

Progressive
employer

Maternity Rights and Benefits



INVESTOR IN PEOPLE



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CONGRATULATIONS



You've found out you're pregnant and are looking forward to the birth of your baby.

As a working woman, you have certain rights when pregnant. Your entitlement to pay, Maternity Leave and the right to return to work after the birth will be covered by either the **Statutory Minimum Provision** for pregnant employees, or the enhanced **Contractual Provisions** provided by the National Conditions of Service for local government employees. You may simply be entitled to the basic maternity rights outlined in Section One or you may be entitled to Statutory Maternity Pay and/or Contractual Maternity Pay.

Whatever your personal entitlement, you need to know the benefits available and what you have to do to qualify. This booklet explains your rights and tries to answer any questions as well as guiding you through your obligations both during and after pregnancy. If you have any further questions after reading this, please contact People and Organisational Development who will be pleased to advise.

GLOSSARY OF TERMS USED

As is often the case when explaining legal or contractual entitlements, the terminology used can be quite confusing. You will find it helpful to familiarise yourself with the commonly used terms and abbreviations given below before you continue.

ORDINARY MATERNITY LEAVE (OML)

This is a statutory entitlement of 26 weeks' leave.

ADDITIONAL MATERNITY LEAVE (AML)

The period of additional statutory maternity leave starting at the end of the ordinary maternity leave period for a further 26 weeks i.e. 52 weeks in total.

COMPULSORY MATERNITY LEAVE

This applies to the two weeks following childbirth when a woman is forbidden to work or be provided with work.

STATUTORY MATERNITY PAY (SMP)

This is a statutory minimum payment, provided by the Government, and paid via your salary or wages. Entitlement is based on a minimum length of continuous service.

CONTRACTUAL MATERNITY PAY (CMP)

This is 12 weeks half pay paid in addition to SMP. **N.B.** Entitlement is subject to conditions, which are explained in detail in the section on Maternity Pay.

EXPECTED WEEK OF CHILDBIRTH (EWC)

The week in which you expect your baby to be born. For calculation purposes, the EWC runs from Sunday to Saturday.

EXPECTED DATE OF CHILDBIRTH (EDC)

The date on which your GP or midwife estimates your baby is due. This will be specified on the Maternity Certificate - a form called the MAT B1 which your GP or midwife will provide during the later stages of pregnancy.

THE QUALIFYING WEEK (QW)

The 15th week before the Expected Date of Childbirth, not counting the Expected Week of Childbirth.

The QW is used for calculating maternity pay entitlement.

MATERNITY PAY PERIOD (MPP)

The time during which you will receive maternity pay, whether statutory or contractual.

1. **BASIC RIGHTS FOR PREGNANT EMPLOYEES**

All working women who are pregnant are entitled to the basic rights outlined below, regardless of length of service or hours worked.

◆ **TIME OFF WORK FOR ANTE-NATAL CARE**

You are entitled to **PAID** time off work for ante-natal care, provided that you:

- ◆ give the Council reasonable notice of your appointment time
- ◆ produce your appointment card if asked to do so

NB Ante-natal care does not count as sickness

◆ **THE RIGHT NOT TO BE UNFAIRLY DISMISSED BECAUSE OF PREGNANCY**

Under the Trade Union Reform and Employment Rights Act 1993, dismissal on the grounds of pregnancy, or for any reasons connected with it, will be automatically unfair.

◆ **THE RIGHT NOT TO BE VICTIMISED ON THE GROUNDS OF PREGNANCY, CHILDBIRTH OR MATERNITY**

Under the Employment Relations Act 1999 (ERA) employees have the right to complain to an employment tribunal if they consider that they have been victimised at work on the grounds of pregnancy, childbirth or maternity. In the first instance you should approach your line manager to resolve any problems, if this does not produce a solution People and Organisational Development should be approached.

