University of Worcester

Overview of Guide to Maternity Leave, Pay and Post Maternity Rights -–

Revised March 2011

This guide outlines Statutory and Occupational Maternity rights and responsibilities / procedures to follow for employees with an expected week of childbirth beginning on or after 3rd April 2011. In addition it also provides details of post maternity rights and useful sources of information.

The University recognizes that employees may have questions or concerns relating to their maternity rights. It is the University's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, when an employee becomes pregnant she is advised to organize a meeting with a Personnel Adviser to discuss the relevant procedures to ensure that they are followed correctly.

1. Health and Safety

On becoming pregnant, an employee **is strongly advised to** notify her line manager as soon as possible. This is important as there are health and safety considerations for the employee and her unborn child, and the University, in respect of the work she undertakes and the environment she works in.

The University's Health and Safety Co-ordinator will organize for a risk assessment to be carried out to assess workplace risks to employees who are pregnant, have recently given birth or are breast feeding.

If applicable the University will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that an employee would be exposed to health hazards in carrying out her normal job duties, the University will take such steps as are reasonably necessary to avoid those risks, such as altering an employee's working conditions. In some cases, this may mean offering an employee suitable alternative work (if available on terms and conditions that are not substantially less favourable.

If it is not possible for the University to alter an employee's working conditions to remove the risks to her health, and there is no suitable alternative work available to offer her on a temporary basis, the University may suspend her from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. An employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

2. Antenatal Care

An employee, regardless of her length of service with the University, has the right to reasonable paid time off, inclusive of travelling time, to attend for antenatal care made on the advice of a doctor, midwife or health visitor, e.g. medical examinations, relaxation and parent craft classes.

Except in the case of the first appointment, an employee should produce evidence of appointments, such as a medical certificate or appointment card, if requested to do so. An employee should endeavour to give her line manager as much notice as possible of antenatal appointments, and wherever possible, try to arrange them as near to the start or end of the working day as possible.

3. Maternity Leave

All pregnant employees, regardless of the number of hours they work or their length of service, are entitled to take:

- Up to 26 weeks' ordinary maternity leave, and
- Up to 26 weeks' additional maternity leave,

An employee is therefore entitled to a total of 52 weeks maternity leave.
Additional maternity leave follows on immediately from the end of the period of ordinary maternity leave.

During the period of ordinary maternity leave, an employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. In particular, any benefits in kind will continue: contractual annual leave entitlement will continue to accrue; and pension contributions will continue to be made provided the employee is receiving statutory maternity pay (SMP). Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave.

Salary, depending on eligibility will be replaced either by contractual maternity pay, Statutory Maternity Pay (SMP), or Maternity Allowance.

Employees are encouraged to take any outstanding annual leave due to them before the commencement of ordinary leave. If an employee wants to carry over accrued annual leave to the following year she must obtain her line manager's approval.

On resuming work after ordinary maternity leave, an employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent.

During the period of additional maternity leave an employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. Any benefits in kind will continue and contractual annual leave will continue to accrue.

Salary will be replaced by statutory maternity pay (SMP) for the first 13 weeks of additional maternity leave if the employee is eligible to receive it. The remaining 13 weeks of additional maternity leave are unpaid.

Pension contributions will continue to be made during the period when an employee is receiving SMP but not during any period of unpaid additional maternity leave. *Please refer to section 24 Pensions during maternity for further details.*

On resuming work after additional maternity leave, an employee again is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. **However**, if it is not reasonably practical for the University to allow an employee to return to the same job, the University may offer an employee suitable alternative work, on terms and conditions that are no less favourable than would have applied if she had not been absent.

4. Compulsory Maternity Leave

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of her child.

5. Notification of pregnancy

In order to be eligible to take maternity leave, an employee must notify her line manager (in writing) ***no later than the end of the 15th week before her expected week of childbirth, this is known as the qualifying week,*** that

- she is pregnant
- her expected week of childbirth, and
- the date on which she intends her maternity leave to start, and will

- provide a Certificate of Confinement form MAT B1 from her GP or midwife confirming her expected date of childbirth, when this is issued usually around the 28th week of pregnancy

6. Earliest Start Date of Maternity Leave

Ordinary maternity leave can start at any time ***after the beginning of the 11th week before an employee's expected week of childbirth*** (unless her child is born prematurely before that date, in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- An employee's chosen start date;
- The day after an employee gives birth; or
- The day after any day on which an employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth

If an employee gives birth before her maternity leave was due to start, she must notify the University in writing of the date of the birth as soon as reasonably practicable.

7. Change of maternity leave start date

An employee is permitted to bring forward or postpone her maternity leave start date, provided that she advises the University in writing at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.

