



## Maternity Leave Policy

Applicable to employee's whose EWC is on or after 5 October 2008

### Introduction

All employees who become pregnant will have an entitlement to maternity leave. Care should be taken to distinguish maternity leave from the potential entitlement to pay during the maternity leave period. In addition to this, there are differences between benefits prescribed by law (statutory) and those provided for under the Enhanced University Maternity Pay Policy.

The University of Nottingham also has a number of other relevant policies, which the employee may wish to refer to, these are: Special Leave for Unplanned and Urgent Domestic, Personal and Family Reasons, Adoption Leave, Shared Parental Leave, Surrogacy, Parental Support, Long-term Carers Leave, Career Break, Job Share and Flexible Working Arrangements.

The Flexible Working Arrangements Policy is available at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/worklifebalance/flexibleworking/index.aspx>

All other policies are available under the Guides and Support section of the HR web pages t:

<http://www.nottingham.ac.uk/hr/guidesandsupport/>.

All employees who become pregnant and may be considering Shared Parental Leave as an option may wish to contact Human Resources to arrange for a meeting with a member of the HR Employment Support Services team, who can talk through all the process, benefits and the important dates to remember during the maternity period.

### Eligibility for maternity leave

All employees irrespective of service will be entitled to 52 weeks' unpaid maternity leave. Maternity leave is made up of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML). AML follows immediately on from OML and there can be no gap between the two. How much of this maternity leave will be paid, if any, will depend on the salary and length of service the employee has with the University. A period of compulsory maternity leave applies for the two weeks after giving birth, meaning an employee may not return to work within that period. The maternity leave period cannot be broken by any other manner of leave and must be a continuous period.

### Eligibility for maternity pay

Depending on the employee's length of service one of the following three options is likely to apply, providing the employee gives the correct notification and evidence to the University.

#### 1) Statutory Maternity Pay

If an employee has **26 weeks' continuous service** with the University by the end of the qualifying week (**QW**), which is the **15<sup>th</sup> week** before the expected week of childbirth (**EWC**), and earns above the Lower Earnings Limit for National Insurance contributions then they may be entitled to:

- **39 weeks Statutory Maternity Pay (SMP)** - this is made up of:
  - 6 weeks on the 'higher rate' of SMP which is 9/10ths of her average weekly earnings, followed by
  - 33 weeks on the 'lower rate' of SMP, which is the lesser of standard rate of SMP (which normally increases every year) or 90% of average earnings

The SMP period can then be followed by up to 13 weeks' unpaid leave.

## 2) Maternity Allowance

If an employee is not entitled to SMP but meets qualifying conditions based on recent employment and earnings records it may be possible to claim from the Jobcentre Plus office up to:

- **39 weeks Maternity Allowance (MA)**

The MA period can then be followed by up to 13 weeks' unpaid leave. In such cases, the University will provide the employee with an SMP1 form, which should be taken, by the employee to Jobcentre Plus. The form explains why they do not qualify for SMP.

## 3) Enhanced University Maternity Pay

If an employee has a contract of employment, full-time or part-time, on terms and conditions in excess of the statutory, has a minimum of **52 weeks' continuous service** with the University, up to and including the EWC and has given notice of their intention to return to work, the employee may be entitled to:

- **8 weeks' leave on full pay** (inclusive of any SMP)
- **16 weeks' leave on half pay plus SMP** (not exceeding full pay)
- **15 weeks' leave** on SMP at the appropriate rate
- **up to 13 weeks'** unpaid leave

In any event, no combination of payments should exceed full pay. All maternity benefits are classed as earnings and are therefore subject to deductions for Tax and National Insurance Contributions.

### Eligibility in other cases

In the event of a stillbirth after the start of the 16<sup>th</sup> week before the expected week of childbirth, the employee shall be entitled to maternity leave as if the birth was live.

