**INSERT LOGO**

**Maternity Policy**

Status of Policy: Contractual

Review Date: [insert date]

Policy applies to: Employees of the [insert name of organisation]

1. Introduction

This policy sets out the contractual and statutory maternity rights for eligible employees wishing to take maternity leave. It should be read in conjunction with the policy on Shared Parental leave. The Policy is subject to updates and amendments in line with legislative developments.

2. Definitions of Terms and abbreviations

The policy uses the following terms and abbreviations:

**Ordinary Maternity Leave (OML):** This is the first 26 weeks of maternity leave. The contract of employment continues for this period.

**Additional Maternity Leave (AML):** This is the second 26 week period and must follow directly on from Ordinary Maternity Leave. The contract of employment continues for this period.

**Compulsory Maternity Leave:** A minimum of 2 weeks must be taken as maternity leave immediately after giving birth. This is included as part of Ordinary Maternity Leave.

**Expected Week of Confinement (EWC):** The week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur. This term is mainly used for meeting criteria for entitlements for maternity leave and pay.

**Qualifying Week:** The 15th week before the Expected Week of Confinement is known as the qualifying week. Staff will not qualify for Occupational (delete this if your organisation does not pay Occupational Maternity Pay) or Statutory Maternity Pay if their employment ends at the [organisation] before the qualifying week.

**Pay Reference period:** The period used to calculate average weekly earnings. To calculate average weekly earnings, payroll will average gross earnings over a period of eight weeks up to and including the last payday before the end of the qualifying week (the 15th week before the week a baby is due). This period may vary depending on how often people are paid – weekly, monthly or at other intervals.

3. Maternity Leave and Pay Entitlements

During your maternity leave you will keep all your contractual rights except for pay. Maternity leave – both paid and unpaid - counts towards your period of continuous employment.

Regardless of your length of service with the [organisation], you are entitled to up to 52 weeks’ maternity leave. This is made up of 26 weeks’ Ordinary Maternity Leave (OML) and a further 26 weeks’ Additional Maternity Leave (AML).

You may be eligible for Statutory Maternity Pay, dependent on your earnings and length of continuous service (see Statutory Maternity Pay below).

You are encouraged to let your employer know what your intentions are regarding your maternity leave, at your earliest opportunity, by discussing your leave and benefits queries in confidence with your manager.

This policy makes no distinction between live births and stillbirths occurring at or after the 24th week of pregnancy. You will still qualify for maternity leave and (if you are eligible) Statutory Maternity Pay.

4. Maternity Leave

Statutory Maternity Leave is for 52 weeks and is made up of:

* Ordinary Maternity Leave (OML) – the first 26 weeks
* Additional Maternity Leave (AML) – the next 26 weeks immediately after the OML.

You don’t have to take the full 52 weeks’ leave unless you choose to. However, you are legally required to take a minimum of 2 weeks’ maternity leave from the date of the birth of your baby. This is called Compulsory Maternity Leave and is taken as part of your OML.

4.1 Applying for maternity leave:

You should complete the maternity leave application form (keeping a copy for your own records) and submit it to your manager **no later than** **15 weeks** before your expected week of confinement (EWC), detailing the following:

* the fact that you are pregnant
* the EWC - this is normally confirmed in the MATB1 certificate which will be given to you by your GP or midwife approximately 20 weeks before your due date. This is normally given to your manager 15 weeks before the EWC. If you have not received it by that date you should send it to your manager as soon as you do, and in any event, no later than 28 days before the start of your maternity leave.
* the date on which you would like to start your maternity leave
* whether or not it is your intention to return to work

We will write to you within 28 days, confirming the date on which your maternity leave will start and end and the date on which you will be expected to return to work.

4.2 Frequently asked questions about maternity leave

4.2.1 When can I start maternity leave?

You may start your maternity leave at any time from the 11th week before the expected date of birth. Maternity leave must always begin on a Sunday and this needs to be reflected in your application.

NB If maternity leave starts on any day other than a Sunday, Statutory Maternity Pay will only be paid from the Sunday of the following week.

4.2.2 Can I change my maternity leave start date after I have submitted my application form?

Yes – if you decide to change the start date of your maternity leave you will need to notify your manager, in writing, giving at least 8 weeks’ notice of the revised date. We will write to you within 28 days of receiving this, confirming your revised start and end dates.

4.2.3 What happens if my baby is born early?

If your baby is born before your maternity leave starts, the maternity leave will begin automatically on the day after the birth. If this happens you will need to contact (or ask a member of your family/your partner to contact) your manager as soon as is reasonably practicable, and confirm, via email or phone, the actual birth date. You will then receive a letter from your manager confirming the new start and end dates of your maternity leave.

