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## **MATERNITY POLICY & PROCEDURE**

### **1. Introduction**

This document sets out the policy and procedures to be applied to maternity leave and pay.

### **2. Scope**

This policy sets out the rights and responsibilities of all employees, whether full time or part-time, who are expecting children, and the help and support York St John University will provide, taking into account the University's legal obligations around pregnancy and maternity.

Pregnant employees who are expecting their babies (providing certain conditions are met) will be entitled to bring their maternity leave to an end early and convert the remaining balance into Shared Parental Leave (SPL). Please see the Shared Parental Leave Policy for further information.

### **3. Process**

As soon as you know you are pregnant, you should tell your manager. This is in your own interests and ensures that we can take any necessary steps to look after your health and safety and that of your baby.

Early notice of your expected week of childbirth (EWC) also allows a member of the Human Resources (HR) team to let you know what your rights will be to maternity leave and pay.

You will be required to obtain evidence of your EWC from a registered medical practitioner as soon as possible and provide this to a member of the HR team. This evidence is called a MATB1 and will be given to you when you are about 26 weeks pregnant.

The University will undertake a Risk Assessment as soon as we know that you are pregnant (See Section 11 below).

### **4. Maternity related rights**

Once you are pregnant, depending on how long you have worked at York St John, you have certain rights under the law. These rights are:

- Time off for ante-natal care (see section 5)
- Maternity leave and the right to return to work (see section 6)
- Maternity pay, subject to satisfying certain conditions (see section 7)
- Occupational Maternity Pay (see section 7.2)
- Protection against unfair treatment or dismissal (see section 9)

## 5. Time off for Ante-Natal Care

If you are pregnant you are entitled to paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor, irrespective of your length of service or the hours you work. Such time off will be on full pay and you will not be required to make up the hours lost.

You should give your manager as much notice as possible of your appointment and be prepared to show your manager your appointment card from the hospital or clinic.

## 6. MATERNITY LEAVE

### 6.1 *Maternity Leave*

As a pregnant employee, you are entitled to take up to 52 weeks' maternity leave and then return to work at the end of this period. This applies regardless of your length of service or the number of hours you work.

The 52 weeks are made up of 26 weeks' Ordinary Maternity Leave (OML) plus 26 weeks' Additional Maternity Leave (AML).

During this period, the University will maintain your contractual rights, provided you meet the qualifying requirements, except for pay. You will receive either Statutory Maternity Pay (SMP) and/or Occupational Maternity Pay (OMP).

In order to qualify for Maternity Leave, you must provide us with written notice that you are pregnant. You must also confirm the date on which you would like to begin your maternity leave. This notification must be provided by the time you are 25 weeks' pregnant and should be followed by Certificate MATB1, which will confirm the expected week of childbirth. This certificate will usually be given to you when you are about 26 weeks' pregnant.

We will write to you within 28 days of receiving your MATB1 to let you know the date on which your Maternity Leave period will end and when you will be expected to return to work.

### 6.2 *Commencing Maternity Leave*

You can choose when to commence your maternity leave, provided it does not begin earlier than 11 weeks before your EWC.

You may continue to work up to the date of childbirth provided that this does not contravene health and safety regulations.

Your Statutory Maternity Pay (SMP) will not commence until you start your maternity leave.

If you are off sick due to a pregnancy related illness at any time after the beginning of the 4<sup>th</sup> week before your EWC the maternity leave period begins automatically on the first day you are unable to attend work.

### 6.3 *Compulsory Maternity Leave*

The compulsory maternity leave provision requires that you may not work for 2 weeks immediately after childbirth.

### 6.4 *Changing the date of the start of your maternity leave*

If you need to change the starting date of your maternity leave after you have already notified us you should do so at least:

- 28 days before the original date provided, or
- 28 days before the new date,

whichever is the earlier.

We will notify you of the revised dates on which your maternity leave period ends, within 28 days or receipt.

### 6.5 *Your contract during Maternity Leave*

During the periods of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) your contract of employment continues unless expressly ended or your contract expires. You are entitled to the benefit of (and also bound by the obligations of) your terms and conditions of employment with the exception of remuneration.

You will receive either Statutory Maternity Pay (SMP) or Occupational Maternity Pay (OMP) instead of pay, provided that you meet the qualifying requirements as set out in Section 7. Please see section 6.8 for details of your pension entitlements during maternity leave.