◆ **A MINIMUM PERIOD OF 26 WEEKS' "ORDINARY MATERNITY LEAVE" AND 26 WEEKS "ADDITIONAL MATERNITY LEAVE" (SUBJECT TO COMPLIANCE WITH NOTIFICATION PROCEDURES)**

All employees irrespective of length of service are entitled to 26 weeks' Ordinary Maternity Leave, during which time employment will be regarded as continuous and all contractual benefits apart from pay are maintained. All employees are also entitled to 26 weeks' Additional Maternity Leave but only limited terms, such as notice, apply during additional maternity leave.

◆ **THE RIGHT TO RETURN TO WORK AFTER THIS PERIOD OF MATERNITY LEAVE TO THE SAME JOB THAT YOU LEFT**

If that particular job is no longer available, the Council must offer you any other suitable vacancy with employment rights that are not substantially less favourable than in your original job.

◆ **THE RIGHT TO START MATERNITY LEAVE ANY TIME FROM THE 11TH WEEK BEFORE THE WEEK IN WHICH CHILDBIRTH IS EXPECTED TO TAKE PLACE.**

N.B. Although you can choose when to start maternity leave, it is important to note that:

1. You need to confirm that you are pregnant, advise us of the expected week of childbirth and give at least 28 days' notice of the date you wish to commence maternity leave.
2. If you are sick with a pregnancy-related illness at any time after the 4th week before the EWC, maternity leave will be automatically triggered.
3. Your maternity leave can be triggered by absence due to pregnancy or by the birth of the baby. If this is the case your leave will commence on the following day. Statutory Maternity Pay will also start on the following day.
4. You must also take at least two weeks of your maternity leave directly after the birth, which is called compulsory maternity leave.

◆ **PROTECTION AGAINST RISKS ARISING FROM PROCESSES, WORKING CONDITIONS OR PHYSICAL, BIOLOGICAL OR CHEMICAL AGENTS.**

If you have any queries or concerns about the effect of your work on your own or your child's health please contact People and Organisational Development as soon as possible.

2. HEALTH AND SAFETY

For health and safety reasons we ask that you notify your manager as soon as you know that you are pregnant so that he/she can assess any implications for you in continuing your current duties whilst you are pregnant.

You will continue to be employed in your existing job unless a risk assessment has identified that job as potentially unsuitable for you because it involves one or more risks either to you or your unborn child. If you and/or your unborn child are considered to be at risk, then we will work with you to decide whether we can alter your role so as to eliminate whatever risks have been identified.

If this is not possible you will not be able to continue in your job. Instead we will either find you a suitable alternative role, by which we mean a job at an equivalent grade and rate of pay, or if there is no suitable alternative work you will be put on paid leave until either the risk no longer exists or your maternity leave starts, whichever happens first.

If you have any queries or concerns about the effect of your work on your own or your child's health, please speak to your Manager.

3. MATERNITY LEAVE

3.1 Ordinary Maternity Leave

If you become pregnant you are entitled to take a minimum of 26 weeks' maternity leave. This is called Ordinary Maternity Leave (OML).

3.2 Additional Maternity Leave

You are also entitled to Additional Maternity Leave of 26 weeks. You are therefore entitled to 52 weeks made up of 26 weeks of Ordinary Maternity Leave and a further 26 weeks' of Additional Maternity Leave. This is called the Maternity Leave Period.

3.3 Starting Maternity Leave

You are entitled to start your maternity leave any time from the beginning of the 11th week before the week in which your baby is due, unless:

- your Maternity Leave is triggered by absence due to pregnancy or by the birth of the child. In either case you must notify your manager as soon as is reasonably practicable advising that you are absent from work wholly or partly because of pregnancy and of the date your absence for this reason began, or that you have given birth and the date the child was born.

4. MATERNITY PAY

4.1 Employees with less than one year's continuous service at the 11th week before the EWC

Payment will be entitlement to SMP, which will be:

- 6 weeks at 9/10^{ths} of a week's pay (offset against payments made by way of SMP or Maternity Allowance)
- 33 weeks of SMP (or 9/10th of average earnings if this is less).

