

# Maternity Leave and Pay

UPR HR23 version 01.0

## Policies superseded by this document

This is the first version of this document, effective from 13 December 2021.

## Summary of significant changes to the previous version

This is the first version of this document and should be read in full.

## Glossary

A glossary of approved University terminology can be found in [UPR GV08](#).

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## 1 Policy Statement

- 1.1 This policy sets out the rights of employees to statutory and occupational maternity leave and pay.
- 1.2 The University recognises that, from time to time, employees may have questions relating to their maternity rights. It is the University's policy to encourage open discussion with employees to ensure questions can be resolved as quickly as possible. If an employee becomes pregnant, they should clarify the relevant procedures with Human Resources to ensure that they are followed correctly.
- 1.3 Human Resources will provide advice in confidence but ask that you make your manager aware of your pregnancy as soon as possible because they have a responsibility to safeguard you in relation to your health and safety. This will also enable your manager and your colleagues to plan and arrange cover for your absence.

## 2 Health and Safety

- 2.1 Your health and safety, and that of your baby, are the most important concerns at this time. The University has a legal duty to protect the health and safety of pregnant employees and has policies and procedures, as well as the law, in place to protect you. If you believe you are pregnant or if you are breast-feeding and you are worried about a health-related matter, please contact the University's Occupational Health (OH) Advisor for confidential advice.
- 2.2 You should also complete the 'Risk Assessment for Pregnant and Breastfeeding Employees' form and send it directly to the OH Team. This will enable OH to check that there are no hazards that may impact your health or that of your baby in your workplace. The form is available on HertsHub [here](#).
- 2.3 If a potential risk is identified all necessary measures will be taken to safeguard your health and safety. Your manager will act on the advice of Occupational Health and Human Resources. Your working conditions and/or your hours will be temporarily adjusted if necessary.
- 2.4 Breastfeeding women should be aware of certain health and safety considerations when they return to work. Advice is available from Occupational Health or your Midwife. Occupational Health can also recommend available rooms for expressing milk if required.

### **3 Notification and Acknowledgement of Maternity Leave**

- 3.1 To qualify for maternity leave you must inform Human Resources in writing using the 'Application for Maternity Leave and Pay Form' on or before the 15th week before your Expected Week of Childbirth (EWC) or as soon as is reasonably practical
- 3.2 Your doctor or midwife will give you a Maternity Certificate (MAT B1 form) between the 20th and 28th week of your pregnancy, this will confirm your expected date. Please send the original certificate to the HR Department as soon as you receive it.
- 3.3 Within 28 days of receiving your written notification 'Application for Maternity Leave and Pay Form' and your Maternity Certificate (MAT B1 form), Human Resources will write to you to confirm your maternity leave entitlement, your return date from maternity (if this has been requested) and your maternity pay entitlement.

### **4 Time off Before Maternity Leave Commences**

- 4.1 All pregnant employees, regardless of their length of service, have a legal right to reasonable paid time off to attend antenatal appointments with their doctor, midwife etc. Please give your manager as much notice as possible of your absence and apart from your first appointment be ready to show your appointment card or letter to confirm the time and date of subsequent appointments. Your manager may ask you to re-arrange the appointment if it clashes with important work commitments.
- 4.2 If you are off sick with a pregnancy related illness after the beginning of the fourth week before the EWC, your maternity leave period will start automatically on the day following your first day of absence. You should notify your line manager as soon as possible if you are absent for a pregnancy related absence.

### **5 Maternity Leave**

- 5.1 All pregnant employees, regardless of their length of service, are entitled to take 52 weeks' maternity leave from the University.
- 5.2 The law requires that a minimum of two weeks leave (with either Occupational or Statutory maternity pay) must be taken immediately after the birth of your baby. The period of compulsory maternity leave is part of the ordinary maternity leave (OML) and not additional to it.
- 5.3 Expectant mothers can start maternity leave on any day of the week. When counting weeks before the expected week of childbirth (EWC); take the previous week as week one. When counting weeks after the birth of your baby; it is the actual week of the birth that is counted as week one.

