioner, should indicate that they are fit to remain in work. Such Fit Notes will be requested on at least a fortnightly basis from the beginning of the 4th week before the expected week of confinement until the date on which the employee had previously indicated she wished her maternity leave to start.
- 7.1.5 If an employee gives birth before her maternity leave was due to start, she must notify the Service in writing of the date of the birth as soon as reasonably practicable.

- 7.1.6 Please also note that maternity benefits cannot normally be paid for any calendar week (i.e. Sunday to Saturday inclusive) in which the employee does any work for the Service. Therefore the last working day before commencing maternity leave should be planned to take account of this. Operational employees will be exempt from this rule for the purposes of work done after midnight on a Saturday for completing that particular night's work. This will not disqualify the employee for maternity pay during the calendar week commencing on the Sunday.

## **7.2 Conditions of Service while on Maternity Leave**

- 7.2.1 An employee who takes ordinary maternity leave is entitled, during that period of leave, to the benefit of all the terms and conditions of employment that would have applied but for her absence (save for her right to be paid her normal wages or salary) and is bound, during that period, by any obligations arising under those terms and conditions.

## **7.3 Early or Late Births**

- 7.3.1 If an employee's baby is born early and she is still working at the time of the premature birth, her maternity leave and statutory maternity pay will automatically begin the day after the baby is born.
- 7.3.2 If the notified start date of her maternity leave is the date on which the baby is due, where the baby is late this will not entitle the employee to postpone the start date. It must still begin on the date notified.

## **7.4 What if Something Goes Wrong**

- 7.4.1 If pregnancy does not progress as planned for any reason this will be dealt with sympathetically by the Service, and in such cases the line manager should be consulted as soon as possible.
- 7.4.2 Counselling is available and contact with the Occupational Health Unit can be made via the Attendance Management Team, HR Department.
- 7.4.3 If, unfortunately, the baby is still-born or dies after the 24<sup>th</sup> week of pregnancy, there may be an entitlement to maternity leave and maternity pay, dependant upon length of service. Should the baby be still-born or die before the 24<sup>th</sup> week of pregnancy sympathetic consideration will be given to the circumstances and special leave may be granted as appropriate based on individual circumstances. Decisions in such cases will be based on individual's needs and medical opinion.

## **7.5 Accrual of Annual Leave/Public Holidays**

- 7.5.1 Employees will accrue annual leave and public holidays throughout both their ordinary paternity leave and additional maternity leave periods.

7.5.2 In order to prevent any potential loss of leave employees are advised to contact Employee Relations, HR Department prior to the commencement of maternity leave. Provided the employee gives sufficient notice of their intentions it may be possible to provide them with several options e.g. taking annual leave before they start maternity leave.

7.5.3 Every effort should be made to ensure that the employee exhausts their current year's annual leave entitlement prior to commencing maternity leave, particularly where the period of maternity leave abridges the end and beginning of two leave years.

## **7.6 Essential Car Allowances, Mobile Phones, Laptops etc**

7.6.1 If the employee is returning to work and are in receipt of one or more of the above they will continue to be paid during their maternity leave period on the same basis as for sickness in that:

- a) They will continue to apply for the month in which maternity leave commences;
- b) Thereafter, the essential car user allowance will continue to be paid throughout their Maternity Pay Period (MPP) but will cease if/when they commence their unpaid maternity leave.
- c) If an employee decides that they are not returning to work, payment of any of these allowances to which they are normally entitled will cease to apply when they give up work.
- d) Lease car payments – the employee's contributions shall continue to be made throughout their MPP. However in view of the fact that their salary shall reduce after this period the employee shall be given the option of deferring payment until their full pay commences. Should the employee decide to take up this option they shall be required to increase their payments thereafter to account for this shortfall. The full amount will need to have been paid by the end of the lease term.
- e) All equipment on loan from the Service e.g. mobile phones, laptops etc should be returned to the issuing department for the duration of the maternity leave period so they can be reissued to the employee covering the maternity leave.

## **7.7 Contact during Maternity Leave**

7.7.1 The Service may make contact with the employee while they are on maternity leave, providing the amount and type of contact is not unreasonable. In doing so the Service may wish to discuss a range of issues e.g. to discuss plans for returning to work, or to keep the employee informed of important developments at the workplace. Arrangements will also be made for individuals on maternity leave to receive any relevant information e.g. Routine Notice, promotion opportunities etc.

