

## Policy – Maternity Leave

**Owned by:** General Manager

**Date passed:** 08/01/17

**Body passing:** Trustees

**Review required:** 08/01/20

### 1 Policy statement

- 1.1 This policy outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave. It does not apply to agency workers or the self-employed.
- 1.2 This policy does not form part of any employee's contract of employment and we may amend it at any time.

### 2 Definitions

The definitions in this paragraph apply in this policy.

**"Expected Week of Childbirth"** the week, starting on a Sunday, in which your doctor or midwife expects you to give birth.

**"Qualifying Week"** the fifteenth week before the Expected Week of Childbirth.

### 3 Personnel responsible for implementing the policy

- 3.1 Finance and Human Resources Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The General Manager has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Finance and Human Resources Committee.
- 3.2 Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

### 4 Notification

- 4.1 You must inform us as soon as possible that you are pregnant. This is important as there may be health and safety considerations (see Paragraph 7, Health and safety).
- 4.2 Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, you must tell us:
  - 4.2.1 that you are pregnant;

- 4.2.2 the Expected Week of Childbirth; and
  - 4.2.3 the date on which you would like to start your maternity leave ("**Intended Start Date**") (see Paragraph 9, starting maternity leave).
- 4.3 You must provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming your Expected Week of Childbirth.

## 5 Time off for ante-natal care

- 5.1 If you are pregnant you may take reasonable paid time off during working hours for ante-natal care. You should try to give us as much notice as possible of the appointment.
- 5.2 We may ask you to provide the following, unless it is the first appointment:
  - 5.2.1 a certificate from the doctor, midwife or health visitor stating that you are pregnant; and
  - 5.2.2 an appointment card.

## 6 Sickness

- 6.1 Periods of pregnancy-related sickness absence shall be paid in accordance with the statutory sick pay scheme in the same manner as any other sickness absence.
- 6.2 If you are absent for a pregnancy-related reason during the four weeks before your Expected Week of Childbirth, your maternity leave will usually start automatically (see Paragraph 9, starting maternity leave).

## 7 Health and safety

- 7.1 We have a general duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.
- 7.2 We will provide you with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If we consider that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work we will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:
  - 7.2.1 changing your working conditions or hours of work;
  - 7.2.2 offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
  - 7.2.3 suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

## 8 Entitlement to maternity leave

- 8.1 All employees are entitled to up to 52 weeks' maternity leave which is divided into:
  - 8.1.1 Ordinary maternity leave of 26 weeks ("**OML**").
  - 8.1.2 Additional maternity leave of a further 26 weeks immediately following OML ("**AML**").

## 9 Starting maternity leave

- 9.1 The earliest date you can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless your child is born prematurely before that date).
- 9.2 You must notify us of your Intended Start Date in accordance with Paragraph 4. We will then write to you within 28 days to inform you of the date we will expect you to return to work if you take your full entitlement to maternity leave ("**Expected Return Date**").
- 9.3 You can postpone your Intended Start Date by informing us in writing at least 28 days before the original Intended Start Date, or if that is not possible, as soon as reasonably practicable.
- 9.4 You can bring forward the Intended Start Date by informing us at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.
- 9.5 Maternity leave shall start on the earlier of:
  - 9.5.1 your Intended Start Date (if notified to us in accordance with this policy); or
  - 9.5.2 the day after any day on which you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or
  - 9.5.3 the day after you give birth.
- 9.6 If you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth, you must let us know as soon as possible in writing. Maternity leave will be triggered under Paragraph 9.5.2 unless we agree to delay it.
- 9.7 If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible.
- 9.8 The law prohibits you from working during the two weeks following childbirth.
- 9.9 Shortly before your maternity leave starts we will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.

## 10 Statutory maternity pay

- 10.1 Statutory maternity pay ("**SMP**") is payable for up to 39 weeks. SMP will stop being payable if you return to work (except where you are simply keeping in touch in accordance with Paragraph 16). You are entitled to SMP if:
- 10.1.1 you have been continuously employed for at least 26 weeks at the end of the Qualifying Week and are still employed by us during that week;
  - 10.1.2 your average weekly earnings during the eight weeks ending with the Qualifying Week (the "**Relevant Period**") are not less than the lower earnings limit set by the Government;
  - 10.1.3 you provide us with a doctor's or midwife's certificate (MAT B1 form) stating your Expected Week of Childbirth;
  - 10.1.4 you give at least 28 days' notice (or, if that is not possible, as much notice as you can) of your intention to take maternity leave; and
  - 10.1.5 you are still pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.
- 10.2 SMP is calculated as follows:
- 10.2.1 First six weeks: SMP is paid at the **Earnings-Related Rate** of 90% of your average weekly earnings calculated over the Relevant Period;
  - 10.2.2 Remaining 33 weeks: SMP is paid at the **Prescribed Rate** which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower.
- 10.3 SMP accrues from the day on which you commence your OML and thereafter at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.
- 10.4 You shall still be eligible for SMP if you leave employment for any reason after the start of the Qualifying Week (for example, if you resign or are made redundant). In such cases, if your maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:
- 10.4.1 the week following the week in which employment ends; or
  - 10.4.2 the eleventh week before the Expected Week of Childbirth.

