



Keele University

# Maternity Leave and Pay Procedures and Guidelines for Staff (October 2008)

**Human Resources Department**

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

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# MATERNITY LEAVE AND PAY PROCEDURES AND GUIDELINES FOR STAFF (OCTOBER 2008)

*Applicable where the Expected Week of Childbirth is on or after 5<sup>th</sup> October 2008*

## 1 Introduction

- 1.1 These Procedures and Guidelines support the University's Maternity Pay and Leave Policy agreed by Council on 6th December 2007, and updated on 1st October 2008, which can be obtained from the Human Resources Department or via the University Website. The Policy was agreed following consultation with the University's recognised Trades Unions, UCU, UNISON, and Unite and incorporates the relevant statutory provisions. For the avoidance of doubt, this document does not form part of your contract of employment.
- 1.2 These Procedures and Guidelines will be reviewed and updated from time to time in order to ensure that they reflect best practice and any legislative changes. The most up to date version of this document can be obtained by contacting the Human Resources Department or via the University Website.
- 1.3 To be eligible for maternity leave and pay under the statutory provisions and/or under the University Occupational Maternity Scheme, you are required to follow the Maternity Leave and Pay Procedures and observe the Guidelines.
- 1.4 The legislation governing maternity provisions is complex and is constantly evolving through case law decisions. You are advised to contact a member of your Link Human Resources Team as soon as you know you are pregnant. A confidential meeting will be offered in which you will be guided through your entitlements and the procedures you should follow.

**As the statutory provisions, in particular, are fairly complex, you are advised to contact a member of your Link Human Resources Team as soon as you know you will wish to take maternity leave, bearing in mind the application must be made at least 15 weeks prior to the Expected Week of Childbirth (EWC).**

## 2 Entitlement to Time off Work for Antenatal Care

- 2.1 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). Your manager<sup>1</sup>

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<sup>1</sup> The word "manager" is used throughout this document and is intended to refer to the employee's line manager or Head of Department/ School/ Research Institute/ Directorate/ Faculty.

may request evidence of your appointments.

- 2.2 As with other medical appointments, appointments for antenatal care should, wherever possible be arranged in consultation with your manager to minimise disruption to work. You will not be refused, unreasonably, time-off during your working hours to attend appointments for antenatal care.

### 3 Notification

- 3.1 You are required to notify the University Human Resources Department, in writing, of your intention to take maternity leave **by the 15<sup>th</sup> week before your Expected Week of Childbirth (EWC)**, unless this is not reasonably practicable. You will need to tell the University:
- a) that you are pregnant;
  - b) the week your baby is expected to be born;
  - c) the date you want your maternity leave to start (this is referred to as the *notified date*). Please note that the earliest date you can elect to start your maternity leave is 11 weeks prior to your Expected Week of Childbirth.
- 3.2 You should complete and submit Form MLF1 (Notification of Pregnancy & Intention to take Maternity Leave) to the Human Resources Department. Form MLF1 should be accompanied by your medical certificate (MAT B1), from your GP or registered midwife (which should be available no sooner than 20 weeks before your EWC). The University needs the MAT B1 form to process your claim for maternity leave and, if applicable, maternity pay and it also confirms your Expected Week of Childbirth. If the MAT B1 form is not available, you should complete MLF1 Form anyway and forward your MAT B1 form as soon as possible.
- 3.3 The University will write to you within 28 days of receipt of the MAT B1 and MLF1 to confirm your maternity leave plans and to inform you of the date your maternity leave ends. You will be expected to return to work on your next normal working day after the end of your maternity leave, although if you have agreed with your line manager that you will take some annual leave immediately following your maternity leave, you will not attend work until after the annual leave.
- 3.4 **Changing the Notified Date**
- Should you wish to change the date on which you wish to start your maternity leave, you must notify the University Human Resources Department, in writing, of the new commencement date. You will need to do this by whichever is the earlier of:
- a) 28 days before the date you originally intended to start your maternity leave; or
  - b) 28 days before the new date you want to start your leave.

### 3.5 Starting Maternity Leave

- 3.5.1 Your maternity leave period normally starts on the notified date. There are

however some exceptions to this rule, which are described below.

#### 3.5.1.1 Absence due to childbirth before the intended start date

If childbirth occurs before the date you have notified (or before you have notified any date), your maternity leave starts automatically on the day after the date of the birth (even if this is before the beginning of the 11th week before the Expected Week of Childbirth). In order to preserve your rights to maternity leave and Statutory Maternity Pay, you must, as soon as is reasonably practicable, give the Human Resources Department written notice, of the date of childbirth and (if you have not already given it) evidence of both the expected date and the actual date of birth. This can be provided together on the maternity certificate (MAT B1) issued by a doctor or midwife. The University will write to you within 28 days to confirm the new start and end dates of your maternity leave.

#### 3.5.1.2 Absence for a pregnancy-related reason before the intended start date

If, prior to the commencement of your maternity leave, you are absent from work due to illness you should follow the University's normal sickness reporting procedures. Any absence from work due to pregnancy-related illness within the four weeks prior to your Expected Week of Childbirth will automatically trigger the commencement of your maternity leave on the day after the first day of the absence. In order to preserve your rights, you must, as soon as is reasonably practicable, give the University notice, in writing, that the reason for your absence from work is wholly or partly because of pregnancy and of the date on which absence for that reason began. The University will write to you within 28 days to confirm the new start and end dates of your maternity leave.