## 7.8 Keeping-In-Touch (KIT) days

- 7.8.1 Keeping-in-touch (KIT) days are intended to facilitate a smooth return to work for women returning from maternity leave. Before going on leave, the employer and the employee should discuss and agree any voluntary arrangements for keeping-in-touch during the employee's maternity leave.
- 7.8.2 An employee may work for a maximum of **ten** KIT days during their maternity leave without bringing her maternity leave to an end or losing their entitlement to statutory maternity pay. An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.
- 7.8.3 These days can be consecutive or not, and can include training or other activities which enable the employee to keep-in-touch with the workplace. Any such work must be by mutual agreement and therefore keeping-in-touch days are optional. The Service is under no obligation to offer them and the employee is under no obligation to work them.
- 7.8.4 The type of work that an employee undertakes on a keeping-in-touch day is a matter for agreement between the two parties. The days can be used for any activity that would ordinarily be classed as work under the employee's contract. However, they could be particularly useful in enabling employees to attend conferences, undertake training or attend team meetings.
- 7.8.5 Operational staff are only able to use KIT days for the purpose of non-operational duties e.g. training courses etc.
- 7.8.6 Since the work that the employee undertakes will be done under the employee's contract of employment, the employee is entitled to be paid for that work. This applies regardless of whether a keeping-in-touch day is worked during ordinary or additional maternity leave, or during the occupational maternity pay period or unpaid leave. Please note any work undertaken during the 18 weeks full pay will not attract KIT payments as the employee is already in receipt of full pay.
- 7.8.7 The rate of pay shall be as per the individual's contractual daily rate for their job/role less any SMP already paid for that day.
- 7.8.8 Keeping-in-touch days can be arranged between the individual and their line manager. Employee Relations, HR Department must be notified prior to the agreed date and a brief summary of the work to be undertaken must be provided. In order for the necessary arrangements for payment to be made to the individual, confirmation of the date worked, needs to be sent to Payroll, HR Department and Employee Relations, HR Department using form P-17e ([link](#)).

- 7.8.9 Keeping in touch days are payable as whole days only regardless of how many hours are worked during each day i.e. if the employee works two half days on two separate days, this will count and be paid as two KIT days.

## **7.9 Managing Requests to Return to Work Part Time**

- 7.9.1 If an employee wishes to move from full-time working to part-time working to fit their working life around caring for their baby such a request can be made by following the process in OP-02.014, part 4, Flexible Working. The request should be submitted with enough time for it to be considered by the Service prior to the anticipated return date. An employee will be expected to return on their contractual terms unless prior agreement has been reached.

## **7.10 Combining Maternity Leave with Parental Leave**

- 7.10.1 If an employee would like to request a period of unpaid parental leave to follow on immediately after the end of her maternity leave they will need to follow the process in OP-02.014, part 5, Parental Leave.
- 7.10.2 An employee's right to return to work will differ slightly depending on the length of the parental leave taken and whether it occurred after ordinary or additional maternity leave. The process is as follows:
- Where parental leave lasts for four weeks or less and immediately follows ordinary maternity leave, the employee's right will be to return to the same job as she occupied before going on maternity leave.
  - Where parental leave lasts for four weeks or less and follows on from additional maternity leave, the employee's right is to return either to the same job as before or, if this is not reasonably practicable, to an alternative suitable job on terms and conditions that are no less favourable than those that applied to her prior to the commencement of her maternity leave.
  - Where the period of parental leave lasts for more than four weeks, and follows on immediately after either ordinary or additional maternity leave, the right to return either to the same job as before or, if this is not reasonably practicable, to an alternative job on terms and conditions that are no less favourable than those that applied to her prior to the commencement of her maternity leave.

## **7.11 Shared Parental Leave**

- 7.11.1 Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date.
- 7.11.2 Further information on Shared Parental Leave may be found in OP-02.014, Part 11.

## 7.12 Employees Who Work for More than One Employer

7.12.1 There may be occasions where an employee who works for the Service is also employed by another employer. In such instances, the following criteria shall apply:

- If an employee is undertaking outside employment prior to going on maternity leave, and they qualify for maternity pay from their outside employer and the Service, they can receive maternity pay from both employers.
- Pregnant employees must ensure that they contact their outside employer to ensure that a risk assessment is carried out.