4.2.4 What happens if I am ill before starting my maternity leave?

If your illness is not pregnancy-related, then the normal sickness procedures will apply. However, if you are off work with a pregnancy-related illness during the last 4 weeks before the EWC then your maternity leave will normally commence either at the beginning of the 4th week before the EWC or the beginning of the next week after you last worked, whichever is the later.

An odd day of pregnancy-related illness during this 4-week period may be treated as normal sick leave, if the employee wishes to continue working until the maternity leave start date previously notified to the employer.

Pregnancy-related sickness absence prior to the last 4 weeks before the EWC, supported by a medical statement or a self-certificate, will be treated as sick leave in accordance with normal sickness procedures.

5. Maternity Pay

5.1 Statutory Maternity Pay (SMP)

SMP is paid by the [organisation] on behalf of the Department of Work and Pensions. You will be eligible for SMP provided that you:

* Earn on average at least £112 a week.
* Give the correct notice.
* Provide evidence of your pregnancy - by giving your MATB1 certificate to your manager - your doctor or midwife will give you this approximately 20 weeks before the due date. This needs to be given to us no later than 28 days before the start of the SMP.
* Have worked for the [organisation] continuously for at least 26 weeks up to the ‘qualifying week’ - the 15th week before the expected week of childbirth.

SMP is paid for up to 39 weeks, as follows:

* Higher Rate SMP - 90% of your average weekly earnings (before tax) for the first 6 weeks. **NB** average weekly earnings are calculated using a pay reference period over 8 weeks up to and including the last payday before the end of your qualifying week.
* Lower Rate SMP – the current rate can be found at <https://www.gov.uk/maternity-pay-leave/pay> or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks

You may then choose to take the remaining 13 weeks of the 52 weeks’ maternity leave which you are entitled to – this period will be unpaid.

SMP is paid in the same way as your salary/wages (i.e. monthly or weekly). Tax and National Insurance will be deducted.

Payment of SMP does not depend on you intending to return to work for the [organisation] after your baby is born. If you qualify for SMP you are entitled to receive it and to keep it, even if you do not return to work. We will not ask you to pay back any SMP that you are entitled to.

5.2 Occupational Maternity Pay [NB – not all organisations pay Occupational Maternity Pay – if your organisation does not then remove this section – if the organisation does then include the details of the Occupational Maternity Pay scheme below]

Occupational Maternity Pay (OMP) is a benefit paid by the [organisation] . It is paid to people who have worked continuously for the [organisation] for at least one year at the 11th week before their EWC.

If you qualify for OMP, the payment which you will receive is as follows

Insert details as appropriate – for guidance ONLY , the DBF pays Occupational Maternity Pay as follows:

* 90% of your average weekly earnings (before tax) for the first 13 weeks. (inclusive of 6 weeks’ higher rate and 7 weeks’ lower rate SMP) **NB** average weekly earnings are calculated using a pay reference period over 8 weeks up to and including the last payday before the end of your qualifying week.
* Lower Rate SMP – the current rate can be found at <https://www.gov.uk/maternity-pay-leave/pay> or 90% of your average weekly earnings (whichever is lower) for the next 26 weeks.

You may then choose to take the remaining 13 weeks of the 52 weeks’ maternity leave which you are entitled to – this period will be unpaid.

SMP and OMP is paid in the same way as your salary/wages (i.e. monthly or weekly). Tax and National Insurance will be deducted.

Payment of SMP does not depend on you intending to return to work for the [organisation] after your baby is born. If you qualify for SMP you are entitled to receive it and to keep it, even if you do not return to work. We will not ask you to pay back any SMP that you are entitled to.

Please note, however, that if you do not return to employment with the [organisation] for a minimum of 3 months, at the end of your maternity leave, you will be required to repay any OMP that you have received. OMP gives you 7 weeks pay at the equivalent of higher rate SMP, where SMP alone would have given these 7 weeks at the lower rate. Therefore you will be required to pay back the difference between higher rate and lower rate SMP for these 7 weeks if you do not return to work.

5.3 Frequently asked questions about maternity pay

5.3.1 What if I don’t qualify for SMP or OMP?

If you have less than one year’s continuous service with the [organisation] at the 11th week before your EWC, then you will not qualify for OMP. However, if you have 26 weeks’ continuous service by the 15th week before your EWC and your average weekly earnings are at least £118\* (for current rate see <https://www.gov.uk/maternity-pay-leave/eligibility>) you will qualify for SMP.

