

OUR PEOPLE PRACTICES: FAMILY FRIENDLY/ MATERNITY LEAVE AND PAY: Policy and Procedure



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Updates:

- policy change: the University will not reclaim any maternity pay in the event that a member of staff does not return to work/leaves the University: sections 5.5.2.1, 5.5.2.2, 5.5.3
- new Parental Bereavement Leave and Pay policy: section 5.59 and added Special Leave Policy and Procedure as new associated practice: section 7.2
- new Premature Baby Leave and Pay policy: section 5.6
- information on parenting rooms section 5.9.7
- clarification on taking annual leave accrued during maternity leave: section 5.4.10
- applied gender neutral language throughout

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1. Introduction

- 1.1. This policy sets out the maternity provisions and rights for staff who are pregnant and following the birth of their child. This includes the responsibility of the University to staff, in accordance with these rights and provisions.
- 1.2. This document covers the requirements and benefits of both the statutory and contractual schemes. The University recognises that from time to time staff may have questions and concerns relating to their maternity rights and would encourage staff to contact a member of the HR Operational Services team (hropsteam@kent.ac.uk) to discuss individual circumstances.
- 1.3. All staff have the right not to be subjected to any detriment on the grounds of pregnancy, childbirth or maternity leave, irrespective of hours of work or length of service. Similarly, any staff sharing maternity leave provisions have the right not to be subjected to any detriment as a result of this.

2. Scope

- 2.1 This policy applies to all staff employed on UK employment contracts (including Hourly Paid Lecturers (HPL's)), regardless of their length of service and entitlement to statutory maternity benefits.
- 2.2 Timesheet staff will be entitled to statutory maternity leave and (if they meet the eligibility criteria) pay, but not contractual (enhanced) maternity pay.
- 2.3 Staff employed on non-UK employment contracts should refer to the legal provisions appropriate for that country.

3. Definitions

- 3.1 The following definitions are used in this policy:

EWC: Expected Week of Childbirth

MAT B1: Maternity Certificate which is issued by the doctor or midwife giving the date on which the baby is due

QW: Qualifying Week to receive SMP (26 weeks' service at the end of the 15th week before EWC)

SMP: **Statutory Maternity Pay**, paid according to statutory provisions, which guarantee the minimum rights and benefits required by law

CMP: **Contractual Maternity Pay**, paid according to the University's occupational scheme, which enhances the statutory provisions

Childbirth: The birth of a live child, or the birth of a still born child after the 24th week of pregnancy. There is no distinction between live and still births in the granting of maternity leave.

OML: **Ordinary Maternity leave**, the period of 26 weeks from the start of the maternity leave.

SPL: **Shared Parental Leave**, enables eligible parents to choose how to share the care of their child during the first year of birth or adoption (please refer to the Shared Parental Leave policy and procedure for more information).

- 3.2 Please note Statutory Maternity leave of 52 weeks is a right for all from the first day of employment.
- 3.3 Maternity pay is dependent on a member of staff's eligibility for Statutory Maternity Pay (SMP), Maternity Allowance (MA) or the University's enhanced pay called Contractual Maternity Pay (CMP).

4. Eligibility

- 4.1 To qualify for CMP staff must have been continuously employed in the University's service for a minimum period of 12 months before their EWC.
- 4.2 All other staff who have been continuously employed in the University's service for less than 12 months, but more than 26 weeks before the 15th week before their EWC (and have average weekly earnings at least equal to the lower earnings limit for National Insurance contributions) qualify for SMP and 52 weeks' maternity leave.
- 4.3 Staff who have been employed at the University for less than 26 weeks before the 15th week before their EWC do not meet the criteria for SMP, but may qualify for Maternity Allowance via the Department for Work and Pensions. The Pay Office can advise you of your eligibility in terms of qualifying for this allowance and how to obtain the SMP1 form to claim.
- 4.4 Staff who become pregnant again whilst on maternity leave will qualify for CMP during their second period of maternity leave but eligibility for SMP will be assessed using the QW and average weekly earnings.
- 4.5 Please note than an eligible mother can end their maternity leave early and, with their partner or the child's father, opt for shared parental leave (SPL) instead of maternity leave. If they both meet the qualifying requirements, they will need to decide how they want to divide their shared parental leave and pay entitlement.

5. Procedure

5.1 Notification of pregnancy

- 5.1.1 In accordance with statutory requirements, all staff seeking maternity leave must formally notify the University of the fact that they are pregnant, and produce medical evidence of the EWC, no later than the end of the 15th week before the EWC. Medical evidence will normally be in the form of a MATB1 (Maternity Certificate) available from the doctor or midwife.
- 5.1.2 Staff should also specify the date on which they intend to start their maternity leave and whether they wish to return to work with the University. This should be done via the Application form for Maternity Leave and Pay, available on the HR website.
- 5.1.3 The University has a duty to respond to the notification within 28 days of receiving notice of pregnancy and will do so by letter, confirming the start date

of the staff member's maternity leave, pay details, any annual leave to be taken, and their expected return date.