Time off for attending ante-natal appointments in the four weeks before the expected week of childbirth will not trigger the start of maternity leave as you have the right to time off work to attend antenatal appointments throughout your pregnancy (please refer to Section 2).

## 4 **Statutory Entitlements: Maternity Leave & Pay**

### 4.1 **52 Weeks Maternity Leave**

4.1.1 You are entitled to take up to one year's (52 weeks) maternity leave, regardless of length of service with the University employer. Maternity leave is a single continuous period and is made up of:

26 weeks' **Ordinary Maternity Leave** (OML)

and

26 weeks' **Additional Maternity Leave** (AML)

Additional Maternity Leave follows Ordinary Maternity Leave and there must be no gap between the two.

4.1.2 Maternity may begin at a time of your choosing, any time from 11 weeks before the expected week of childbirth up until the birth itself. However, if you are absent from work due to a pregnancy-related reason after the beginning of the fourth week before the expected week of childbirth, but

before the date you have chosen to start your maternity leave, your maternity leave period begins automatically on the day after the first day of your absence.

- 4.1.3 The contract of employment continues throughout your maternity leave, unless either you or the University expressly ends it, or it expires.
- 4.1.4 During maternity leave, you have a statutory right to continue to benefit from the terms and conditions of employment (except remuneration) which would have applied to you had you been at work instead of on maternity leave. You are entitled to benefit from any general improvements to the rate of pay, or other terms and conditions, which may have been introduced for your grade while you were away, as if you hadn't been away. You will accrue annual leave during maternity leave.
- 4.1.5 Unless you give notice to return to work before the end of your full entitlement of 52 weeks' maternity leave, the University must assume that you will take that full entitlement. However, you can choose to return earlier by giving the University Human Resources Department at least eight weeks written notice of the date you wish to return. The law requires that you take a minimum of two weeks' maternity leave immediately following the birth.
- 4.1.6 **Ordinary Maternity Leave (OML): Weeks 1-26**  
If you give notice to return to work immediately after the end of your OML, you have the right to return to the same job on the same terms and conditions of employment as if you had not been absent, unless a redundancy situation has arisen, in which case you are entitled to be offered a suitable alternative vacancy.
- 4.1.7 **Additional Maternity Leave (AML): Weeks 27-52**
  - 4.1.7.1 Additional Maternity Leave lasts for 26 weeks and, if taken, must follow immediately after Ordinary Maternity Leave. There cannot be a gap between the two types of maternity leave.
  - 4.1.7.2 If you return to work after some or all of your Additional Maternity Leave, you will normally be entitled to return to the same job on the same terms and conditions as if you had not been absent, unless a redundancy situation has arisen. However, if there is a reason, other than redundancy, which means that it is not reasonably practicable for the University to take you back to the same job, you will be offered suitable alternative work on terms and conditions which are no less favourable than your original job.

## **4.2 Statutory Maternity Pay (SMP)**

- 4.2.1 If you meet qualifying conditions based on your length of service and average earnings and give the correct notice, you are entitled to receive up to 39 weeks' Statutory Maternity Pay (SMP). SMP is a State Benefit paid via the University payroll on your normal pay dates.
- 4.2.2 In order to qualify for SMP you must:
  - a) have been continuously employed by the University for at least 26 weeks up to and including the 15th week before the EWC (the 15th week before the EWC is known as the Qualifying Week - QW). This means that you will have been employed for at least 41 weeks by the end of the week in which your baby is expected to be born;

- b) have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance Contributions, normally calculated for a period of eight weeks ending with the QW (if you are paid monthly the two pay dates prior to the end of the QW are used to calculate your average earnings);
- c) still be pregnant by the beginning of the 11th week before the EWC or have had the baby at that time;
- d) have provided medical evidence of the date that the baby is due (e.g. MAT B1 Form) and have done so at least 28 days before the maternity absence is due to start, or as soon as is reasonably practicable (if that is later);
- e) have stopped working due to the forthcoming birth.

4.2.3 If you are entitled to both SMP and Occupational Maternity Pay, SMP up to its full amount is included within your Occupational Maternity Pay. SMP is payable whether or not you intend to return to work for the University, so once entitlement to SMP is established it will be paid even if you leave employment before SMP starts or during the Maternity Pay Period.

4.2.4 If you participate in salary sacrifice arrangements (e.g. the staff nursery and/or childcare voucher schemes), you may wish to consider the financial impact should you continue in the scheme, as the sacrificed pay does not count towards calculation of maternity pay entitlement.

#### 4.2.5 SMP Rates

4.2.5.1 Providing that all conditions stated above have been satisfied, you will be entitled to receive 39 weeks' SMP, made up of the following:

<b>STATUTORY MATERNITY PAY (SMP)</b>	
<i>Weeks 1-6</i>	<i>90% of average weekly earnings</i>
<i>Weeks 7-39</i>	<i>The lesser of either the SMP Flat Rate (of £117.18 per week from April 2008) or 90% of your average weekly earnings. The flat rate is subject to review every April.</i>
<i>Weeks 40-52</i>	<i>No pay</i>

4.2.5.2 If a pay rise has been awarded during maternity leave, and, but for your absence you would have received it, the University will recalculate your Statutory Maternity Pay.

#### 4.2.6 Events that disentitle you to SMP

There are a number of situations which may occur during the Maternity Pay Period which may disentitle you to receive SMP. The University will need to be informed as soon as possible of the following:

- a) you commence employment work with another employer after the birth of your baby;
- b) you are placed in legal custody or sentenced to imprisonment;
- c) your death.

