



Title:	<b>Statutory &amp; University Maternity Leave and Pay</b>
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## **POLICY & GUIDELINES**

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## **1. Introduction to Maternity Rights and Benefits**

This policy sets out the rights and responsibilities of female members of staff to maternity benefits.

All pregnant employees are entitled to 26 weeks' ordinary maternity leave (referred to as OML) and 26 weeks' additional maternity leave (referred to as AML) regardless of their hours or length of service. During maternity leave the employee's contract will continue in force and all contractual benefits, other than pay, will continue.

Additional maternity leave begins on the day after ordinary maternity leave ends and thus ordinary and additional maternity leave combined can last up to 52 weeks.

All employees who take maternity leave have the right to return to work after either ordinary maternity leave or additional maternity leave subject to following the correct notification procedures as set out below.

## **2. Terminology**

OML Ordinary Maternity Leave AML Additional Maternity Leave EWC Expected week of Childbirth	SMP Statutory Maternity Pay UMP University Maternity Pay
Childbirth	- The birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy. (Maternity and Parental Leave regulations 1999 2(1)).
Confinement	- Labour resulting in the birth of a living child or the birth of a child living or dead after 24 weeks of pregnancy. (Section 164, Social Security Contributions and Benefits Act 1992).
“Head”	- Means the Head of Department/School/Special Research Institute/Area or their nominee.
“Qualifying week”	- Means the 15 <sup>th</sup> week before the expected week of childbirth.

## **3. Procedures for time off for antenatal care**

Once an employee has advised their Head that she is pregnant, she has the right to take reasonable time off work to attend antenatal care, irrespective of length of service, as advised by her doctor, registered midwife or registered health visitor.

In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from one of the above, stating that she is pregnant and giving her expected date of childbirth. The employee should also produce evidence of the appointment such as a medical certificate or appointment card if requested to do so.

The employee should endeavour to give her immediate 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.

The employee will receive full pay for time off for antenatal care and for reasonable travelling time.

#### **4. Who qualifies for statutory maternity pay and how much will the employee receive?**

Employees who have at least 26 weeks' continuous service calculated as at the start of the 15<sup>th</sup> week before the expected week of childbirth (EWC) will be entitled to statutory maternity pay (SMP) payable for up to 39 weeks provided that their average weekly earnings are not lower than the lower earnings limit for national insurance contributions.

Payment of statutory maternity pay cannot start prior to the 11<sup>th</sup> week before the employee's expected week of childbirth (EWC). The first six weeks of statutory maternity pay are payable at 90% of the employee's average weekly earnings (the higher rate). For the remaining period (up to 33 further weeks), statutory maternity pay is payable at the standard rate. If, however, 90% of the employee's average weekly earnings are less than the statutory rate per week, the rate payable for the remaining 33 weeks will be 90% of the employee's average weekly earnings. Statutory maternity pay is payable whether or not the employee intends to return to work.

SMP is treated as earnings and is therefore subject to the normal statutory deductions.

#### **5. Who qualifies for university maternity pay and how much will the employee receive?**

Employees, who have been continuously employed by the University for at least 1 year ending with the qualifying week, have an entitlement to University Maternity Pay (UMP). Rate of UMP will be 18 Weeks - full contractual rate of pay (or if pay is variable, average pay over the 8 weeks up to and including the qualifying week). Additionally, a further 21 Weeks at the standard rate of statutory maternity pay or 90% of average weekly earnings, whichever is the **lesser** amount.

***SMP/UMP is paid through payroll in the normal way. UMP contains the SMP elements (SMP is not an additional payment).***

This payment is made on the understanding that the member of staff will return to work (50% of time or more is expected) for a period of at least three months. Should the employee fail to return to work or leaves the University before the end of three months, the employee must reimburse the University the UMP, excluding SMP, (after PAYE deductions) that have been received and the University reserves the right to reclaim this sum directly from the employee.

As both UMP and SMP are paid on a weekly basis the employee's salary will be variable depending on whether it is a 4 week or 5 week month.

All other remaining leave periods will be unpaid.

## **6. What if the employee is not entitled to SMP or UMP?**

Employees who are not entitled to SMP or UMP may be entitled to state Maternity Allowance. Employees should contact their local Social Security/Job Centre Plus office for further advice and information about maternity allowance and other benefits entitlements.

## **7. Timing of maternity leave**

Ordinary maternity leave can commence at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth. The employee is not, however, obliged to start her maternity leave at this time and may, if she so wishes, work right up to the date of childbirth, subject to health and safety regulations (see below). If however the employee is at work during the four-week period before the expected week of childbirth (EWC), and during this period is absent due to a pregnancy related illness, ordinary maternity leave(OML) will automatically start. The employee must notify the University (as soon as is reasonable practicable) that she is absent from work wholly or partly because of a pregnancy related illness and the date the absence began.

The law obliges employees to take at least two weeks of their maternity leave immediately after the birth of the child.

The employee should discuss the timing of her maternity leave with her immediate manager as early as possible and provide confirmation from her doctor or midwife of her expected week of childbirth.

## **8. Notice requirements**

In order to be entitled to take maternity leave and receive statutory/university maternity pay, the employee is required to give Human Resources (copied to line manager) written notification of her intention to take maternity leave (by completing the 'Notification of Pregnancy Form') no later than the end of the 15<sup>th</sup> week before her expected week of childbirth. The employee must state in the notification that she is pregnant, her expected week of childbirth and the date on which she intends her maternity leave to start (if this is not possible, as soon as is reasonably practicable). A Mat B1 form is required to confirm dates (available from the employees midwife or GP normally between 20 to 26 weeks).

