



# Maternity Policy/Procedure

Written by: Human Resources  
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This policy / procedure is not contractually binding upon employees or the College, except to the extent required by law. Where the terms of this policy/procedure are in conflict with an employee's terms and conditions of employment, the terms and conditions of employment shall prevail.

## **1. Introduction**

- 1.1 The College recognises the need for effective policies, which play a key part in supporting an appropriate life-work balance. Such policies are intended to: allow a more effective combination of home and work responsibilities; enhance equality of opportunity at work; maintain the competitive advantage of the organisation by retaining skilled and valued employees.

## **2. Scope**

- 2.1 This policy sets out the statutory rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay. This policy applies to all employees, including Senior Post Holders, regardless of length of service.

- 2.2 The College recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the College's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant she should contact the Human Resources department and make an appointment with the HR Advisor. It is recommended that this meeting takes place within the first four months of pregnancy so the employee has a clear understanding of their rights, the process to be followed, and their responsibilities.

- 2.3 The following definitions are used in this policy:

'Expected week of childbirth' (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

'Qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth.

- 2.4 The College has an obligation to pay Statutory Maternity Pay (SMP) on behalf of the Social Security Benefits Office to all employees who are eligible to receive it. This scheme explains entitlements to both statutory and contractual maternity benefits.

## **3. Legal Framework**

The framework for most of the maternity rights and supporting regulations are as follows:

Work and Families Act 2006  
Employment Rights Act 1996  
Employment Relations Act 1999

Employment Act 2002  
Sex Discrimination Act 1975  
Sex Discrimination Act 1975 (Amendment) Regulations 2008 SI 2008/656  
Maternity and Parental Leave etc Regulations 1999 SI 1999/3312  
Maternity and Parental Leave (Amendment) Regulations 2001 SI 2001/4010  
Maternity and Parental Leave (Amendment) Regulations 2002 SI 2002/2789  
Statutory Maternity Pay (General) (Amendment) Regulations 2005 SI 2005/729  
Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2006 SI 2006/2014  
Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006 SI 2006/2379  
Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2008 SI 2008/1966  
Additional Paternity Leave Regulations 2010 (SI 2010/1055)

#### **4. Giving Notice to Start Maternity Leave**

- 4.1 In order to take advantage of the right to ordinary and additional maternity leave the employee must provide the College with the proper notification. An employee who wishes to take ordinary maternity leave or additional maternity leave must give the HR Department notice in writing by the 15<sup>th</sup> week before the Estimated Week of Childbirth (EWC). This should be done by returning the Maternity Rights Form (provided at the employee/HR maternity meeting) to confirm the following information:
- that she is pregnant;
  - if requested, she should produce a certificate from a GP or registered midwife (form MATBI);
  - the expected date of childbirth;
  - the date on which she wishes to start her maternity leave;
  - if the woman wishes to claim contractual maternity pay she should also confirm that she intends to return to work at the end of the maternity leave period.
- 4.2 If it is not reasonably practicable for the employee to give this notice by the 15<sup>th</sup> week, then she must provide the information as soon as reasonably practicable.
- 4.3 Once in receipt of this information, Human Resources will write to the employee within 28 days, setting out the date on which she is expected to return to work if she takes her full entitlement to maternity leave.
- 4.4 The employee may decide when she wishes to start her maternity leave, and she may start at any time after the beginning of the 11<sup>th</sup> week before the week in which childbirth is expected.

- 4.5 In maternity terms a week commences with a Sunday. Generally the maternity leave will commence on a Sunday. However, if the employee wishes, the maternity leave can commence on any day of the week. In this instance each day's payment will be calculated at a rate equal to one-seventh of the appropriate weekly rate.
- 4.6 An employee may change her mind about when she wants to start her leave, providing she writes to the College at least 28 days in advance of the intended leave date. If it is not reasonably practicable to give notice of change of intention, the employee must provide the information as soon as reasonably practical.
- 4.7 Where childbirth occurs before the notified leave date or before she has notified such a date, she should notify the College that she has given birth as soon as is reasonably practicable after the birth.
- 4.8 If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.
- 4.9 Employees should arrange with their line manager to take any outstanding annual leave due to them before the commencement of maternity leave. If the holiday year is due to end during maternity leave, the employee should, where possible, arrange to take their full year's entitlement prior to commencing maternity leave. In situations where this is not possible, guidance should be sought from the Human Resources department.