#### 4.2.7 Working for more than one Employer

If you work for more than one employer, you should contact the Human Resources Department so that you can be fully informed as to any possible effects on your eligibility for SMP. You may be eligible for SMP from both employers. In particular you have a legal duty to inform the University Human Resources Department if you commence work for a new employer during your Maternity Pay Period but after the birth of your child, as this disentitles you to SMP.

#### 4.3 **Maternity Allowance (MA)**

If you are not entitled to SMP, but meet qualifying conditions based on your recent employment and earnings records, you may claim up to 39 weeks' Maternity Allowance (MA) from your JobCentre Plus office. In this situation the Finance Department will provide you with Form SMP1 *Why I cannot pay you SMP*. Form SMP1 explains the reason for ineligibility and gives clear instructions to you on how to apply for Maternity Allowance (MA), or how to appeal against the decision if you disagree.

## 5 **Keele University Occupational Maternity Scheme**

5.1 Keele University's Occupational Maternity Scheme incorporates all relevant legislation and statutory entitlement with regard to maternity leave and pay. Details of statutory entitlements to maternity leave and pay are addressed within Section 4. Where maternity leave is given with normal pay this includes any relevant Statutory Maternity Pay.

### 5.2 **Criteria for Eligibility**

5.2.1 The criteria for entitlement to the benefits of the Occupational Maternity Scheme are as follows:

- a) you have at least 52 weeks' continuous service with this University before the Expected Week of Childbirth (EWC);
- b) you follow the notification requirements detailed in Section 3.
- c) you provide a written undertaking on Form MLF1 to return to work for the University for a minimum period of three months following the end of your maternity leave. If you are employed on a fixed-term contract and should the expiry of the contract prevent you from returning to work for three months, you will not be expected to return for this period, unless you have been offered another contract (please refer to Section 5.4 and Annex A for further details).

5.2.2 If you are not sure that you can give the undertaking to return to work for the required period, you are advised to apply for the statutory provisions only. Should you then decide to return to work for the required period, the University will pay you the maternity pay you would have received under the University Occupational Maternity Scheme (i.e. the difference between any maternity pay you received under the statutory scheme and your entitlement under the University Occupational Maternity Scheme).

### 5.3 University Occupational Maternity Pay – 18 Weeks Normal Pay

5.3.1 Provided you have notified the University of your intention to take maternity leave in accordance with the statutory provisions (refer to Section 3), and provided you meet the eligibility criteria stipulated above, you will receive your normal pay for the first 18 weeks of your maternity leave period. Your Occupational Maternity Pay incorporates any entitlement you may have to SMP or Maternity Allowance. If you are eligible for SMP, you will receive the Standard rate of SMP only for weeks 19-39.

<b>OCCUPATIONAL MATERNITY PAY (OMP)</b>	
Weeks 1-18	Normal Pay
Weeks 19-39	Statutory Maternity Pay (if entitled)
Weeks 40-52	No pay

5.3.2 If you are not eligible for SMP, you should make a claim for Maternity Allowance (MA) (please refer to Section 4.3) as soon as you receive your SMP1 Form from the University, and you should send a copy of the notification of your MA award to the University. Once this notification is received, the University will ensure the amount of MA you receive will be topped up to 18 weeks normal pay (where you are in receipt of MA). If you are not eligible to receive MA, once notification of this is received, you will receive 18 weeks normal pay from the University. You will not receive any Occupational Maternity Pay until the University has received this notification.

5.3.3 Normal pay is defined as the salary/wage that would have been received had you not been absent on maternity leave. It includes non-superannuable allowances but excludes pay in relation to voluntary overtime. University Occupational Maternity pay includes any entitlement to Statutory Maternity Pay (SMP). If SMP is greater than Occupational Maternity Pay, you will receive SMP.

### 5.4 Pension

The University will undertake to pay both employer and employee pension contributions, if you are member of a pension scheme operated by the University, (excluding Additional Voluntary Contributions – AVCs) in respect of the difference between any maternity pay received and your normal pay for the entire maternity leave period (including any periods of unpaid maternity leave). Further information regarding pensions can be found in Section 11.

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.

### 5.5 Requirement to Return to Work for Three Months

5.5.1 The University Occupational Maternity Scheme requires you to return to work following maternity leave for at least three months. This period is

extended, proportionately, if you return to work on a reduced-hours basis.

- 5.5.2 If you do not return to work for the required period, having received the benefits of the University Occupational Maternity Scheme, then the University has the right to reclaim the amount by which the University Occupational Maternity Pay & benefits you received exceeded the Statutory Maternity Pay & benefits you were entitled to receive. If you were not entitled to receive SMP, you will have to repay the full amount received under the University Occupational Maternity Scheme. This requirement applies regardless of the reason for you leaving University employment, and therefore includes dismissal.
- 5.5.3 If you are employed on a fixed-term or temporary contract, the requirement for you to return for the required period does not apply where the contract expires during maternity leave and the University does not offer you a further contract. Similarly, if your fixed-term or temporary contract expires within the required period, you would only have to return for the remainder of the contract to benefit from the Occupational Scheme, unless you were offered a further contract. Members of staff employed on fixed-term or temporary contracts should refer to Annex A for a detailed explanation of this requirement.
- 5.5.4 You should note that the minimum three-month period of service on return from maternity leave is calculated on the basis of actual attendance at work. If other types of leave are taken during this period (e.g. annual leave, sick leave, parental leave, a further period of maternity leave, etc), the minimum period of return will be extended by an equivalent amount. The Human Resources Department will assist in determining the required minimum period of service.

