

AGENDA FOR EMPLOYMENT PANEL



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To: All Members of Employment Panel

Councillors : T Rafiq (Chair), R Bernstein, J Grimshaw,
D Berry, C Cummins, E Moss, T Tariq, M Walsh and
L Dean

Dear Member/Colleague

Employment Panel

You are invited to attend a meeting of the Employment Panel which will be held as follows:-

Date:	Tuesday, 20 September 2022
Place:	Mirosoft Teams
Time:	5.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Employment Panel are asked whether they have an interest in any of the matters on the agenda and, if so, to formally declare that interest.

3 MINUTES OF THE PREVIOUS MEETING *(Pages 3 - 4)*

The minutes of the meeting held on 14 June 2022 are attached for approval and accuracy.

4 CHIEF EXECUTIVE RECRUITMENT UPDATE *(Pages 5 - 16)*

Report attached.

5 UPDATE TO THE MATERNITY POLICY *(Pages 17 - 32)*

Report attached.

6 URGENT BUSINESS

Minutes of: EMPLOYMENT PANEL

Date of Meeting: 14 June 2022

Present: Councillor T Rafiq (in the Chair)
Councillors R Bernstein, J Grimshaw, D Berry, C Cummins,
T Tariq, M Walsh and L Dean

Also in attendance: Sam McVaigh, Director of People and Inclusion, Simon Bagley,
Head of Human Resources, Kelly Barnett, Democratic Services

Apologies for Absence: Councillor E Moss

5 APOLOGIES FOR ABSENCE

See apologies noted above.

6 DECLARATIONS OF INTEREST

Councillor Dean declared a person interest in Bury Council, as his partner is an employee.

7 MINUTES OF THE PREVIOUS MEETING

It was agreed:

1. It was agreed that the notes of the meeting held on 5 April 2022 be approved as a correct record and signed by the Chair.

8 TERMS OF REFERENCE

Sam McVaigh highlighted to members a proposed amendment to the terms of reference.

It was agreed:

1. The amendment to the terms of reference be agreed.

9 RECRUITMENT AND SELECTION TRAINING

Sam McVaigh facilitated a recruitment and selection training session.

It was agreed:

1. To share the training slides with members.

10 GRIEVANCE AND DISCIPLINARY APPEALS TRAINING

Simon Bagley, Head of Human Resources facilitated a training session around the grievance and disciplinary appeal hearings.

11 URGENT BUSINESS

There was no urgent business.

COUNCILLOR T RAFIQ
Chair

(Note: The meeting started at 7.00 pm and ended at 8.40 pm)



Classification Open	Item No.
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Meeting:	Employment Panel
Meeting date:	20 th September 2022
Title of report:	Recruitment of a new Chief Executive
Report by:	Cllr. Eamonn O'Brien, Leader of the Council
Decision Type:	Non Key Decision
Ward(s) to which report relates	All

EXECUTIVE SUMMARY

The Council's Chief Executive has indicated his intention to retire in March next year after forty five years in public service and over four years as the Council's Chief Executive. This report sets out the proposed arrangements for the recruitment of a new Chief Executive.

RECOMMENDATION(S)

The Employment Panel is asked to:

1. Note the proposed timeline for the recruitment to a new Chief Executive
2. Note the proposed revised Chief Executive's Job Description
3. Agree the proposed suspension of Council Standing Orders in relation to the membership of the Chief Executive appointment panel.
4. Agree the suggested Membership as set out in section 2 of this report.
5. Update the Employment Panel Terms of Reference to include a section on Chief Executive recruitment, details of which will be presented at the next meeting of the Employment Panel

KEY CONSIDERATIONS

1. Overview

The role of Chief Executive is the Council's most senior Officer and the Head of Paid Service. As set out in Part 4, Section 8 of the Council's Constitution (the Officer Employment Procedure Rules) confirmation of the appointment of the Head of Paid Service is a matter for full Council, following the recommendation of a sub-group of the Employment Panel (the Appointment Panel) with the Leader of the Council as a full member of the Appointment Panel.

The proposed leaving date for the current Chief Executive gives Members the opportunity to secure a new appointment prior to the current incumbent's departure. The intention is to progress, at pace, with an extensive search and selection process to identify and appoint a new Chief Executive with the required skills, experience and values to lead Bury in the delivery of the 2030 Strategy, Let's Do It.

Following a period working as joint Chief Executive of the Council and Accountable Officer of Bury CCG the Chief Executive became the Place Based Lead for Health and Care in Bury on 1 July 2022 as part of the Greater Manchester implementation of the national NHS structural reforms. The intention is that the new Chief Executive will continue in this joint role. In support of this, colleagues from NHS Greater Manchester will be involved in the appointments process, as well as key NHS leaders from the Bury locality. The intention would then be that the successful candidate is proposed to Bury's Locality Board and NHS Greater Manchester as the replacement Place Based Lead. – Continuity here is crucial in order for Bury to continue to maximise the opportunities available from health and care integration across the borough.

The new Chief Executive will join a very different Council to that which the incumbent joined four years ago. As well as the significant progress with health and care integration, this period has seen the development of Bury's 2030 community strategy, Let's Do It, and the successful commencement of a circa. £0.25billion regeneration programme across the borough which provide a solid foundation for the new Chief Executive to deliver upon as well as a strong legacy for the current Chief Executive. The challenges facing the authority are, however, no less significant. As well as delivering on this ambitious agenda the new Chief Executive must lead the Council through perhaps its most challenging ever financial period whilst driving forward the improvement of our Children's Social Care and SEND provision and supporting Bury people through the current cost-of-living challenges. It is crucial therefore that we identify the right individual to undertake this role.