You will continue to accrue contractual holiday entitlement during your maternity leave. Standard procedures apply with regard to taking annual leave entitlement. The effect of this is that five days may be carried over beyond 30 September with line manager's approval, to be taken by mid-January. Any outstanding annual leave in excess of this will be lost, unless the business needs of your department have prevented you from taking it. This will need to be determined by your line manager.

### 6.6 *Working during your maternity leave*

You can work during your maternity leave by using a "keeping-in-touch" (KIT) day without it having any effect on your maternity leave and pay.

You can work for up to 10 KIT days during your maternity leave provided they don't take place until at least 2 weeks after the birth of your child. The days and work you will undertake should be agreed in advance with your line manager and can include

undertaking training or other activities that will keep you in touch with the workplace.

Any amount of work done on a KIT day counts as one KIT day. For example if you were to attend work for a one hour training session and do no other work that day you will have used up one of your KIT days.

Payment for working on a KIT day will be calculated according to your standard daily pay rate inclusive of any SMP. It is your manager's responsibility to inform payroll of any KIT days worked.

Regardless of whether you work KIT days, the total duration of your maternity leave period remains at 52 weeks.

### *6.7 Returning from maternity leave*

If returning from OML you will have the right to return to the same job in which you were employed before absence, with the same terms and conditions. If returning from AML, you will have the right to return to a job with no less favourable terms and conditions if it is genuinely not reasonably practicable for you to return to your former job.

If you wish to return to work before the given end of your maternity leave period you must give the University at least 8 weeks' notice before your return date.

### *6.8 Pension during your Maternity Leave*

#### Local Government Pension Scheme

If you are a member of the Local Government Pension Scheme, pension contributions will be collected from your pay during the period of paid maternity leave. Employee contributions will be based on the actual pay received and employer contributions will be based on normal pensionable pay. Service will count in full during any period that contributions are being paid.

YSJ will only pay employer contributions where the employee pays their employee contributions.

You may also opt to make an Additional Pension Contribution (APC) to cover any lost pension during a period of unpaid maternity leave. This will be a Shared Cost Additional Pension Contribution (SCAPC) if you opt to do this within 30 days of returning to work. This means that YSJ will share the cost of buying this lost pension. You have the option to pay additional contributions in a one-off lump sum or through regular payments in your wages.

Further information is available on the LGPS website [www.lgps2014.org](http://www.lgps2014.org).

#### Teachers' Pension Scheme

If you are a member of the Teachers' Pension Scheme contributions will continue to be collected from your pay during the paid period of maternity leave.

If you are not receiving any pay, this period of employment will be classed as days excluded, however, you can make up any shortfall in service by purchasing additional pension in multiples of £250 of annual pension. Information is available on the Teachers' Pension website at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

## **7. MATERNITY PAY**

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

You will be eligible for Statutory Maternity Pay (SMP) if you have at least 26 weeks continuous service by the end of the 15<sup>th</sup> week before your EWC, and your average weekly earnings (over a period of 8 weeks which includes the qualifying week) are at least the lower earnings limit for payment of Class 1 NI contributions.

SMP is payable for a period of up to 39 weeks. The first 6 weeks' are 90% of your average earnings and the remaining 33 weeks are paid at the standard rate of SMP applicable at the time.

The SMP rate is fixed by law and is subject to deductions of Tax and NI. Please refer to <https://www.gov.uk/maternity-pay-leave/pay> for more information and for up to date SMP rates.

### *7.2 Occupational Maternity Pay (OMP)*

You will be eligible for OMP if you have at least 26 weeks' continuous service by the end of the 15<sup>th</sup> week before your EWC.

If you qualify for OMP you will still receive payment for 39 weeks but this is made up of full pay, including SMP, for the first 6 weeks and half pay<sup>1</sup> plus the amount of SMP for a further 20 weeks. The remaining 13 weeks is paid at the rate of SMP.

OMP is paid in addition to SMP provided that the payments when combined don't exceed your normal contractual weekly pay.

You don't have to take OMP but if you do you must return to work for a period of at least 3 months after your maternity leave. If you do not return for 3 months you will be required to refund your Occupational Maternity Pay.

### *7.3 Maternity Allowance*

If you do not qualify for SMP you will be provided with a form SMP1 which explains why you don't qualify. Maternity Allowance (MA) is paid for a maximum continuous period of 39 weeks.