## **6 Keeping in Touch**

### **6.1 Keeping In Touch Days (KIT Days)**

- 6.1.1 At its discretion, the University may offer you the opportunity to work up to ten days during your period of maternity leave. These are known as 'Keeping In Touch' (KIT) days. These may either be taken as separate days or as a single block. If you are offered this work you will not be under any obligation to accept it and you will not lose entitlement to either Statutory Maternity Pay or Occupational Maternity Pay if you decide to work. Working a KIT day will not bring your maternity leave to an end. KIT days cannot, however, be worked during the two-week Compulsory Maternity Leave period immediately following childbirth.
- 6.1.2 Any KIT days worked do not extend the period of maternity leave.
- 6.1.3 Once the 10 KIT days have been used up, if you work any further days during your paid maternity leave period, you would lose a week's Statutory Maternity Pay for any week in which you agree to work for the University.
- 6.1.4 Whilst ordinarily payment will be made for working a KIT day, you may prefer to bank the equivalent time off in lieu and, if this is your preference, you should discuss this with your manager. If your manager agrees to your request, the lieu time will be taken following your return from maternity leave at a time to be agreed with your manager. Where payment is made

for working the KIT day whilst you are 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 you are in receipt of Maternity Allowance, you must send a copy of the notification of your Maternity Allowance award to the University so that your entitlement to pay for a KIT day can be calculated.

- 6.1.5 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 you work.

## **6.2 Vacancies**

All job vacancies are advertised on the 'Announce' email list. However, if you wish to be personally informed of vacancies that arise whilst you are on maternity leave, you should indicate this on the MLF1 form. If you do not have access to the 'Announce' email list whilst you are on maternity leave, the Human Resources Department can email or post them to you if you indicate that you wish to receive them.

## **6.3 Reasonable Contact**

The University may make reasonable contact with you during your maternity leave. This may, for example, be to discuss your plans for return to work, any special arrangements to be made, or training to be given to ease your return to work, or to update you on developments at work during your absence. If you have any concerns regarding contact, you are advised to consult the Human Resources Department at the earliest opportunity.

# **7 Returning to Work after Maternity Leave**

## **7.1 Returning to Work At the End of Your Full Maternity Leave Entitlement**

The legislation requires the University to assume that you will take your full entitlement to maternity leave. So if you wish to return at the end of your full entitlement to 52 weeks maternity leave you need not give any further notification, but should report for work on the first working day after the end of your maternity leave. If your maternity leave is followed by a period of annual leave that you have agreed with your manager, you will return from maternity leave but will be deemed to be absent on annual leave.

## **7.2 Returning To Work Early**

- 7.2.1 If you wish to return to work before the end of your full entitlement to 52 weeks maternity leave entitlement, you are required to give at least eight weeks (i.e. 56 days) written notice to the Human Resources Department of the earlier return date. You may use Form MLF2 for this purpose, unless you have already given written notice on Form MLF1 (this is an optional section in Form MLF1). If you attempt to return to work without giving proper notice, then the University may postpone your return to a date that secures eight weeks notice of your return. The University cannot,

however, postpone your return to a date that falls after the expiry of your full maternity leave entitlement. If you do not give written notice of an earlier return date, you will be expected to return to work on the first working day after the end of your maternity leave entitlement.

## 7.2.2 Changing Your Mind about your Return Date

If you have notified the University that you wish to return to work before the end of your maternity leave, you are entitled to change your mind. However, in these circumstances you should give the University Human Resources Department at least eight weeks written notice of the revised return date. You may use the MLF2 Form for this purpose.

7.2.2.1 If you wish to return *earlier* than the original notified date you will need to give the University notice at least eight weeks in advance of the new, earlier, date. For example, if you have already notified the University that you wish to return to work on 1<sup>st</sup> November, but decide you wish to return on 1<sup>st</sup> October instead, you can still change your mind, as long as you give the University eight weeks' written notice before the new return date (in this case, eight weeks before 1 October – i.e. 6th August).

7.2.2.2 If you wish to return *later* than the original notified date, you will need to give the University notice at least eight weeks in advance of the original notified date. For example, if you have already notified the University that you wish to return to work on 1<sup>st</sup> October, but decide to take your full 52 weeks maternity leave entitlement, you can still change your mind and tell the University that you will take a longer period away, as long as you give the University eight weeks' written notice before the original notified date (in this case, eight weeks before 1 October – i.e. 6th August).

## 7.3 **If parental leave is taken immediately after maternity leave**

7.3.1 A period of Parental Leave of four weeks or less has no impact on your right of return from maternity leave. If you take a period of parental leave of more than four weeks straight after the end of either Ordinary Maternity Leave or Additional Maternity Leave, it is treated as though you were returning to work after Additional Maternity Leave.

7.3.2 Parental Leave is a separate entitlement, available if you have completed one year's service with the University. It is a right to unpaid time off. Further information regarding the University's Parental Leave Policy can be obtained from the Human Resources Department or the University Website.

## 7.4 **Changing Working Hours, Returning on a Part-time Basis and Flexible Working Arrangements**

### 7.4.1 On a 'Permanent' Basis

7.4.1.1 There is no specific statutory right for you to change your working conditions, including hours of work, on return to work from maternity leave. However, many parents and carers have the right to request flexible working patterns. The University is required to give such requests serious consideration under its duty to consider a valid request. Further information can be obtained from the Human Resources or the University Website.