### Entitlement to time off for Antenatal Care

All pregnant employees have the right to paid time off to attend antenatal care, which may include relaxation and parent craft classes (on the advice of a healthcare professional) as well as medical examinations related to the pregnancy regardless of the employee's length of service. The employee should provide if requested, after the first appointment, evidence of appointments to their Head of Department or School (or appropriate manager).

### Commencement of Maternity Leave

The employee may commence maternity leave at any time from the 11<sup>th</sup> week before the EWC, up to the day of the birth provided the required notice is given (please see below). The only exceptions to this are:

- If the employee has a sickness absence due to a pregnancy-related illness, within four weeks of the EWC, then maternity leave and payments (if eligible) will start automatically on the first day after the absence.

- If childbirth occurs before the date notified by the employee (or before any notification has been given) then maternity leave and pay where applicable starts automatically on the day after the date of childbirth. In such cases, the employee should advise the University as soon as reasonably practicable. If she gives birth prematurely before or during the qualifying week, then she should also provide a MAT B2 certificate.

The employee may change her mind about when she wants to start her leave providing she gives either:

- a) In the case of delaying a start date 28 days' written notice before the date previously notified, or
- b) In the case of bringing the start date forward 28 days written notice before the new start date.

Employees considering Shared Parental Leave (SPL) have the option to provide notice to curtail their maternity leave and opt for SPL before they begin their maternity leave. Further information is available in the SPL policy at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/maternityparentalsupportandadoption/index.aspx>.

### **Notification process for commencement of maternity leave**

Following confirmation of the pregnancy, the employee should advise their manager as soon as possible for health and safety reasons and to help with School/Departmental planning. The employee can make arrangements to meet the HR Employment Relations Adviser at any time if they wish and in any case the employee should submit to Human Resources as early as possible but no later than the 15<sup>th</sup> week before the expected week of childbirth (unless this is not reasonably practicable):

- a) A MAT B1 certificate confirming the expected week of childbirth, and
- b) A University Application for Maternity Leave form, notifying when the baby is due and the date of commencement of maternity leave (see: <https://www.nottingham.ac.uk/hr/guidesandsupport/msplapsupport/applicationforms.aspx>)

The University, within 28 days of receiving the notification regarding maternity leave, will write confirming maternity entitlements, and the date by which the employee is expected to return to work. Human Resources will then advise the manager of the maternity dates. If the employee changes their mind about when the maternity leave is to start, 28 days' written notice should be given (see above).

### **Contact during maternity leave**

During the maternity leave period, the University may make reasonable contact with an employee and vice versa. This could be to discuss a range of issues, such as plans for returning to work, or to keep the employee informed of important developments. Shortly before the employee goes on maternity leave, the manager should discuss arrangements for keeping in touch during the maternity leave period should the employee wish to do so. This should also include a discussion about "Keeping in Touch Days".

### **"Keeping in Touch Days"**

An employee may, by agreement with the University, undertake up to 10 days' paid work – known as "Keeping in Touch Days" (KIT) - under their contract of employment during the maternity leave period. Such days are different to the reasonable contact that employees and the University may make with one another, and can help to make it easier for the employee when returning to work. There is no obligation for the employee to attend KIT days or for the University to offer such work. The employee is entitled to turn down the opportunity of working such a day without suffering any consequences as a result. The first KIT day cannot take place within two weeks of the birth of the child.

KIT days should be taken during maternity leave. If maternity leave is bought to an early end and SPL begins, there are separate entitlements to SPLIT days contained in the SPL policy.

The type of work that an employee undertakes could be a training activity, attending team away days or meetings and is subject to agreement between the manager and the employee. If the employee does any such work during agreed KIT days she should receive her normal contractual pay for the hours worked. The University reserves the right to count the amount of any maternity pay that may be received during a KIT day towards the normal contractual pay.

If the employee receives payment for a KIT day whilst in receipt of any form of maternity pay please be aware the payment will be pensionable. Where the employee is in a period of no pay any payment for KIT days will not be pensionable.