The Chief Executive's Job Description has been revised to take account of this new context and the proposed job description is appended to this report. The intention is to advertise the post within the existing salary band from £182,770 to £189,883. This remuneration level has been reviewed against Chief Executive salaries across Greater Manchester and remains appropriate to secure strong candidate field.

2. Recruitment and Selection Process

Given the importance of this role and the need to attract the best possible candidate field the intention is to engage an expert recruitment partner to support the process and the Council is currently out to market to engage a partner through the Local Government Resourcing Partnership framework. Once appointed, this partner will work alongside the Director of People and Inclusion to deliver a comprehensive search and selection process. The headline timeline is summarised below.

- Recruitment Partner Appointed – 28/09/22
- Post open for applicants – 14/10/22
- Post closes – 04/11/22
- Longlist Agreed – 09/11/22 (Chair of Appointment Panel outside of committee)
- One-to-one discussions with the Leader – W/B 14/11/22
- Technical Assessment – W/B 14/11/22 (Recruitment Partner and a serving or former Chief Executive)
- Shortlist Agreed – 23/11/22 (Appointment Panel)
- Psychometric testing and one-to-one discussions with the Chief Executive of NHS Greater Manchester – W/B 28/11/22
- Assessment Centre and Interviews – 05/12/22 and 06/12/22 (Stakeholder engagement and final interview)
- Confirmation by full Council – 07/12/22

Should a candidate be appointed who is required to serve a three month notice period, this timeline should enable them to join Bury without the need for interim arrangements. In order to accommodate for this timeline the Mayor has agreed that the Council meeting currently scheduled for 23rd November be delayed by two weeks and moved to 7th December.

The details of the final assessment centre process will be developed in collaboration with the Council's appointed recruitment partner but will likely include a range of elements such as:

- Engagement with the current Council Executive Team
- Stakeholder discussions with key public, private and voluntary sector partners

- Engagement with a staff stakeholder panel and with the Trade Unions
- An opportunity to visit different areas of the borough, including our major regeneration areas
- An opportunity to engage with all elected Members.

Feedback from these various interactions will be provided to the Appointment Panel to inform their final recommendation to Council.

The Employment Panel Terms of Reference set out that:

‘A politically balanced 6 member panel will be convened to fulfil the employment functions [of the panel], the 5th/and if necessary 6th member will be the Cabinet Member(s) with responsibility for the portfolio area under consideration or their appointed deputy’.

In order to provide a diverse panel and ensure appropriate representation the suggestion is that Employment Panel agree to expand this to a 7 Member panel for this appointment. The proposal is that the panel would consist of:

1. The Cabinet Member for Corporate Affairs and HR / Chair of the Employment Panel (Appointment Panel Chair)
2. The Leader of the Council
3. The Deputy Leader of the Council (Employment Panel Member)
4. One further Cabinet Member to be nominated by the Leader and co-opted to the Employment Panel for the purposes of this appointment
5. The Leader of the Conservative Group (Employment Panel Member)
6. One further Conservative Member to be nominated by the leader of the Conservative Group and co-opted to the Employment Panel for the purposes of this appointment if not already a member
7. The leader of the Radcliffe First group (to be co-opted to the Employment Panel for the purposes of this appointment)

The Chief Executive of NHS Greater Manchester will also be invited to attend the Panel and contribute to discussions given the proposal that the successful candidate is proposed as Bury's Place Based Lead for Health and Care.

Subject to Employment Panel's agreement of this report meeting dates will be scheduled as soon as possible.

OTHER ALTERNATIVE OPTIONS CONSIDERED

The Council is required to have a Head of Paid service. Engaging a new Chief Executive is crucial to the continued success of the authority and delivery of our Corporate Plan and the Bury 2030 strategy

COMMUNITY IMPACT / CONTRIBUTION TO THE BURY 2030 STRATEGY

The new Chief Executive will be crucial to leading the delivery of the Bury 2030 strategy both in terms of the Council-led elements of this programme but also in building the wider necessary community partnership and relationships which will be essential.

EQUALITY IMPACT AND CONSIDERATIONS:

Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services.

Equality Analysis	Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.
<p>This report does not propose any policy changes. The recruitment process for the new Chief Executive will be conducted in accordance with the Council’s Recruitment and Selection Policy which has been appropriately assessed in relation to equality. – The importance of inclusion is emphasised within the Chief Executive’s Job Description and the Council’s desire to attract a diverse candidate pool has been emphasised in the procurement process to recruit a specialist partner for the process.</p>	

ASSESSMENT OF RISK:

Failure to secure a suitable candidate field will pose a risk to the Council in ensuring stable leadership. This risk is mitigated by investment in a strong campaign and selection process to attract a high quality field and recruit a strong leader.

CONSULTATION:

N/A

LEGAL IMPLICATIONS:

This report sets out the proposals for the recruitment of the Chief Executive, the report makes officer recommendations in respect of the Panel. If Members are minded to agree they are requested to agree to the suspension of standing orders and that a revised terms of reference for the officer employment rules (section 8 – Officer employment procedure rules) is brought to the next meeting of the Panel.

