


## POLICY DOCUMENT

Policy Title:	Maternity Policy
Policy Group:	Human Resources
Policy Owner:	Human Resources Manager
Issue Date:	22/06/2022
Review Period:	24 months
Next Review Due	22/06/2024
Author:	S. O'Rourke
Cross References:	Staff Handbook, Leave Policy
Evidence:	ACAS, CIPD, Delafield Consulting, Management of Health & Safety at Work Regulations 1999
How implementation will be monitored:	Staff handbook, Induction, Training
Sanctions to apply for breach:	Training, Disciplinary Action
Computer File Ref.	O:newpolicybook/humanresources/maternity
Policy Accepted by MT	22/06/2022
Sign-off by CEO	

**Purpose of Policy:** The aim of this policy is to give all female employees clear guidance about their maternity rights.

**Policy Statement:** The hospital's policy is to comply with both the letter and spirit of the law on maternity rights. To this end its aim is to inform all female employees of their entitlement to statutory maternity rights and to ensure that those rights are understood by employees who qualify.

### Definitions

The definitions in this paragraph apply in this policy:

EWC: Expected Week of Childbirth - is the week in which your doctor or midwife expects you to give birth.

QW: Qualifying week is the fifteenth week before the EWC.

OML: Ordinary Maternity Leave

AML: Additional Maternity Leave

SMP: Statutory Maternity Pay

## **STATUTORY MATERNITY LEAVE**

### **Notification**

#### **Employee's Obligation**

An employee is not obliged to notify the Hospital of her pregnancy until she reaches the end of the 15th week before her baby is due (the expected week of childbirth (EWC)). An exception to this is where she is requesting time off for antenatal care, in which case sight of an appointment will be required after the first appointment.

Maternity leave can commence no sooner than the beginning of the 11<sup>th</sup> week before the EWC and no later than the actual date of childbirth. To commence maternity leave, the employee must notify the employer in writing if in or before the 15<sup>th</sup> week before her EWC (or, if that is not reasonably practicable then as soon as it is reasonably practicable).

She must state that she is pregnant, her EWC and the date she intends to start her maternity leave. The EWC will be specified on a MATB1 medical certificate that can be obtained from her midwife or GP and the employee should provide this to the employer no earlier than 20 weeks before the EWC. The medical certificate needs to be supplied to the employer in order to qualify for any statutory maternity pay, if eligible.

The employee can vary the date on which she intends to start her OML, as long as it is not before 11 weeks before the EWC, provided that she gives the employer notice of the new date 28 days before the date originally notified or 28 days before the new date on which she intends her OML to start, whichever is the earlier. If that is not reasonably practicable then as soon as is reasonably practicable.

#### **Employer's Obligation**

Within 28 days of receipt of the employee's notification the employer must write to the employee to confirm the date her entitlement to maternity leave will end (expected return date).

### **Time off for Antenatal Care**

Regardless of length of service, all pregnant employees are entitled to reasonable paid time off to attend pregnancy related medical examinations, within working hours. This may also include reasonable time off for parent craft and/or relaxation classes.

Fathers/partners (including same sex) of expectant mothers are entitled to attend up to 2 ante-natal appointments with the expectant mother during working time. This right extends to surrogate parents. The maximum time off is 6.5 hours and such leave is unpaid.

### **Health and Safety**

Under the Management of Health & Safety at Work Regulations 1999 employers are required to carry out a risk assessment on any job carried out by a pregnant employee, new mother (returning to work within 6 months of the birth) or breastfeeding employee and take all possible measures to minimise or remove hazards.

### **Entitlement to Maternity Leave**

Employees are entitled to maternity leave following the birth of a child (or a still birth after a pregnancy lasting at least 24 weeks).

All pregnant employees are entitled to 52 weeks maternity regardless of their length of service. This comprises of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML).

Where there is pregnancy related sickness absence within the 4 weeks before the EWC date, OML automatically commences.

### **Ordinary Maternity Leave**

- You are entitled to take 26 weeks' ordinary maternity leave, two weeks of which must be taken immediately after the birth of your child.

### **Additional Maternity Leave**

The additional maternity leave follows on immediately after the 26 weeks ordinary maternity leave period and lasts for 26 weeks.