- 5.1.4 In order to assist the University to discharge its responsibilities towards the health and safety of the pregnant staff member and their unborn child, it is advisable that the staff member notifies their line manager as early as possible in the pregnancy.

5.2 **Ante-natal care**

- 5.2.1 Once they have informed the University about their pregnancy, all pregnant staff, irrespective of length of service, have a statutory right to reasonable time off work to keep appointments for ante-natal care prescribed by a doctor, midwife or health visitor. Evidence of appointments may be requested after the first appointment.
- 5.2.2 Expectant fathers/partners of pregnant women have the right to take paid time off to attend two ante-natal appointments with the expectant mother
- 5.2.3 Any subsequent requests to attend ante-natal appointments will be unpaid and at the discretion of the school/department.
- 5.2.4 For all other appointments, such as dental and non-pregnancy related medical appointments, staff are expected, where possible, to arrange appointments outside of normal working hours, and normal arrangements will apply.

5.3 **Health and safety**

- 5.3.1 This policy acknowledges the importance of protecting pregnant staff and new mothers from avoidable risk to them and their children. An expectant mother should advise both their line manager and Human Resources that they are pregnant as early as practicable.
- 5.3.2 The University is required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth, or are breastfeeding. Staff should complete an expectant mother risk assessment in conjunction with their line manager, as soon as they have notified the University that they are pregnant.
- 5.3.3 If the risk assessment reveals that the staff member would be exposed to health hazards in carrying out their normal duties, the University will take all reasonable steps to avoid those risks, such as altering their working conditions. In some cases, this may mean offering them suitable alternative work (if available) on the same terms and conditions.
- 5.3.4 If risks are identified and it is not possible for the University to alter the staff member's working conditions, and there is no suitable alternative work available to offer them on a temporary basis, the University may suspend them from work on maternity grounds until such time as there are no longer any risks to their health. This may be until the commencement of their maternity leave.
- 5.3.5 If a staff member is suspended in these circumstances, their employment will continue during the period of the suspension and it does not in any way affect their statutory or contractual employment and maternity rights. They will be entitled to their normal salary and contractual benefits during the period of

their suspension, unless they have unreasonably refused an offer of suitable alternative employment.

- 5.3.6 All staff who wish to continue working beyond the 4th week before their EWC are required to undertake another risk assessment with their line manager before this point. Staff are also advised to discuss their wish to continue working beyond this point with their midwife or GP for advice concerning whether it is safe to do so.
- 5.3.7 A new mother risk assessment must be completed on the staff member's return to work.

5.4 **Maternity leave**

- 5.4.1 All pregnant staff are entitled to 52 weeks' maternity leave (26 weeks' Ordinary Maternity Leave and 26 weeks' Additional Maternity Leave (AML)), regardless of their length of service.
- 5.4.2 Staff may curtail their maternity/adoption leave entitlement from 2 weeks after the birth/adoption of their child and they or their partner if eligible may opt-in to the Shared Parental Leave (SPL) system and take any remaining weeks as SPL. This means their partner could begin to take SPL while the mother is still on maternity leave. Please note that SPL can be taken subject to meeting certain eligibility criteria (please see the Shared Parental Leave policy and procedure).
- 5.4.3 Staff may commence maternity leave at any time from the 11th week before the EWC, up to the 4th week before the EWC. Any staff member wishing to work beyond the 4th week before their EWC must ensure they have followed the procedure in paragraph 6.6.
- 5.4.4 Notice of the intended start date of maternity leave should be given in writing when the staff member formally notifies the University, or at the latest 28 days before the leave is due to start.
- 5.4.5 Entitlement to maternity leave will be calculated from the agreed date of childbirth, as specified on the MATB1. If the baby is born before the date notified as the maternity leave start date, maternity leave starts automatically on the day after the date of the birth (even if this is before the beginning of the 11th week before EWC).
- 5.4.6 The University will write to the member of staff within 28 days of receiving notification of maternity leave. The letter will confirm their leave dates, the amount of annual leave that they will accrue during their period of maternity leave, and whether they have indicated if they wish to take annual leave prior to or following maternity leave, or in lieu of some unpaid leave.
- 5.4.7 It is recommended that staff take any outstanding annual leave accrued prior to their maternity leave, before their maternity leave starts.
- 5.4.8 With the agreement of their line manager, staff may take some or all of the leave they will accrue during the first six months of their maternity leave, before they start maternity leave.