### **Return to Work (including employee notification required)**

An employee may not return to work within two weeks of the birth of her child and no notice to return to work is required if the employee returns on the first working day after 52 weeks' maternity leave. Otherwise, an employee may exercise the right to return to work at any time within their maternity leave period (either paid or unpaid, or during OML or AML) subject to giving eight weeks' written notice, directly to Human Resources, of the date on which the employee wants to return. If an employee returns to work during a period of paid maternity leave, they forfeit the right to any further maternity pay. Unless otherwise notified by an employee, the University will work on the basis of the employee returning on the first working day following AML ie 52 weeks (one year) from the start of maternity leave. If an employee does not give the required notice to return early, then the University can postpone the return date to secure eight weeks' notice. This postponement can be to a date no later than the end of 52 weeks' maternity leave.

Employees choosing to return to work at the end of OML have the right to return to the position they occupied before their maternity leave began. An employee who takes AML is also entitled to return to the position they occupied before their leave began unless there is a reason why it is not reasonably practicable for her to return to her old job, in which case the employee will be offered a similar job on terms and conditions which are not less favourable than the old job.

For babies born on or after 3 April 2011, please note that fathers/partners/civil partners will be able to take between two and 26 weeks' additional paternity leave once the mother has returned to work subject to her not exhausting her full statutory maternity leave and other eligibility criteria. For further details, please see the Parental Support Policy, which is available at: <http://www.nottingham.ac.uk/hr/guidesandsupport/maternityparentalsupportandadoption/parental/index.aspx>.

### **Continuity of employment and other contractual entitlements**

Where an employee returns to work, the period of maternity leave will form part of their continuous employment with the University. In connection with this, the University has agreed:

Pension rights and contributions will be dealt with in accordance with the provisions of the appropriate Superannuation Scheme. Please see the pension section for further details.

The employee will be entitled to consideration in respect of Appraisal and Development Conversation (ADC). Further guidance is available at: <http://www.nottingham.ac.uk/hr/guidesandsupport/performanceatwork/index.aspx>.

Any increases to pay that the employee is awarded during her maternity leave period will be paid either during the maternity leave period itself wherever possible, or in arrears on return from maternity leave.

During the period of OML and AML, the contract of employment continues, and the employee is entitled to receive all contractual benefits, other than remuneration. This means that non-cash benefits that are in existence prior to the maternity leave (such as those provided through a salary sacrifice scheme for childcare vouchers, gym membership and staff cycle schemes) can be continued throughout both OML and AML. Employees should read the section regarding annual leave and pension to ensure any implications for their pension benefits and membership are understood.

### **Requests for flexible working arrangements (including part-time working)**

Employees have the right to request flexible working for which there are guidelines and an application form available on the Human Resources web site at:

<http://www.nottingham.ac.uk/hr/guidesandsupport/worklifebalance/flexibleworking/index.aspx>.

If a request is made under this right to change the contractual working hours and/or pattern of work, then the School or Department will always consider such a request carefully. If such a request is turned down, the manager must objectively justify why eg explain why a job has to be done on a full-time basis by one individual, as opposed to two people doing it on a part-time basis. Employees should submit any request as far in advance as possible to allow adequate time for the request to be fully considered and where appropriate for the necessary arrangements to be put in place.

### **Staff not returning to work**

Staff who decide not to return to work during or following a period of maternity leave must give the University written notice in accordance with their contract of employment. If an employee leaves the employment of the University for any reason before the date she has notified as the date she wants her maternity leave to start, or before she has notified a date, she loses the right to maternity leave, but she may still be eligible for SMP if she is employed after the 15<sup>th</sup> week before the expected week of childbirth. An employee who qualifies for enhanced University maternity pay, but decides to resign prior to maternity leave being taken will not receive any enhanced University maternity pay beyond statutory maternity pay.