## **5. Time off for antenatal care**

- 5.1 Once an employee has advised the College that she is pregnant, she will be entitled to take reasonable paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.
- 5.2 In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.
- 5.3 To support the request for time off for antenatal care, the employee should complete an Application for Special Leave form for each appointment. Once authorised by the line manager, this form should be forwarded to Human Resources.
- 5.4 The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

## **6. Ordinary Maternity Leave (OML)**

- 6.1 All employees, regardless of length of service and number of hours worked, have the right to take Ordinary Maternity Leave (OML) of up to 26 weeks' maternity leave. The maternity leave period must include the two weeks immediately after childbirth. This is known as the compulsory maternity leave period.
- 6.2 During the period of Ordinary Maternity Leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Contractual annual leave entitlement will continue to accrue, and pension contributions will continue to be made provided that the employee is receiving Statutory Maternity Pay (SMP). Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave.

Salary will be replaced by SMP if the employee is eligible to receive it.

## **7. Additional Maternity Leave (AML)**

- 7.1 All employees, regardless of length of service and number of hours worked, have the right to take Additional Maternity Leave (AML) of up to 26 weeks (making a total of up to one year) starting immediately after Ordinary Maternity Leave.
- 7.2 During the period of Additional Maternity Leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Contractual annual leave entitlement will continue to accrue.
- 7.3 Salary will be replaced by Statutory Maternity Pay (SMP) for the first 13 weeks of Additional Maternity Leave if the employee is eligible to receive it. The remaining 13 weeks of Additional Maternity Leave are unpaid.
- 7.4 Pension contributions will continue to be made during the period when the employee is receiving SMP, but not during any period of unpaid Additional Maternity Leave.

## **8. Keeping In Touch Days (KIT)**

- 8.1 Except during the 2 weeks immediately after childbirth (i.e. the compulsory maternity leave period), employees are permitted to work up to 10 days for his or her employer during Statutory Maternity Leave without losing statutory payments, or bringing the

leave to an end. These Keeping In Touch Days (KIT) can be taken as a single block or separately.

- 8.2 KIT covers any work done under the contract of employment, and may include training or any activity undertaken for the purpose of the employee keeping in touch with the workplace. KIT days must be undertaken at the employee's normal place of work or alternative college premises, in agreement with the line manager.
- 8.3 Any days of work carried out under this provision will not extend the total duration of the OML or AML period.
- 8.4 All KIT days must be agreed by mutual agreement prior to work taking place. An employee reserves the right to refuse KIT days offered with no detrimental consequences. The employer reserves the right to offer KIT days at their discretion.
- 8.5 An employee should receive her normal daily or hourly rate for working on a Keeping In Touch day. This will be less any contractual maternity pay or SMP due, if appropriate.
- 8.6 Human Resources must be informed by the Line Manager and employee that KIT days have been agreed to ensure that formalised records of days worked and payment can be organised.

## **9. Reasonable Contact**

- 9.1 Reasonable contact between employer and employee is permitted during maternity leave.

## **10. The Right to Return to Work after Maternity Leave**

### **10.1 Ordinary Maternity Leave**

- 10.1.1 An employee who wishes to return to work at the end of the 26 weeks Ordinary Maternity Leave period is entitled to return to the same job that she left. She does not have to give the College any notice, unless she wishes to return to work before the end of the 26 weeks, in which case 8 weeks written notice is required. If the employee attempts to return to work earlier, without having given 28 days' notice, the College is entitled to postpone her return but not beyond the end of the Ordinary Maternity Leave period.

### **10.2 Additional Maternity Leave**

- 10.2.1 An employee who wishes to return to work following Additional Maternity Leave has the right to return at any time up until the end of the 26 weeks following the end of the Ordinary Maternity Leave. She has the right to return to the same job, with the same terms and conditions of employment, if this is reasonably practical. However, if this is not reasonably practical, she has the right to be offered an alternative job that is suitable and appropriate and on

terms and conditions that are no less favourable than would have applied if she had not been absent. The employee shall not be obliged to give any notice of her intention to return.

