

ANDOVER TOWN COUNCIL

MATERNITY LEAVE AND PAY POLICY – 2017 (June 2017)

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1. Introduction

Andover Town Council is committed to ensuring that all pregnant employees take the leave and pay that they are entitled to. This policy sets out the Town Councils commitment and duties as well as the rights of the employee.

If you are having a baby, you are entitled to up to 52 weeks' maternity leave. The maternity pay you will receive depends on how long you have been working for the Town Council.

2. Policy Statement

Andover Town Council is committed to supporting best practice in relation to maternity, recognising the value of achieving a gender diverse workforce and retaining and promoting female talent.

In support of this, the Town Council provides maternity benefits including maternity pay that are above the statutory minimum.

This Policy and Procedure sets out the entitlements and benefits for pregnant employees and new mothers.

Reference is made to the mother as female/she. In the case of adoption, where an adoptive parent may be entitled to maternity leave it is recognised that the parent could be male or female.

3. Scope

This Policy and Procedure applies to all pregnant employees who have a contract of employment with Andover Town Council.

4. Aims

The policy aims to promote a consistent and supportive approach to maternity and to increase awareness about the provisions available for pregnant employees and to ensure the protection of the health and wellbeing of the mother and her child/unborn child, and compliance with legislative requirements.

It sets out the contractual and statutory maternity rights to which all pregnant employees are entitled, both before and after the birth of a child.

Queries regarding the application of this policy should be directed to the Town Clerk.

5. Principles

Andover Town Council has an Occupational Maternity scheme which is more beneficial than – and incorporates – all relevant legislation and statutory entitlements to maternity leave and pay.

Maternity Leave

All pregnant employees, regardless of length of service or hours worked:

- Are entitled to up to 52 weeks' maternity leave. This comprises of 26 weeks' ordinary maternity leave (OML) immediately followed by up to a further 26 weeks' additional maternity leave (AML)
- Must take a minimum of two weeks maternity leave immediately after the birth of their child

Maternity Pay

The type of maternity pay that a pregnant employee will get depends on how long she has been working for the Town Council, this is detailed in the PROCEDURE.

6. Contractual and other benefits

Apart from pay, the employee will continue to receive any contractual benefits which she would receive if she were at work, throughout her maternity leave period.

1. Antenatal Care

An employee will be given paid time off to attend antenatal appointments. Antenatal appointments should, where possible, be arranged outside core hours. Evidence of appointments such as an appointment card or medical certificate may be requested. In addition, the father or partner of the pregnant woman may take time off work to attend 2 antenatal appointments with the expectant mother; this is unpaid.

2. Parental Leave

This applies to employees who have completed one year's service with the Town Council and allows parents to take unpaid Parental Leave to care for their child when it is born or placed for adoption. If Parental Leave is taken immediately following the employee's maternity leave, it may be taken in a block of up to 18 weeks, by agreement with the Town Clerk, subject to the required notice being given by the employee. For further details see the Parental Leave Policy.

3. Sharing Maternity Leave with a partner

Where an employee decides to return to work prior to completing her full entitlement to 52 weeks maternity leave, she may share the untaken balance of leave and pay as Shared Parental Leave and Pay. For further details see the Shared Parental Leave Policy.

4. Continuity of Service

Where an employee returns to work following maternity leave (paid or unpaid) the period of absence due to maternity will not affect her recognised continuous service for employment

rights and service related benefits. Where relevant, the employee will be entitled to receive an increment on her salary in accordance with her normal incremental date.

5. Pension

If an employee is part of the NEST scheme with the Town Council, the Town Council will continue to make its usual contribution for the whole time of the time she is receiving Occupational or Statutory Maternity Pay. During any unpaid maternity leave her active pension scheme membership will be “suspended”. This means that the period will not count as pensionable service, but that benefits will be paid in the event of her death or ill-health retirement during maternity leave, on the basis of the service and salary which counted at the end of her paid maternity leave.

Further information about Pension arrangements whilst on maternity leave are available from NEST and the Town Clerk.

