

C25 Maternity Policy

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1. Introduction

- 1.1 The Trust is committed to providing a positive work environment where employees are able to balance their work and personal lives including parental responsibilities.
- 1.2 The Trust wholeheartedly believes in equality of opportunity for all employees and is committed to eliminating discrimination of any kind, including that arising from pregnancy and maternity.
- 1.3 This policy reflects the above commitments as well as statutory rights and responsibilities.
- 1.4 This policy applies to all staff. Eligibility for entitlements is stated where applicable.

2. Responsibilities

- 2.1 Employees and Managers are responsible for fully cooperating with this policy. They must ensure they provide information and/or documentation regarding their pregnancy and maternity as required.
- 2.2 Employees and Managers are also responsible for responding to maternity related matters without undue delay and in accordance with the principles of this policy.
- 2.3 Human Resources are responsible for developing, reviewing and overseeing maternity provisions and procedures. They are also responsible for advising both employees and managers of requirements in accordance with this policy.

3. Principles

- 3.1 The Trust understands that pregnancy is an exciting time for expectant mothers. However, it is also recognised that maternity leave and pay provisions can be complex and may cause anxiety. The Trust encourages employees to engage in early discussion with their manager and/or HR to allow uncertainties to be addressed at the earliest possible opportunity.
- 3.2 The Trust has a legal duty to assess all workplace risks to the health and safety of new and expectant mothers. A risk assessment will be carried out upon the Trust becoming aware of pregnancy. A risk assessment will also be carried out for mothers who are breast feeding when they return to work; it is the responsibility of the employee to declare this information to the HR department prior to their return.
- 3.3 An employee who is absence from work due to sickness will receive normal contractual sick pay entitlement. Pregnancy related sickness absence will be recorded separately to other categories of sickness absence and will not be a factor referred to in formal procedures including but exclusively capability, restructure or redundancy.
- 3.4 The Trust will maintain a reasonable level of contact with an employee during their period of maternity leave regarding key information and updates. Managers and employees should agree the level and reasons for contact before the maternity leave commences.
- 3.5 Employment rights are protected whilst an employee is on maternity leave. Their contract and continuity of service will not be affected by maternity leave whether paid or unpaid.
- 3.6 Employees will accrue their full contractual leave entitlement during the period of their absence. This should be taken before or after the maternity leave period where possible. In some instances, it may be necessary to financially reimburse accrued annual leave, for example in the case of term-time workers.
- 3.7 Any salary amendments arising due to pay awards and increment dates will be applied at the contractual date and will take effect from the date the employee returns to work.
- 3.8 An employee who normally pays pension contributions is required to continue to do so whilst they are in receipt of maternity pay, regardless of whether they intend to return to work or not.
- 3.9 An employee returning to work from ordinary maternity leave is entitled to return to the same job that they occupied prior to commencing the period of leave with the same terms and conditions.
- 3.10 An employee returning from additional maternity leave is also entitled to return to the same job that they occupied prior to commencing the period of leave with the same terms and conditions. However, if it is not reasonably practicable for the Trust to allow the employee to return to the same job, the employee may be offered suitable alternative work on terms and conditions that are no less favorable.
- 3.11 A fixed term contract may end during the maternity leave if there is a fair and justifiable reason for non-renewal. In these circumstances the statutory maternity leave will end on the expiry date of the fixed term contract. The right to statutory maternity pay will continue if the employee already qualifies for it.
- 3.12 The same redundancy rights apply to all employees including the requirement to consult. Those on maternity leave have the right to be offered any suitable alternative job if they're selected for redundancy ahead of colleagues, regardless of whether they are the most suitable person for the role.
- 3.13 Employees are eligible to apply for vacant posts whilst they are on maternity leave regardless of their intended return to work date. Details of vacancies can be found on the Trusts website.