If you have fewer than 26 weeks’ continuous service by the 15th week before your EWC or your average weekly earnings are below the minimum level, you will not qualify for SMP but you may be able to claim Maternity Allowance.

We will give you a form (SMP1) explaining why you’re not eligible for SMP. You can then apply for Maternity Allowance using an MA1 Claim form – this is available from: <https://www.gov.uk/maternity-allowance>

You will also be entitled to up to 52 weeks’ unpaid Maternity Leave.

5.3.2 When can my SMP start?

SMP starts when you take your maternity leave; therefore, unless your baby is born earlier, you will not be paid SMP until 11 weeks before the week the baby is due.

If your baby is born prematurely, you will still get SMP for the full 39-week payment period.

6. Antenatal Care

You will not be unreasonably refused time off work to receive antenatal care and attend antenatal classes or any other classes related to pregnancy on the advice of a Registered Medical Practitioner, Midwife or Health Visitor.

Evidence of appointments may be requested, and it is advisable to give your manager as much notice as possible of your appointments.

Agreed time off to attend ante-natal appointments will be on full pay and you will not be required to make up the time when you are not at work.

Partners of pregnant women are also entitled to unpaid time off to attend up to two ante-natal appointments.

7. Risk Assessment

The [organisation] recognises the importance of protecting pregnant and breastfeeding employees and their children from avoidable risk. Your manager should arrange to carry out a risk assessment of your working environment and normal work activities, as soon as you advise her/him that you are pregnant.

If, following assessment, you are unable to carry out your usual duties due to possible risks to you or your baby, adjustments will be made to remove any hazard during the period of pregnancy/whilst you are breastfeeding. Where this is not possible, e.g. for operational reasons, the [organisation] will seek - with Occupational Health advice, where appropriate - to provide alternative work for you, with no loss of pay. Where this is not reasonably practicable, paid leave will be given, until the risks to you or your baby’s health has passed or until suitable alternative work becomes available.

If you have any concerns about your own health and safety at any time, you should let your line manager know immediately

8. Annual Leave

You will continue to accrue annual leave for the entire period of your maternity leave (paid and unpaid), in accordance with your annual leave entitlement as set out in your contract of employment. Accrual of bank holidays during your maternity leave is dependent on the terms of your contract of employment. Wherever possible, and in agreement with your manager, the annual leave which you accrue up to the start of your maternity leave should be taken before the start of your maternity leave.

At the end of your maternity leave, you will need to agree with your manager how you will take the annual leave you have accrued.

Normally this is done by using all the accrued annual leave immediately following the end of your maternity leave – prior to physically returning to work. If you would like to do this, you will need to give your manager 8 weeks’ notice and agree with him/her the annual leave which you will take.

Exceptionally, it may be preferable to use the accrued annual leave to temporarily reduce your working hours until the accrued leave is exhausted (e.g. be paid for 35 hours per week, but use 2 days’ accrued annual leave per week so that you actually work 21 hours a week until the accrued annual leave has all been taken). If you would like to do this you will need to discuss this fully with your manager, giving 8 weeks’ notice. Your manager will then consider whether this is possible, within the needs of the service.

All accrued annual leave should be taken before any agreed reduction in contractual hours arrangement starts, in order to enable you to return to work within a reasonable time frame.

If you do agree with your manager that you will reduce your hours, your future annual leave entitlement will be pro-rated to reflect the new working hours.

9. Keeping in Touch days

In agreement with your manager, you may choose to undertake up to 10 days’ paid work during your maternity leave without bringing your maternity leave to an end. These are known as Keeping in Touch (KIT) days.

KIT days can be used for any work, including training, attending a conference, committee or a team meeting or any activity undertaken for the purposes of keeping in touch with your workplace. They can be undertaken at any stage during maternity leave apart from the first two weeks after the birth. KIT days do not extend the statutory maternity leave period.

If you work a KIT day during your maternity leave then you will be paid at your normal hourly rate for the number of hours which you work on that day.

If you work for less than a full day, this will count as one KIT day for the purposes of the 10 maximum, although payment will only be made for actual hours worked.

KIT days are completely optional and will only take place if both you and your manager agree that they should. You will not be penalised if you do not want to work KIT days and, equally, you do not have a right to work a KIT day if your manager does not agree.

10. Return to work

If you choose to return to work at the end of OML (i.e. after 26 weeks) then you have the right to return to the same post. If you also take AML (i.e. if your maternity leave exceeds 26 weeks) then you will normally return to the same post. However, if this is not possible then you are entitled to return to a post on the same, or no less favourable, terms and conditions than those which you enjoyed before your maternity leave.