FINANCIAL IMPLICATIONS:

The salary proposed is in line with the current salary and as place based lead there is also a contribution from the NHS to this salary. Funding for the recruitment partner to support this process has been identified from with the workforce development reserve.

REPORT AUTHOR AND CONTACT DETAILS:

Sam McVaigh

Director of People & Inclusion

s.mcvaigh@bury.gov.uk

0161 253 5880

Job Description



Post Title: Chief Executive	Post Grade: Chief Executive
Location: Town Hall, Bury	Post Hours: 37 hours
Special Conditions of Service: <ul style="list-style-type: none"> • The post holder is required to work during the evening and weekends as necessary. • The postholder will act as the Electoral registration and Returning Officer. • The postholder will also undertake the role of Place Based Lead for health and Care Integration for the Bury locality under the direction of NHS Greater Manchester 	
Purpose and Objectives of Post: <ol style="list-style-type: none"> 1. As Head of Paid Service, provide strong leadership, strategic direction and inspire, lead and manage the Council's Executive Team ensuring that a collaborative approach is taken to the provision of high quality, cost effective, efficient, professional services and the running of the Council. 2. Champion and drive the delivery of Bury's Let's Do It Strategy for 2030 and the overarching vision of achieving higher than average levels of growth and lower than average levels of deprivation across the borough 3. As principal advisor to the Leader of the Council and Elected Members give advice at Council, Cabinet and other meetings and ensure proactive and effective forward planning and organisation to enable delivery of the Council's priorities both strategically and day-to-day 4. Develop, maintain and proactively build upon effective relationships between all Elected Member, Council Staff and key partners across the public, private and not for profit sector 5. Be accountable for the Council's effective performance, financial health, adherence to legislative requirements and good governance. 6. Take the lead role in Bury's economic development, regeneration and growth. 7. Proactively represent the Council locally, as part of the Greater Manchester sub-region and nationally, championing the organisation and locality 8. Act as Electoral Registration Officer and Returning Officer. 9. As Place Lead for Health and Care Integration, be responsible for driving the local integration of health and social care and connecting this to wider public services to address the social determinants of health, with the purpose of improving health outcomes, improving the quality of care, reducing health inequalities and maximising the value of public resources 10. At all times act in accordance with the behaviours and approaches expected of a public servant as described by the Nolan Principles 	
Accountable to: The Council, Cabinet.	
Immediately Responsible to: Leader of the Council, Cabinet.	
Immediately Responsible for: Executive Team.	

Relationships: (Internal and External)

Elected Members, Members of Executive Team, All employees of the Council, Trade Unions, Other Greater Manchester Authorities including the Combined Authority, Existing Bury Businesses, Potential Bury Businesses, Bury's VCSE organisations, Government Departments, Partners within the Borough and across Greater Manchester in the Public, Private and Voluntary Sectors, Bury Residents.

Control of Resources:

Responsible for all the Council's assets.

Duties/Responsibilities:

Leadership of the Council

1. Advise the Leader of the Council, Elected Members, the Council and Cabinet in all Policy and other matters and the development and delivery of the Council's strategic objectives, priorities, policies and values.
2. Develop, evaluate and implement management and organisational structures which will allow the Council to achieve its strategic direction and deliver its objectives and priorities.
3. Formulate and deliver strategies for the development of the Council as a progressive, innovative and effective organisation in keeping with the principles of the Bury 2030 Strategy
4. As Head of Paid Service under the Local Government and Housing Act 1989, act as a role model and provide vision, strong leadership and direction to the Executive Team. Drive a performance culture, direct, motivate and inspire senior managers to work collaboratively taking a one Council approach to deliver high quality, cost effective, efficient and professional services to the residents of the Borough.
5. Ensure the effective discharge of the Council's safeguarding duties through oversight and joint working with the statutory Directors for Children's Services and Adult Social Care
6. Lead the Council's Officer level participation in the governance and development of Greater Manchester, negotiating the best outcomes for the Borough and driving through change and public service reform. Provide strategic direction for systems and workforce transformation and the Locality vision in line with Council priorities.
7. Lead the Borough's economic development and regeneration identifying investment and commercial opportunities and driving their realisation and delivery
8. Actively and personally manage and promote relationships between partners and communities within the Borough, engaging proactively and openly with Bury residents to co-design ways of working and inform Council approaches and priorities.
9. Ensure the Council's finances, resources, assets and their risks are managed appropriately and effectively and the Council is receiving and delivering value for money services.
10. Ensure the effective transformation of Council services to take advantage of any and all opportunities for innovation to support effective and best value service delivery.
11. Provide effective leadership to the staff of the Council, setting a personal example in the management of staff and development of effective policies and practice. Promote effective, professional relationships through strong communication between staff and elected members and sound employee relations with the trade unions

12. Promote the image and reputation of the Council and enhance its influence through constructive relationships with local and national private, public and voluntary sector organisations and the maintenance of effective partnership arrangements
13. Champion inclusion across the organisations and the borough and ensure equality and diversity are at the heart of the Council's approach to service delivery
14. Support the Mayor in their range of activities.
15. Act as Electoral Registration Officer and Returning Officer.
16. Act as strategic lead in the Council's response to a major incident, in conjunction with statutory partner organisations.
17. Ensure the Council meets its requirements for civil contingencies; health, safety and welfare; and its other statutory obligations.