- 3.14 An eligible employee may wish to transfer their maternity leave to parental leave. This enables the balance of leave and pay to be shared with their partner, or to return to work early from maternity leave and opt into shared parental leave and pay at a later date (see Shared Parental Policy).
- 3.15 Employees returning from maternity leave may want to amend their working arrangements. Whilst there is no automatic right to agree amendments to working hours or pattern, the Trust encourages all cases to be considered and approved where this is viable. Where this cannot be informally agreed, employees are able to exercise their right to submit a statutory flexible working request (see Flexible Working Policy).
- 3.16 If the employee decides to resign prior to maternity leave, they are required to give notice in accordance with their employment contract. If their job ends after the 15th weeks before the expected week of childbirth they will continue to be entitled to statutory maternity pay subject to qualifying criteria (see 7.2), however they will not be entitled to occupational maternity pay. If the role ends prior to the 15th week of expected childbirth, neither of these entitlements apply.
- 3.17 Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the maternity leave period.
- 3.18 If the employee decides during maternity leave that they do not wish to return to work, they should give written notice of their resignation to the Trust as soon as possible and in accordance with the terms of their contract of employment.
- 3.19 In the unfortunate event of a miscarriage occurring in the first 24 weeks of pregnancy, the employee is not entitled to maternity leave and pay.
- 3.20 If an employee gives birth to a stillborn child after 24 weeks of pregnancy, or their baby dies at or shortly after birth, maternity leave and pay are unaffected.
- 3.21 The HR department will use, retain and dispose of confidential records of maternity related matters in accordance with the requirements of GDPR.

4. Notification of Pregnancy

- 4.1 Employees are encouraged to inform their manager that they are pregnant as early as possible to enable supportive measures to be taken. As a minimum, this should be no later than the 15th week before the expected week of childbirth where this is known.
- 4.2 The employee should complete a Maternity/Adoption Application Form and submit it to the HR department in accordance with the above timescale. This will contain the following information:
- Expected date of childbirth
 - The date that the employee intends to start maternity leave
 - The expected duration of maternity leave

The application form should be accompanied by a MATB1. This is a medical certificate available from a doctor or midwife that confirms the expected week of childbirth.

- 4.3 The Trust will formally respond to the employee's notification of their maternity plans within 28 days.
- 4.4 The employee is permitted to bring their maternity leave start date forward conditional to this being no earlier than the 11th week before the expected week of childbirth. They will be required to provide 28 days' notice of this where practicable.
- 4.5 Employees may postpone their maternity leave start date by giving 28 days' notice.
- 4.6 If an employee decides to change their return to work date to that initially intended, they are able to do so by providing 8 weeks' notice prior to the earlier of their new or intended return date.

5 Antenatal Appointments

- 5.1 Pregnant employees are entitled to reasonable paid time off for antenatal care. This includes appointments as recommended by a doctor or midwife.
- 5.2 Employees are required to provide evidence of the appointment to their manager upon request.

6. Maternity Leave

- 6.1 All pregnant employees are entitled to take up to 26 weeks' ordinary maternity leave (OML) and up to 26 weeks' additional maternity leave (AML), making a total of 52 weeks. Employees are legally required to take a minimum of two weeks maternity leave immediately following the birth of their child.
- 6.2 OML can commence 11 weeks before the expected week of childbirth unless the baby is born early. OML will start on whichever date is the earlier of:
- the employee's chosen start date
 - the day after the employee gives birth
 - the day after an employee takes time off for a pregnancy related illness if it occurs within 4 weeks of the baby's due date.
- 6.3 Additional Maternity Leave (AML) will commence immediately following OML.

7. Statutory Maternity Pay

- 7.1 Statutory Maternity Pay (SMP) is a payment made by an employer on behalf of the Department for Work and Pensions to eligible employees during their maternity leave.
- 7.2 To qualify for SMP, an employee must have:
- worked for the Trust for at least 26 weeks continuously into the 15th week before the expected week of childbirth
 - average earnings of equal or above the National Insurance lower earnings limit (*£118 per week as at April 2019*). Average weekly earnings are calculated on the total gross payments made to the employee during the 8 weeks up to and including the 15th week before the expected week of childbirth.
 - given the HR Department 28 days notice of their maternity start date
- 7.3 SMP is payable for up to 39 weeks at the following rates:
- 90% of average weekly earnings for the first 6 weeks
 - £148.68* or 90% of average weekly earnings (whichever is the lower) for the remaining 33 weeks

**amount payable as at April 2019. Current values are available here: <https://www.gov.uk/employers-maternity-pay-leave>.*

- 7.4 The above payments are subject to lawful PAYE deductions including tax, national insurance and pension contributions if applicable. Deductions arising from salary sacrifice arrangements cannot be applied to SMP, including but not exclusively court orders, child support agency payments, child care vouchers. Employees should contact the Payroll department to discuss their individual queries.
- 7.5 SMP can commence up to 11 weeks before the expected week of childbirth subject to this coinciding with maternity leave. SMP can start no later than the day after the baby is born.