- 10.2.2 If the employee wishes to return to work before the end of Additional Maternity Leave she must give the College at least 8 weeks written notice of the day on which she wishes to return to work.
- 10.2.3 If an employee attempts to return to work earlier, without having given the 8 weeks written notice, the College is entitled to postpone her return but not beyond the additional leave period.
- 10.3 An employee who is unable to return to work at the end of her maternity leave due to illness, will be subject to the normal sick leave and pay policy, and will receive sick pay according to her contract.

## **11. General Points Regarding Return to Work**

- 11.1 If the employee's job becomes redundant during the course of her maternity leave, the College will offer her any other suitable alternative work that becomes available. She will have the right to be considered for such work, even though she is on maternity leave. The offer will be made before her previous employment ends and the new employment will commence immediately. It must involve suitable work and the terms and conditions will not be less favourable than the old contract. If there is no work available, then she will be made redundant and receive redundancy pay in line with her statutory and contractual entitlements.
- 11.2 If industrial action, or any other interruption of work, makes it unreasonable for the employee to return to work on the date that she has specified, she may, instead, return when work resumes.
- 11.3 If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the College may require the employee to return to work for the remainder of the notice period.
- 11.4 Requests for flexible working upon return from maternity leave should be submitted in accordance with the College's Flexible Working Policy. Although staff do not have a legal entitlement to flexible working, such requests will be considered seriously and thoroughly by the College.

## 12. Maternity Pay

12.1 A woman will be eligible to receive maternity pay [Contractual and Statutory (SMP)] for up to 39 weeks if she satisfies the following criteria:

- she must have completed 26 weeks' continuous service at the 15<sup>th</sup> week before the expected week of childbirth, and;
- she must be earning an amount equivalent to at least the lower earnings limit for National Insurance contributions, and;
- she must still be pregnant at the 11<sup>th</sup> week before the expected week of childbirth, and;
- she must have stopped work wholly or partly because of her pregnancy, or her confinement.

12.2 Contractual Maternity Pay is paid in addition to the SMP, and is paid at the rate of:

- First 6 weeks of maternity pay period - 10% of average weekly earnings plus SMP (90% of employee's average weekly earnings). Pay in this period equates to full pay.
- Next 12 weeks of maternity pay period - 50% (half pay) of employees average weekly earnings plus SMP, or 90% of the woman's average weekly earnings, whichever is the lesser. This is subject to the combined SMP and half pay not exceeding the normal full pay.
- Last 21 weeks of maternity pay period - no contractual maternity pay is paid. SMP paid at current rate or 90% of the woman's average weekly earnings, whichever is the lesser.

12.3 An employee who does not return to work for a period of at least 13 weeks' service following her Ordinary or Additional Maternity Leave may be required to repay the 12 weeks half pay, or lesser amount if applicable, to be determined by the College. She cannot be required to repay any of the SMP.

12.4 Employees who meet the criteria in 12.1, but do not anticipate or are uncertain about returning to work after maternity leave, can elect to be paid statutory maternity pay (SMP) only for weeks 7-18 and have the 12 weeks' half pay paid on her return to work.

12.5 Not all employees will be eligible for SMP, in which case they should apply to the Benefits Agency to see whether they may be entitled to Maternity Allowance. In order to get an application the employee needs to take their MATB1 form to the Human Resources Department where a copy is taken and sent to Payroll. On receipt they will then send the appropriate document.

12.6 Maternity pay is calculated in weeks. The qualifying weeks that are used to calculate an average weeks' pay are the 8 week period prior to the 15<sup>th</sup> week before EWC.

12.7 Unpaid Maternity Leave

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12.7.1 Any Additional Maternity Leave beyond the 39 week period shall be unpaid.

## 12.8 Pensions Contributions

12.8.1 A woman in receipt of remuneration, whether salary, or SMP, or both, will be treated as though they are working normally for the purposes of access to occupational pension scheme membership and benefits. The College and the employee will pay the normal percentage contribution towards the pension scheme throughout the maternity leave based on actual earnings.

12.8.2 Employees who wish to continue contributions based on their normal earnings during the period of unpaid maternity leave should contact the pension authority to obtain the appropriate advice on how to do so.

12.8.3 Employees who wish to suspend their pension contributions whilst on maternity leave should discuss this directly with Human Resources.

## 12.9 Early Births

12.9.1 If the baby is born earlier than expected but after the employee has started to receive SMP, SMP will continue to be paid. This should not affect the return to work date from either Ordinary Maternity Leave or Additional Maternity Leave.