You must have 26 weeks' service with Salisbury District Council by the end of the 15th week before the EWC and average earnings in the eight weeks ending with the 15th week before the EWC must be equal to the lower earnings limit.

If you are not entitled to SMP you will be given an SMP1 form so that you can claim Maternity Allowance from the Benefits Agency.

4.2 Employees with at least one years' continuous service at the 11th week before the EWC will be entitled to the following:

- Weeks 1-6 9/10^{ths} of a week's pay (offset against payments made by way of SMP or Maternity Allowance)
- Weeks 7-18 If you declare in writing that you intend to return to work you will receive half pay* without deduction except to the extent that the half pay plus SMP (or Maternity Allowance and any dependent's allowances if you are not eligible for SMP) exceeds full pay. This is paid on the understanding that you will return to local authority employment for at least three months. The payment of this sum (6 weeks' full pay) may be spread over any other mutually agreed distribution e.g. 3/10th pay for 20 weeks of the OML period or payment of the full amount on your return to work. Please inform People and Organisational Development if you wish to receive this payment other than as half pay during weeks 7-18.
- If you do not intend to return to work payment will be your entitlement to SMP.
- Weeks 19-39 For the remaining 21 weeks you will receive your SMP entitlement (or 90% of average earnings if this is less)

*If you wish to receive your twelve weeks' half pay you will be required to confirm in writing, prior to commencing Ordinary Maternity Leave, your intention to return to work for at least three months. If you do not fulfil this requirement you will not receive the 12 weeks' half pay until you return to work.

4.3 Statutory Maternity Pay (SMP)

SMP is a statutory benefit payable to any employee who meets the conditions set out below:

REMEMBER – even if you do not qualify for 12 weeks' half pay you may qualify for SMP. To qualify for SMP you must:

- (i) have 26 weeks continuous service at the Qualifying Week (15th week before your baby is due)
- (ii) earn enough to pay National Insurance Contributions – if you do not pay NI you will not be entitled to SMP;
- (iii) still be pregnant at the 11th week before the baby is due or have had the baby by that time;
- (iv) provide medical evidence of the date your baby is due i.e. Form MAT B1;
- (v) have commenced maternity leave no earlier than the 11th week before the baby is due;
- (vi) give 28 days' notice in writing of intention of starting maternity leave, if this is not practical e.g. your baby is born early People and Organisational Development should be informed immediately and written notice given as soon as is practically possible thereafter.

4.4 What will you Receive?

Provided you meet the conditions above, you will receive:

- Six weeks at 9/10^{ths} of a week's pay
- A further 33 weeks' of SMP (or 90% of your average earnings if this is less than SMP).

4.5 When will SMP payments begin?

SMP payments will begin on the day you specify in your notice, provided that you also start your maternity leave on that day. If the birth occurs before you commence your leave, your SMP will commence the day following the birth of the child. Your first payment will be paid on your first normal pay day after you start your maternity leave.

You may lose your entitlement to SMP if:

1. After the birth, but still during the Maternity Pay Period, you work for a different employer than the one you were working for in the qualifying week.
2. You are in legal custody at any time during the Maternity Pay Period.
3. You go outside the European Economic Area (the Isle of Man and the Channel Isles are not part of the EEA) at any time in your maternity pay period. If you are unsure that your travel destination is outside the EEA please check with People and Organisational Development.
(Please note leisure travel does not affect your entitlement to SMP.)

Some women who do not qualify for SMP, may qualify for a maternity allowance or other benefits. Full details of these can be obtained from the Benefits Agency. People and Organisational Development will issue you with a form SMP 1 and will return to you your Form MAT B1 both of which you should take to the Benefits Agency.

5. NOTIFICATION REQUIREMENTS

To ensure you retain all your rights to maternity leave and pay (if applicable), you must comply with the notification requirements listed below.