8. Confirmation of maternity leave

Once an employee has provided proper notification (*see note 5 above, Notification of Pregnancy*) of her intention to take maternity leave the University will respond in writing within 28 days acknowledging her intentions and informing her of the date on which she must return to work after her maternity leave.

9. University Maternity Leave and Pay

University maternity leave and pay (for all categories of staff) is payable for any employee with more than 41 weeks service at the expected date of birth, and who give a commitment to return to work following maternity leave. The entitlement will be:

- 4 weeks at full pay; followed by
- 2 weeks at 90% of full pay; followed by
- 20 weeks at 50% of full pay plus Statutory Maternity Pay; followed by
- 13 weeks at Statutory Maternity Pay, followed by
- 13 weeks unpaid leave

However please note that if an employee fails to return to work for at least three months after the period of maternity leave, then she will have to repay the non statutory element of the maternity pay she has received.

10. Statutory Maternity Pay (SMP)

Statutory Maternity Pay is payable for up to 39 weeks, six weeks at the higher rate and up to 33 weeks at the standard rate, (current rates are available from the Payroll Officer) during maternity leave so long as an employee meets certain conditions:

- They have been continuously employed by the University for at least 26 weeks at the end of the qualifying week – this is the 15th week before expected week of birth – and she is still employed during that week
- Their average earnings in the 8 weeks prior to and including the qualifying week are not less than the lower earnings limit for NI contributions (details available from the Payroll Officer)
- They are still pregnant 11 weeks before the start of the expected week of childbirth (or they have already given birth)
- They provide a form MAT B1 stating their expected week of childbirth, and
- They give the University proper notification (*see note 5 above, Notification of Pregnancy*) of their pregnancy in accordance with the rules set out in this **Overview of /Guide to Maternity Leave, Pay and Post Maternity Rights.**

For the first six weeks, SMP is paid at the higher rate, which is equivalent to 90% of an employee's average weekly earnings calculated over the period of eight weeks up to and including the qualifying week. For the purpose of calculating average weekly earnings, shift allowances, overtime payments, bonuses and commission are all included.

The standard rate of SMP is paid for the remaining 33 weeks (or less if an employee returns to work sooner).This is paid at a rate set by the Government for the relevant tax year (current rates available from the Payroll Officer), or 90% of the employee's average weekly earnings calculated over the period of eight weeks up to and including the qualifying week if this is lower than the Government's set weekly rate.

If an employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether ordinary maternity leave or additional maternity leave), the higher standard rate of SMP will be recalculated to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that an employee's SMP will be recalculated and increased retrospectively or that she may qualify for SMP if she did not previously. An employee will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise.

Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance and pension deductions.

Statutory maternity pay is payable whether or not an employee intends to return to work after her maternity leave.

11. Maternity Allowance

Employees who are not entitled to SMP may be entitled to receive maternity allowance payable by the Government. Advice can be obtained from the Payroll Officer.

12. University Fixed Days and/or public holidays occurring during paid maternity leave

An employee will be given additional days of leave, pro rata if an employee is part time, for any University Fixed Days and/or public holidays that occur during either her ordinary or additional maternity leave. These days of leave will be added to an employee's annual leave for the year in which they return to work, and can be booked through the normal system of requesting leave with their line manager**.**

13. Keeping In Touch during maternity leave

The University is entitled to make reasonable contact with an employee on maternity leave to help them plan their return to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply update her on developments at work during her absence. The line manager and employee will agree the preferred method e.g. email, telephone, prior to the maternity leave commencing.

14. Optional Keeping In Touch Days (KIT Days)

Optional Keeping In Touch Days (KIT days) have recently been introduced which will enable an employee on maternity leave to come into work to keep in touch and/or undertake training for up to a maximum of 10 days during the maternity leave period without her losing the right to statutory maternity pay or bringing her maternity leave period to an end. An employee can work for one hour or a whole day on a KIT day. Any work carried out on a day shall constitute a day's work for these purposes. The University has no right to demand any KIT work is undertaken and an employee has no right to undertake any such work without her line manager's agreement. Keeping In Touch days can be taken at any time during maternity leave period, apart from during the 2 week compulsory maternity leave period.

Statutory maternity pay will continue to be paid during the week any keeping in touch work is carried out. Keeping in touch days will be paid at an employee's normal rate of pay, and if an employee is receiving SMP/University maternity pay, this will continue to be paid, but the amount will be counted towards the contractual pay. However if an employee is not carrying

out their normal duties for the keeping in touch work, then she will be paid at an amount to reflect the work she has done.

Any Keeping In Touch Days worked do not extend the period of maternity leave. Once the keeping in touch days have been used up, an employee will lose a week's SMP for any week in which she agrees to work for the University.

15. Returning to work

Whilst an employee is under no obligation to do so, it would assist the University if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.