5.4 You can start your maternity leave any time from the 11th week before the EWC up until the birth itself.

## 5.5 Ordinary Maternity Leave/Additional Maternity Leave (OML and AML)

5.5.1 Maternity leave is split into two distinct periods of absence, the first 26 weeks being known as Ordinary Maternity Leave (OML), the second 26 weeks being known as Additional Maternity Leave (AML). AML if taken should be immediately after the end of OML. Your contract of employment continues throughout both OML and AML.

5.5.2 You will be entitled to the same contractual benefits during both OML and AML periods – the entire maternity leave period (Refer to section 11 below for pension contributions). You have a statutory right to continue to benefit from the terms and conditions of employment which would have applied if you had been at work (except for the terms relating to your salary). This includes the right to return to the same job on the same terms and conditions of employment as if you had not been absent for the entire maternity leave (both OML and AML) period, unless there is a reason why it is not reasonably practical to return to your same job, in which case you will be offered a similar job on terms and conditions which are not less favourable than your original job.

## 6 Maternity Pay

6.1 To qualify for paid statutory maternity leave of up to 39 weeks you must have at least 26 weeks' continuous service extending into the 15th week before the expected week of childbirth (EWC) – the “qualifying week”.

6.2 Members of staff who have transferred without a break from other institutes of higher and further education may count their earlier service towards the one-year requirement. (Please confirm this with your Human Resources Business Partner).

### 6.3 Occupational Maternity Pay

6.3.1 You will be entitled to Occupational Maternity Pay (OMP) from the University if you have one year of continuous service at the 15th week before your EWC. OMP is payable from the start of your Maternity Leave i.e. no earlier than the 11th week before the expected week of the birth and the amounts are as set out below:

Weeks	Entitlement
1-4	Full Pay (SMP/Maternity allowance offset- See section below for details of SMP and for MA average weekly earnings plus 10%)
5-6	90% Full Pay (SMP/MA offset) of average earnings as this is SMP
7-18	50% of Full Pay (Plus any SMP/MA)
19-39	Lower Rate of SMP only flat rate or 90% whichever is the lower
39-52	Unpaid

- 6.3.2 Full Pay is the amount payable under your current contract of employment for working your normal hours in a week; i.e. the normal earnings, being basic pay and any normal contractual allowances, which you would have received had you not been on Maternity Leave.
- 6.3.3 If you do not have “normal earnings”, for example if you are a Casual member of staff, or a Visiting Lecturer (Hourly Paid), then your Full Pay will be calculated by taking the average pay received in the twelve weeks preceding the last complete week before your maternity leave commences.
- 6.3.4 You may also be in receipt of Statutory Maternity Pay (SMP) – see Section 6.4 below. Any SMP received in weeks 1 to 6 will be offset against the OMP but any SMP paid in weeks 7 to 18 will be added to your OMP at half-pay.
- 6.3.5 SMP will be payable for the first 6 weeks of OML at a rate of 90% of your normal weekly earnings and from then on at either that rate or the prescribed rate whichever is lower.
- 6.3.6 If you do not qualify for SMP but receive Maternity Allowance (MA) from the government, an equivalent amount will be deducted from your OMP. You should therefore confirm the amount of MA that you actually receive; if you do not send confirmation the deduction will be made at the standard rate
- 6.3.7 The 12 weeks’ OMP at 50% (i.e. half) pay during weeks 7 to 18 inclusive will have to be repaid to the University if you do not return to work for 3 months (13 weeks) after the birth. If you are not sure about coming back to work, you may ask (at your notification period) for these payments to be held until your return from maternity leave. You would then be paid the money in your first monthly salary on return from your maternity leave.
- 6.3.8 Payroll will calculate the amount of OMP to be paid to you on the basis of the formula given above. This may result in women with irregular earnings – Visiting/Hourly Paid Lecturers, Casual staff etc. - being entitled to very low amounts of OMP. If you are under this type of contract, please contact Human Resources or Payroll for advice as soon as you know you are pregnant.

## **6.4 Statutory Maternity Pay**

- 6.4.1 Statutory Maternity Pay (SMP) is paid by the University on behalf of the government. You must have 26 weeks’ continuous service up to and including the Qualifying Week, the 15th week before the week your baby is due. Your average earnings must also be up to or over the Lower Earnings Limit for National Insurance in the two months up to and including the 15th week.