7.12.2 Further information for pregnant employees working for more than one employer is available here ([link](#)).

## 8 Returning to Work

### 8.1 Return to Work

8.1.1 The employee has the right to resume working in the same job if returning to work from ordinary maternity leave. If the employee returns to work after a period of additional maternity leave, she is entitled to return to either the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

8.1.2 The employee will be aware of their intended date of return before they commence their maternity leave. Should the employee wish to change their date of return they must give the Service at least **eight weeks' notice** of their revised return to work date. This notice requirement applies during both ordinary and additional maternity leave.

*Example:*

*If an employee was due to return to work after 52 weeks' maternity leave on 1 August, but then decided to return to work after 39 weeks of leave (that is, on 9 May) she would need to give her employer eight weeks' notice of the new date (that is, by 14 March).*

8.1.3 If an employee attempts to return to work **earlier** than the end of their maternity leave without giving the Service eight weeks' notice, the Service has the right to postpone their return until the full eight weeks' notice has been served.

8.1.4 If an employee proposes to return **later** than the original date she must give notice of the new return date at least eight weeks before the original return date.

8.1.5 Failure to return to work at the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the

maternity leave period or they are taking authorised leave e.g. annual leave.

- 8.1.6 Some employees may be uncertain as to whether they wish to return to work at the end of their maternity leave. If this situation applies, and they are concerned about receiving the twelve weeks full pay element in weeks 7 to 18, the Service can arrange to hold such payments in credit until they have decided their position. In such cases the employee should complete the appropriate part of Form P-17.

## **8.2 Prior to Returning to Work**

- 8.2.1 Prior to returning to operational duties following maternity leave, arrangements should be made for the employee to undertake a health and fitness review, which should be facilitated by the Station Manager (or appropriate manager).
- 8.2.2 At this time, the employee should be given the opportunity to discuss any other health problems, that might need occupational health assessment before their return to work.

The necessary details should be recorded on form H23 PART 4 – First 6 Months Since Birth / And Preferably Before a Return to Work ([link](#)).

## **8.3 Re-familiarisation Training**

- 8.3.1 Consideration should be given to the need for re-familiarisation training before the employee returns to their normal duties.

**The length and content of the training shall be determined by the employee's line manager.**

- 8.3.2 It may be appropriate to reduce the level of re-familiarisation required where an individual has attended work for KIT days where it has been used for this purpose.

## **8.4 Breastfeeding**

- 8.4.1 If an employee wants to return to work and wishes to continue to breastfeed, facilities will be made available so that they can express milk and store it whilst at work. The necessary details should be recorded on form H23 [link](#). Employees will need to notify the Service prior to their return to work to enable a risk assessment and ensure the necessary facilities are available.
- 8.4.2 Operational employees will not be permitted to attend operational incidents whilst breastfeeding.

- 8.4.3 Any changes to the duty system, workplace and/or watch worked by the individual should only be actioned following full consultation and by reaching agreement with the employee. An employee who is breastfeeding will not be redeployed away from her normal workplace unless she specifically requests this or an individual risk assessment highlights a significant risk that cannot be removed. If this is the case, then the woman must be redeployed to a suitable alternative workplace with no less favourable terms and conditions.
- 8.4.4 Following the birth and on return from maternity leave, operational firefighters will resume the non-operational day duties that they undertook before commencement of maternity leave and will remain on such duties until they have regained physical fitness, ceased breastfeeding (where applicable) and undertaken re-familiarisation training that is deemed necessary. The Service's Medical Adviser must be consulted before a return is made to full operational duties.

## 9 Deciding Not to Return to Work

- 9.1.1 If an employee decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to the Service 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 Service may require the employee to return to work for the remainder of the notice period.
- 9.1.2 If an employee does not return to work after maternity leave for at least three months (sick leave does not qualify for this purpose) they shall be required to repay weeks 7 to 18 of the salary and Occupational Maternity Pay (OMP) they have received (see 6.18 above). However, they will be entitled to keep the Statutory Maternity Pay (SMP) that they have received for the same period. The re-payment of weeks 7-18 must be made within three months of the individual's last working day.