- 7.4.1.2 If you wish to return on a part-time basis, or wish the University to consider flexibility in working arrangements, you should discuss any proposed changes with your Manager and contact your Link Human Resources Team, who should be involved in such discussions at an early stage. Any changes must be authorised by the Human Resources Department, as there are financial and contractual implications that must be considered prior to any agreement being reached.

**ANY AGREEMENT REACHED WHICH HAS NOT BEEN AUTHORISED BY THE HUMAN RESOURCES DEPARTMENT WILL NOT BE VALID**

- 7.4.1.3 An agreement to reduce hours following maternity leave will have no adverse effect on your entitlement to either Statutory Maternity Pay or Occupational Maternity Pay. However, if you have received the benefits of the University Occupational Maternity Scheme and you then return to work on a part-time basis, the minimum amount of time you will need to return to work in order to retain those benefits will be extended beyond three months, on a pro rata basis. The Human Resources Department will provide further advice where necessary.

#### 7.4.2 On a Temporary Basis

- 7.4.2.1 Although there is no statutory right for you to reduce your hours on a temporary basis, the University may consider requests to “stagger” your return to work by returning initially on reduced hours with a view to building up to your normal hours and days over several weeks. You should consult the Human Resources Department, as it may be possible to make such flexible arrangements on a temporary basis. This will depend on the nature of the job and the requirements of the Unit.
- 7.4.2.2 If you have received the benefits of the University Occupational Maternity Scheme and such arrangements are made for you, the minimum amount of time you will need to return to work in order to retain your those benefits will be extended beyond three months, on a pro rata basis. The Human Resources Department will provide further advice where necessary.

### 7.5 **Health & Safety**

If you return to work within six months of the birth and/or are still breast-feeding when you return, your manager will need to be made aware as there may be health and safety implications to consider. Your manager should ensure that an appropriate risk assessment is carried out.

### 7.6 **Supporting Your Return to Work**

- 7.6.1 The University appreciates that returning to work after maternity leave can be challenging, both emotionally and physically, especially during the first few weeks. The University aims to provide appropriate support and encourages you to seek advice and support if you are in need of it. Such advice and support can be obtained by contacting, in confidence, a member of your Link Human Resources Team and/or Occupational Health, although you may prefer to speak directly with your manager.
- 7.6.2 If you are breast-feeding when you return you may benefit from additional support. Advice can be sought from the Human Resources Department

and/or Occupational Health if you wish to discuss, in confidence, any issues you may have. Information and support regarding breast-feeding and returning to work can also be obtained externally from several sources, including a National Childbirth Trust Breast-feeding Counsellor (Telephone: 0870-444-8708, or contact the local NCT Branch).

## **8 Ill-Health/ Sickness Absence**

### **8.1 Before the birth**

Absence through ill-health during the pregnancy will be considered under the University's normal sickness leave and pay arrangements. However, if the illness is pregnancy-related, and occurs during the four weeks prior to the Expected Week of Childbirth, this will automatically trigger the start of your maternity leave (and pay) with effect from the day following the first day that you are absent.

### **8.2 During Maternity Leave**

The Maternity Leave period cannot be broken by other types of absence. Therefore, if you become ill during this period, this will be treated as part of your maternity leave up to the end of that maternity leave.

### **8.3 After the End of Maternity Leave**

If you are unable to attend work after the end of your maternity leave due to sickness, the normal rules for sickness absence will apply and you should notify the University in the normal way in accordance with the sickness reporting arrangements.

## **9 Annual Leave**

9.1 During your maternity leave you retain your entitlement to accrue annual leave

9.2 It is not possible for you to take annual leave at the same time as maternity leave. However, it will usually be possible for you to use any untaken annual leave either before you start your maternity leave, or once your maternity leave has finished.

9.3 You are therefore advised to consider when you will take your annual leave and incorporate this into your leave planning. This is particularly important if you plan to take a whole year's maternity leave, or where a new annual leave year starts whilst you are on maternity leave. This is because other legislation requires the 'basic' statutory leave entitlement (i.e. the first four weeks of the statutory entitlement<sup>2</sup>) to be taken in the leave year in which it is accrued.

9.4 Where annual leave cannot be taken in the correct leave year due to

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<sup>2</sup> Statutory paid leave entitlement: basic: 4.8 weeks (capped at 28 days) until 31/3/09; 5.6 weeks (capped at 28 days) from 1/4/09.

maternity absence, you may carry forward your annual leave to the following leave year, provided that accrued annual leave from the previous year is taken immediately following the maternity leave period (note that this is an exception to the normal University rules relating to annual leave).

- 9.5 Where the maternity leave completely spans an annual leave year, current legislation creates some difficulty and is unclear. In such a situation, you would legally be entitled to your statutory leave period but have no means of either taking the leave (due to being on maternity leave for the entire annual leave year), or to either carry it over to the next year or be paid in lieu. Until this quandary is resolved, should you be unable to take your statutory leave in these circumstances, you may carry forward your annual leave to the following leave year, provided that accrued annual leave from the previous year is taken immediately following the maternity leave period. Please note that if the legislation is clarified at some point in the future, the University may need to reconsider this facility.
- 9.6 If you are absent on approved annual leave following your maternity leave, you will be regarded as having “returned to work” (for the purposes of the maternity arrangements) on the first day of your annual leave.