Health and Care in Bury

1. Convene the place-based integrated care partnership, and facilitate priority-setting, strategic alignment and decision-making between organisations across multiple sectors.
 2. Be the accountable officer for delegations from GM NHS Integrated Care to the place-based partnership.
 3. Be a member of the wider system leadership team, and have influence over NHS financial resource allocation across Greater Manchester and specifically within Bury.
 4. Lead the local GM NHS Integrated Care employed team, and work with partner organisations to develop and support a "one team" approach including purposeful arrangements for effective clinical and professional care leadership across the place.
 5. Listen to the voice of our communities - Ensuring our place-based partnerships are developed by listening to the voice and lived experience of our communities
 6. Be responsible for the management and deployment of people who are allocated from both GM NHS Integrated Care and wider partners to form the place based integrated care team.
 7. Ensure that partners work together to deliver on required outcomes and agreed ambitions.
 8. Work closely with the statutory officers in NHS Trusts, Adults and Children's Social Care and Public Health to support the full range of contributions to integrated care and population health.
- As an employee of Bury Council you have a responsibility for, and must be committed to, safeguarding and promoting the welfare of children, young people and vulnerable adults and for ensuring that they are protected from harm.
 - Bury Council is committed to equality, diversity and inclusion, and expects all staff to comply with its equality related policies/procedures, and to treat others with fairness and respect.
 - As an employee of Bury Council you should contribute to a culture that values and supports the physical and emotional wellbeing of your colleagues.

Where an employee is asked to undertake duties other than those specified directly in his/her job description, such duties shall be discussed with the employee concerned who may have his/her Trade Union Representative present if so desired. (See paragraph 203 of supplemental Conditions of Service)

PERSON SPECIFICATION
Chief Executive

Core Capabilities for the Post			
Commercial Thinking & Analysis	✓	Planning	✓
Customer Service	✓	Developing Self & Others	✓
Delivering Results	✓	Teams, Networking & Partnerships	✓
Values, Ethics & Diversity	✓	Adapting to Change	✓
Delivering a Quality Service(Continuous Improvement)	✓		

SHORT LISTING CRITERIA	ESSENTIAL
Qualifications and Development	
Relevant degree or professional qualification	✓
Evidence of relevant career progression in senior roles of increasing scale and complexity	✓
Extensive evidence of continuous professional development (CPD)	✓
Experience	
Significant experience at chief executive/director level within an organisation of comparable scope, size and complexity	✓
Experience of operating in a sensitive political context and providing clear, balanced advice to a wide range of stakeholders	✓
Experience of providing strategic direction and strong leadership to senior managers and elected members	✓
A proven track record of success and achievement in delivering transformational, organisational and cultural change within a comparably complex organisation	✓
Experience of successfully formulating, implementing and delivering innovative, complex strategies that deliver sustainable and successful outcomes	✓
A proven track record of developing effective strategic partnerships and networking with and challenging a wide range of key stakeholders to deliver inter organisational objectives	✓
Experience of effective strategic budget management in a comparably complex organisation and of identifying commercial opportunities.	✓

Knowledge and Skills	
A detailed knowledge understanding of the sector and challenges and opportunities it faces including the regional and sub regional context and Bury's role within it including a detailed understanding of major legislative issues facing local government	√
Ability to develop, manage and maintain credible relationships with the community, key stakeholders, and partners	√
Extensive knowledge and understanding of Devolution, Public Sector reform and the agenda to transform locality systems and workforces and the implications for the Council	√
Ability to lead by example, coach, mentor, inspire and motivate people to provide excellent, professional, value for money services	√
Ability to proactively network with local and national contacts and build effective strategic partnerships with external organisations to deliver the strategy and priorities	√
Able to identify future influences and opportunities and encourage the identification of alternative and diverse models of delivery.	√
Ability to identify and drive the implementation of appropriate digital interventions as a tool to drive innovation and culture change	√
Ability to understand and manage risk and effectively develop and deploy risk mitigations	√
Ability to show resilience and resourcefulness in the face of highly complex challenges	√

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Classification Open	Item No.
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Meeting:	Employment Panel
Meeting date:	20 th September 2022
Title of report:	Maternity Policy/Guide for New and Expectant Mothers
Report by:	Cllr. Tahir Rafiq – Cabinet Member for HR & Corporate Affairs
Decision Type:	Non-key
Ward(s) to which report relates	All

EXECUTIVE SUMMARY

The Council's Maternity Policy for New and Expectant Mothers has been refreshed to reflect new guidance from the Health and Safety Executive (HSE) in relation to risk assessments.

This opportunity has also been used to clarify language in relation to the calculation of maternity pay and the Council's policy position around leave in the event of a miscarriage.

There have been no substantive changes to the policy.

RECOMMENDATION(S)

The Employment Panel is asked to agree the changes to the Policy which will then be forwarded to the Corporate Joint Consultative Committee for ratification and published on the Council's intranet pages.

KEY CONSIDERATIONS

1. Background

- 1.1 This Council's Maternity Policy sets out the organisation's formal policy position for new and expectant mothers and provides valuable advice in a number of areas. It also assists managers in supporting employees through pregnancy, maternity leave and when returning to work.