## 11 Occupational maternity benefit

- 11.1 Winchester Student Union gives an enhanced entitlement to maternity pay for staff who have been continuously employed for 52 weeks by the 11th week before the Expected Week of Confinement and earnings within the Set Period are at least equal

to the Lower Earnings Limit for National Insurance contributions. Where staff meet these qualification criteria then:

- 11.1.1 For ordinary maternity leave; the first 6 weeks will be at full pay (and will be inclusive of SMP entitlement), the next 12 weeks will be at half pay plus the flat rate of SMP provided that the two together do not exceed normal pay, the next 8 weeks will be at flat rate SMP or 90% of earnings if lower.
- 11.1.2 For additional maternity leave; the first 13 weeks will be paid at flat rate SMP or 90% of earnings if lower, the final 13 weeks will be unpaid.
- 11.2 In order to receive the occupational benefit of half pay from weeks 7 to 18, the employee must intend to return to full-time, or equivalent part-time work, for a period of at least 13 weeks. Staff who do not intend to return to work after maternity leave may opt to be paid the statutory element only (see provisions for OML). In the event that an employee chooses not to return to work subsequent to having received the occupational benefit, they will refund the amount of maternity pay received that is above the statutory entitlement. The Union will not unreasonably refuse a request to return on reduced hours (see below), in which circumstance the employee must complete a period of part-time service which when equated to their original hours is equivalent to 13 weeks duty.

## 12 Terms and conditions during OML and AML

- 12.1 All the terms and conditions of your employment remain in force during OML and AML, except for the terms relating to pay. In particular:
  - 12.1.1 benefits in kind shall continue;
  - 12.1.2 annual leave entitlement under your contract shall continue to accrue (see Paragraph 13, Annual leave); and
  - 12.1.3 pension benefits shall continue (see Paragraph 13.3, Pensions).

## 13 Annual leave

- 13.1 During OML and AML, annual leave will accrue at the rate provided under your contract.
- 13.2 Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during your maternity leave, you should ensure that you have taken the full year's entitlement before starting your maternity leave.
- 13.3 Our holiday year runs from 1 October to 31 July until July 16. Thereafter our holiday year runs 1 August to 31 July.

## 14 Pensions

- 14.1 During OML and any further period of paid maternity leave we shall continue to make any employer contributions that we usually make into NUSPS pension scheme, based on what your earnings would have been if you had not been on maternity leave provided that you continue to make contributions based on the maternity pay you are receiving.
- 14.2 During unpaid AML we shall not make any payments into NUSPS purchase scheme. You do not have to make any contributions but you may do so if you wish, or you may make up for missed contributions at a later date.

## 15 Redundancies during maternity leave

In the event that your post is affected by a redundancy situation occurring during your maternity leave, we shall write to inform you of any proposals and shall invite you to a meeting before any final decision is reached as to your continued employment. Employees on maternity and adoption leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

## 16 Keeping in touch

- 16.1 We may make reasonable contact with you from time to time during your maternity leave.
- 16.2 You may work (including attending training) for up to ten days during maternity leave without bringing your maternity leave or SMP to an end. The arrangements, including pay, would be set by agreement with your line manager. You are not obliged to undertake any such work during maternity leave. In any case, you must not work in the two weeks following birth.
- 16.3 Shortly before you are due to return to work, we may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may cover:
- 16.3.1 updating you on any changes that have occurred during your absence;
  - 16.3.2 any training needs you might have; and
  - 16.3.3 any changes to working arrangements (for example if you have made a request to work part-time; see Paragraph 22, Returning to work part-time).

## 17 Expected return date

- 17.1 Once you have notified us in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date has been changed (either because you gave us notice to change it, or because

maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected Return Date.

- 17.2 We will expect you back at work on your Expected Return Date unless you tell us otherwise. It will help us if, during your maternity leave, you are able to confirm that you will be returning to work as expected.

## 18 Returning early

- 18.1 If you wish to return to work earlier than the Expected Return Date, you must give us eight weeks' prior notice. It is helpful if you give this notice in writing.
- 18.2 If not enough notice is given, we may postpone your return date until eight weeks after you gave notice, or to the Expected Return Date if sooner.

## 19 Returning late

- 19.1 If you wish to return later than the Expected Return Date, you should either:
- 19.1.1 request unpaid parental leave giving us as much notice as possible but not less than 21 days; or
  - 19.1.2 request paid annual leave in accordance with your contract, which will be at our discretion.
- 19.2 If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and our Sickness Absence Policy will apply.
- 19.3 In any other case, late return will be treated as unauthorised absence.

## 20 Deciding not to return

- 20.1 If you do not intend to return to work, or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period, otherwise we may require you to return to work for the remainder of the notice period.
- 20.2 Once you have given notice that you will not be returning to work, you cannot change your mind without our agreement.
- 20.3 This does not affect your right to receive SMP.

## 21 Your rights when you return

- 21.1 You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.

21.2 However, if you have taken any period of AML or more than four weeks' parental leave in addition to OML, and it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

## 22 Returning to work part-time

We will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on a case-by-case basis. There is no absolute right to insist on working part-time, but you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in our Flexible Working Policy.