## **10 Premature & Still Births**

### **10.1 Premature Birth**

- 10.1.1 If your baby is born prematurely, but after your maternity leave has already started, the rules governing SMP, Maternity Allowance and University Occupational Maternity Pay do not change.
- 10.1.2 If you give birth prematurely before or during the 15th week before the EWC, known as the Qualifying Week (QW), you are still entitled to receive maternity pay or Maternity Allowance as originally envisaged provided:
- a) in the case of SMP or University Occupational Maternity Pay, you would have qualified for it through your length of service by the end of the original Qualifying Week. (N.B. the week in which the birth was expected is still used for assessing continuous service);
  - b) in the case of SMP, your average earnings in the set calculation period for SMP are not less than the lower earnings for the payment of National Insurance Contributions.
- 10.1.3 If the premature birth occurs before the intended start of maternity leave, SMP or Maternity Allowance entitlement will begin on the day after the date of birth, as will pay under the University Occupational Maternity Scheme, if you are eligible. Therefore, it is important that you, or someone else on your behalf, sends written confirmation to the Human Resources Department of the date of birth, as soon as it is reasonably practicable, so that the appropriate arrangements can be made.
- 10.1.4 You will have an entitlement to the same length of maternity leave as you would have received had the birth not been premature.

### **10.2 Stillbirth**

- 10.2.1 If a stillbirth occurs after the end of the 24th week of pregnancy,

entitlement to maternity pay (i.e. SMP, University Occupational Maternity Pay and/or Maternity Allowance) and to maternity leave applies in the same way as if the baby had been born alive.

- 10.2.2 If a stillbirth occurs during the first 24 weeks of pregnancy, SMP and University Occupational Maternity Pay are not payable. Any absence in such circumstances will be treated as sickness absence and you will be entitled to sickness pay under the normal sickness absence arrangements provided the absence is supported by a medical certificate.

## 11 Pension

- 11.1 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 you and will also make appropriate employer contributions.

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 contacting the link HR Administrator.

You are advised to contact the University's Payroll and Pensions Office in the Finance Department for details of how maternity absence will affect you. If you make Additional Voluntary Contributions (AVCs) you are advised to contact the Payroll and Pensions Office, in advance of you commencing maternity leave in order to discuss this.

### 11.2 Keele University Occupational Maternity Scheme

If you are a member of one of the occupational pension schemes in which the University participates, you will make normal pension contributions, (i.e. the same percentage) based on the pay you receive during your maternity leave. The University will undertake to pay both employer and employee contributions (excluding AVCs) in respect of the difference between any maternity pay received and your normal pay for the entire maternity leave period (including any periods of unpaid maternity leave). If you make Additional Voluntary Contributions (AVCs) you are advised to contact the Payroll and Pensions Office, in advance of you commencing maternity leave in order to discuss this.

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 who are in receipt of 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.

## **12 Fixed-Term and Temporary Contracts**

It is the University's policy to treat staff employed on fixed-term contracts in the same manner with respect to their entitlement to maternity leave and pay as those on indefinite contracts. If your fixed-term or temporary contract is due to expire during the course of your maternity leave, provided you fulfil the criteria for SMP, you will continue to receive this even though you will no longer be in University employment. If you are entitled to the benefits of the University Occupational Maternity Scheme, please refer to Annex A.

## **13 Health and Safety Considerations**

13.1 The University is committed to ensuring that a pregnant or breast-feeding member of staff and her child/children do not suffer any adverse effects on their health, safety and welfare because of her working environment. When you inform the University, in writing, that you are pregnant or breast-feeding, or if you return to work within six months of giving birth, your manager will be responsible for ensuring that appropriate risk assessment is carried out, i.e. to assess any enhanced risks and take appropriate control measures to resolve any identified issues. If the risk cannot be reduced to an acceptable level, or eliminated completely, you will be offered suitable redeployment on your existing terms and conditions. If there is no suitable redeployment available, you will be suspended on full pay as long as the risk remains. Redeployment or suspension will follow in the same way if, instead of a risk assessment showing the need, there is a statutory requirement placed on the University.

13.2 These health and safety considerations arise from a number of sources within a UK and EC legislative framework, which has resulted in three specific duties for employers with regard to pregnant and breast-feeding staff, as follows:

### **13.2.1 Temporary Changes to Working Conditions**

Where a potential new risk has been identified, all necessary measures must be taken to take corrective action to avoid the risk. Your manager will liaise with the Human Resources Department to discuss a possible temporary adjustment of working conditions and/or working hours, also liaising with the Occupational Health & Safety Unit, as necessary. Where such measures are not feasible or prove insufficient, the Human Resources Department will co-ordinate the identification of opportunities for suitable alternative employment for you.

### **13.2.2 Suspension from Work on Maternity Grounds**

If you are working under conditions in which there is an assessed risk to your health and safety and/or that of your unborn (or breast-feeding) baby and no suitable alternative employment has been identified, you will be suspended on full pay. The decision to suspend you on maternity grounds because of health and safety issues would be taken by the Head of Human Resources (or nominee) in consultation with the Occupational Health and Safety Unit and your manager. (N.B. if you refuse, unreasonably, to carry

out suitable alternative work you will lose your right to be paid during suspension).

### **13.2.3 Night Workers**

If you produce a medical certificate stating that, on health and safety grounds, you should not continue to work at night, the University will either transfer you to suitable alternative day work or suspend you on maternity grounds.