10.1 Frequently asked questions about return to work

10.1.1 What if I want to work different hours when I return?

If you want to return to different hours – for example, if you wish to reduce your working hours or work a different pattern of hours – then you will need to discuss this with your manager at the earliest opportunity and at least 8 weeks before your return date.

You may then apply to work flexibly (including a request to work part-time) under the Flexible Working Policy by submitting a flexible working request form (provided you have 26 weeks’ service at the date of the application). There is no automatic right to return to work on different/flexible hours but we will give fair and thorough consideration to any request to vary your work pattern.

10.1.2 Can I return to work earlier than my original maternity end date?

If you decide that you want to return to work earlier than the end of your full, agreed, maternity period then you will need to give your manager at least 8 weeks’ notice, in writing, of your intended date of return. If you do not do this then we may need to postpone your return for up to 8 weeks or until your maternity leave entitlement has been exhausted.

10.1.3 What if I decide not to come back to work?

If you decide that you don’t want to return to work at the end of your maternity leave, you will need to give us notice, as per your contract, before the end of your maternity period. If you don’t specify a resignation date, then your resignation will be effective from the date of the end of your paid maternity leave period.

10.1.4 What if a redundancy situation arises when I’m on maternity leave?

If a redundancy situation, which could affect your post, arises whilst you are on maternity leave you will be consulted about the redundancy and the continuation of your employment. You will be given priority in respect of suitable alternative employment opportunities.

10.1.5 What if I’m ill on the date I’m supposed to return from maternity leave?

If you are unable to return at the end of your maternity leave, due to illness, then you should report your sickness to your manager and submit a medical fit note in the usual way. You will then transfer from maternity leave to sickness absence. Your sickness absence will then be managed in the normal way.

11. Fixed-term contracts

If you are on a fixed-term contract which expires after the 15th week before the EWC, then you will qualify for statutory maternity leave and pay in the same way as a permanent employee. Your contract will continue during your maternity leave until the date on which the fixed-term contract expires. Statutory maternity **leave** will come to an end on the expiry of a fixed-term contract, but the right to statutory maternity **pay** (if you are eligible for it) continues and therefore you will remain on the [organisation’s] payroll for the remainder of the pay period for pay purposes only.

12. Childcare Vouchers/other Salary Sacrifice Schemes [Include only if this is appropriate and available – otherwise delete this section]

The [organisation] operates a Childcare Voucher Scheme through the provider [Insert name of scheme provider] This is a salary sacrifice scheme, i.e. a proportion of salary can be sacrificed in return for childcare vouchers. The vouchers are exempt from National Insurance contributions.

If you already participate in the Childcare Voucher and/or any other Salary Sacrifice Schemes (insert as appropriate e.g. season tickets, bike2work scheme) delivered by the [organisation] , you will need to decide whether to temporarily suspend or opt out of the scheme prior to and during the 8 week period used to calculate your average pay for maternity pay purposes. As previously detailed, this 8 week period is up to and including the last payday before the end of your qualifying week.

Continuation in a Salary Sacrifice scheme during this period will result in reduced OMP and SMP – because it reduces your overall average weekly pay. If continuing in any salary sacrifice scheme would reduce your average weekly pay below the threshold to qualify for SMP then this could also affect your entitlement to SMP. Therefore it is **essential** that you communicate your decision about whether to continue in a scheme to the relevant Salary Sacrifice scheme administrator (e.g.insert name of scheme provider), and to your manager, prior to the 8 week pay reference period so as not to unintentionally affect your maternity pay entitlement.

Neither SMP nor Maternity Allowance can be sacrificed. SMP and Maternity Allowance must be received in full. During maternity leave, any existing membership of the Childcare Voucher salary sacrifice scheme will cease and you will need to formally agree to suspend your membership of the salary sacrifice scheme during your maternity leave.

You may, if you wish, continue to pay for Childcare Vouchers during the Occupational Maternity Pay Period– if you are eligible for this, but would need to suspend your membership, as soon as the OMP period ceased. (delete this section if the organisation does not pay OMP)

Advice can be sought from insert name and contact details of the scheme provider

If you wish to join or re-join the Childcare Voucher Scheme at the end of your maternity leave you will need to contact [insert name of scheme provider] to discuss this and also advise your manager, at least 8 weeks before your return to work.

13. Pension Contributions [Include where appropriate]

Maternity leave is treated as pensionable service and the [organisation] will continue to make XX% contributions on your behalf into the pension scheme based on your usual salary. The [organisation] will continue to take your employee contribution rate of XX%, based on your usual salary, from your maternity pay, during the paid part of your maternity leave unless otherwise instructed by you.