

HUMAN RESOURCES

MATERNITY AND ADOPTION LEAVE

POLICY AND PROCEDURE

LONDON
SCHOOL of
HYGIENE
& TROPICAL
MEDICINE



Equality and Diversity

This Policy will be applied in a non-discriminatory way, in line with the School's Equality and Diversity policies.

1. PREAMBLE

1.1 This procedure applies to all School employees regardless of source of funding. The procedure will operate concurrently with statutory provision for maternity pay and/or leave, its application is likely to vary according to individual circumstances. In view of the complexity of the arrangements, staff are recommended to contact Human Resources for advice, at an early stage.

1.2 Some requirements and benefits of the School's maternity leave and pay procedure vary from the statutory requirements and benefits of Statutory Maternity Pay (SMP). Care should be taken to distinguish between the respective requirements and benefits of the two schemes. Maternity leave with full pay mentioned in this agreement will include any relevant statutory maternity pay (SMP). SMP will be paid to those eligible for it in addition to half-pay. No combination of payments will exceed full pay.

2. DEFINITION OF TERMS

2.1 Childbirth

Childbirth is legally defined as the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy;

2.2 Expected week of childbirth (EWC)

The week, in which the baby is due, commencing on the Sunday of that week;

2.3 Qualifying week (QW)

The 15th week before the expected week of childbirth.

3. MATERNITY LEAVE

3.1 Employees are eligible to take up to 52 weeks' maternity leave. The first 26 weeks is known as 'Ordinary Maternity Leave' (OML) and the last 26 weeks is known as 'Additional Maternity leave' (AML).

3.2 Employees must take at least 2 weeks maternity leave after the birth of the child. This is a statutory requirement and is primarily a health and safety measure to prevent women returning to work too soon after childbirth.

4. STATUTORY MATERNITY PAY (SMP)

4.1 Statutory maternity pay (SMP) is payable during maternity leave for the first 39-weeks of which the first 6 weeks are paid at 90% of average weekly earnings followed by 33 weeks at the SMP rate (currently £148.68) or 90% of average weekly earnings (whichever is lower).

4.2 To qualify for statutory maternity pay, employees will need to meet the following conditions:

- To be an employee according to statutory definition. An “employee” is an individual with earnings that attract liability for employee’s primary Class 1 national insurance contributions (or that would if they were high enough)¹;
- Have at least 26 weeks’ continuous service with the School at the qualifying week;
- Earn at least the lower earnings limit for Class 1 National Insurance per week gross in an 8-week ‘relevant period’²; Provide the correct notice;
- Provide Mat B1 certificate.

4.3 If the employee chooses to return to work before SMP ends, payment of SMP will cease.

4.4 Employees who do not qualify for SMP are eligible to 52 weeks’ maternity leave however, this would be unpaid. Employees’ who do not qualify for SMP may qualify for Maternity Allowance.

5. OCCUPATIONAL MATERNITY PAY (OMP)

5.1 Employees who have at least 12 months’ or more continuous service before the EWC are entitled to Occupational Maternity Pay (OMP).

5.2 Occupational Maternity Pay is the equivalent of 18 weeks’ full pay. This can be paid in either of the following ways:

- 9 weeks’ full pay followed by 18 weeks’ half pay, **OR** 18 weeks’ full pay.

5.3 No other combinations of payment are permitted. The employee must notify Human Resources, in writing **before** the start of her maternity leave if she wishes to take her Occupational Maternity Pay as 18 weeks’ full pay. In the absence of such notification, Occupational Maternity Pay will be paid as 9 weeks’ full pay followed by 18 weeks’ half pay.

5.4 SMP is included within any weeks of full pay where employees qualify for both SMP and OMP. If the employee chooses 18 weeks’ full pay, the period of full pay will be followed by 21 weeks’ pay at the SMP rate currently in operation. If the employee chooses 9 weeks’ full pay and 18 weeks’ half pay, a rate equivalent to SMP (currently £148.68) will be paid in

¹ XpertHR “criteria for eligibility for statutory maternity pay”.

