



# MATERNITY POLICY

**We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non written format.**

# Maternity Policy

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## 1. POLICY PURPOSE AND APPLICABILITY

This policy provides advice and guidance to managers and employees of the West Lothian Housing Partnership (WLHP) on maternity leave and entitlements.

This policy applies in respect of all WLHP employees. It does not apply to agency workers or the self-employed.

## 2. DEFINITIONS

The definitions in this paragraph apply in this policy:-

**“Expected Week of Childbirth”**: the week, starting on a Sunday, in which your doctor or midwife expects you to give birth.

**“Qualifying Week”**: the fifteenth week before the Expected Week of Childbirth.

**“Relevant Period”**: means the eight weeks ending with the Qualifying Week.

## 3. ENTITLEMENT TO MATERNITY LEAVE

All employees are entitled to up to 52 weeks' maternity leave which is divided into 26 weeks of ordinary maternity leave (“OML”) and 26 weeks' of additional maternity leave (“AML”).

## 4. MATERNITY PAY

### 4.1 Employees with less than 26 weeks' service

If an employee has less than 26 weeks' continuous service with WLHP by the 15<sup>th</sup> week before the Expected Week of Childbirth, she will be entitled to maternity allowance only. This is paid by DWP to those who do not qualify for statutory maternity pay. Maternity allowance is paid for 39 weeks.

### 4.2 Employees with more than 26 weeks' service

Subject paragraph 4.3 below, if an employee has more than 26 weeks' continuous service with WLHP at the end of the Qualifying Week and remains employed by WLHP during that week, she will be entitled to occupational maternity pay as follows:-

- 6 weeks' pay at nine tenths of average weekly earnings (90%) inclusive of any statutory maternity pay (“SMP”) entitlement;
- 33 weeks' pay at five tenths pay (50%) plus any SMP entitlement;

The total occupational maternity pay and statutory maternity pay payable in any period shall not exceed normal pay.

### 4.3. Conditions

The employee must continue to be pregnant at the 24<sup>th</sup> week of pregnancy, and have stopped working for WLHP wholly or partly because of pregnancy or childbirth.

Week 1 of the maternity pay period is the week after the employee leaves work or the start of maternity leave. SMP is payable whether or not an employee intends to return to work.

To claim maternity pay, an employee must notify WLHP by the 15<sup>th</sup> week before the Expected Week of Childbirth of the fact that she is pregnant, the date on which she wants maternity leave to start (“Intended Start Date”), and the Expected Week of Childbirth. If the employee is unable to give this notice, she should give as much notice as is reasonably practicable. The employee must also provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming their Expected Week of Childbirth.

The payment of maternity pay will cease when an employee returns to work.

Maternity pay will be paid into the employee's bank account on the same date that the salary would have been payable, and will be subject to deductions for tax, National Insurance and pension contributions in the usual way. Union dues will be deducted, as appropriate, throughout the period of maternity leave at the reduced rate.

If an employee has received the 33 weeks' pay at five tenths (50%) of occupational maternity pay, and does not physically return to work and remain at work for at least 3 months after the end of maternity leave, she will be required to refund WLHP the amount of occupational maternity pay paid for the 33 week period. This will be at the discretion of Employee

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Relations. If the employee advises at the commencement of her maternity leave that she will not be returning following her maternity leave, she will not receive the 33 weeks at five tenths (50%) maternity pay. If the employee is unsure about whether or not she will return, she may defer her decision and Payroll will withhold payment until decision is made.

### 4.4. Calculation of SMP

Employees who qualify are entitled to up to 39 weeks' SMP. In order to qualify, you must:-

- have average weekly earnings in the Relevant Period at or above the lower earnings limit set by the Government;
- have 26 weeks' continuous service with WLHP at the end of the Qualifying Week and be still employed by WLHP during that week;
- have provided us with a doctor's or midwife's certificate (MAT B1 form) stating your Expected Week of Childbirth;
- have given at least 28 days' notice (or, if that is not possible, as much notice as you can) of your intention to take maternity leave; and
- still be pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.

SMP is calculated as follows:-

- first 6 weeks: SMP is paid at the rate of 90% of your average weekly earnings calculated over the Relevant Period;
- remaining 33 weeks: SMP is paid at the prescribed rate which is set by the Government for the relevant tax year, or the earnings-related rate referred to above if this is lower.

SMP is payable only in respect of complete weeks. There is no daily rate.

Average weekly earnings are calculated for the different pay periods, as follows:-

Add together the payments made on the last pay day before the end of the qualifying week (15 weeks before the expected week of confinement) and the payment made on the previous pay day. Then divide by 8 to produce the weekly average.

