



Keele University

Staff Maternity Leave and Pay Policy (October 2008)

Human Resources Department

Lead Director: Director of Human Resources, Organisational Development and Student Support

Date ratified by Council: 6th December 2007

Policy issue date: 6th December 2007

Amendments:

1st October 2008 (new legislation regarding contractual benefits)

1st April 2009 (revised statutory annual leave)

1st March 2010 (Pension/*Payflex+*)

Apr 2011 (Additional Paternity Leave)

Contents

Contents	2
1 Introduction	3
2 Summary of Statutory Maternity Entitlements	4
2.2 Antenatal Care:	4
2.3 Maternity Leave:	4
2.3.6 <u>Ending Maternity Leave Early:</u>	5
2.4 Statutory Maternity Pay (SMP):	5
2.5 Terms and Conditions of Employment:	5
3 Occupational Maternity Scheme	6
3.1 Maternity Leave:	6
3.2 Maternity Pay:	6
3.3 Pension	6
3.4 Fixed-Term Staff:	7
3.5 Eligibility	7
4 Keeping in Touch	7
4.1 Job Vacancies	7
4.2 Keeping In Touch (KIT) Days	8
4.3 Maintaining Contact with Staff on Maternity Leave	8
5 Termination of Employment Whilst in Receipt of Maternity Pay	8

STAFF MATERNITY LEAVE AND PAY POLICY (OCTOBER 2008)

Applicable where the Expected Week of Childbirth is on or after 3rd April 2011

1 Introduction

- 1.1 This Policy is designed to outline the provisions for maternity leave and maternity pay. It is supported by more detailed Maternity Leave and Pay Procedure and Guidelines (October 2008), which may be changed from time to time in the interests of operational efficiency, to meet statutory requirements, or following consultation with Trades Unions.
- 1.2 This Policy applies to all female members of University staff irrespective of funding source. Engagement on a casual, self-employed or freelance basis does not confer entitlement to the University Occupational Maternity Scheme.
- 1.3 This Policy has been adopted after consultation with the recognised Trade Unions: UCU, UNISON and Amicus.
- 1.4 Maternity rights arise from a number of sources, including UK and EC legislation and case law decisions, as well as the University's own Policy. The result is a complex set of rules, procedures and regulations that govern every aspect of the application of maternity arrangements. Members of staff are therefore advised to contact their Link Human Resources Team and a meeting will be arranged, in confidence, to explain their eligibility for maternity leave and pay and the procedures that should be followed.
- 1.5 There are two schemes in operation:
- 1.5.1 The Statutory Maternity Scheme, which is based on the relevant legislation, and is available to all members of staff, although some statutory entitlements are subject to eligibility criteria.
- 1.5.2 The University Occupational Maternity Scheme, which offers enhanced provisions and is available to members of staff with one year's service, or greater, by the Expected Week of Childbirth.
- 1.6 The Working Time Regulations 1998 do not permit basic statutory annual leave (i.e. the first four weeks of the statutory annual leave entitlement)¹ to be carried over from one leave year to the next, or for payment in lieu of any untaken statutory annual leave, unless the contract of employment is terminated part way through an annual leave year. If the member of staff is unable to take all of her annual leave due to maternity leave absence, any accrued additional statutory and contractual annual leave over and above the basic statutory leave entitlement can be carried over to the following leave year, as long as it is taken immediately following maternity leave.

¹ Statutory paid leave entitlement: 4.8 weeks (capped at 28 days) until 31/3/09; 5.6 weeks (capped at 28 days) from 1/4/09.

- 1.7 Where staff are required to give any written information and/or notice to the University, this should be sent to the University's Human Resources Department.

2 Summary of Statutory Maternity Entitlements

- 2.1 This is a summary of the University's understanding of the statutory provisions. Should there be any discrepancy between this summary and the statutory provisions, the statutory provisions will be applicable. Members of staff may wish to contact the Government Department for Work and Pensions for up to date information.

2.2 Antenatal Care:

All pregnant members of staff, regardless of length of service or hours worked, have a statutory right to reasonable paid time off to attend appointments for antenatal care (including travelling time). Managers may request evidence of appointments.

2.3 Maternity Leave:

- 2.3.1 Any female member of staff employed by the University, regardless of length of service, is entitled to 52 weeks statutory maternity leave, comprising 26 weeks Ordinary Maternity Leave, immediately followed by 26 weeks Additional Maternity Leave.
- 2.3.2 Ordinary and Additional Paternity Leave and Pay may be available to the father of the child or the spouse/civil partner/partner of the mother of the child, providing eligibility and notification criteria are met.

The University *Paternity Leave and Pay Policy* and accompanying *Paternity Leave and Pay Procedures* give details of the paternity leave and paternity pay provisions that will be applicable where the individual wishing to take paternity leave is employed by the University. Where they are not an employee of the University they should contact their own employer for details of their paternity leave and pay provisions.