The contract of employment continues throughout the maternity leave, unless either:

- (a) the employer expressly ends it, in which case the employee is entitled to receive whatever period of notice the contract provides for if her employment is terminated (an employee who is pregnant or on maternity leave is protected from dismissal which is wholly or partly related to the pregnancy or maternity leave);
- (b) the employee expressly ends it, by resigning;
- (c) it expires (eg ending of a fixed-term contract), in which case, she is entitled to be given reasonable notice of the ending of her contract in accordance with the University policy on the ending of fixed term contracts. She is also entitled to any other relevant contractual pay including statutory redundancy pay where applicable if she is made redundant.

In such cases, the right to return to the former job under the University's Maternity Leave Policy will have been overtaken by the expiry of the contract and will cease to be applicable. All payments under the University's Maternity Leave Policy will cease upon expiry of the contract. If, however, the employment is continued on an alternative contract, University maternity benefits will continue on the basis of that new contract. This paragraph is without prejudice to the individual's right to receive SMP where applicable. In cases where a fixed-term contract has come to an end or in a redundancy scenario, the University will not seek to recover payments made prior to the expiry of that contract under the University's Maternity Leave Policy.

### **Failure to return to work after receiving enhanced University Maternity Pay**

Employees are advised that the University reserves the right to reclaim the non-statutory element of maternity pay, if the member of staff fails to return to work and to continue in employment for at least three months following each period of maternity leave.

Therefore, if an employee is unable to return to work after one period of maternity leave due to another pregnancy, but still intends to return to work after the subsequent pregnancy, for the employee to both continue to benefit from any occupational maternity pay and not repay the non-statutory element of maternity pay they must agree to return to work for a longer period of time than three months ie three further months for each consecutive maternity leave.

Employees will be required to give a signed undertaking to make the appropriate repayment to the University should they be unable to fulfil these requirements. Please note that this repayment requirement will apply to staff who opt to take a career break immediately following maternity leave. It will not apply to those who opt to take parental leave or long-term carers leave immediately following maternity leave, providing the employee returns to work for a three-month period following the parental or long term carers leave.

### **Entitlement to Sick Pay**

If an employee cannot return to work at the end of maternity leave because of illness, they should follow the normal sickness notification procedures and it shall be dealt with under the University Sick Pay Scheme and will count against the normal entitlement to paid sick leave. The same rules apply if an employee is absent from work because of illness during pregnancy, however, the only exception to this is if the employee has a sickness absence due to a pregnancy-related illness, within four weeks of the EWC, then maternity leave and payments (if eligible) will start automatically on the first day after the absence.

### **Pension**

During any period of paid maternity leave, (whether this is OML or AML) the University pension contribution will be calculated as though the employee was working normally and receiving their normal salary. Therefore, employee contributions continue throughout this period of paid maternity leave based on what is earned. This means that there is no suspension of membership during this time meaning all benefits where applicable, such as death in service and ill health retirement, continue based on the pensionable salary they would have been paid but for their absence.

It may be possible for employees (subject to scheme rules allowing for this) to continue to make payments to the scheme during the unpaid period. Employees should indicate this on their application for maternity leave. Human Resources will be responsible for informing the University Pensions Administrator, who will liaise directly with the employee regarding any options available. Where an employee elects to do this the University will pay the missing normal employer contributions for this period. There is a limited time period for this option to be exercised and for the relevant payments to be made which should be discussed with the University Pensions Administrator.

Employees should contact the University Pensions Administrator to discuss the options available during any unpaid period of maternity leave to ensure that any implications for their pension membership and benefits are understood. Staff can also contact the relevant pension scheme helpline direct, details of which are available at:  
<http://www.nottingham.ac.uk/fabs/finance/services/payrollandpensions/usefullinksandcontacts.aspx>.

## Annual Leave

Annual leave entitlement accrues at the contractual rate during the entire maternity leave period ie OML (the first 26 weeks) and AML (up to the following 26 weeks). Any Bank Holidays and University closure days that fall within the maternity leave period also accrue. Where the member of staff is part-time, these leave entitlements will accrue on a pro-rata basis in accordance with the contract applicable at the time. An employee should discuss their annual leave with their line manager prior to starting maternity leave to enable consideration of the timing, notice and approval requirements set out in the Annual Leave Guidance

(<https://www.nottingham.ac.uk/hr/guidesandsupport/absenceandannualleave/annualleave/annualleaveguidance.aspx>).