5.1 Before starting maternity leave

You are required to provide written notification to your Manager and a copy to People and Organisational Development at least 28 days before you wish to commence maternity leave. The following information should be included:

- The fact that you are pregnant
- The expected week of childbirth (EWC)
- The date you want your Ordinary Maternity Leave to start. This cannot be earlier than the 11th week before the EWC
- Provide copy of MAT.B1 certificate to People and Organisational Development (which is obtained from your GP or midwife)
- Whether you intend to return to work following your maternity leave

It will be possible to change the date your maternity leave commences provided you give 28 days' notice (unless this is not reasonably practicable). NB. Failure to give 28 days' notice may mean that your maternity leave may be delayed until 28 days have elapsed from the day notice was given.

If your maternity leave has not already started it will be triggered by pregnancy-related absence from the beginning of the 4th week before the EWC or the birth of the child.

People and Organisational Development will write to you within 28 days of receiving your notice stating your expected date of return from maternity leave. This will be 52 weeks from the start of your maternity leave.

5.2 Returning from Ordinary Maternity Leave (OML) or Additional Maternity Leave (AML)

If you would like to return before the 26 weeks' Ordinary Maternity Leave is up or during the 26 weeks of Additional Maternity Leave you must give 21 days' notice of this. If you do not provide 21 days' notice, the Council can postpone your return by up to 21 days or until the end of your Additional Maternity Leave period if this is earlier. If you change your mind about the day you wish to return, you must give 21 days' notice of the new date, if this is earlier than the original date or if you are proposing to return later than the original

date, you must give notice of the new return date 21 days before the original return date. You should ensure that your Manager and People and Organisational Development are aware that you are planning to return on that date. If you return at the end of your Additional Maternity Leave, i.e. after 52 weeks, then you do not have to notify the Council in advance in writing. You should ensure, however, that your Manager and People and Organisational Development are aware that you are planning to return on that date.

5.5 Request to return to work flexible working arrangements (or if already working flexibly, a request to change hours the hours or way you work your hours)

If it is your intention to request the opportunity to return to work on flexible working arrangements, please write to your Manager giving as much notice as you possibly can in order for your request to be considered. Each request will be considered on its merits and every attempt will be made to accommodate you. Your manager will discuss with you your request and, if this is possible, agree the pattern and hours of work and confirm them with People and Organisational Development. In deciding on the pattern of work, it will be necessary to take account of operational and service requirements. Please see the Flexible Working Policy for further information.

5.6 Failure to return to work

If you have failed to return to work at the end of your maternity leave entitlement, People and Organisational Development will contact you to ascertain the reasons why.

6. KEEPING IN TOUCH (KIT) DAYS

Keeping in touch days are available to you if you wish to undertake up to 10 days' work during your maternity leave without bringing your maternity leave to an end. Working for part of a day will count as one whole KIT day. KIT days can be worked on up to ten occasions throughout your maternity leave or in one block. You will not lose any SMP for working on a KIT day. If you work for more than 10 days during your maternity leave and you are still receiving SMP at that time, you will lose SMP for the whole week in which you work the additional day or days. Work may include training or any work undertaken for the purposes of keeping in touch with the work place. Your manager cannot insist that you come in to carry out work and equally you cannot insist on coming in and being given work to do.

Should you choose to work during your maternity leave, your leave will not be extended due the fact that you have carried out duties during this period.

Pay on a KIT day

Where you work up to half your average daily working hours on a keeping in touch day you will be entitled to half a day's pay.

Where you work over half your average daily hours you will be entitled to a whole days pay.

Any payment made to you will be inclusive of any SMP and/or Contractual Maternity pay that is due to you on the day(s) that you work.

NB it is unlawful for you to carry out any work during the first two weeks following the birth of your child.

7. REASONABLE CONTACT

It is acceptable for you and your manager to maintain reasonable contact during the whole of your maternity leave to discuss issues, such as your return to work. This does not constitute work, therefore, would not count towards the 10 keeping in touch days. Such contact will not bring your maternity leave to an end. If you would like us to keep you up to date with matters taking place within your unit and across the council during your maternity leave, please discuss with your line manager about the information that you would like to receive and how you would like to receive it. Examples include details of training opportunities, job vacancies, new legislation related to your job and information on significant workplace developments.