6. Annual Leave

- a. An employee will continue to accrue annual leave during her maternity leave. Staff on maternity leave who, as a result, are unable to take all their annual leave entitlement in a particular year are allowed to carry forward any untaken annual leave to the following leave year. Prior to starting her maternity leave it is recommended that the employee discuss arrangements for using annual leave with the Town Clerk.
- b. Staff who are on maternity leave on a Public/Statutory or Customary holiday are allowed to take the day(s) of holiday at a mutually convenient time (i.e. agreed with the Town Clerk).
- c. Annual leave cannot be taken during a period of Maternity Leave. It must be taken either prior to, or following maternity leave. Any annual leave taken following the birth of the baby will be deemed to be a ‘return to work’ for the purposes of maternity regulations. The employee will therefore be expected to resume her normal duties following the period of leave. If the Town Clerk has not already been informed of leave arrangements via the ML3 (Maternity return to work), then the employee must do so in writing. Notification should be in writing and confirm the date maternity leave ended and the annual leave dates.

7. Leave in Special Circumstances

An employee may also find it useful to familiarise herself with the Town Council’s policy for requests for leave in Special Circumstances.

8. Equality and Diversity – including breastfeeding facilities

An employee may also like to consult the Equality and Diversity policy regarding relevant issues including breastfeeding facilities.

9. Rewards Extra

- a. SMP is based on an employee’s earnings in the 8 week period up to and including the 15th week before her baby is due (the ‘qualifying period’). It is calculated using the post-sacrifice salary which means that SMP will be reduced for individuals receiving benefits as part of a salary exchange scheme at that point.

- b. An employee should review whether she wishes to continue to receive benefits as part of a salary exchange scheme. Where an employee decided to leave the scheme she will need to complete a lifestyle change form.

In the case of the Childcare Voucher Scheme, she should contact the Town Clerk in the first 16 weeks of her pregnancy if she is thinking of leaving. Changes must be confirmed at least 6 weeks before the change is to take effect.

For more information, visit the Childcare Voucher providers' website at:

<http://www.childcarevouchers.co.uk/Pages/Default.aspx> and the Department of Work and Pensions' page on SMP eligibility at <http://www.hmrc.gov.uk/employers/sml-salary-sacrifice.pdf>

10. Health and Safety

- a. Andover Town Council is committed to ensuring the health, safety and welfare of all employees which includes pregnant and breastfeeding employees as covered by the Management of Health and Safety at Work Regulations 1999.
- b. As part of the Town Council's duty of care to pregnant and breastfeeding employees, a risk assessment will be carried out when an employee advises the Town Clerk of her pregnancy. A second Risk Assessment will be carried out after maternity leave, when the employee returns to work.
- c. The Town Clerk is responsible for assessing any risks and taking appropriate action to resolve any problems. Where potential risk has been identified, temporary adjustments should be made to the work/working conditions and/or working hours. The Town Clerk may want to consult an HR Advisor in these instances.
- d. Where risk cannot be reduced to an acceptable level the employee will be offered suitable redeployment on her existing terms and conditions of employment. If there is no suitable redeployment, she will be suspended on full pay for as long as the risk remains. The decision to suspend on these grounds will be taken by the Staffing Sub-Committee, acting on Health and Safety advice and an HR Advisor.
- e. Suspension on maternity grounds will not affect the employees' statutory or contractual employment or her maternity rights. The employee is entitled to her normal salary and contractual benefits during any period of suspension, unless she refuses a reasonable offer of suitable alternative employment.
- f. Redeployment or suspension will follow in the same way if there is a statutory requirement placed on the Town Council by an employment medical advisor or doctor appointed under regulations on ionising radiations, Control of Substances Hazardous to Health (COSHH) etc.
- g. If an employee produces a medical certificate stating that, on Health and Safety grounds, she should not continue to work her previous standard hours, for example nights, the Town Council will either transfer her to suitable alternative day work or suspend her on maternity grounds, on full pay.
- h. If either the employee or the Town Clerk have concerns arising from the risk assessment or any other health and safety related matter, they may contact the Staffing Sub-Committee or an Occupational Health Advisor for advice and guidance.