### 4.5 Cessation of Entitlement

Payment of SMP ceases when:-

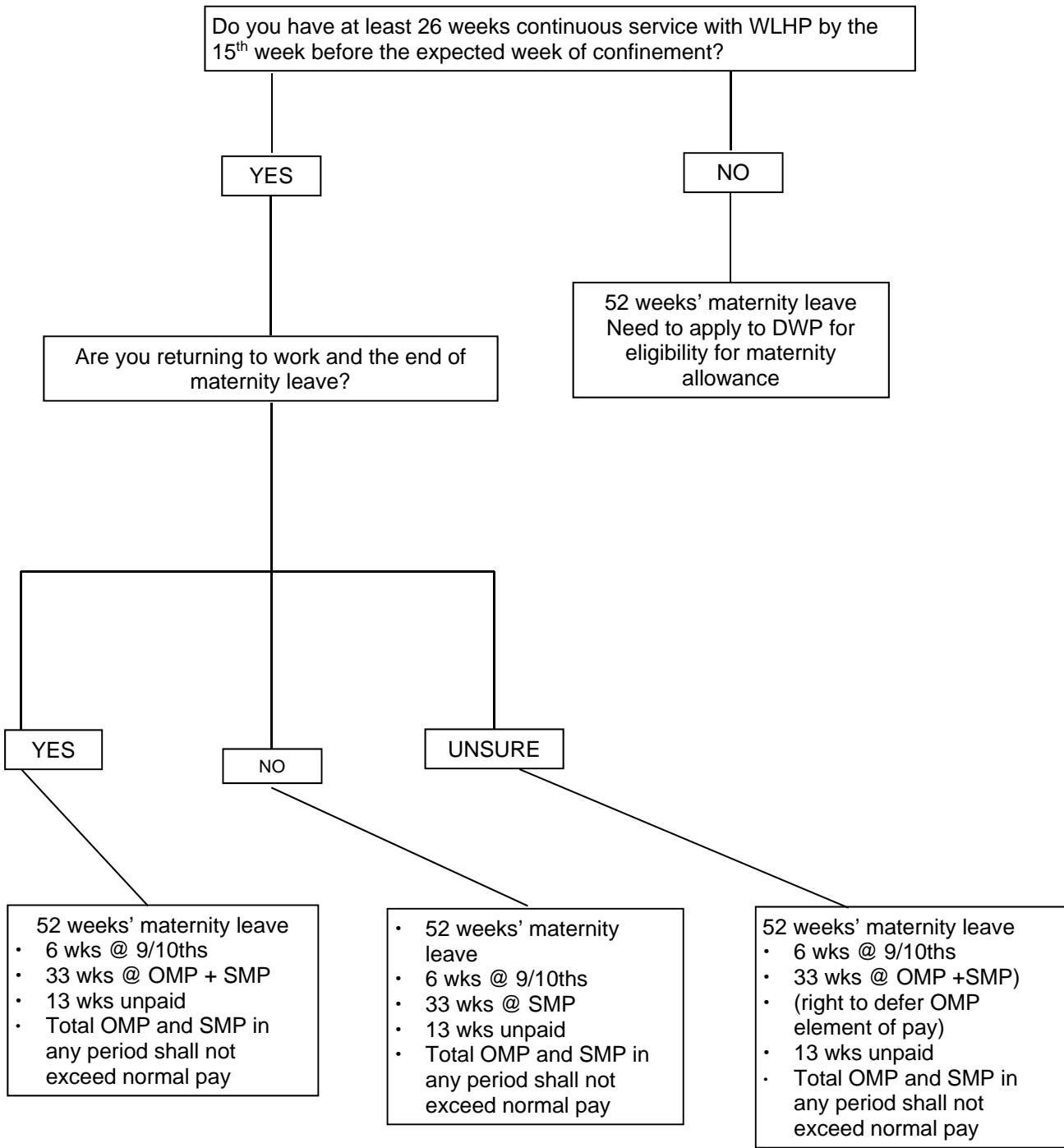
- an employee has received SMP for the period of entitlement;
- an employee starts work after childbirth, but before the end of her maternity pay period with another employer - SMP ceases on the Saturday of the week before the week in which she starts work;
- an employee dies - SMP ceases on the Saturday of the week in which the death occurred;
- an employee is taken into legal custody - SMP ceases with the last complete week within the maternity pay period before the employee is taken into custody.

### 4.6 Exclusion Form

If an employee is excluded from entitlement to SMP, WLHP will complete a Form SMP1 and forward it, together with the MATB1 form (if already provided), to the employee within 7 days of the decision being made that she is not entitled to SMP. This will enable her to contact the Department of Works & Pensions in order to claim maternity allowance.

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## 4.7 Maternity Entitlement Flow Chart



SMP – Statutory Maternity Pay  
OMP – Occupational Maternity Pay  
DWP – Department of Works & Pensions

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### 5. HEALTH AND SAFETY

WLHP has a general duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.

We will provide you with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If we consider that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work we will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:-

- changing your working conditions or hours of work;
- offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
- suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

### 6. TIME OFF FOR ANTENATAL CARE

Employees are entitled to take time off during normal working hours, without loss of pay, to receive antenatal care, regardless of the length of service or hours of work. Wherever possible, appointments should be arranged at the start or the end of the working day. Antenatal care includes appointments with a medical practitioner, hospital and dental appointments, relaxation and parent craft classes and clinics.

Employees should advise their line manager that they will be absent, as far in advance of appointments as possible. Employees may be asked to produce appointment cards and a medical certificate stating that they are pregnant before permission is granted for time off.