8. SICKNESS

If you become ill while you are pregnant, you are entitled to sick pay in the normal way, whether or not the illness is pregnancy-related. If you become ill after the 4th week before the EWC, SSP and sick pay will only be paid if the sickness is not related to pregnancy. If the sickness is related to pregnancy, maternity leave is automatically triggered and SMP will commence on the day after the first day of your absence for pregnancy related reasons.

If you have confirmed with the Council the date you intend to return to work and are then unable to do so because of illness, you will be entitled to sick pay, providing the Council's sickness reporting procedures are followed.

9. ANNUAL LEAVE

You will continue to accrue annual leave during your Ordinary and Additional Maternity Leave period depending on your maternity leave entitlement. The normal carry forward arrangements will, however, continue to apply. It is, therefore, recommended that your annual leave entitlement up to the beginning of your maternity leave is taken either before starting Maternity Leave or immediately on return from maternity leave. This should be agreed with your manager prior to starting Maternity Leave.

If you request to reduce your hours upon your return to work and the hours are agreed with your manager, your annual leave entitlement will be adjusted on a pro-rata basis.

If you do not return to work any outstanding annual leave entitlement will be paid with your final salary payment. The date used to calculate your entitlement to annual leave will be the date of your resignation or end of your additional maternity leave period, whichever is sooner.

You will accrue an entitlement to public holidays during Ordinary Maternity Leave. This can be taken as time off on your return to work or will be paid with your final salary payment if you do not return. There is no entitlement to public holidays during additional maternity leave (the final 26 weeks of maternity leave).

10. LOCAL GOVERNMENT SUPERANNUATION SCHEME

If you contribute to the Council's scheme, deductions will automatically continue during paid maternity leave at the usual rate. This means in effect that your contributions will reduce quite significantly when you go on to half pay but this will not affect your future pension entitlement.

Contributions during unpaid maternity leave are optional, but you must decide no later than 30 days after you return to work, or cease to be employed whether you want to pay those contributions. You will be notified of how much it would cost to make up the shortfall in contributions. If you decide not to pay the arrears of contributions, then you should note that the break will not count as qualifying or reckonable service. For further advice contact Wiltshire Council Council's Pensions Section (01225) 713613.

11. ESSENTIAL CAR USERS

Essential user allowance will be paid in full for the remainder of the month in which you start maternity leave and for the following three months. The allowance will then reduce to half rate for a further three months after which no allowance will be paid. Full rate essential user allowance will be reinstated on your return to work.

12. REGULAR DEDUCTIONS FROM PAY

If you have deductions taken from your pay, e.g. council tax, rent, attachments of earning etc. deductions will be made during the paid period of maternity leave. Once you are no longer being paid it is your responsibility to make arrangements for payments to continue.

Trade union subscriptions will continue to be deducted during the paid period of maternity leave. Unison adjusts the subscription banding to reflect the rate of pay whilst on paid maternity leave but does not require subscriptions to be made whilst on unpaid maternity leave as long as you are not in arrears. T&GWU

requires the usual subscription during the paid period of maternity leave and a reduced rate of 25p per week during any unpaid period of maternity leave.

You will also continue to pay income tax and national insurance during your period of paid maternity leave as long as you are earning above the current threshold for PAYE and NI contributions.

13. PREMATURE BIRTH

The Council acknowledges the need for flexibility and understanding in the case of premature birth. If your baby is born after the 15th week before EWC and you are entitled to SMP, payment will commence the day following the day on which you are first absent from work.

Your maternity leave is deemed to have commenced from the same day. You will still be entitled to 26 weeks' Ordinary Maternity Leave and Additional Maternity Leave.

If the baby is born before you have notified the Council of your intention to commence maternity leave you should inform the Council in writing as soon as is practically possible after the birth and continue to follow the notification procedures appropriate to your circumstances.

Please do not hesitate to contact People and Organisational Development for further advice.