If the employee subsequently wishes to change the start date of her maternity leave, she must give 28 days' written notice before the date originally stated or 28 days before the new start date or if this is not possible, as soon as is reasonably practicable.

Any failure to give proper notice of an intention to start maternity leave could be regarded as a disciplinary offence and may lead to disciplinary action.

Within 28 days of receiving the employee's notice of intention to take maternity leave, Human Resources will write to the employee confirming the latest date on which she must return to work after maternity leave.

If childbirth occurs before the notified date, or before notification is given, ordinary maternity leave automatically starts. A copy of the Child's birth certificate or a document signed by a doctor or midwife that confirms the actual date of birth is required by HR.

You must write to them confirming the new end date for their leave

### **9. Rights during ordinary maternity leave and additional maternity leave**

During ordinary maternity leave and additional maternity leave, all the terms and conditions of the employee's contract will continue, with the exception of normal pay. Salary will be replaced by statutory/university maternity pay if the employee is eligible to receive it.

This means that, whilst ordinary basic salary and other cash remuneration will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue through the paid and unpaid leave.

### **10. Contact & Keeping in touch (KIT) days:**

#### **Contact during maternity leave:**

Shortly before an employee's maternity leave starts, the line manager will discuss the arrangements for her to keep in touch during her leave, should she wish to do so. The University reserves the right in any event to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply to update her on developments at work during her absence.

#### **Keeping in touch days:**

Except during the first two weeks after childbirth an employee can agree to work for the University (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes.

The University has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between the University and the employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for the University.

## **11. Annual Leave**

Employees are encouraged to take any outstanding annual leave due to them either before or after the maternity leave period. Employees are reminded that annual leave must be taken in the year that it is earned. Up to a maximum of 5 days may be carried over to the next leave year with the approval of the Head of School/Department.

## **12. Occupational Pension**

Occupational pension contributions will continue to be made throughout the period of paid maternity leave (university or statutory). If you would like to find out further information regarding your pension whilst you are on maternity leave please contact the payroll and pensions office.

## **13. Health and safety requirements**

Pregnant employees will normally be entitled to begin ordinary maternity leave at a time of their choosing after the beginning of the 11<sup>th</sup> week before the expected week of childbirth. In some cases, however, health and safety regulations may not allow the employee to continue in her normal job. In this case, the employee will either be offered suitable alternative work (if available) at the same level of pay, or be suspended on medical grounds on full pay until the start of her maternity leave. Such suspension will not affect the employee's other statutory or contractual rights in any way.

The University is required to undertake Risk Assessments on (known) pregnant employees in order to ensure that an expectant/new mother and her baby are not exposed to any potential health and safety risks. Risk assessments will be undertaken by the employing department.

The Head/Occupational Health Advisor will consult with the employee, (and if required, their trade union representative) regarding any changes that are required to the employee's duties in order to remove/prevent risks.

If no acceptable solution can be found, the employee will be released from duties on her normal full rate of pay until she can return without exposure to any health and safety risk.

If the employee is absent from work during pregnancy owing to sickness, she will receive normal statutory and contractual sick pay provided that she has not yet begun ordinary maternity leave and adheres to the Universities reporting absence procedures. If, however, the employee is absent from work for a pregnancy-related illness after the beginning of the fourth week before the expected week of childbirth, the University will be entitled to treat this absence as the beginning of ordinary maternity leave.

## **14. Miscarriage and Stillbirth**

A woman who suffers a miscarriage before the end of the 24th week of pregnancy and is absent from work for this reason is not considered (under the legal provisions) to be absent because of 'confinement,' (please refer to

Terminology - Introduction) therefore University and Statutory maternity leave and pay are not applicable. Absence due to this reason will, however, be subject to the University's Procedure for Reporting Sickness Absence and Incapacity and/or Special Leave as detailed in the employee's Conditions of Service.

If stillbirth occurs after the 24<sup>th</sup> week of pregnancy (i.e. after the beginning of the 16th week before the expected week of childbirth) the provisions for Statutory and University maternity leave and pay including SMP remain.

### **15. Returning to work after maternity leave**

Providing the correct notice requirements have been given, employees may return to work at any time during ordinary maternity leave or additional maternity leave, with the exception of the two weeks following the birth.

Alternatively, the employee may take her full period of maternity leave entitlement and return to work at the end of this period. If the employee wishes to return before her full period of maternity leave has elapsed, she must give at least 8 weeks' notice in writing to her Head (copied to HR) of the date on which she intends to return.

Failure to return to work by the end of the maternity leave period will be treated as an unauthorised absence unless the employee is sick and follows the normal sickness absence procedures.

### **16. Employment Termination and SMP**

Should the employee decide during maternity leave that she does not wish to return to work, (or during the first 3 months of returning to work) she should give written notice of her resignation to the University as soon as possible and in accordance with the terms of her contract of employment. The employee must reimburse the University the UMP, excluding SMP, (after PAYE deductions) that have been received and the University reserves the right to reclaim this sum directly from the employee.

In terms of employment termination, for example resignation or redundancy, SMP may still be payable through the University. Employees terminating their employment should contact their tax office for further advice.

### **17. Sickness at the end of a maternity leave period**

Should the employee be ill and unable to return to work at the end of the leave period, the normal contractual arrangements and reporting procedures for sickness absence will apply.

### **18. Part-time working after maternity leave**

There is no specific statutory right to part-time working on return to work after maternity leave. Employees who are parents of young children (under 6 years and 18 years (for disabled children)) can request flexible working, which must be given serious consideration. Further details can be obtained from Human Resources.





## 19. Flowchart