- 1.2 The Health and Safety Executive's [guidance on protecting pregnant workers and new mothers](#) has recently been updated to strengthen the expectations for employers. The legal protections provided by this guidance also apply to some transgender men, non-binary people and people with variations in sex characteristics, or who are intersex. The policy has been updated to reflect this latest position.
- 1.3 In addition to the above, learning has shown that the current policy does not present clear definitions in relation to both the calculation of occupational maternity pay and the Council's policy position in relation to miscarriage. Whilst, in practice, policy application in both these areas is operating effectively, the opportunity to update the policy has also been used to confirm the policy detail here and avoid confusion.

2. Key Changes

- 2.1 The Policy has been updated to confirm that Managers employing pregnant workers and new mothers (employees, agency workers and casual staff) must carry out an individual risk assessment as soon as they are made aware of a pregnancy and make any necessary changes to support the worker. This applies to:
- Workers who are pregnant
 - Workers who have given birth in the last 6 months, or
 - Workers who are currently breastfeeding

Managers should follow the updated [HSE Guidance](#) on carrying out risk assessments and review the risk assessment regularly to identify issues such as:

- Posture and Position
- Shift patterns
- Work related stress
- Temperature/noise
- Risk of physical injury
- Exposure to harmful substances

More detailed guidance is available to staff from the Council's Health and Safety Team.

- 2.2 The paragraph within the policy around entitlement to Occupational Maternity Pay (OMP) has been amended to make it clear that *current* pay is used within the calculation. This is current practice but some employees have misinterpreted this position previously.
- 2.3 A paragraph around miscarriage has been added. This section confirms that, if miscarriage should take place in the first 24 weeks of pregnancy, there is no

entitlement to maternity leave but that managers should support employees in a similar way to when managing a bereavement. A miscarriage after 24 weeks is classed as a stillbirth and the policy includes an existing provision in these circumstances.

2.4 The full Policy is appended with the key amendments highlighted.

OTHER ALTERNATIVE OPTIONS CONSIDERED

N/A

COMMUNITY IMPACT / CONTRIBUTION TO THE BURY 2030 STRATEGY

N/A

EQUALITY IMPACT AND CONSIDERATIONS:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.
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An Equality Impact Assessment has been carried out in relation to the proposed changes and no negative impacts have been identified. The changes are positive in providing enhances support in relation to the protected characteristic of pregnancy and maternity. The legal protections also apply to some transgender men, non-binary people and people with variations in sex characteristics, or who are intersex.

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ASSESSMENT OF RISK:

In relation to this policy no risks identified – The changes mitigate a potential risk by ensuring the policy is aligned with the latest HSE guidance.

CONSULTATION:

The Policy has been shared with the trade unions and following agreement will go to the Corporate Joint Consultative Committee for ratification.

LEGAL IMPLICATIONS:

This report reflects the strengthening of the HSE guidance, it is incumbent on the Council to ensure that our policies reflect the updated guidance.

FINANCIAL IMPLICATIONS:

There are no additional financial implications of these changes over and above the existing policy

REPORT AUTHOR AND CONTACT DETAILS:

Caroline Schofield, Strategic Lead HR

c.j.schofield@bury.gov.uk

0161 253 5157

Maternity Policy for New and Expectant Mothers

**Your Rights to Maternity Leave and
Maternity Pay**

Breastfeeding in the Workplace

Updated September 2022



INTRODUCTION

This Policy has been developed to give valuable advice to new and expectant mothers working for the Council. It will also assist managers in supporting employees through pregnancy, maternity leave and returning to work. It will be updated every 3 years or sooner if there are any changes in legislation, national guidance or local arrangements.

The [Health and Safety Executive's guidance on protecting pregnant workers and new mothers](#) applies to all new and expectant mothers. It is important for employers to support them all equally. The legal protections also apply to some transgender men, non-binary people and people with variations in sex characteristics, or who are intersex.

Glossary of Terms frequently used when referring to pregnancy and maternity leave/pay:

<p>Confinement Birth of a living child; or the birth of a child whether living or dead after 24 weeks of pregnancy</p> <p>EDC Expected date of confinement/childbirth</p> <p>EWC Expected week of confinement/childbirth – this is the week in which your baby is due and usually begins on the Sunday before your EDC</p> <p>SMP Statutory Maternity Pay</p> <p>OMP Occupational Maternity Pay</p> <p>MA Maternity Allowance, this is a DSS benefit for women who are not entitled to SMP</p> <p>SSP Statutory Sick Pay</p>	<p>QW Qualifying Week; i.e. the 15th week before your baby is due</p> <p>MATB1 Maternity certificate which must be presented to your employer (This will be given to you by your midwife or Doctor)</p> <p>DWP Department for Work and Pensions</p> <p>CML Compulsory Maternity Leave</p> <p>OML Ordinary Maternity Leave</p> <p>AML Additional Maternity Leave</p> <p>MPP Maternity Pay Period</p> <p>KIT Days Keeping in Touch Days</p>
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PREGNANCY, MATERNITY LEAVE/MATERNITY PAY

NOTIFICATION OF PREGNANCY

As your employer, it helps us to support you throughout your pregnancy if we are aware that you are expecting a baby as soon as possible. It will ensure that you receive your full entitlement of paid time off for ante-natal appointments. It also gives us the maximum time to calculate your benefits and arrange cover for your post whilst you are on maternity leave.