## 10 Sources of Information and Related documents

- Health & Safety at Work Regulations 1999
- Employment Act 2002
- Workplace, Health Safety and Welfare Regulations 1992
- Work and Families Act 2006
- Statutory Maternity Pay Regulations 2005
- Maternity and Paternity Leave Regulations 1999
- Additional Paternity Leave Regulations 2010
- The Equality Act 2010
- National Joint Council for Local Authority Fire and Rescue Services – Scheme of Conditions of Service, Sixth Edition 2004
- National Joint Council for Local Government Services – National Agreement on Pay and Conditions of Service (updated version June 2005)
- HSGN 14, Risk Assessment
- HSE: A Guide for New and Expectant Mothers who Work

**Appendix 1, Manager's Checklist**

**Maternity Procedures – Checklist for Managers**

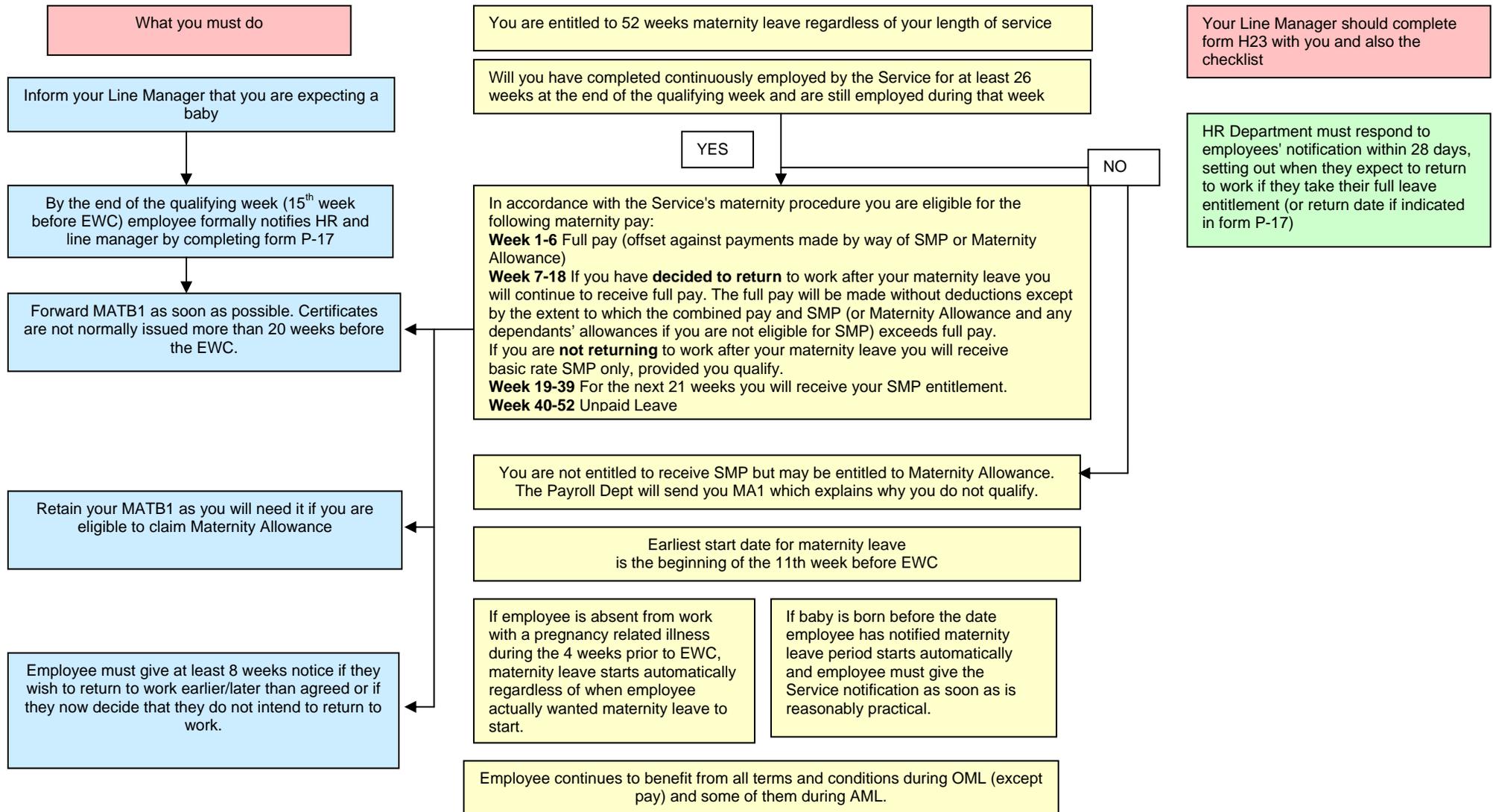
Employee's Name .....