- 2.3.3 Members of staff can choose when to commence maternity leave, on any day of the week, but it cannot start earlier than the 11th week before the Expected Week of Childbirth (unless the baby is born earlier than the 11th week before the Expected Week of Childbirth).
- 2.3.4 The member of staff must give written notice (referred to as the 'notified date') to the University of the date on which she wants to commence her maternity leave. This written notice must be given by the end of the 15th week before the Expected Week of Childbirth. She may change the notified date by giving the University at least 28 days written notice.
- 2.3.5 Maternity leave will commence earlier than the notified date if the baby is born earlier than this date, or where a member of staff's absence from work is related to her pregnancy within the four weeks prior to the Expected Week of Childbirth.

2.3.6 Ending Maternity Leave Early:

If a member of staff wishes to end her maternity leave early, and return to work before the end of her full entitlement to 12 months maternity leave, she must give at least eight weeks (56 days) written notice. A member of staff cannot return to work during the two week compulsory maternity leave period immediately following childbirth.

2.4 **Statutory Maternity Pay (SMP):**

2.4.1 In addition, if the member of staff has 26 weeks continuous service by the Qualifying Week (i.e. the 15th week before the Expected Week of Childbirth), Statutory Maternity Pay will also be payable, subject to qualifying conditions. The member of staff is required to give at least 28 days written notice of when she wishes her Statutory Maternity Pay to commence and this can be given at the same time as the notice for commencement of maternity leave. Statutory Maternity Pay is only payable for the weeks in which the member of staff is on maternity leave at the following rates:

Weeks 1-6	The Higher SMP Rate: 90% of average weekly earnings
Weeks 7-39	The Lower SMP Rate: A fixed weekly rate based on a rate set each year, or 90% of the member of staff's average earnings ² , if this is lower.

Statutory Maternity Pay is part of gross pay and is subject to deductions for PAYE Income Tax and National Insurance Contributions in the usual way.

2.5 **Terms and Conditions of Employment:**

- 2.5.1 During maternity leave, a member of staff is entitled to all normal terms and conditions of employment and contractual benefits (with the exception of remuneration); for example, annual leave will continue to accrue as normal.
- 2.5.2 On resuming work after ordinary maternity leave, the member of staff is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent.
- 2.5.3 On resuming work after additional maternity leave, the member of staff is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable for the University to allow the member of staff to return to the same job, the University may offer her suitable alternative work, on terms and conditions that are no less favourable than would have applied if she had not been absent.

² Calculation of SMP entitlement is based on average earnings over an eight-week (for weekly paid staff) or two-month (for monthly paid staff) 'set period' which ends during the 15th week before the baby is expected. To qualify for SMP, average earnings must be at or higher than the National Insurance Contributions Lower Earnings Limit. Staff who participate in salary sacrifice arrangements (e.g. the staff nursery and/or childcare voucher schemes) may wish to consider the financial impact should they continue in the scheme, as the sacrificed pay does not count towards calculation of maternity pay entitlement.

- 2.5.4 Pension rights and contributions shall be managed in accordance with the provisions of the relevant superannuation scheme in which the University participates, providing that these provisions do not conflict with any statutory requirements that may apply at the time. The University will continue to deduct employee contributions based on the maternity pay received by the member of staff and will also make appropriate employer contributions.
- 2.5.5 For staff participating in *Payflex+*, no employee contributions will be deducted from pay and the University will maintain the same level of contributions and pension benefits for the maternity leave period. Further information on *Payflex+* can be found on the University website or by contracting the link HR Administrator.

3 Occupational Maternity Scheme

3.1 Maternity Leave:

Maternity leave entitlement under the Occupational Maternity Scheme is the same as the statutory provisions.

3.2 Maternity Pay:

- 3.2.1 The Scheme incorporates the statutory provisions and enhances them in relation to maternity pay: for the first 18 weeks of maternity leave a member of staff will be entitled to receive her normal pay - i.e. the pay she would have received under her contract of employment had she not been on maternity leave. Her Occupational Maternity Pay incorporates any entitlement she may have to Statutory Maternity Pay. If her Statutory Maternity Pay entitlement is greater than her normal pay for any week, she will receive the greater amount. A member of staff eligible for Statutory Maternity Pay will receive the Standard rate of Statutory Maternity Pay only for weeks 19-39.
- 3.2.2 A member of staff who is not eligible for Statutory Maternity Pay will be given an SMP1 Form by the University, to explain why the University is unable to pay Statutory Maternity Pay, and she should immediately make a claim for Maternity Allowance. She should then send a copy of the notification of her Maternity Allowance award to the University. Once this notification is received, the University will ensure that she receives the difference between her Maternity Allowance and her normal pay for her 18-week entitlement to pay under the University Occupational Maternity scheme. If she is ineligible for Maternity Allowance, once the notification is received, the University will ensure that she receives 18 weeks normal pay from the University.