You are required to notify your line manager and HR in writing of your pregnancy, and give an indication of your expected week of childbirth and when you would like to start maternity leave. (You can change your mind about this date provided you give 28 days' notice of the revised start date). Once they have written confirmation of your pregnancy your manager will complete a Pregnancy Health and Safety checklist with you and arrange for a risk assessment to take place.

You will be sent a letter and other documents, outlining the conditions of your maternity leave and your entitlement. You will need to respond to this letter outlining if it is your intention or not to return to work.

As soon as you receive your maternity certificate (MATB1) you should forward this to HR.

RISK ASSESSMENT

Managers employing pregnant workers and new mothers (employees, agency workers and casual staff) must carry out an individual risk assessment as soon as they are made aware of a pregnancy and make any necessary changes to support the worker. This applies to:

- Workers who are pregnant
- Workers who have given birth in the last 6 months, or
- Workers who are currently breastfeeding

Managers should follow the [HSE Guidance on carrying out risk assessments](#) and information and templates are available on the Council's [Health and Safety Intranet Pages](#).

The risk assessment must be reviewed regularly, for example at different stages of the pregnancy, and amended as appropriate. Some common risks might be:

- Posture and Position
- Shift patterns
- Work related stress
- Temperature/noise
- Risk of physical injury

- Exposure to harmful substances

ANTENATAL CARE

You will be granted leave of absence as appropriate for ante natal appointments, including scans. You must be able to provide evidence of any such appointments upon request.

Fathers and partners (including same sex partners) of pregnant women are entitled to unpaid time off to attend two ante-natal appointments. "Partner" includes the spouse or civil partner of the pregnant woman and a person (of either sex) in a long term relationship with her. The right applies whether the child is conceived naturally or through donor insemination. It also extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.

Employees accompanying the expectant mother to her ante-natal appointments are entitled to unpaid leave for 1 or 2 appointments. The time off is capped at six and a half hours for each appointment. (Refer to 'Guide to Time off to accompany a pregnant woman to ante-natal appointments')

SICKNESS

If you are off sick during pregnancy you are obliged to follow the normal sickness absence procedures. If your sickness is pregnancy related you should inform your manager. Sickness during pregnancy will be recorded; however, pregnancy related sickness will not be counted in the Supporting Positive Attendance policy.

If you are absent from work partly or wholly due to pregnancy after the 4th week before the EWC your maternity leave will automatically be triggered, even though you may have opted to start your maternity leave later. This is regardless of how long the absence is.

REST FACILITIES

The Council is required to provide a smoke free area for pregnant women to rest.

MATERNITY LEAVE/PAY

Entitlement to Maternity leave:

All employees irrespective of length of service are entitled to ordinary maternity leave (OML) of 26 weeks, followed by 26 weeks' additional maternity leave (AML); giving a total of 52 weeks' continuous leave.

If you are on a temporary contract your maternity leave will expire on the termination of your contract.

Commencing Maternity Leave:

You must give 28 days' notice of your intention to commence your maternity leave where practicable. If the baby arrives early contact your manager as soon as possible.

You will be expected to commence your maternity leave no earlier than 11 weeks before your EWC or the time of childbirth if that is earlier. You can choose to start your maternity leave any time after the 11th week before the EWC, provided that you give at least 28 days' notice where reasonably practicable. See the section on Early Birth which explains what will happen should your baby arrive before the planned start of your maternity leave.

You will be written to within 28 days of receipt of your written notification, stating your expected date of return from maternity leave.

Entitlement to Statutory Maternity Pay (SMP):

To qualify for SMP you have to satisfy two basic rules:

- The continuous employment rule;
- The earnings rule.

This means you must:

- have been employed by your employer without a break for at least 26 weeks including the qualifying week;
- have average weekly earnings in the eight weeks up to and including the qualifying week at or above the lower earnings limit for the payment of National Insurance contributions, (Please refer to the WLB rates table for current rate for SMP).

If you have changed employer during your pregnancy please seek advice on your entitlement from HR as you may not meet the continuous employment rule. One exception to this is if you are a teacher in a school maintained by a local education authority and you move to another school maintained by the same authority; in these circumstances your continuous employment for SMP purposes is maintained.

Providing you continue to work after the 11th week before the week your baby is due you can choose the start date for your SMP.

If: -

- your baby is born early; or
- you are absent if from work wholly or partly because of pregnancy or pregnancy related illness after the beginning of the 4th week before the EWC;

your SMP and maternity leave will commence automatically.

Women who do not qualify for SMP:

If you do not meet the qualification rules for SMP you may qualify for Maternity Allowance (MA): this is based on your recent employment and earnings record and is a state benefit which may be payable for 39 weeks and is the same rate as SMP.

To qualify, you must be employed or have been employed for at least 26 weeks of the 66 weeks ending with the week before the EWC and earned at least a specified amount per week on average in any 13 weeks in the test period.

If you are not entitled to SMP (HR/Payroll can advise you on this matter) you will need a completed form SMP1 from HR/Payroll. You should take the form to your local Benefits Agency office who will advise you of your entitlement to maternity allowance or incapacity benefit.

Entitlement to Occupational Maternity Pay (OMP):

If you have completed one year's continuous local government service at the 11th week before the EWC you are entitled to OMP; i.e. 12 weeks' at ½ pay (using current pay). Continuous service with an employer that is part of the Greater Manchester Continuous Service Commitment is also included.