Weeks	Entitlement
1-6	90% of average earnings
7-39	Lower Rate of SMP (contact Payroll for up to date rates) or 90% whichever is the lower

6.4.2 Average earnings for the purposes of SMP are based on the two monthly paydays on or before the end of the Qualifying Week (this is likely to be a different period to that used for OMP calculations for women with no “normal earnings”). As mentioned above, women with irregular earnings should contact Human Resources or Payroll for advice on their SMP entitlement as soon as possible. It should be noted that in some cases SMP at the higher rate, being based on actual earnings for the two monthly paydays before the end of the Qualifying Week, may be higher than OMP. In this case your pay will be at the SMP rate or 90% of average weekly earnings whichever is the lowest.

## 6.5 Maternity Allowance

6.5.1 If you do not qualify for SMP and/or OMP Payroll will return your MAT B1 form together with SMP 1 form. You should complete the MA1 form available at [www.gov.uk](http://www.gov.uk).

## 7 Premature Births

7.1 If your baby is born before your maternity leave has started but after the qualifying week you will still receive SMP and OMP, but this will start on the day after your baby was born. You must inform your line manager as soon as possible and within a maximum of 3 weeks after their birth that your baby was born early.

## 8 Stillbirth

8.1 If your baby is stillborn earlier than the 25th week of your pregnancy, you will not be able to get any SMP, but you may be entitled to occupational sick pay, please refer to UPR HR20. You may also be eligible for up to two weeks' Statutory Parental Bereavement Leave.

8.2 If your baby is stillborn after the start of the 25th week of your pregnancy, you are entitled to your maternity pay and leave as if your baby had been born alive. If your baby is born alive then later dies, it is still considered a live birth and your maternity leave and pay arrangements will not be affected.

## 9 Keeping in Touch Days (KIT)

9.1 Generally working for your main employer during maternity leave will usually bring your maternity leave and your Statutory Maternity Pay (SMP) or Maternity Allowance (MA) to an end. However, you may, by agreement with your Line

Manager, work for up to 10 days – known as “Keeping in Touch Days” (KIT) - under your contract of employment during your maternity leave period without the maternity leave coming to an end.

- 9.2 KIT days can be taken at any point in your maternity leave except for the first 2 weeks of compulsory maternity leave immediately after the birth of your baby.
- 9.3 KIT is not a compulsory requirement, you cannot be made or be expected to work during your maternity leave; similarly, you cannot work any days without the prior agreement of your line manager.
- 9.4 KIT days do not have to be consecutive and they can be used for any work-related activity including training, conferences or meetings.
- 9.5 Working for part of a day will count as one KIT day’s work but you will not necessarily get paid for a full day’s work. For a KIT day you will be paid a proportion of your salary dependent on the number of hours you work on those days. If you work up to but less than 3 hours per KIT day you will be paid for half a day at your normal rate (minus any SMP you are currently getting) and if you work 3 hour or more, you will receive a full day’s pay (minus any SMP you are currently getting). The maximum amount payable being your normal daily salary equivalent to the amount you would have received had you not been on maternity leave.
- 9.6 KIT days do not have to be consecutive and they can be used for any work-related activity including training, conferences or meetings. If you and your manager agree that you work a keeping in touch day you will be required to complete a KIT declaration form confirming your agreement to do the hours and the hours you actually work. This should be signed by your line manager who will then pass it to Payroll for payment. You will need to complete a separate form for each day or part day that you work.
- 9.7 KIT days will not extend your maternity leave period.

## **10 During Maternity Leave**

- 10.1 Your contract of employment continues unless you have a contract that was due to expire during the period of your maternity leave. A fixed-term or casual placement will expire as arranged and OMP will cease on the date that the contract finishes, but any SMP will continue in payment.
- 10.2 You are entitled to all your contractual benefits, other than pay, whilst you are on paid or unpaid maternity leave. This means that you will not miss any pay rises or salary increments that you would normally have received. In the event of a backdated pay award your SMP and OMP will be re-calculated.

- 10.3 You will also be considered for opportunities such as promotion that occur during your maternity leave and will be updated on any relevant information, relating to your job, of which you would normally be made aware if you were at work.
- 10.4 The University reserves the right to maintain reasonable contact with employees during maternity leave. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work.
- 10.5 Depending on the contact preferences agreed at your pre-maternity leave meeting, you may be kept up to date with workplace developments in your absence.