11. Sickness absence

- a. All sickness absence prior to starting leave will be administered under the normal sickness absence procedure. The employee will receive contractual or Statutory Sick Pay (SSP), as appropriate.
- b. In cases where pregnancy related sickness absence occurs, after the beginning of the fourth week before the EWC, maternity leave will start automatically from the first day of absence.
- c. The paid maternity leave cannot coincide with other types of absence. Sickness during this period is treated as part of the maternity leave. An employee who is sick during unpaid maternity leave may be entitled to SSP or State Incapacity Benefit and should, therefore, contact their HR advisor for advice.
- d. An employee who is unable to return to work at the end of their maternity leave, due to sickness, will be treated as being on sick leave in accordance with the Town Council's Sickness Absence Policy. Likewise sickness, whether pregnancy related or not, occurring after a return to work is treated in the same way.

Additional Provisions

All pregnant employees regardless of length of service or hours worked:

- Are expected to return to the same job they did prior to maternity leave, but if that is not possible, a similar job on terms and conditions of employment which are no less favourable
- Should be protected from risk in the workplace
- Have protection against detriment, disadvantage, unfair dismissal arising from the pregnancy or maternity leave
- May be offered up to ten 'Keeping in Touch' (KiT) days during maternity leave without losing entitlement to maternity pay

Maternity Policy and Procedure – information for employees and Town Clerk

1. Maternity Leave

1. Regardless of length of service or hours of work, expectant mothers are entitled to up to 52 weeks maternity leave. This comprises 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML).
2. All pregnant employees, regardless of length of service or hours worked, must take a minimum of 2 weeks maternity leave immediately after the birth of their child.

2. Maternity Pay

1. Subject to satisfying the qualifying criteria, a pregnant employee will usually be entitled to Occupational Maternity Pay (OMP), Statutory Maternity Pay (SMP) or Maternity Allowance (MA) for all, or part, of her maternity leave dependent upon how much leave she decides to take. She must follow the associated maternity procedure.
2. The table below shows the criteria required for each category.

Qualifying criteria	Entitlement to Pay
52+ weeks continuous service at the start of the week in which the baby is due/EWC*	Occupational Maternity Pay – (OMP includes an entitlement to SMP)
Undertakes to return to work for a minimum of 3 months after maternity leave (for contracts expiring within this period)	
26+ weeks continuous service up to and including the 15 th week before your EWC*	Statutory Maternity Pay – (SMP only)
AWE** not less than the lower earnings limit for NI contributions	
Must submit medical evidence of EWC	
Must have stopped working	
Less than 26 weeks service up to and including 15 th week before EWC*	Maternity Allowance (MA) may be payable

*EWC Expected week of childbirth

**AWE Average Weekly Earnings

3. The table below shows the pay an employee may expect during maternity leave

Occupational Maternity pay (OMP)		
18 weeks full pay	21 weeks SMP or 90% of AWE, whichever is less	13 weeks unpaid
Statutory Maternity pay (SMP)		
6 weeks 90% of AWE	33 weeks SMP or 90% of AWE, whichever is less	13 weeks unpaid
Maternity Allowance (MA)		
39 weeks SMP or 90% AWE, whichever is less		13 weeks unpaid

1. Where OMP is paid, it includes the entitlement to SMP.
2. SMP is based on an employees earnings in the eight week period up to and including the 15th week before her baby is due ('the qualifying period').
3. SMP, and consequently maternity leave, cannot start prior to the 11th week before the employees' EWC.
4. SMP can start from any day of the week in accordance with the date the employee starts her maternity leave.
5. SMP is payable irrespective of whether or not the employee intends to work after maternity leave.
6. An employee on a career break will not be eligible for OMP. As SMP is based on the employee's AWE in the 8 weeks preceding maternity leave, entitlement to SMP may also be affected.
7. An employee who is not entitled to SMP may be entitled to Maternity Allowance which is paid by Jobcentre Plus. To qualify she must have been employed or self-employed for 26 weeks out of the 66 weeks before the EWC. Details on how to apply are on form SMP1 which is attached to this document.