## **Annex A: Guidelines on the Application of the Requirement to Return to Work for Three Months for Staff Employed on Fixed-term or Temporary Contracts**

### **A1 University Occupational Maternity Scheme Only**

These guidelines are designed to give a detailed explanation of how, under the terms of the University Occupational Maternity Scheme, the requirement for staff to return to work for a minimum of three months applies to staff employed on fixed-term or temporary contracts.

### **A2 Entitlement**

A2.1 Members of staff who are employed on fixed-term or temporary contracts and who have at least 12 months continuous service with the University by the Expected Week of Childbirth are entitled to receive the benefits of the University Occupational Maternity Scheme. Under this Scheme, during the first 18 weeks of their maternity leave, eligible staff receive their normal pay (i.e. what they would have received had they not been on maternity leave). If the member of staff is entitled to Statutory Maternity Pay (SMP), this will be payable for the 39 week maternity pay period and the Occupational Maternity Pay she receives during the first 18 weeks of her maternity leave will include her entitlement to SMP. The member of staff will then receive SMP only for weeks 19 – 39. Of course if the member of staff returns to work before the end of the 39-week Maternity Pay Period, her entitlement to SMP ceases.

A2.2 Regardless of when her contract expires, provided she qualifies for SMP in terms of length of service and income, the member of staff will be eligible to receive SMP for the full 39-week Maternity Pay Period. However, if when she leaves University employment after the end of her contract, she then commences employment with a new employer during the 39-week Maternity Pay Period, she loses her entitlement to SMP.

### **A3 The ‘Three-Month Rule’:**

A3.1 The member of staff has to return for a minimum of 3 months in order to retain entitlement to the additional University Occupational Maternity Pay, i.e. the amount received on top of the SMP. If she does not return for the required period of time, she has to repay the additional amount back. If she returns on reduced hours, the 3-month minimum period is extended on a proportional basis. Other forms of leave (e.g. annual leave, parental leave, sickness, etc) do not count towards the 3 months.

A3.2 The University is committed to ensuring that fixed-term staff are not treated less favourably than comparable staff employed on indefinite contracts. The application of the three month rule is, however, more complex for some staff employed on fixed-term or temporary contracts. There are three basic scenarios detailed below and a description of how the rule is applied in each circumstance.

A3.2.1 The contract is due to expire more than three months after the end of the Maternity Leave.

The member of staff will be treated in the same way as staff employed on indefinite contracts. The member of staff would be expected to return to work for at least three months following the end of her maternity leave. If she does not return, she will be required to repay the difference between her SMP and the additional University Occupational Maternity Pay.

A3.2.2 The contract is due to expire after the end of the paid Maternity Leave Period, but before the end of the three-month period.

(a) If she is not offered a further contract, she will be expected to return to work after the end of her maternity leave to the end of her contract. If her contract ends whilst she is on unpaid maternity leave, she will not be expected to return to work at all. She will have received normal pay for the first 18 weeks of her maternity leave and she will not have to repay the additional University Maternity Pay.

(b) If she is offered a further contract, either as an extension or if suitable alternative employment is offered, she will be expected to return to work at the end of her maternity leave for at least three months (or less, if the contract ends sooner and she is not then offered a further contract). If she does not return, she will be required to repay the difference between her SMP and the additional University Occupational Maternity Pay. This will apply even if the offer of further work occurs after maternity leave has commenced. The University cannot require her to finish her maternity leave early in order to return to work (i.e. she will still be entitled to the full 12 months maternity leave).

A3.2.3 The contract expires during the paid Maternity Leave period.

(a) Where the contract expires during the first 18 weeks of maternity leave, if she is not offered a further contract, she will only receive normal pay under the University Occupational Maternity Scheme until the end of her contract. Thereafter, provided she qualifies for SMP, she will receive SMP until her entitlement expires (even though she will no longer be an employee of the University). She would not be required to repay the additional maternity pay offered under the University Occupational Maternity Scheme.

(b) Where the contract expires during the first 18 weeks of maternity leave, if she is offered a further contract, either as an extension, or if suitable alternative employment is offered, she will be expected to return to work at the end of her maternity leave for at least three months (or less if the contract ends sooner and she is not then offered a further contract). If she does not return, she will be required to repay the difference between her SMP and the additional University Occupational Maternity Pay. This will apply even if the offer of further work occurs after maternity leave has commenced. The University cannot require her to finish her maternity leave early in order to return to work (i.e. she will still be entitled to the full 12 months maternity leave).

## Annex B: Glossary of Terms

**Additional Maternity Leave (AML):** Regardless of length of service, you are entitled to 26 weeks' Additional Maternity Leave (AML) which immediately follows your 26 weeks Ordinary Maternity Leave (OML) Period.

**Average Weekly Earnings:** For SMP purposes, they are calculated in most cases from the average of eight weeks' gross earnings (including overtime, etc) immediately prior to the end of the Qualifying Week (QW). If you are paid monthly, the two pay dates prior to the end of the QW are used to calculate average earnings.

**Childbirth:** Labour resulting in the birth of a living child, or the birth of a child whether living or dead after 24 weeks of pregnancy.

**Expected Week of Childbirth (EWC):** The week, beginning with midnight between Saturday and Sunday, in which it is expected that the baby will be born.

**Keele University Occupational Maternity Scheme:** Open to qualifying employees. Enhances certain statutory maternity provisions.