## **11 Pensions**

- 11.1 If you are a member of the Teachers' Pension Scheme (TPS) Scheme or the Local Government Pension Scheme (LGPS) your contributions will continue to be deducted from your OMP and SMP in the normal way.
- 11.2 Any unpaid Maternity leave will leave a gap in your pension record and you may wish to contact the University Pensions Manager for advice on how to make this up. You may also wish to discuss any additional payments that you make such as AVCs or Added Years directly with your pension scheme.

## **12 Returning to Work**

- 12.1 If you wish to return to work earlier or later than the date stated on the 'Application for Maternity Leave and Pay' form submitted at the outset of your maternity leave, you must give at least 8 weeks' written notice of the date on which you intend to return.
- 12.2 The University has the right to postpone your return date to a date that will secure the full period of notice if you try to return to work early without having given at least 8 weeks' notice.
- 12.3 If you are unwell and unable to return to work on your return date because of illness and you provide the University with a medical certificate, you will be treated as being on sick leave from the day immediately after your maternity leave ends.
- 12.4 If you return to work before your OML is completed (known as Maternity Pay Period 39 weeks) and then take sick leave, statutory maternity pay will be paid rather than statutory sick pay. However, you will not be able to recommence the unpaid element of your maternity leave as you have returned to work.



- 12.5 On returning to work and/or whilst you are a breastfeeding mother if any of your working circumstances change from when you completed the 'risk assessment for pregnant and breastfeeding employees' you should complete and send another assessment form; please refer again to section 2.2.
- 12.6 Normally you will return to your previous job, which will have been held open for you. It may not be possible for you to return to the same job in certain circumstances.
- 12.7 If your department undergoes a re-organisation whilst you are on maternity leave you should not be treated any differently to other members of staff. You will be kept informed and consulted by your manager in the same way as your colleagues.
- 12.8 The normal rules concerning redeployment will apply and if you are at risk of being made redundant then you will be offered any suitable available vacant post.

### **12.9 Changing your working Pattern**

- 12.10 Please discuss your plans as soon as possible with your manager if you wish to change your working pattern. You do not have a legal right to come back to a different job or under different terms. The more notice you are able to give the easier it will be for your manager and colleagues to make plans for your return.
- 12.11 All requests for working part-time, term-time only or for job sharing will be considered carefully. Your manager will try to balance your needs with those of your colleagues and the need to provide a service.
- 12.12 You have a statutory right to request flexible working in accordance with the Flexible Working Policy and your manager has a duty to consider your request. Your manager may discuss your request with HR and will provide you with a written response. You can access the University Flexible Working Policy from the HR pages on Hertshub.

### **12.13 Not Returning to Work**

- 12.14 If you decide during maternity leave that you do not wish to return to work, you must give written notice of resignation as soon as possible and in accordance with the notice period set out in your contract of employment. This decision is not reversible.
- 12.15 You will be asked to repay the 12 weeks OMP at half-pay if you do not return to work for at least 3 months; SMP is not repayable. (This only applies if you did not postpone the payment of the 12 weeks half pay).

## 13 Annual Leave

- 13.1 Whilst you are on maternity leave you will continue to accrue annual leave, statutory and Bank Holidays as laid down in your contract of employment. You will accrue annual leave throughout the entire period of your maternity leave (both OML and AML). Hourly Paid Lecturers and Casual Support Staff will not accrue leave as this is based on the hours that they work, already factored into the OMP/SMP rates paid.
- 13.2 The University's normal policy on taking and carrying over annual leave applies to employees on maternity leave. Staff should consult their manager in the normal way before arranging any annual leave.

## 14 APPENDIX A – Definitions of terms used

“AML”	means “Additional Maternity Leave”
“EWC”	means “expected week of childbirth” – the week, starting on a Sunday, during which the employee’s doctor or midwife expects them to give birth.
“KIT”	means “Keeping in Touch”
“OML” and “OMP”	means “Ordinary Maternity Leave” and “Ordinary Maternity Pay”
“SMP”	means “Statutory Maternity Pay”
“Qualifying week”	means the 15 <sup>th</sup> week before the expected week of childbirth (EWC).

Sharon Harrison-Barker  
Secretary and Registrar  
Signed: **13 December 2021**

### Alternative format

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