You must send the SMP1 form to the local Social Security Office with a completed MA form which they will provide.

### *7.4 Salary sacrifice scheme*

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<sup>1</sup> Your contractual pay at the time you start your maternity leave

If, whilst you are on maternity leave, you already have a salary sacrifice arrangement in place your SMP will be calculated using the lower pay level that applies under the salary sacrifice scheme. Occupational Maternity Pay will be calculated using the higher level pay.

## **8. Contact during Maternity Leave**

The University is entitled to make reasonable contact with you during your maternity leave. This contact can be to:

- discuss whether or not your planned date of return to work has changed, or is likely to change
- discuss any flexible working arrangements that would make your return to work easier.

You are entitled to make reasonable contact with the University during your maternity leave.

## **9. Protection against unfair treatment or dismissal**

You have the right not to be dismissed or discriminated against for any reason connected with your pregnancy or maternity leave. This protection applies regardless of your length of service.

## **10. Suspension on full pay**

If, following assessment of your condition and the work you are normally expected to do, the University concludes that you are unable to carry out your usual work; we will try and make amendments to the work or your working conditions. If this is not possible and no suitable alternative work can be identified you will be suspended from work on full pay until the risk to your baby's health has passed or until suitable alternative work becomes available.

This provision does not apply if your GP has signed you off sick but only when you are fit and able to attend work but are unable to carry out particular duties of your job.

If you are suspended in these circumstances you will still retain your entitlement to Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) and your right to return to work after your maternity leave.

## **11. Risk Assessment**

On being notified that you are pregnant your manager will undertake a Risk Assessment in line with the University's policy and procedure.

If you have any particular concerns relating to your health and safety at work anytime before, during or following your pregnancy, you should ensure that you

report these immediately to your line manager, so that appropriate action can be taken.

Where required a referral to our Occupational Health provider will be arranged to provide further advice and guidance on any particular areas of concern, in order to help inform the risk assessment process.

Please refer to the University's policy 'New and Expectant Mothers at Work: Risk Assessment Guidance for Managers' for further details about this process. More information regarding Health and Safety legislation for new and expectant mothers can also be found at <http://www.hse.gov.uk/mothers/> or download the leaflet 'New and expectant mothers who work' at <http://www.hse.gov.uk/pubns/indg373.pdf>.

## **12. General Advice**

You are strongly encouraged to use your right to return to work.

If you resign instead of taking maternity leave you forfeit your right to return to work at a later date.

All periods of maternity leave are counted as continuous service for the purposes of calculating any service related to statutory rights (e.g. redundancy payments) and, once you return to work, your length of service is calculated as if you had not been absent.

If you have any queries regarding your rights under this policy you should raise them firstly with your manager or with a member of the HR team.

## APPENDIX 1: Terms used in the Maternity Policy

Ordinary Maternity Leave	OML	The first 26 weeks of your maternity leave. All pregnant employees are entitled to this regardless of your length of service and hours of work.
Additional Maternity Leave	AML	The second 26 weeks of your maternity leave. All pregnant employees are entitled to this regardless of your length of service and hours of work.
Statutory Maternity Pay	SMP	SMP is paid to all pregnant employees provided your weekly earnings in the 8 weeks before and including your qualifying week of at least the lower earnings limit for Class 1 NI contributions. This is paid for a total of 39 weeks
Occupational Maternity Pay	OMP	If you have at least 26 weeks' continuous service by the 15 <sup>th</sup> week before your expected week of confinement you are entitled to OMP of 6 weeks full pay and 20 weeks half pay (+SMP providing this does not exceed your normal full pay) and 13 weeks at the rate of SMP.
Maternity Allowance	MA	If you are not eligible for SMP this is the allowance paid to you by the Job centre Plus Office.
Expected week of Childbirth	EWC	This is the week in which you are due to give birth to your baby.
MATB 1 Certificate	MATB1	This is the certificate which confirms your EWC and is provided to you by your medical practitioner when you are about 26 weeks pregnant.
Keeping in touch days	KIT	These are days when, during your maternity leave you can work. They must not exceed 10 days and cannot commence until 2 weeks after childbirth. They do not affect your maternity leave or pay.
Qualifying week	QW	This is the 15 <sup>th</sup> week before the week your baby is due.