12.9.2 If the baby is born before the employee has started to receive SMP, or commenced her maternity leave, the early birth will trigger maternity leave and SMP. In this instance, the return to work is calculated from the actual date of birth.

## 12.10 Late Births

12.10.1 If the baby is born after the expected week of confinement, SMP and both Ordinary Maternity Leave and Additional Maternity Leave are not affected.

## 12.11 Stillbirths

12.11.1 In the unfortunate event of a stillbirth, the employee continues to be entitled to SMP if the child is born after the 24<sup>th</sup> week of pregnancy. She will also be entitled to the maternity leave period. In the event of a miscarriage during or before the 24<sup>th</sup> week of pregnancy, provisions and regulations of the sick pay scheme will apply.

## 12.12 Circumstances in which SMP is Lost

12.12.1 An employee will lose her right to receive SMP if:

- She is taken into legal custody at any point during her maternity pay period. SMP will not re-commence when she is discharged, but she may be able to claim Maternity Allowance.
- After giving birth, she starts work for another employer who was not her employer the 15<sup>th</sup> week before the baby was due.
- She returns to work (excluding circumstances when a 'keeping in touch day' is undertaken).

### **13. Protection of New and Expectant Mothers**

- 13.1 The College is committed to creating and maintaining a healthy and safe working environment. This is particularly important in relation to the safety of new and expectant mothers.
- 13.2 Work areas will be risk assessed to take account of particular risks to new and expectant mothers. This will be carried out as soon as possible after notification of pregnancy.
- 13.3 Employees will have the right to transfer from hazardous work areas, or hazardous work, without loss of pay or status, to suitable alternative work and/or alter hours/work conditions if suitable actions cannot be identified to avoid an assessed risk.
- 13.4 An employee may be temporarily suspended, on full contractual pay, from the site in order to maintain an appropriate level of safety if suitable temporary alternative employment cannot be found.
- 13.5 Suitable accommodation will be provided for new and expectant mothers to allow for appropriate rest periods, or to express milk.
- 13.6 Health and Safety management will be undertaken in accordance with The Workplace (Health, Safety and Welfare) Regulations 1992.

### **14. General Issues**

- 14.1 Maternity leave is not sick leave and will not be taken into account when calculating any period of sick leave entitlement.
- 14.2 During the maternity leave the contract continues and counts towards periods of continuous employment for the purposes of statutory employment rights.
- 14.3 Any salary increases awarded during the maternity leave period will be implemented on the date they occur. As the maternity payments are calculated on the 'qualifying weeks', the employee will benefit from these increases on their return from maternity leave.
- 14.5 Any employee who is unable to return to work at the end of their maternity leave period due to illness will be treated as if they were on sick leave and will therefore be entitled to sick pay.

14.6 If in the early months of pregnancy an employee is advised by an approved medical practitioner to absent herself from work because of the risk of rubella, she will be entitled to leave with full pay.

14.7 Women are protected from unfair treatment due to pregnancy, childbirth or taking maternity leave.

## **15. Additional Paternity Leave**

15.1 The right to Additional Paternity Leave and pay was introduced in April 2010 and is available to parents of children with an expected week of childbirth beginning on or after 3<sup>rd</sup> April 2011.

15.2 To be eligible, employees must have been continuously employed for 26 weeks or more by the end of the 15<sup>th</sup> week before the child's expected week of birth. The mother must have been eligible for maternity leave, and SMP or Maternity Allowance.

15.3 Under the new legislation fathers, partners and civil partners of mothers will be able to benefit from up to 26 weeks' Additional Paternity Leave if they have responsibility for the upbringing of the child and the mother returns to work before using her full entitlement to statutory maternity leave.

15.4 Additional Paternity Leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.

15.5 The earliest that employees will be able to take Additional Paternity Leave will be 20 weeks after the child is born, but leave will usually be taken during the second six months of the child's life so that the first six months will be reserved for the mother to take maternity leave. Additional Paternity Leave will end no later than 12 months after the child is born.

15.6 In addition under the new legislation, fathers will be entitled to take up to 10 'keep-in-touch' days during the course of the Additional Paternity Leave.

15.7 Further details regarding the process for requesting Additional Paternity Leave can be obtained from the HR Advisor on request.

## **16. Review**

16.1 This policy/procedure will be reviewed every 2 years, or in response to changes in legislation or best practice, whichever is sooner.