14. DEATH OF A BABY OR STILLBIRTH

The Council recognises the importance of sensitivity and understanding in the situation where a baby has died or is stillborn. The following information may assist you in either these circumstances, please do not hesitate to contact People and Organisational Development if you require assistance.

If your baby dies or is stillborn after the start of the 24th week of pregnancy, you are still entitled to the provisions of the scheme – i.e. the maternity pay and leave according to your length of service. When you wish to return to work you should give 21 days' notice of the date you intend to return to work.

If your baby dies or is stillborn before reaching the 24th week of pregnancy this will be considered a miscarriage and you will be entitled to sickness benefit in line with Salisbury District Council's policy. You should inform your Manager as soon as practicable, and submit medical certificates until your doctor certifies you are fit to return to work.

15. OTHER RELATED POLICIES

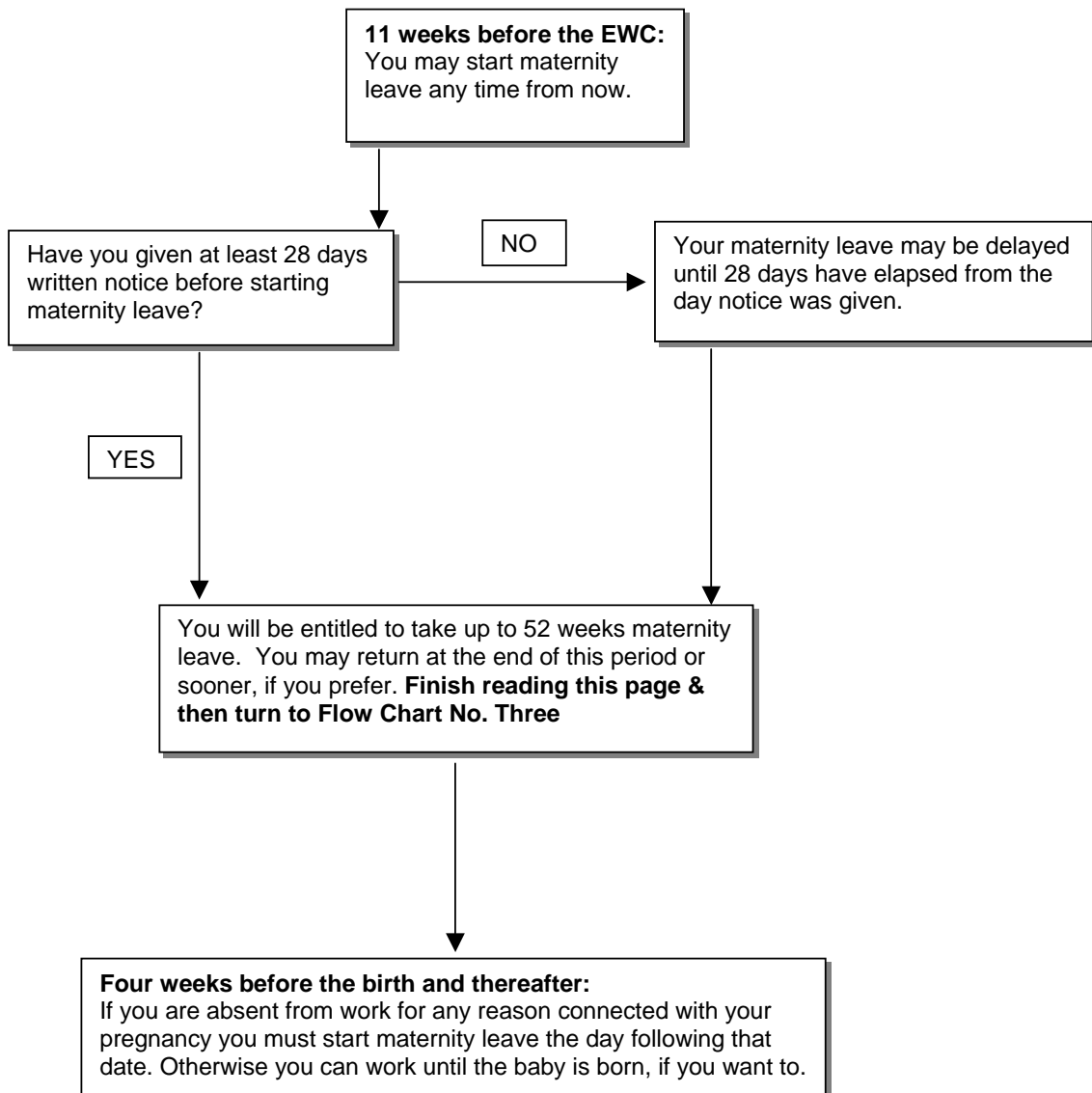
Maternity Support Leave, Adoption Leave, Parental Leave, Paternity Leave and Flexible Working may be available to employees of Salisbury District Council. Please see separate policies for further information.