7.6 There are situations in which the right to SMP will cease, including:

- The employee is taken into legal custody
- The employee starts work for another employer after childbirth
- The child is removed from the parent
- The employee returns to work
- The employee is in receipt of Statutory Sick Pay

It is the responsibility of the employee to inform the HR department where any of these situations occur.

7.7 If the employee is not eligible to receive SMP, the department confirm this in writing accompanied with the MATB1 form and an SMP1 form. This will advise the employee of the reason that SMP cannot be paid.

7.8 Employees who are not eligible for SMP may be able to claim Maternity Allowance. They will need to complete an MA1 form and apply to the Department for Work and Pensions. Full information is available at www.gov.uk.

8. Occupational Maternity Pay

8.1 Occupational maternity pay (OMP) is the enhanced element of maternity pay which employees may be entitled to if they have completed at least one year of continuous service with the Trust or other Local Authorities at the beginning of the 11th week before the expected week of childbirth.

8.2 OMP payments are different for Teaching and Support staff as derived from nationally agreed terms and conditions; specifically, the 'Burgundy Book' for teachers and 'Green Book' for support staff.

8.2.1 Teaching Staff entitlement is:

- 4 weeks at full pay, offset against SMP/Maternity Allowance
- 2 weeks at 90%, offset against SMP/Maternity Allowance
- 12 weeks at half pay OR 20 weeks at 3/10th of pay, plus SMP/maternity allowance up to the combined maximum of full pay.

8.2.2 Support Staff entitlement is:

- 6 weeks at 90%, offset against SMP/Maternity Allowance
- 20 weeks at half pay, plus SMP/maternity allowance up to the combined maximum of full pay.

8.3 In the cases of both teaching and support staff the initial 6 weeks OMP enhancement applied to all. The latter 12/20 weeks is subject to the employee returning to work for a period of 3/5 months respectively.

8.4 An employee who returns to work on reduced hours will be required to return for a longer period than detailed in 8.3. The extended period will reflect the proportional adjustment to their pre-maternity working hours.

8.5 An employee who doesn't return to work is obliged to repay the 12/20 weeks OMP at half pay. Similarly, if they return to work but do not remain employed for the required length of service post-maternity, they will be required to repay an apportioned amount of the 12/20 weeks OMP.

8.6 Employees who do not know whether they will be returning to work are encouraged to request that OMP is withheld to prevent a repayment situation. Should they later opt to return to work, the equivalent OMP may be paid when they reach qualifying service.

9. Keep in Touch Days

- 9.1 Employees may carry out up to 10 days' paid work during the period of maternity leave without affecting their maternity payments. These are referred to as Keeping in Touch (KIT) days. Working for part of a day will count as one whole day in terms of entitlement.
- 9.2 KIT days can be used for any work activity undertaken for the purpose of keeping the employee in touch with the workplace.
- 9.3 KIT days are subject to agreement with both the employee and manager based. Neither party can insist on these taking place without the others agreement.
- 9.4 If the employee completes KIT days, they will receive any maternity pay due plus payment for the hours worked.

10. Policy Status and Review

Written by	HR Manager		
Owner	HR Director		
Version	V2/2019	Status	Approved
Equality Impact Assessment	Initial Impact Assessment	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	Full Impact Assessment	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
JCC Consultation date	09/10/2018 – 31/10/2018		
Approval date	18/03/2019 – Updated revised statutory figures 27/11/2018 (Executive Team)		
Review date	01/04/2020		
Comments	This policy supersedes the separate maternity policies previously adopted in East and West Sussex.		

Appendix a: Maternity Entitlement Flowchart