3. Notification of pregnancy – requirements for starting maternity leave

1. The employee is advised to notify the Town Clerk of her pregnancy as soon as possible so that a health and safety risk assessment may be carried out. It is recommended that the employee and the Town Clerk meet to plan arrangements and to discuss any potential issues anticipated, or arising, due to the pregnancy.
2. Maternity Leave will start on whichever date is earliest:
 - The employees chosen start date ie any time after the beginning of the 11th week before the employees EWC or
 - The day after the employee gives birth, in the case of a Premature Birth; or
 - The day after any day on which the employee is absent for a pregnancy related illness in the four weeks before the EWC.
3. Applying for Maternity Leave
 1. It is the employees responsibility to complete the relevant forms ML. 1 Application for Maternity Leave and ML. 2. Risk Assessment for Pregnant and Breastfeeding Employees The ML.1. must be completed by at least the 15th week before the expected week of childbirth (EWC) or as soon as is practicable thereafter confirming:
 - That she is pregnant
 - Her EWC
 - The date she intends to commence maternity leave

The ML.2. should be completed as soon as possible so that any risks can be identified and addressed.
 2. The employee should pass the completed forms to the Town Clerk who is responsible for checking them and where appropriate, adding comments to the ML.2.
 3. If either the employee or the Town Clerk have concerns arising from the Risk Assessment and the demands of the job, they may contact the Staffing Sub-Committee for advice and guidance.

4. Providing medical confirmation of maternity dates MAT B1
When the employee is approximately 20 weeks pregnant, she will receive a MAT B1 form from her midwife/GP, formally confirming her EWC which she must send to the Town Clerk when it is issued.

5. Confirming the details of maternity leave
On receipt of the ML.1. and ML. 2 forms, the Town Clerk will write to the employee confirming details, including the date when her maternity leave will end. This will be sent within 28 days of receiving the forms. The Town Clerk will confirm the date the employee is expected to return to work if she takes her full 52 week entitlement to maternity leave.

6. Changing the start date of maternity leave
 1. An employee may bring forward or postpone, her maternity leave start date providing she does so in writing, giving at least 28 days' notice of the new date or as soon as reasonably practical. Notification should be sent to the Town Clerk.
 2. If the baby is born before the intended start of maternity leave, the Town Clerk should be advised of the baby's date of birth. This should be done, as soon as reasonably practicable, by the employee or someone acting on her behalf. Arrangements will then be made for maternity leave and pay to start from the day after the birth.

7. Arranging Maternity Cover
The Town Clerk should consider options for covering work during maternity leave and can contact the Staffing Sub-Committee for assistance if required.
8. Confirming return to work (Form ML.3.: Return to Work after Maternity Leave)
For an employee taking maternity leave in accordance with the Statutory Maternity entitlement only, and where she is intending to return at the end of her total maternity leave i.e. after 52 weeks, there is no formal requirement to complete an ML.3.

All other employees must confirm a return to work date by completing an ML.3 and send it to the Town Clerk. This should be done at the earliest opportunity and normally at least 8 weeks before the planned date of return.

4. Keeping in Touch during maternity – including KIT days

1. The employee and the Town Clerk are encouraged to maintain reasonable contact during maternity leave to make the return to work easier. It is recommended that the frequency and method of contact during maternity leave be discussed in advance of maternity leave starting. The Town Clerk must ensure that employees are kept informed about change at work, particularly if any of the changes will directly affect the individuals' job or career development.
2. By mutual agreement, an employee may work for up to ten Keeping in Touch (KIT) days during her maternity leave without affecting her right to statutory maternity leave or pay – KIT days can be taken at any time during maternity leave apart from the two week period immediately following childbirth.
3. If KIT days are used, the Town Clerk will adjust payroll, confirming the date of the KIT day and the number of hours worked so that, where necessary, a payment can be made. A 'day', in KIT terms, is defined as anything from attending a 1 hour meeting to a full 7.5 hour day.

The employee is paid for her Keeping in Touch days, they must not be used to accrue time off in lieu.

4. Payment for a KIT day will be inclusive of SMP payment for the week. Where payment for the day's work is in excess of the weekly SMP payment, the difference will be paid. Where payment for the day's work is less than the weekly SMP payment then the employee will receive the SMP payment only.
5. The type of work undertaken during KIT days must be agreed between the employee and the Town Clerk and might typically include attending training, or a meeting. It is not intended that an employee use these days to continue her work during maternity leave or to work from home.
6. The Town Council is not obliged to offer KIT days; similarly the employee is not obliged to work any that are offered.