FLOW CHART NO. ONE

BEFORE THE BIRTH

THE RIGHT TO MATERNITY LEAVE

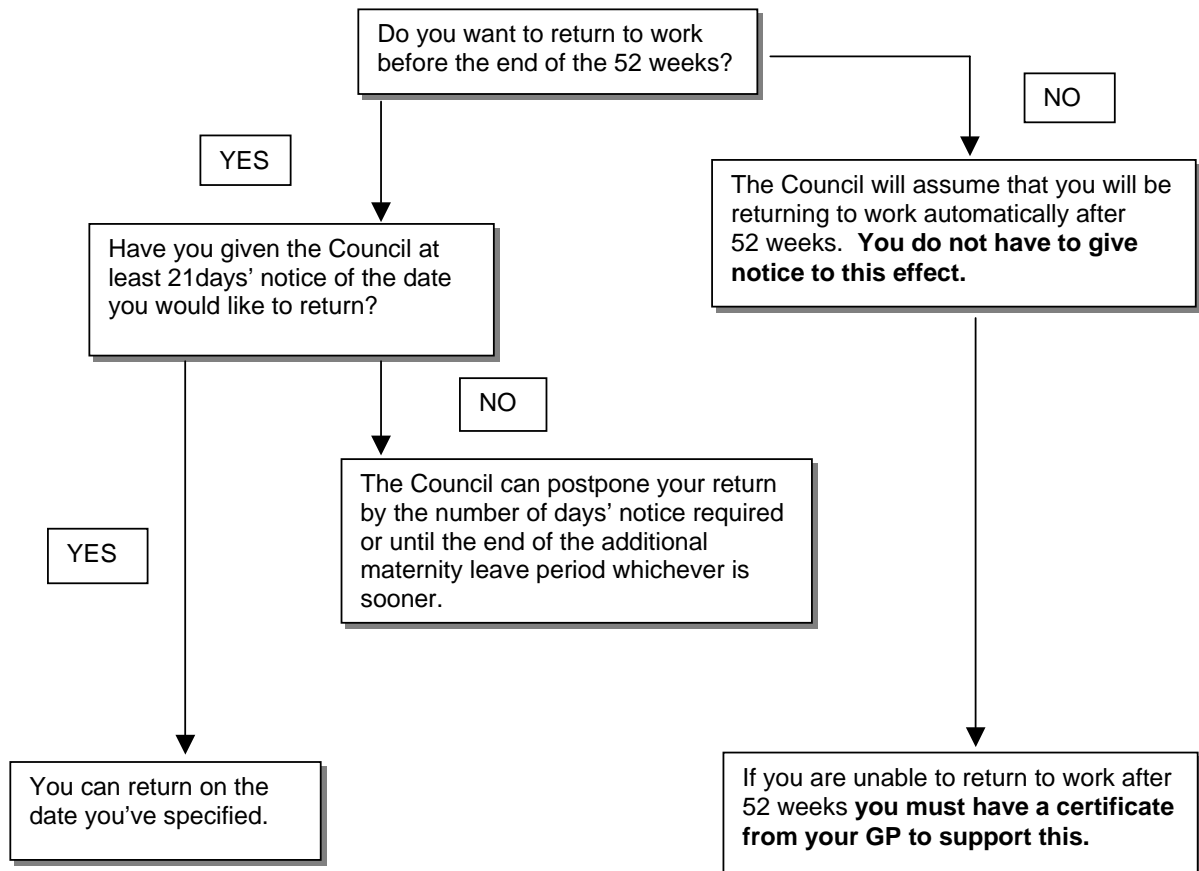
This flow chart helps you to see at a glance your basic entitlement to maternity leave. You should use it in conjunction with the rest of this guide to get a complete understanding of your rights.