OMP will only be paid if you make a written declaration that you intend to return to work for a period of at least 3 months following your maternity leave; if you do not return you will have to repay the OMP paid to you.

For eligible employees payments are:

- 6 weeks at 90% of average earnings (including SMP or Maternity Allowance);
- 12 weeks at ½ pay (using current pay) plus SMP or Maternity Allowance (subject to normal full pay not being exceeded);
- 21 weeks at the standard rate SMP.

For the Current SMP rate please refer to the WLB rates table.

Payments made to you in respect of SMP are **not** refundable to the Authority if you don't return to work following your maternity leave.

- Payments will be subject to deductions for Income Tax, NI and Pension.
- A further 13 weeks' additional leave entitlement will be at nil pay.

If you meet the continuous service requirements for payment of OMP as detailed above, but do not qualify for SMP or MA you will be paid at nine-tenths of a week's pay for the first six weeks' of your maternity leave, but this will not be offset against SMP or MA.

Pension Implications

Your pension rights will continue during your period of absence and in line with the Local Government Pension Scheme Regulations you will be required to make pension contributions on the maternity pay that you receive during your period of absence.

Under the LGPS 2014 Regulations you will not be paying pension contributions for any period of unpaid absence; so this will reduce your pension benefits when you retire. Active members of the Scheme can recoup lost benefits by paying Additional Pension Contributions (APCs) by completing Greater Manchester Pension Fund Form P38(1). This form can be downloaded from www.gmpf.org.uk and should be returned to the Council's Pensions Team.

If the form is returned within 30 days of your last day of absence, your Employer will contribute 2/3rds of the cost; otherwise the full cost of buying the lost pension is payable by you.

The Pensions Team can tell you how much pension you have lost as a result of the break and then you can get a rough idea of the cost by going on the APC online calculator at www.gmpf.org.uk

For further information contact the Pensions Team at pensions@bury.gov.uk

Implications for employees who are leasing a car through the Council's Car Lease Scheme

You are advised to think very carefully as to whether you join the Car Lease Scheme if you are likely to have maternity leave during the period of your car lease agreement. This is because Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) are calculated on the amount of average weekly earnings during the 8-week period, fifteen weeks prior to the expected date of confinement (weeks 17 to 25 of pregnancy). A 'salary sacrifice' arrangement (such as the Car Lease Scheme) will reduce the amount of salary that is liable to National Insurance Contributions; and consequentially will reduce the level of your SMP/OMP. To combat this, the Council will make a payment to you based on the salary you would have received prior to salary sacrifice.

From the start date of payment of your SMP you will pay for your car on a net deduction basis which is more expensive than the salary sacrifice deductions. When you return to work you will automatically revert back to the salary sacrifice arrangement.

If you are pregnant and have a lease car another option is for you to return the car but you will be subject to early termination charges.

BIRTH

You (or someone on your behalf) should notify your manager/HR as soon as possible after the birth.

EARLY BIRTH

If your baby is born before the start of your planned maternity leave, your maternity leave and payment of your SMP will commence on the day following the day your baby was born.

MISCARRIAGE

If a miscarriage happens in the first 24 weeks of pregnancy, there is no entitlement to maternity leave. However, as many see this as a bereavement employees should be supported in the same way. Any sickness absence should be categorised as 'pregnancy

related' and not counted towards sickness triggers. A miscarriage after 24 weeks is classed as a stillbirth.

STILLBIRTH/DEATH OF A BABY AFTER BIRTH

In the tragic event of an employee giving birth to a stillborn baby, they are still entitled to maternity leave if the birth happens after 24 weeks of pregnancy. As with an early birth should this happen before the planned start date of the maternity leave their maternity leave and payment of SMP would commence the day following the stillbirth. If the stillbirth occurs before the end of the 24th week of pregnancy employees should take sick leave or special leave if appropriate.

If the baby is born alive but then later dies the employee is entitled to maternity leave.

KEEPING IN TOUCH (KIT) DAYS

Keeping in Touch days were introduced to encourage a smooth return to work for women following their maternity leave and allow you to return to work for up to 10 days without bringing your maternity leave to an end. KIT days are not compulsory and must be arranged by mutual agreement between you and your manager. Even if you don't have any KIT days you may find it beneficial to keep in touch more informally during your maternity leave.

Any work done, whether it is a one hour team meeting, a two hour training session, or a full day, would be classed as one of your KIT days. There is a record sheet that can be used to record when your KIT days have been taken and the number of hours you worked. You will be paid at your current spine point or rate of pay for the hours you work so must submit an overtime sheet for these hours in order to be paid correctly.

Your SMP will be offset against your earnings on a KIT day so, for example, if you earn £50.00 for a KIT day, the £50.00 will be offset against the SMP payment for the week and you will still receive the SMP payment (please refer to WLB rates table for current rate for SMP). If you worked 3 KIT days in a week and received £150.00 for the 3 days, the SMP payment will be offset and you would receive £150.00 for the week.

You should speak to your manager if you want to arrange some KIT days and record your hours worked on both the record sheet and an overtime form so you can be paid correctly.

RETURNING FROM MATERNITY LEAVE

You may return to work at any time during your maternity leave subject to you taking 2 weeks' compulsory maternity leave. Compulsory maternity leave will commence from the birth of the baby.