5. Preparing to Return to Work

Notification Requirements for ending maternity leave

1. An employee can return to work any time from 2 weeks after the birth and before AML has finished
2. An employee who qualifies for OMP should normally notify the Town Clerk of her return to work date by completing form ML.3. This should be done at least 8 weeks before the intended return to work date.
3. Where an employee takes maternity leave in accordance with the Statutory Maternity entitlement, it is assumed she will be returning to work at the end of the total maternity leave period i.e. after 52 weeks. This will be conformed to the employee by the Town Clerk. No further action is required unless the employee changes her mind and decides to return to work early, in which case an ML.3. form should be submitted to the Town Clerk giving at least 8 weeks' notice of the new return to work date.
4. Where an employee wishes to return to work earlier than planned but fails to give the correct notice period, the Town Council may postpone her return to work date until 8 weeks' notice has been given or until her 52 weeks maternity leave expires.
5. Usually the employee will return to the same job in which she was employed prior to maternity leave, on the same terms and conditions of employment as if she had not been absent. If this is not possible, she should be offered a similar job on terms and conditions of employment which are no less favourable.
6. Shortly before returning to work, or as soon after returning as possible, the employee should complete a second risk assessment (ML.2.) and discuss it with the Town Clerk. This is particularly important as there is a legal requirement on the Town Council to protect the breastfeeding mother and her child. If the employee or the Town Clerk would like specialist or confidential advice on possible risks involved in her work whilst she is breastfeeding they should contact an Occupational Health Advisor.

6. Reducing hours and flexible working

1. An employee who is a parent of a child under 17 has the statutory right to request flexible working arrangements. Further information can be found in the Town Council's Flexible Working Policy.
2. The Town Council gives sympathetic consideration to a request from a full time employee who wishes to return to work on a part time basis after maternity leave. The employee is encouraged to discuss her situation with the Town Council as soon as possible to complete a

flexible working request in line with the Flexible Working Policy at least 12 weeks prior to returning to work and to agree any new working arrangements prior to her return. She also needs to submit an ML.3. form with details of the new working arrangements at least 8 weeks before the planned return date.

7. Altering the return to work date

1. Changes to the original return to work date can be made by submitting a revised ML.3. form at least 8 weeks before the intended return date.

8. Resigning after maternity leave

1. An employee who decides not to return to work after maternity leave must give written notice to the Town Clerk of her resignation. It is helpful to receive as much notice as possible, but this should not be less than the notice period in the employee's contract of employment. Where appropriate, a payment will be made in lieu of annual leave not taken before the start of maternity leave and calculated up to the last working day.
2. Failure to return to work at the end of maternity leave will be treated as unauthorised absence unless the employee is sick and produces a medical certificate to cover the absence from the end of the maternity period. Where an employee fails to return to work by the agreed date, without explanation, this may be treated as unauthorised absence.
3. Where an employee who qualifies for OMP fails to return to work for a minimum of 3 months after maternity leave, the Town Council will normally reclaim some of the maternity pay paid to her. The amount to be reclaimed would be the non-statutory element of the maternity pay. The Town Council's decision to reclaim any excess paid will take account of the circumstances of the individual case.

9. Preparing for an employee's return from maternity leave – Town Clerk's responsibilities

1. Prior to the employee returning to work, the Town Clerk should ensure arrangements are in place for the mother's return. For example, ensuring she is updated of any changes since going on maternity leave, arranging any training required etc.
2. Completing a risk assessment post maternity leave
When the employee returns to work, she must complete a second ML.2. risk assessment. The Town Clerk will add detail, where appropriate.
Once again, if there are any issues arising from the Risk Assessment, the employee or the Town Clerk may contact an Occupational Health Advisor for advice and guidance.

10. Managing Redundancy – termination of a contract during maternity leave

1. Where an employee's contract is due to end during maternity leave, the Town Council's Redundancy Policy will be used.
2. With the employee's agreement, redundancy consultations may start early, i.e. before the maternity leave begins. This will not affect her statutory or contractual rights and she will receive access to redeployment opportunities, if relevant, at the appropriate time.
3. An employee who receives OMP is expected to return to work for at least 3 months, or to the end of her contract, whichever date is sooner. Where this is not possible due, for example, to the contract expiring, she will not be required to return to work for the full 3

months and maternity pay under the Town Councils Occupational Maternity Scheme, if applicable, will be paid until the expiry of the contract.