16. Mentoring on return to work

There may be occasions when the University offers staff who has recently returned from long term absence or whose role is undergoing change the opportunity to have a mentor. The mentor is there to support them as they settle back into work and this includes staff returning from maternity, adoption or additional paternity leave. If this is something that is of interest to you, please discuss this with your line manager in the first instance.

17. Breastfeeding/bottle feeding on return to work

An employee who is planning to breastfeed/bottle feed their baby on return to work needs to let the University know, in writing, before they return, so that there is time to plan with them what support can be offered, e.g. an appropriate private space for them to use where they can feed their baby.

18. Returning to work earlier than expected

If an employee wishes to return to work earlier than the expected return date, she must give the University at ***least eight weeks/56 days notice*** of her date of early return, preferably in writing. If she fails to do so the University can postpone her return to ensure proper notice, so long as this doesn't delay return beyond original date.

19. Returning to work later than expected

An employee will be formally advised in writing by the University of the date on which she is expected to return to work. An employee is expected to return on this date or at the end of her additional maternity leave if this date is later and she gives at least 56 days notice of her intention, but she may not postpone her return beyond this date without the agreement of her line manager/head of department.

20. Transfer of maternity leave

If an employee proposes to return to work without using her full 52 week entitlement to maternity leave and by giving proper notification, she may be eligible to transfer up to 26 weeks of her outstanding maternity leave (and outstanding SMP) to her spouse, civil partner or partner, or the father of her child, to be taken as additional paternity leave (and additional statutory paternity pay) on her return to work.

The earliest that additional paternity leave may commence is 20 weeks after the date on which the employee's child is born and it must end no later than 12 months after the date of birth. The minimum period of additional paternity leave is two consecutive weeks and the maximum period is 26 weeks. Additional paternity leave has to be taken in complete weeks

Further details should be obtained from the employee's spouse's or partner's employer. If an employee does wish to transfer part of her maternity leave entitlement in this way, she will be required to submit a written and signed declaration form to her spouse's or partner's employer. A partner's employer may also make additional enquiries of the University to verify its employee's entitlement to additional paternity leave and pay. More detailed information relating to the transfer of maternity leave is set out in the Overview/Guide to Paternity Leave and Pay

.

21. Return to work delayed by sickness at the end of maternity leave

If an employee is unable to attend work at the end of her maternity leave period due to sickness or injury, the University's normal arrangements for sickness absence will apply, e.g. an employee should contact her line manager on the first day of absence. In any other case, late return without prior authorization will be treated as unauthorized absence.

22. Not returning to work/resignation

If an employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the University may require the employee to return to work for the remainder of the notice period

However please note that if an employee fails to return to work for at least three months after the period of maternity leave, then she will have to repay the non statutory element of the maternity pay she has received.

23. Increments, Pay Awards and Contribution Related Pay

Any Increments, Pay Awards or Performance Related Pay that become effective during an employee's maternity leave period will be actioned within the month they become effective, or if this is not practicable then as soon as reasonably possible.

24. Pension during maternity

Local Government Pension Scheme

An employee's pension contributions will continue to be made during her **paid** ordinary and additional maternity leave. However, during additional unpaid maternity leave pension contributions will be suspended. An employee will therefore have a break in pensionable service unless they elect to make additional equivalent payments to fill the gap. Local Government Pension Scheme will automatically contact an employee on their return to work to give them the opportunity to make additional pension payments. Employees are advised to contact Local Government Pension Scheme for further information.

Teachers Pensions

An employee's contributions will continue to be made during paid maternity leave. During any period of unpaid leave, including unpaid maternity leave, both the employee's and employer's contributions will stop, and on return to work an employee will have the option to buy in 'additional pension benefits' to cover this gap. Employees are advised to contact Teachers Pensions for further information.

25. Additional Rights following maternity leave

Right to request flexible working patterns

- An employee who is (or is the spouse, civil partner or live-in partner of) the parent, adoptive parent, guardian, special guardian or foster parent of a child under the age of 17 (or under the age of 18 if the child is disabled) has the legal right to submit a written application to his or her employer requesting a more flexible pattern of working hours,
- An employee who has caring responsibilities for an adult aged 18 or over who is the employee's spouse, civil partner or live-in partner, a relative, or someone living at the same address as the employee has the legal right to request flexible working.
- To qualify to apply for flexible working an employee must have been continuously employed by his or her employer for 26 or more weeks and have, or expect to have, responsibility for a child, or care for, or expect to care for, a person who is aged 18 or over.

Employers have a statutory duty to seriously consider an employee's application. It is important to note that any change agreed becomes a permanent change to an employee's contract, although parents have the right to make one request in each 12 month period.