No notification is required if you intend to return to work at the end of the maternity leave (52 weeks). However, if you choose to return **before the end** of the 52 weeks you must give 21 days' notice in writing to Human Resources.

Where insufficient notice is given your department may postpone your return to ensure the required notice.

Providing you meet eligibility requirements you have the choice to transfer up to six months' leave to the child's father should you want to, the leave can be taken by the father once you have returned to work. [The term "father" refers to the person taking the additional paternity leave but is available to either sex and also applies to employees married to or the partner (including same sex partner) and civil partner of mothers]. Some of the leave may be paid if it is taken during what would have been your 39 week statutory pay period; in these cases the you must bring your maternity leave to an end by giving notice to return early and must bring your SMP or maternity allowance to an end by actually returning to work.

If you have notified us of your date of return but cannot return to work because of sickness you are required to produce a Doctor's certificate before the notified date of return. If you haven't yet informed us of your date of return you must produce a Doctor's certificate on the expiry of your maternity leave period. At this stage normal contractual sick pay arrangements apply.

You will be entitled to return to the post that you now occupy or a suitable alternative post where for some reason, e.g. redundancy or restructure, it is not practicable for you to return to the original post.

If you wish to return to work on a job share or part time basis, it is important that you put this request in writing to your Chief Officer at the earliest opportunity.

If your Chief Officer agrees to you returning to work on a part time or job share basis you will be entitled to retain the 12 weeks $\frac{1}{2}$ pay that you received during your maternity leave, as long as you work for at least 3 months upon your return.

HOLIDAY ENTITLEMENT

You are allowed to take your full holiday entitlement in the year in which your maternity leave falls on the understanding that you reimburse the Council as appropriate on a pro rata basis should you choose not to return to work. This applies if you are entitled to paid or unpaid maternity leave.

You will also be entitled to any fixed holidays such as Bank Holidays that fall during your paid or unpaid maternity leave. These fixed holidays will be treated as annual leave for this purpose and taking these days as leave, either before or after maternity leave, must be requested in the usual way.

If your maternity leave straddles two leave years you will be permitted to carry over any untaken leave into the next leave year, should the need arise.

If you work term time only your pay is calculated as 12 equal monthly installments across the year. Each installment includes a combination of your salary payment and payment for your annual leave and bank holidays; and you are required to take your leave during

school closure periods. Annual leave accrued whilst on maternity leave will be offset by any period of school closure that occurs in the leave year in question, both before and after your maternity leave.

If your maternity leave falls over 2 annual leave years, any outstanding leave remaining at the end of the leave year will be carried forward into the following leave year.

If you have salary deductions for 3 days' unpaid leave the deductions will cease altogether for the full period of the maternity leave and the deduction is pro-rated for the months that you commence and return from maternity leave. The 3 days' unpaid leave will also be pro-rated to reflect this.

Prior to your return to work following maternity leave your Departmental HR will assess whether or not you are owed any annual leave entitlement. If you have outstanding leave you will be given the option to either take the leave: -

- During term-time, but only with the approval of your line manager. In these cases there will be no adjustment to your pay; or
- During school closure periods when your pay will be adjusted to reflect any shortfall in holiday pay received during your period of maternity leave.

You cannot insist on payment for untaken annual leave unless you are leaving the Council.

These arrangements will also apply to term time only employees taking adoption leave and additional paternity leave.

SURROGACY

If you are acting as a surrogate mother, you are entitled to the same maternity leave and pay.

If another woman is acting as surrogate for you, you are not entitled to maternity leave or pay, as entitlement is dependent on actual pregnancy and production of a MATB1 certificate.

PREGNANCY CHECKLIST

1. Notify Manager and Human Resources in writing:-
 - Of your pregnancy
 - Of your expected week of childbirth
 - When you wish to commence maternity leave (you must give at least 28 days' notice)
2. Manager will carry out risk assessment
3. Human Resources will notify you in writing of the conditions of your maternity leave
4. Forward your MATB1 to HR upon receipt
5. Notify Manager of antenatal appointments
6. Give 28 days' notice of your intention to start your maternity leave. You can choose to start your maternity leave any time after the 11th week before the EWC (unless the birth of your baby is earlier)
7. Notify HR when baby is born
8. Arrange any required KIT days
9. Notify Manager of the date you are returning to work (you must give at least 21 days' notice if you are returning before the end of your maternity leave (52 weeks))

BREASTFEEDING IN THE WORKPLACE

RETURNING TO WORK AND BREASTFEEDING

Many women will choose to breastfeed their babies and returning to work should not have any effect on this. If you will be continuing to breast feed your baby after you return to work you should advise your manager in writing ideally before you return.

RISK ASSESSMENT

Once your manager has been informed you will still be breastfeeding, they will carry out/review your individual risk assessment. There may be different risks when breastfeeding, other than those associated with pregnancy and these should be considered. Managers should refer to the health and Safety guidelines – link above.

REST FACILITIES

The Council is required to provide a smoke free area for breastfeeding mothers to rest and lie down when required.

EXPRESSING/STORING MILK

It is good practice for employers to provide a private room for nursing mothers to express milk when they need to during the working day and, if possible, make arrangements for facilities to store the milk. This could be in the rest room. If you need to make use of any of these facilities you should make the arrangements with your manager. NOTE: Toilets are not considered to be a suitable facility for these purposes.

Further information is available from Human Resources