4. If an employee's contract ends before her entitlement to SMP ceases, she will remain on the Town Council's payroll for the remainder of the period for which she is eligible for SMP. All of her SMP entitlement will be paid via the Town Council. Her leaving date will be the date on which funding ceased, so contractual benefits such as leave entitlement and redundancy calculations would be based on this date.

11. Unforeseen circumstances

1. Premature Birth

1. If the employee's baby is born prematurely but after maternity leave has already started, the rules governing Occupational Maternity Pay (OMP), Statutory Maternity Pay (SMP) and Maternity Allowance (MA) do not change.
2. If the employee gives birth prematurely before or during the 15th week before the EWC, known as the Qualifying Week (QW) she is still entitled to receive Occupational Maternity Pay, Statutory Maternity Pay or Maternity Allowance as originally envisaged provided:
 - In the case of SMP or OMP she would have qualified for it through length of service by the end of the original QW. (N.B. the week in which the birth was expected is still used for assessing continuous service).
 - In the case of SMP, her average weekly earnings are not less than the lower earnings limit for payment of National Insurance Contributions normally calculated for a period of 8 weeks ending with the QW. The employee is still entitled to take up to 52 weeks maternity leave, the leave being calculated from the actual date her maternity leave starts.

2. Miscarriage and Stillbirth

1. If a miscarriage occurs earlier than the 24th week of pregnancy, the employee will not qualify for Maternity Leave or OMP, SMP or MA. Any period of sickness absence will be dealt with under the normal sick pay arrangements.
2. In the event of a stillbirth from the 24th week of pregnancy onwards, the employee will be eligible for Maternity Leave or OMP, SMP or MA in the normal way.
3. Helpful information on miscarriage may be found on the Miscarriage Association website at www.miscarriageassociation.org.uk/

12. Monitoring

Implementation of the Policy and Procedure will be monitored through reports and consultation with the Town Clerk

13. 'Review by' date

The policy and procedure will be reviewed 5 years following implementation to accommodate changes in legislation.

PROCEDURE FOR MATERNITY LEAVE

1. Leave and Pay

You must take at least two weeks of maternity leave immediately after the birth of your child.

Length of service at due date	Leave	Pay
More than 52 weeks	52 weeks	18 weeks full pay, then 21 weeks of Statutory Maternity Pay (SMP) or 90% pay (whichever is less), then up to 13 weeks unpaid.
40 – 52 weeks	52 weeks	6 weeks at 90% pay, then 33 weeks of SMP, then up to 13 weeks unpaid

If you do not qualify for Statutory Pay, you are still entitled to 52 weeks leave. You may be able to claim Maternity allowance.

If you do not take all the maternity leave/pay that you are entitled to, your partner may be able to take what is left over.

2. Starting Maternity

- You can start your maternity leave at any time from the 30th week of your pregnancy
- If your baby is born before your maternity leave was due to start, maternity leave must start on the day after the birth
- If you are off sick with a pregnancy related illness in the last four weeks of pregnancy, your maternity leave will start at that point

Inform the Town Clerk of your pregnancy as soon as you feel comfortable, so that a risk assessment can be carried out. You will need to complete a risk assessment form.

When you have your MATB1 certificate from your midwife and have decided when to start your leave, complete a maternity application form. This must be completed/returned by the 24th week of your pregnancy.

During your leave you will be offered (or can request) up to 10 Keeping in Touch (KiT) days.

3. Benefits and Leave

- You can go on antenatal appointments during work hours, but try to arrange these so they have the least impact on your work
- You will continue to accrue annual leave throughout your maternity leave and you can take it before and/or after your maternity leave
- Your pension contributions will still be paid while you are on maternity leave. While on unpaid maternity leave, your pension contributions will be suspended.

4. Finishing Maternity Leave

- You will need to tell the Town Council when you intend to finish your maternity leave, with at least eight weeks' notice
- A further Risk Assessment will be carried out on your return to work if you are breastfeeding
- You will be able to request flexible working
- Pregnant employees have the right to 52 weeks maternity leave
- 39 weeks can be paid which may be Statutory Maternity Pay, Maternity Allowance or contractual maternity pay
- Pregnant employees are protected against unfair treatment and discrimination
- During maternity leave and employees and employer can agree to have up to 10 keeping in touch days
- Employees are entitled to paid reasonable time off for antenatal care
- Women returning to work following Maternity Leave have the right to return to the original job or suitable alternative