Parental Leave, 13 weeks unpaid
The right to parental leave entitles all parents who have one year's service with their employer to take a period of:

- up to 13 weeks unpaid leave (in total, not per year) to care for each of their children, up to the child's fifth birthday, or up to five years after the placement date of an adopted child; or
- up to 18 weeks for each disabled child, (in total, not per year) up to the child's 18th birthday .
- Parental leave may be taken in blocks or multiples of one week only, subject to a maximum of four weeks' parental leave in any one year - unless the employee's child has been awarded disability living allowance, in which case the leave may be taken one day at a time or in blocks or multiples of one day.
- The right applies to mothers and fathers and to a person who has obtained formal parental responsibility for a child under the Children Act. Parents are able to start taking parental leave as soon as the child is born or placed for adoption, or as soon as they have completed the required one year's qualifying service with their employer, whichever is later.

Right to unpaid time off for Family Emergency – this right applies to all employees
In many cases an employee now has the right to take time off work to deal with an emergency involving someone who depends on them. A husband, wife or partner, child or parent, or someone living with them as part of their family can all be considered as depending on them. Others who rely solely on them for help in an emergency may also qualify. An employee can also take time off if a dependant dies and they need to make funeral arrangements or attend the funeral.

The amount of time an employee can take off is as long as it takes to deal with the immediate emergency. For example, if their child falls ill they can take enough time off to deal with its' initial needs, such as taking them to the doctor and arranging for their care. But an employee will need to make other arrangements if they want to stay off work longer to care for them themselves.

26. Childcare Vouchers – Salary Sacrifice

The University operates the childcare voucher scheme where any University of Worcester employee who is a parent of a child under 16 can apply for childcare vouchers up to the current value, as at April 08, £243 per month/£56 per week (for each parent) free from NI and income tax. An employee's gross salary is reduced by the value of the vouchers they choose to take and employees are required to sign up for a 12 month period, though an opt out is provided for life changing events that may occur. The scheme may also impact on the pension contributions an employee makes; guidance on this is available from the Payroll Officer

The vouchers can be used for any childcare service, provided they are officially registered. This includes the services provided at the University - the nursery and vacation schemes.

27. University Childcare Provision

The University has a fee-paying nursery which is available to all employees and students. The Nursery is located on the University St John's campus. It is self contained and has a large outdoor area. The Nursery is registered with Ofsted to provide day care for 36 children aged from 3 months to 5 years. It is open Monday – Friday, 8am – 6pm, 51 weeks of the year, excluding bank holidays and University fixed holidays. For further information an employee should contact the nursery on: 01905 855277 or email: unitots@worc.ac.uk

28. Childcare Salary Sacrifice

As the University operates a registered workplace nursery we are able to offer employees who use this facility the option for a free nursery place in return for taking a reduction in basic pay, usually equivalent to that of their nursery fees. The scheme works because under current legislation the provision of a free place at a qualifying workplace nursery does not give rise to a taxable benefit in kind – in effect the employee swaps taxable pay for a non-taxable benefit (the free nursery place) resulting in savings in tax and NI. The total tax and NI saving

is shared between the employee and the University to produce the mutual benefits under the scheme. Because the scheme depends on tax savings it is therefore only suitable for an employee if they pay tax on their University salary. The scheme may also impact on the pension contributions an employee makes; guidance on this is available from the Payroll Officer

29. University school vacation schemes –

The University runs a variety of supervised activities within the Sports Centre; employees can obtain details of these from the Sports Centre Manager.

30. Useful sources of information:

Benefits Agency – local Worcester office 01905 684600 Haswell House, Sansome Street Worcester WR1 1UZ

Department for Trade and Industry (DTI) www.direct.gov.uk site provides Tailored Interactive Guidance on all employment rights including maternity, paternity and adoption http://www.direct.gov.uk/en/Employment/index.htm

Family Information Service www.worcestershire.gov.uk/familyinfo - local information on support services for families, schools and learning; money matters; rights of working parents, and can be contacted on 01905 790560

Health and Safety Executive offer advice on maternity/pregnancy and health and safety 08701 545 500 (8am – 6pm) http://www.hse.gov.uk/

National Childbirth Trust a registered charity which offer advice on pregnancy and baby care, and can be contacted on: 0870 444 8709 http://www.nct.org.uk/home

Personnel Department – please contact one of the Personnel Advisers to discuss any queries or concerns you have**: 01905 85(5175) or** personnel@worc.ac.uk

The Advisory, Conciliation and Arbitration Service (Acas) offer free, confidential and impartial advice on employment rights issues. You can call the Acas helpline on 08457 47 47 47 from 8.00 am to 6.00 pm Monday to Friday. www.acas.org.uk

The Trade Union Council (TUC) publishes a series of free booklets explaining your rights at work, including maternity: www.tuc.org.uk

Working Families advice for parents, carers and employers on balancing work and family life 020 7253 7243 www.workingfamilies.org.uk