Fathers of children due (or matched for adoption) on or after 3 April 2011 have an entitlement to Additional Paternity Leave (APL), this is detailed in the Annual & Other leave policy, section 7 – Statutory Paternity Leave and Statutory Paternity Pay.

## **RIGHTS AND OBLIGATIONS DURING OML AND AML**

### **General**

Employees have the right to return to the same job following OML. Following AML the regulations state that the entitlement is to return to the job in which they were employed before the absence, or if it is not reasonably practicable, to another job which is both suitable and appropriate in the circumstances. Employees also have the right to return to their job on no less favourable terms and conditions. In the event that the employee commences another period of OML immediately following a period of AML her right to return to work will be the same as at the end of AML.

### **Keeping in Touch days**

During Maternity leave, the Hospital invites employees to come into work or attend training for up to 10 days during their maternity absence. The Keeping in Touch days gives a woman, who is on maternity leave (or adoption leave) the possibility of working for her employer without bringing the leave to an end and will not lose their right to SMP. These days are to be agreed in advance with management.

### **Return to work**

A woman returning to work at the end of her entitlement to maternity leave is not required to give her employer notice of her return. It is assumed that the employee will return on the expiry of the period of maternity leave. However, if she intends to return to work earlier than the end of her leave, she must give the employer no less than eight weeks' notice of her early return to work.

An employee who attempts to return to work early without giving the required notice can be prevented from returning to work by her employer until the eight weeks' notice has been given.

Similarly, if an employee changes her mind about her return date to work, she must give her employer eight weeks' notice of the new return to work date.

The employer cannot postpone the employee's return to a date, which falls after the expiry of the maternity leave.

An employee who has been continuously employed for a year may qualify for unpaid parental leave for up to 4 weeks following the birth, subject to notice requirements.

If the employee does not wish to return to work at all they must give their employer contractual notice, or statutory notice, whichever is greater.

### **Terms and conditions**

During OML all terms and conditions continue to apply apart from remuneration.

Although service continues throughout AML, the terms that continue are restricted to the following:

- implied terms of trust, confidence and good faith
- notice of termination
- contractual redundancy compensation
- discipline and grievance
- disclosure of confidential information
- acceptance of gifts or other benefits
- participation in any other business

### **Holiday entitlement**

The 4 week statutory holiday entitlement accrues throughout both OML and AML. In line with the Working Time Regulations 1998, employees are not entitled to carry over holiday accrued from one leave year to the next.

Employers are not permitted to pay in lieu of statutory holiday unless the employee leaves before the end of the current leave year. Therefore, a pregnant employee may request and take holiday prior to maternity leave commencing and take any remaining days at the end of the maternity leave.

### **STATUTORY MATERNITY PAY**

If you are to stop work because of pregnancy and have been employed by the Hospital for at least 26 weeks, ending with the Qualifying Week (QW), the 15<sup>th</sup> week before the expected week of childbirth (EWC), you will be entitled to receive Statutory Maternity Pay (SMP), provided your earnings are more than the lower earnings limit for the payment of National Insurance contributions. You must notify the Hospital of when you expect our liability to pay you SMP will commence and provide a copy of your Maternity Certificate as soon as you have this. This notice must be given at least 28 days before that date or, if this is not reasonably practicable then as soon as is reasonably practicable.

You will be eligible to receive SMP for up to 39 weeks commencing at the start of maternity leave, which can start on any day of the week at any time after the 11<sup>th</sup> week before the EWC. The first six weeks will be paid at the higher rate, which is 90% of your weekly earnings (calculated at an average of the eight weeks preceding the QW). The remaining 33 weeks will be paid at the lower rate of SMP as determined by the Department of Work & Pensions, or 90% of your average earnings (calculated as above), whichever is the lower.

If you have under 26 weeks' service at the QW, you will be issued with a form SMP1, which you should forward to the local Departments of Work & Pensions Office who will pay Maternity Allowance.

### **Review**

This policy has been reviewed for overt or implied discrimination within the scope of the Hospital's policies on equality and diversity and none was found.

The policy will be reviewed bi- annually to ensure that the system described continues to provide an effective framework for managing maternity.