You are encouraged to consider using a proportion of your annual leave entitlement before the start and after the end of your maternity leave. If the maternity leave period is likely to cross two annual leave years and it is impractical to take all of the leave in the year in which it was accrued (in line with the Annual Leave Guidance

(<https://www.nottingham.ac.uk/hr/guidesandsupport/absenceandannualleave/annualleave/annualleaveguidance.aspx>) you may carry over the accrued annual leave (and accrued Bank Holidays and University closure days), but must use these days within three months following your return to work, except where an alternative timescale is agreed with your manager due to operational requirements.

Please refer to the maternity guidance

(<https://www.nottingham.ac.uk/hr/guidesandsupport/msplapsupport/maternity/maternityleave/managementguidance.aspx>) for more information. Annual leave cannot be taken between the end of the paid maternity period and the beginning of any unpaid maternity period.

## Assisted Conception

Having treatment to assist conception can be difficult emotionally and physically. By informing the manager at an early stage of treatment, managers can be understanding and provide support to the employee during this time.

In vitro fertilisation (IVF) and intrauterine insemination (IUI) are common types of assisted conception.

**Medical appointments** that require either partner to attend, relating to assisted conception should be treated like any other personal health and welfare appointments (found in the Special Leave Policy:

<https://www.nottingham.ac.uk/hr/guidesandsupport/worklifebalance/specialleave/index.aspx>). If employees would prefer not to inform their line manager about the treatment, they also have the option to use annual leave to attend appointments. Where partners are attending appointments in a supportive capacity only, they will be required to make the work time up or to use their annual leave to accompany their partner to the appointment.

If the employee becomes sick or unwell as a result of their treatment, please find further guidance in the Sickness Absence Policy

(<https://www.nottingham.ac.uk/hr/guidesandsupport/absenceandannualleave/sicknessabsence/index.aspx>).

## **Health & Safety**

The University acknowledges the importance of protecting from avoidable risks, pregnant or breastfeeding employees, as well as the unborn child.

In accordance with the University's legal obligations the manager (or the most appropriate person in the School or Department) will carry out an assessment of the risks to all pregnant employees, new mothers and breastfeeding mothers who work for the University. It is, therefore, helpful for employees to inform their manager as soon as possible of the pregnancy, or if breast-feeding or if childbirth was within the last six months.

In the event of the employee being employed on work which could involve a risk to the health and safety of a breastfeeding or expectant mother, or to that of her unborn baby, arrangements will be made to protect both the mother and the child, having regard to statutory health and safety provisions that may at the time apply. This may mean that working conditions (including the working hours and pattern of work) are altered or that another more suitable job for the duration of the pregnancy is offered. If neither of these options is possible, the University is obliged to suspend the employee on full pay until they are no longer at risk.

To ensure the safety of the unborn child, staff working in radioisotope laboratories or with controlled biological and chemical materials are strongly advised they should notify their Department or School Safety Officer of their pregnancy as soon as their condition has been confirmed.

If you have any concerns about your health and safety at any time, you should speak to your manager immediately or contact the University Safety Office. For further information, "The New and Expectant Mothers at Work Policy" (P2/99A) is available from the Safety Office or online at: <http://www.nottingham.ac.uk/safety/policies-and-guidance/pregnancy/pregnancy.aspx>.

### **For Further Information**

Please refer to flowcharts and frequently asked questions available on the HR web site at: <http://www.nottingham.ac.uk/hr/guidesandsupport/maternityparentalsupportandadoption/maternity/index.aspx> or contact the HR Employment Support Services team, tel: 0115 951 5202 or email: [hr@nottingham.ac.uk](mailto:hr@nottingham.ac.uk).