As of 1 October 2014 fathers and partners of pregnant woman are entitled to unpaid time off to attend two antenatal appointments.

### 7. SICKNESS

Periods of pregnancy-related sickness absence shall be paid in the same manner as any other sickness absence. Your maternity leave will start automatically if you are absent from work for a pregnancy related illness during the 4 weeks before the start of your Expected Week of Childbirth regardless of when you said you actually wanted your maternity leave to start.

If you are too ill to return to work at the end of your maternity leave period, WLHP's normal arrangements for sickness allowance will apply in accordance with the sickness benefit scheme. Absence related to maternity will not accumulate with non-related absences.

### 8. STARTING MATERNITY LEAVE

Maternity leave cannot begin earlier than the 11th week prior to the Expected Week of Childbirth (unless your child is born prematurely before that date).

You must notify us of your Intended Start Date as set out in accordance with paragraphs 4.3 and 4.4 above. We will then write to you within 28 days to inform you of the date we will expect you to return to work if you take your full entitlement to maternity leave ("Expected Return Date").

You may postpone the Intended Start Date providing by informing us in writing at least 28 days before the original Intended Start Date or, if this is not possible, as soon as reasonably practicable.

You can bring forward the Intended Start Date by informing us at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.

Maternity leave shall start on the earlier of:-

- your Intended Start Date (if notified to us in accordance with this policy); or
- the day after any day on which you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or

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- the day after you give birth.

If you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth, you must let us know as soon as possible in writing. Maternity leave will be triggered under paragraph 7 above unless we agree to delay it.

If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible.

The law prohibits you from working during the two weeks following childbirth (compulsory maternity leave).

### 9. TERMS AND CONDITIONS

WLHP will maintain all of your contractual benefits (except for basic remuneration) throughout the ordinary and additional maternity leave period. Non-contractual benefits may be withdrawn but only where consistent with WLHP's procedures.

### 10. HOLIDAY ENTITLEMENT

During OML and AML, annual leave will accrue at the rate provided under your contract. Employees must take this leave on return to work; payment in lieu cannot be made at a later date.

If an employee intends to take annual leave, which is due prior to her return from maternity leave, she must confirm in writing the date she wishes maternity leave to end, the subsequent period to be taken as annual leave and the physical date of return to work. This must be done at least 8 weeks before the maternity leave period ends. When a public holiday occurs during ordinary or additional maternity leave, the employee upon return to work shall be entitled to a day off in lieu.

### 11. PENSION MEMBERSHIP/CONTRIBUTIONS

The period of paid maternity leave (i.e. when in receipt of either WLHP's Occupational Maternity Pay or SMP) will count towards pensionable service. The benefits accrued during this time are based on the remuneration paid when you were working normally, prior to taking maternity leave.

Employee contributions during this time are based on the amount of maternity pay actually received. Employer contributions will continue on the basis as agreed by the administrators of the pension scheme.

Employees will be advised in writing by WLHP (after consulting the administrators of the relevant pension scheme) of the options available during any unpaid period of maternity leave.

**Note:** These rights apply whether or not the employee intends to return to work.

### 12. KEEPING IN TOUCH

We may make reasonable contact with you from time to time during your maternity leave.

You may work (including attending training) for up to 10 days during maternity leave without bringing your maternity leave or SMP to an end. The arrangements, including pay, would be set by agreement with your line manager or Employee Relations. You are not obliged to undertake any such work during maternity leave. In any case, you must not work in the two weeks following birth.

### 13. EXPECTED RETURN DATE

Once you have notified us in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date has been changed (either because you gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected Return Date.

We will expect you back at work on your Expected Return Date unless you tell us otherwise. It will help us if, during your maternity leave, you are able to confirm that you will be returning to work as expected.

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### 14. RETURNING TO WORK EARLY

If you wish to return before the Expected Return Date, you must inform your line manager, in writing, at least 8 weeks before the Expected Return Date. If not enough notice is given, we may postpone your return date until eight weeks after you gave notice, or to the Expected Return Date if sooner.

### 15. RETURNING LATE

If you wish to return later than the Expected Return Date, you should either:-

- request unpaid parental leave, giving us as much notice as possible but not less than 21 days; or
- request paid annual leave in accordance with your contract, which will be at our discretion.

If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and the WLHP Sickness and Absence Management Policy will apply.

In any other case, late return will be treated as unauthorised absence.

### 16. DECIDING NOT TO RETURN

If you do not wish to return to work after maternity leave, you must give WLHP the notice required by your contract of employment. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period, otherwise we may require you to return to work for the remainder of the notice period.

If you have received the 33 weeks at five tenths (50%) of occupational maternity pay and do not physically return to work in accordance with the time limits set and remain at work for at least 3 months, you will be required to refund WLHP the amount of maternity pay paid to you for the 33 week period. This will be at the discretion of Employee Relations.

### 17. YOUR RIGHTS WHEN YOU RETURN

You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.

However, if you have taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position; we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

### 18. RETURNING TO WORK PART-TIME

We will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on a case-by-case basis. There is no absolute right to insist on working part-time, but you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in WLHP's Policy on Hours of Work, Overtime, Related Allowances and Flexible Working Hours.