² The lower earnings limit for Class 1 National Insurance is set by the government, current rate details are provided on the following website: <https://www.gov.uk/employers-maternity-pay-leave/eligibility-and-proof-of-pregnancy>

addition to the half pay. This will be followed by a further 12 weeks' pay at the current statutory rate.

5.5 If the employee chooses not to return to work or not to continue for at least three months after the period of maternity leave, the School reserves the right to reclaim the whole or part of the non-statutory element of maternity pay.

6. DISTANCE LEARNING TUTORS

Distance Learning Tutors are entitled to maternity pay and leave based upon eligibility and length of service, and all entitlements will be on a pro rata basis. Entitlements to maternity payments are based on the average earnings over the last 12 months from the due date (provided on the Mat B1 certificate).

7. NOTIFICATION

7.1 Notification of pregnancy

7.1.1 An employee is required to notify Human Resources, by the end of the 15th week before the EWC (or, if that is not possible, as soon as is reasonably practicable) of their pregnancy and of their expected start date of maternity leave. Human Resources, will then arrange for a maternity meeting with the employee.

7.1.2 The employee must then return the completed Notification Form to Human Resources at HR@lshtm.ac.uk.

7.1.3 The MAT B1 certificate (which may be issued by a GP, midwife or consultant after 21 weeks) must be provided to Human Resources, as soon as it is available. This document enables the School to claim partial repayment of SMP from the government.

7.1.4 Within four weeks of the first notification of the pregnancy and following a maternity meeting, Human Resources will write to the employee to confirm the maximum amount of maternity leave and pay she is entitled to, and the date by which the employee is expected to return to work.

7.2 Notification of early return

An employee must give at least eight weeks' written notice if she intends to return to work earlier than the end of the OML or AML period (whichever is applicable). This notice may be given at any time, including before the commencement of maternity leave. If the employee subsequently changes her mind, she should give eight weeks' written notice of any such change. In all cases, if it is not possible to give eight weeks' notice, such notice must be given as soon as is reasonably practicable. Employees should notify line manager and Human Resources, in writing.

7.3 Breastfeeding

If an employee is planning to continue to breastfeed when they return to work, a risk assessment must be undertaken or arranged by the appropriate line manager. The purpose of the risk assessment is to identify risks to the employee as a breastfeeding mother or to her baby. If any risks are found, the School will do all that is reasonable to remove the risks or make alternative arrangements for the employee. Advise

can be sought from a School safety representative or the Faculty Safety Supervisor and the Head of Safety.

7.4 Return to part-time work

An employee has a right to request a return to work on a part-time basis, or with amended hours of work, after maternity leave. Refer to the School's Flexible Working Policy for more information.

8. COMMENCEMENT OF MATERNITY LEAVE

8.1 Start of maternity leave

Maternity leave and pay can commence from the start of the 11th week before the EWC.

8.2 Childbirth before the intended start date

If childbirth occurs before the employee intended her entitlement to start, the leave and pay will start automatically from the day after the date of childbirth.

8.3 Pregnancy related sickness

An employee who is absent from work due to a pregnancy-related reason after the beginning of the fourth week before the EWC automatically triggers her maternity leave and pay. In such cases, the maternity leave and pay will commence on the day after the first day of absence. Any other sickness absences shall be dealt with under the School's Sickness Absence Policy.

9. WELFARE

9.1 Antenatal care

Employees are entitled to take paid time off during working hours to attend ante-natal appointments and classes which are advised by the midwife or medical practitioner. The line manager can ask for evidence of appointments from the second appointment onwards.

9.2 Risk Assessment

The employee's line manager will arrange for a risk assessment to be carried out on a pregnant employee within 28 days of being informed of the pregnancy. If it is found that the employee is carrying out work that may endanger her pregnancy, arrangements will be made to protect both the mother and the unborn child. This may involve a School safety representative and or the Faculty Safety Supervisor, and the Dean of Faculty and or Head of Department/Service. In addition, the pregnant employee may be referred to occupational health if appropriate.

9.3 Staff paid from research grants/contracts

The Research Operations Office will provide every assistance where a member of staff is paid from research grants or contracts. An approach for maternity pay to the funding body should be made by the PI on the grant, in conjunction with the Research Operations Office. In any case where a funding body refuses to make provision for maternity pay, the School will meet the cost.