FLOW CHART NO. TWO

AFTER THE BIRTH

N. B. All women must take at least two weeks of their maternity leave directly after the birth. Unless you specify otherwise it will be assumed that you will be taking the full 52 weeks ordinary and additional maternity leave.



SALISBURY DISTRICT COUNCIL - APPLICATION FOR PAYMENT FOR WORKING ON A KEEPING IN TOUCH DAY

Notes for Employees and Line Managers:

1. It is illegal for the employee to work during the first two weeks after the birth of the child
2. Working for all or part of a keeping in touch day counts as one occasion for recording purposes.
3. An employee can work on up to 10 occasions during her maternity pay period with the guarantee that Maternity Pay will not be affected.
4. Payment will be made in the next available month.
5. Any payment made to the employee will be inclusive of any maternity pay that is due to her on the day(s) that she worked.
6. For further information on this scheme please refer to the Maternity Rights Scheme or People and Organisational Development.
7. The Line Manager should forward this form to Payroll for payment to be made.

First Name	
Surname	
Payroll Number	
Service Unit	
Date(s) worked	
Number of occasions worked (please specify half day(s))	
Date of birth of child	
Signed by Employee	<p>I confirm that I have worked as stated above as part of the keeping in touch scheme. I confirm that this work has not been carried out during the first two weeks of the birth of my child and that I have not worked for the council for more than 10 occasions during my maternity leave.</p> <p>Signed: Date:</p>
Please now pass this form to your line manager for authorisation and for recording purposes	
Confirmed by Line Manager	<p>I confirm the information stated above and authorise the payment.</p> <p>Signed: Date:</p>
Please pass this form to Payroll for payment to be made	
Payment made to employee	<p>A payment for this work has been made to this employee in their pay for (state month).</p> <p>Signed: Date:</p>

The information you provide on this form will be stored in a manual filing system and will be input onto a computer. It will be used to record your keeping in touch days, make any necessary payment to you and for monitoring and statistical purposes.

SALISBURY DISTRICT COUNCIL

RECORD CARD FOR RECORDING KEEPING IN TOUCH DAYS FOR AN EMPLOYEE ON MATERNITY LEAVE

Notes for Employees and Line Managers:

1. It is illegal for the employee to work during the first two weeks after the birth of the child
2. Working for all or part of a keeping in touch day counts as one occasion for recording purposes.
3. An employee can work on up to 10 days during her maternity pay period with the guarantee that Maternity Pay will not be affected.
4. Payment will be made in the next available month.
5. Any payment made to the employee will be inclusive of any maternity pay that is due to her on the day(s) that she worked.
6. For further information on this scheme please refer to the Maternity Rights Scheme or People and Organisational Development
7. The Line Manager should retain this form for the period of the Maternity Leave.

First Name				
Surname				
Service Unit				
Date of Birth of Child				
Keep in Touch Record				
Number of occasions	Date Worked	Half or Whole Day (Delete as appropriate)	Manager's signature	Date form sent to Payroll
1		Half/Whole		
2		Half/Whole		
3		Half/Whole		
4		Half/Whole		
5		Half/Whole		
6		Half/Whole		
7		Half/Whole		
8		Half/Whole		
9		Half/Whole		
10		Half/Whole		

The information on this form will be stored in a manual filing system and may be input onto a computer. It will be used to record and assess your keeping in touch days and for monitoring and statistical purposes.