**Keeping In Touch (KIT) Days:** The University may offer you the opportunity to work up to 10 Keeping in Touch (KIT) days during your maternity leave. These are entirely optional – the University does not have to offer any and, once offered, you do not have to agree to work. You will not lose your right to receive Statutory Maternity Pay if you work a KIT day.

**MAT B1:** A Maternity certificate issued by a doctor or midwife giving the date on which the baby is expected to be born (Expected Week of Childbirth - EWC). It must not be signed before the Sunday at the start of the 20th week before the EWC.

**MLF1:** The University's Application for Maternity Leave form which should be completed and returned to the Human Resources Department by the end of the 15<sup>th</sup> Week before the EWC in order to notify the University that you wish to take maternity leave.

**MLF2:** The University's Notification of Early Return to Work form, which you should complete and return if you wish to return to work before the end of your full entitlement to 52 weeks maternity leave. The Form must be submitted to the Human Resources Department at least eight weeks prior to the return date. You can also use this form if you wish to change the date you wish to return to work having previously notified the University of a return date.

**Maternity Pay Period (MPP):** The Maternity Pay Period (MPP) is the period during which Statutory Maternity Pay (SMP) is payable to an eligible employee. SMP is payable to an eligible employee for 39 consecutive weeks. You can choose when you wish this to commence (although this must be no earlier than the 11<sup>th</sup> week before the EWC).

**Notified Date:** The date you nominate as the start of your maternity leave on your MLF1 Form.

**Ordinary Maternity Leave (OML):** The first 26 weeks of your maternity leave.

**Qualifying Week (QW):** The 15th week before the Expected Week of Childbirth (EWC). It is important to note that "week" in this context refers to the period of seven days beginning with a Sunday and ending on a Saturday.

**Return to Work:** After the end of your maternity leave period, you will be deemed to have returned to work, even though you may be absent from work due to another type of authorised absence (e.g. annual leave; parental leave; sick leave, etc.). The return to work date is therefore important and should not be confused with her actual attendance at work following other forms of authorised absence.

**Statutory Maternity Pay (SMP):** Weekly payment made by the employer. Payable for maximum of 26 weeks to qualifying employees. Payable at two rates: higher rate for the first six weeks (90% of earnings) and the flat rate for the following 20 weeks.

**Week of Childbirth:** The week, beginning with midnight between Saturday and Sunday, in which the baby is actually born.

## **Annex C: A Step-by-Step Guide**

1. You are advised to contact a member of your Link Human Resources Team at the earliest opportunity to establish your rights and options. All enquiries are dealt with in the strictest confidence.
2. You should inform your manager as you are likely to require time off (with pay) to attend antenatal appointments. Also when the University has been informed that you are pregnant a risk assessment should be carried out by your manager in order to identify any possible health & safety issues that may need to be addressed.
3. You should decide when you would like to start your maternity leave. This may be any time from the 11th week before your Expected Week of Childbirth (EWC). You may wish to take annual leave immediately prior to, or following, maternity leave, which should be agreed with your manager.
4. You must obtain a medical certificate confirming your pregnancy (MATB1) and submit this, together with a Form MLF1 to the Human Resources Department no later than 15 weeks before your Expected week Of Childbirth (EWC). If your Mat B1 Form is not available you should still submit your MLF1 Form and forward your Mat B1 Form as soon as possible. If you wish to change your maternity leave start date you should give at least 28 days notice.
5. The Human Resources Department will acknowledge your maternity leave plans within 28 days of receipt of the MAT B1 and MLF1 form. You will receive a separate notification regarding your eligibility to receive Statutory Maternity Pay from the Finance Department. Your MAT B1 certificate will be returned to you.
6. The University will assume that you will take your full entitlement to 52 weeks maternity leave, unless you give the Human Resources Department at least eight weeks written notice that you wish to end your maternity leave earlier. If you know the date you wish to return at the outset you have the option of giving the appropriate notice on form MLF1; otherwise you can complete form MLF 2 and submit it later. Having given notice of an early return, if you then change your mind about the date you wish to return, you must give the Human Resources Department written notice of this new, later, return date at least eight weeks before the original return date. You can use form MLF2 for this purpose.
7. If you are hoping to return to work on reduced hours or on a different arrangement following your maternity leave, you should discuss this with your manager and your Link Human Resources Officer or Manager ideally before your leave commences. You may wish to make a formal application under the University's Statutory Requests for Flexible Working Arrangements Procedure, available from the Human Resources Department or the University Website. Please note that any new arrangements will not be valid unless they are authorised by the Human Resources Department.
8. If you have carried forward any accrued annual leave from one leave year to the next because of your maternity leave, you should contact your manager to book the carried-over annual leave to be taken immediately following your maternity leave. In this case your maternity leave will have ended on the date you have given and you will be absent on approved annual leave.
9. If your baby is born earlier than the date on which you intended to start your maternity leave you should notify the Human Resources Department as soon as possible.

10. If you are off sick with a pregnancy-related condition, you should notify the Human Resources Department as soon as possible.
11. If you return to work within six months of the birth and/or are still breastfeeding when you return, you should inform your manager so that a health & safety risk assessment can be carried out.
12. If you need any advice regarding your entitlements, returning to work or working arrangements, you can meet, in confidence, with a member of your Link Human Resources Team.
13. The University may make reasonable contact with you during your maternity leave. In addition, the University may offer you the opportunity to work up to 10 Keeping in Touch (KIT) days during your maternity leave. These are entirely optional – the University does not have to offer any and, once offered, you do not have to agree to work.

## Maternity Leave & Pay: What am I entitled to?