3.3 Pension

Staff will make normal pension contributions, (i.e. the same percentage) based on the pay they receive during their maternity leave. The University will undertake to pay both employer and employee contributions (excluding Additional Voluntary Contributions) in respect of the difference between

any maternity pay received and the member of staff's normal pay for the maternity leave period (including any periods of unpaid maternity leave).

For staff participating in *Payflex+*, no employee contributions will be deducted from pay. The salary exchange under *Payflex+* will continue for staff who are in receipt of sufficient occupational maternity pay but will cease for staff on Statutory Maternity pay only. The University will maintain the same level of contributions and pension benefits for the maternity leave period. Further information on *Payflex+* can be found on the University website or by contacting the link HR Administrator.

3.4 Fixed-Term Staff:

Where a member of staff's contract expires during maternity leave, if no further contracts are offered, the University will ensure that the member of staff receives the benefits of the Occupational Maternity Scheme (including maternity pay) up to the date of termination of employment. Please refer to the Maternity Leave and Pay Procedure and Guidelines (October 2008) document for further details.

3.5 Eligibility

- 3.5.1 All staff with one year's continuous service at the Expected Week of Childbirth are eligible for the University Occupational Maternity Scheme, provided they give a written undertaking to return to work (which is defined as actual attendance at work, i.e. discounts other forms of absence such as annual leave parental leave and sick leave) following maternity leave, for at least three months; this period is extended pro rata where individuals return to work on a reduced hours basis.
- 3.5.2 If a member of staff does not return to work for this period, she will be required to repay any pay received in excess of her statutory entitlements (e.g. the difference between her Statutory Maternity Pay award and the amount of Occupational Maternity Pay she received). In addition, she will be required to repay the University in respect of any pension contributions the University made on her behalf over and above its statutory obligations.
- 3.5.3 The requirement for a member of staff to return for this period does not apply to an individual employed on a fixed-term contract where the contract expires during maternity leave and the University does not offer her a further contract.
- 3.5.4 In order to qualify for the Occupational Maternity Scheme, members of staff are required to follow the procedure detailed in the University's Maternity Leave and Pay Procedure and Guidelines (October 2008) document.

4 Keeping in Touch

4.1 Job Vacancies

All job vacancies are advertised on the 'Announce' email list. However, if members of staff wish to be personally informed of vacancies that arise whilst they are on maternity leave, they should indicate this on the

maternity leave application form (Form MLF1) and the University will ensure that vacancy details are sent/emailed to them (depending of their preference).

4.2 Keeping In Touch (KIT) Days

- 4.2.1 At its discretion, the University may offer a member of staff on maternity leave the opportunity to work up to ten 'Keeping In Touch' (KIT) days during the period of maternity leave. These may either be taken as separate days or as a single block. A member of staff is not under any obligation to accept any work offered and will not lose entitlement to either Statutory Maternity Pay or Occupational Maternity Pay if the member of staff decides to work, nor will working a KIT day end the member of staff's maternity leave. KIT days cannot be worked during the two-week Compulsory Maternity Leave period immediately following childbirth.
- 4.2.2 At the time a member of staff agrees to work a KIT day, the University and the member of staff will agree whether the individual will be paid or whether she can bank equivalent time off in lieu to be taken following return from maternity. If payment is made, and the member of staff is in receipt of maternity pay (Statutory Maternity Pay or Occupational Maternity Pay), the University can offset the maternity pay against pay due for the time worked. If she is in receipt of Maternity Allowance, she must send a copy of the notification of her Maternity Allowance award to the University so that her entitlement to pay for a KIT day can be calculated. Working for part of a day during maternity leave will count as a whole day's KIT day allowance, although payment will only be made, or time off in lieu credited, for the actual number of hours worked.

4.3 Maintaining Contact with Staff on Maternity Leave

The University reserves the right to maintain reasonable contact with members of staff during maternity leave. This may be to discuss individuals' plans for return to work, to discuss any special arrangements to be made, or training to be given to ease their return to work, or to update them on developments at work during their absence. Individuals who have any concerns regarding contact are advised to contact the Human Resources Department at the earliest opportunity.

5 Termination of Employment Whilst in Receipt of Maternity Pay

- 5.1 Where a member of staff, who is in receipt of Statutory Maternity Pay, terminates her employment, or has her employment terminated, the University will continue to make payment of Statutory Maternity Pay as appropriate. It is the responsibility of the member of staff to ensure that the University is notified, in writing, if she obtains employment elsewhere.
- 5.2 Occupational Maternity Pay ceases to be payable once the contract of employment is terminated by either party.