10. ADOPTION LEAVE

10.1 Entitlement and Eligibility

10.1.1 The primary adoptive parent and someone with whom she/he is adopting a child are both entitled to the same provision in terms of service requirements, pay, amount of leave, return to work etc. that they would have received under the School's maternity pay and leave procedures. Where both adoptive parents work for the School, only one parent can be granted adoption leave although consideration may be given for the entitlement to be shared.

10.1.2 A member of staff who has been approved by the Adoption Agency or Social Services Department as an adoptive parent qualifies for adoption leave, although this does not apply when an individual adopts their partner's natural child(ren).

10.1.3 Adoption Leave (AL) can start anytime from the date that the adopted child is placed, or up to fourteen days before the date of the placement.

10.1.4 Employees applying for adoption leave should:

- inform Human Resources, in writing;
- give as much notice as possible that they have been agreed as an adoptive parent, and
- provide a letter of confirmation from the Adoption Agency or Social Services Department.

10.2 Adoption Support Leave (ASL)

10.2.1 Employees may request up to five days' paid leave whilst they are proceeding through the adoption process. ASL is provided for such events as home visits, familiarisation visits and adoption worker visits. Evidence of these appointments will be required. Staff are advised to provide as much notice as possible of their intention to request ASL to allow for appropriate cover to be organised.

10.2.2 ASL will only be available where the child is newly placed for adoption, and so does not apply to those staff formally adopting a child of a partner or to adoptions by a child's existing foster carers. The entitlement is the same whether it is a single or a multiple adoption.

10.2.3 ASL should be agreed with the relevant line manager, and notified to the Human Resources Office.

10.3 Adoption Pay

Employees must meet the service requirement for SMP and OMP in order to receive Statutory Adoption Pay (SAP) and Occupational Adoption Pay (OAP). Adoption Pay commences simultaneously with the beginning of AL period.

11. RIGHTS DURING MATERNITY AND ADOPTION LEAVE

11.1 Continuity of Employment

Staff are entitled to return to work to the same job as prior to their absence. Where an employee exercises her right of return to work, the whole of her absence shall be regarded as part of her period of continuous employment with the School for the accrual of annual leave, entitlement to salary increments and entitlement to statutory rights.

11.2 Pension

11.2.1 Whilst on maternity/adoption leave you will still make payments to USS/SAUL based on the **actual** pay you receive. However, the pension you build up will be based on what you would normally receive should you not be on maternity/adoption leave and the School will pay contributions based on this too. The School will also pay the shortfall in your contributions resulting from the reduction in your pay.

11.2.2 At the end of the 39 weeks paid leave, you will stop paying contributions to USS/SAUL and your membership will be suspended.

11.2.3 If you are not entitled to any pay, the School will pay your full contributions, together with the normal employer contributions.

11.2.4 If you participate in the Flex Pension, please see the Flex Pension employee guide for details of the considerations in respect of maternity pay following your participation in the arrangement. You can find the guide on the following web page:
<http://www.lshtm.ac.uk/humanresources/pensions/index.html>

11.2.5 If you participate in the NHS Pensions scheme, your contributions will be based on the actual pay you receive and the School will pay contributions based on what you would normally receive should you not be on maternity/adoption leave.

11.2.6 Pension provisions for staff on maternity leave may be subject to changes set out by the relevant pension scheme.

11.3 Salary deductions

11.3.1 Where a member of staff has authorised salary deductions e.g. trade union membership, Give As You Earn or Childcare Vouchers, these payments will continue to be deducted during paid maternity leave, unless the Payroll Office is instructed otherwise.

11.3.2 In the event that you are in SMP only or no salary at all, the School is obliged to pay the value of your Childcare Vouchers you would normally receive.

11.4 Reasonable contact during maternity and adoption leave

Reasonable contact from time to time between an employer and an employee during maternity leave is permitted. This is intended to be a practical option where the parties may make contact, for example, to talk about return to work plans, or to update the employee about work developments. The purpose is to encourage communication and contact between the parties during the maternity leave period. Where possible, an employee should agree with her line manager what kind of contact will be made during the maternity leave **before** she begins her leave, for example on any changes happening at work, including job vacancies.