Service Number .....

Department/Station .....

Area to Discuss	Completed
Form H-23, Risk Assessment (check working arrangements)	
Antenatal classes	
MATB1 form submitted to Employee Relations, HR Department	
Personal details and maternity leave dates, Form P-17	
Pension arrangements	
Maternity pay discussed, the amount will depend on whether the employee intends to return to work	
Uniform (Operational and Fire Control Employees)	
Childcare vouchers – leaflet available from the Payroll, Pensions and Budget section, HR Department	
Accrual of annual leave and bank holidays	
Parental Leave	
Ordinary Paternity Leave	
Shared Parental Leave	
Keeping-in-Touch arrangements and form P-17e Line Manager to also make contact one month prior to the return to work date to check if the employee would like to visit the workplace to re-familiarise themselves	
Awareness raising within the team (if appropriate)	

## Appendix 2, Maternity Summary Flowchart



### Appendix 3, Link to form P-17, Application for Maternity Benefits

Form P-17 ([link](#))

### Appendix 4, Link to form P-17e, Authorisation for Payment of Keeping in Touch Day(s)

Form P-17e ([link](#))

### Appendix 5, Glossary of Terms

**EWC** – *Expected Week of Confinement*: the week during which the birth is expected to take place. It starts on a Sunday and runs to the following Saturday.

**QW** – *Qualifying Week*: the 15th week before the beginning of the week in which the baby is due. This determines whether there is sufficient length of service to qualify for Statutory Maternity Pay. The woman must have at least 26 weeks continuous service at this point.

**SMP** – *Statutory Maternity Pay*: Pregnant employees who meet qualifying conditions based on their length of service and average earnings are entitled to up to 39 weeks' Statutory Maternity Pay (SMP), which is paid by their employers and mostly or completely refunded by the Government. The Payroll, Pensions and Budget Section can advise on current rates.

**MA** – *Maternity Allowance*: paid by the Department of Work and Pensions (DWP) to pregnant staff who are not eligible for Statutory Maternity Pay, provided that certain qualifying conditions are met.

**Lower Earnings Limit** – the minimum level of earnings which an employee needs to qualify for benefits and pay National Insurance contributions. The amount is set by Government and reviewed annually ([link](#)).

**OMP** – *Occupational Maternity Pay*: paid to staff with more than one year's service at the 11th week before the EWC, providing they declare an intention to return to work after maternity leave and do so for a minimum of 3 months.

**MAT B1** – a certificate issued by a Doctor or Midwife showing the date that the baby is due. This certificate is issued around the 26th week of pregnancy and must be handed in to the Service as evidence of the EWC.

**OML** – *Ordinary Maternity Leave*: pregnant employees have the right to twenty six weeks' ordinary maternity leave.

**AML** – *Additional Maternity Leave*: pregnant employees have the right to remain absent for a further twenty six weeks.

### Appendix 6, Link to form H-23, Health and Safety Assessment for New and Expectant Mothers

Form H-23 ([link](#))

## Appendix 7, Additional SMP Regulations

- 7.1 There is an obligation on employees to inform Employee Relations, HR Department if at any time whilst they are receiving SMP they are taken into legal custody.
- 7.2 'Legal custody' means that the person concerned is detained, usually arrested and/or in prison. They are **not** in legal custody if they are voluntarily helping the police with their enquiries, out on bail or serving a suspended sentence.
- 7.3 The Service has no liability to pay SMP if the employee is in legal custody at any time within the first week of her Maternity Pay Period (MPP).
- 7.4 If she is taken into legal custody during her MPP, there is no liability to pay SMP for:
- the week in which she is first taken into custody, and
  - for any subsequent weeks in the MPP even if the detention in legal custody or sentenced to a term of imprisonment comes to an end before the end of the MPP.
- 7.5 They may be able to claim social security benefits instead, so the Service will give the employee form SMP1 and return her maternity certificate MAT B1, keeping a copy for their payroll records.