11.5 Keeping in Touch days (KITs)

11.5.1 As well as staying in contact with the School during maternity leave, if both the employee and their line manager agree, the employee can do up to 10 days' work during maternity leave. These are known as Keeping in Touch Days, or KITs. This provision does not apply during the two-week period commencing on and including the day on which childbirth occurs.

11.5.2 KITs are not limited to the employee's usual job - they could be used for training or other events. An employee may wish to use some KITs to ease the return to work. Employees cannot take KITs during the compulsory maternity leave period (see paragraph 3.2).

11.5.3 The employee and their line manager must both agree that the employee will work these days, and agree the arrangements, including what the employee will be doing. An employee cannot be required to take KITs; it is up to them to choose. Likewise, the School does not have to offer them to employees. The School cannot demand that an employee goes into work at any time during the maternity leave period, nor can an employee be penalised for refusing to take up a Keeping in Touch Day.

11.5.4 An employee will be entitled to one day off in lieu for each KIT. A KIT need not constitute a normal full day. If an employee works for one hour on a particular day for example, that will count as one whole KIT, and a day off in lieu will be allowed. All days off in lieu accumulated from KITs must be taken within 12 months from returning to work following the end of their maternity leave.

11.5.5 Employees must fill out the Keeping in Touch Day form each time they take a KIT day. This should be completed by both the employee and the line manager, and a copy returned to Human Resources via email hr@lshtm.ac.uk.

11.6 Annual Leave during maternity and adoption leave

Annual leave, bank holidays and School closure days will be accrued throughout the whole period of maternity leave. Any annual leave accrued during the current leave year may be used in lieu of any equivalent amount of unpaid maternity leave or taken in addition. Annual leave accrued whilst on maternity leave should be taken within 12 months from returning to work following the end of their maternity leave, any further carry-over of leave must be by agreement with the Dean of Faculty or Head of Department/Service.

12.7 End of Employment

12.7.1 Employees with open-ended contracts who decide not to return to work following a period of Maternity or Adoption Leave, should give their line manager notice of this intention in line with the notice period stipulated in their contract of employment. As detailed above under point 5.5, if the employee chooses not to return to work or not to continue for at least three months after the period of maternity leave, the School reserves the right to reclaim the whole or part of the non-statutory element of maternity pay.

12.7.2 Ending of employment in this manner is treated as a resignation. Arrangements will be made to ensure that the employee receive all relevant payment on termination of their employment.

12.7.3 Employees choosing not to return to work after a period of Maternity or Adoption leave will be paid any outstanding annual leave accrued whilst on maternity leave.

12.7.4 For employees whose contract ends during the period of Maternity or Adoption Leave e.g. end of fixed term contract, the School will pay the full occupational pay (OMP) entitlement due to the employee, this includes instances when the contract end date may precede the OMP date. If an employee is entitled to statutory pay, this will be paid until the end of the 39 week period plus any outstanding annual leave.

12.7.5 Employees whose fixed term contract ends during their maternity leave should contact their Faculty Operating Officer/line manager about the availability of funding (e.g.

Underwriting scheme or alternative Faculty funding) to enable a return to work following their maternity leave.

12.7.6 In the case of employees on fixed-term contracts funded by an external body, it will be the responsibility of Principal Investigator/Grant holder to inform the funders that maternity leave will be taken by the employee.

12.7.7 If the fixed term contract is due to end during the maternity leave, the business case for extending or terminating the contract will be considered under the Fixed Term Contract Policy and Procedure.

12.7.8 In the case that an extension to a fixed term contract is not granted, employment will end on the expiry date of the fixed term contract. However, LSHTM will continue to consider re-deployment opportunities for the employee until the end of statutory/occupational maternity payments. Consideration would be given to reinstate employment and maintaining continuity of service at the School provided that the individual had not taken up employment elsewhere. Where reinstatement is granted, individuals will be required to repay their redundancy payment to the School.

Accessibility

If you require any document in an alternative format, for example, in larger print, please contact the Human Resources Office.

Related Policies

Flexible Working Policy
Shared Parental Leave Policy
Paternity Leave Policy
Parental Leave Policy

Human Resources

April 2019