- 5.4.9 It is acknowledged that maternity leave periods will often fall over two leave years. Any leave accrued on maternity leave during the first leave year can either be used in lieu of an equivalent amount of unpaid maternity leave or be taken following the period of unpaid leave. Any maternity leave accrued during the second leave year can be used either in lieu of a period of unpaid leave, or during the remainder of the leave year upon returning to work, subject to approval by their department.
- 5.4.10 Staff must ensure they have sufficient leave on their return to cover any customary or bank holidays that may occur from their return until the end of the leave year.
- 5.4.11 Annual leave for staff with no prescribed holiday is calculated on the basis of 30 days annual leave plus 5 customary and 8 bank holidays, pro rata for part-time staff.
- 5.4.12 Staff continue to be employed throughout their ordinary and additional maternity leave periods; therefore, it will count towards their period of continuous employment for the purposes of seniority, pension rights, redundancy rights and other similar rights.
- 5.4.13 Where a member of staff has a fixed term contract and qualifies for maternity leave they will be accorded the same entitlements as comparable staff employed on open ended contracts.
- 5.4.14 If there is funding available to extend a fixed term or HPL contract, an extension should be offered regardless of the pregnancy or maternity leave. A non-renewal of contract due to reasons related to the pregnancy or maternity leave would constitute sex discrimination. Following their maternity leave, they will be expected to return to work for 3 months or to the end of the contract; whichever date is sooner.
- 5.4.15 If the contract end date falls within the period of maternity leave and there is no additional funding available for an extension, and no suitable vacancy exists, we will not require the member of staff to return to work. Maternity pay under the University's CMP scheme, if applicable, will be paid until the expiry of the contract. If the member of staff is due further SMP, the University will continue to pay this in monthly instalments. If the individual begins work for another organisation during this period they must inform the University as this will affect their SMP payments.

5.5 **Maternity pay**

- 5.5.1 Whilst maternity pay entitlements are stipulated in weeks; for operational purposes, maternity pay is calculated and recorded daily in 365ths.

5.5.2 **Contractual Maternity Pay (CMP)**

- 5.5.2.1 Staff who qualify for Contractual Maternity Pay can opt to receive either:

Option 1:

- 8 weeks leave on full pay
- followed by 16 weeks on half pay plus SMP¹
- followed by 15 weeks at SMP flat rate
- plus up to 13 weeks' unpaid leave, or

Our People Practices: Family Friendly / Maternity Leave & Pay
Option 2

- 16 weeks leave on full pay
- followed by 23 weeks at SMP flat rate
- plus up to 13 weeks' unpaid leave

¹ no combination of payments will exceed full pay

5.5.2.2 In the event that a member of staff does not return to work following maternity leave, or returns and then subsequently leaves, the University will not reclaim any of their maternity pay.

5.5.2.3 In order to determine the CMP for an Hourly Paid Lecturer, details will need to be provided by the school of the amounts of hours that they would have been offered to work, if they had not been going on maternity leave. The Pay Office will then be able to calculate their entitlement.

5.5.3 Statutory Maternity Pay (SMP)

If staff have more than 26 weeks' but less than 12 months' service at their EWC, and earns no less, on average, than the lower earnings limit, they will qualify for SMP

5.5.3.1 In this instance staff will receive:

- 6 weeks on 90% of full pay
- Followed by 33 weeks SMP

5.5.3.2 Staff who resign after the 15th week before the EWC and before the end of their SMP period will remain entitled to SMP as per above. The relevant notice of termination (as required by their contract) must be given to the University in writing. The resignation letter should be sent to their department and copied to Human Resources.

5.5.4 Maternity Allowance

5.5.4.1 Staff who have less than 26 weeks' service at their 15th week before EWC, or earns less than the lower earnings limit, may still be entitled to Maternity Allowance. In this instance please contact the Pay office for more information and claim forms.

5.5.5 The University retains the right to extend the period of paid or unpaid leave in cases of hardship.

- 5.5.6 If pregnancy ends, other than by a live birth, before the end of the 24th week of pregnancy, neither SMP nor CMP will be payable. Any absence in such circumstances will be treated as sickness absence, and normal contractual sick pay allowances will apply.
- 5.5.7 Where a child is born and lives for only a short period of time, the member of staff will, irrespective of the timing of the birth, retain their full rights to maternity leave and CMP and SMP.
- 5.5.8 If pregnancy ends in a miscarriage or still birth after the 24th week of pregnancy, staff will be entitled to full maternity leave and pay. For help, support and advice in any of these situations, please contact the HR Employment Support & Resourcing team.
- 5.5.9 If a parent loses a child under the age of 18 or has a stillbirth after 24 weeks of pregnancy they will be entitled to two weeks parental bereavement leave with pay in line with the University's Special Leave policy. There is no minimum length of service required to qualify for parental bereavement leave. Members of staff will not be entitled to take both compassionate and parental bereavement leave and pay separately unless there are individual circumstances where this warranted.
- 5.5.10 Staff will be entitled to receive their normal annual increment in accordance with their contract of employment, which will take effect from the normal incremental date.
- 5.5.11 All payments of statutory and contractual pay will be subject to deductions of tax and NI. Average weekly earnings will be calculated in accordance with the SMP Regulations.

5.6 Premature baby leave and pay

- 5.6.1 Mothers of babies born before 37 weeks will be entitled to one week's pay and leave for every week a baby is in neonatal care, up to a maximum of 6 weeks. If the stay is less than one week, this will be rounded up to a week. There is no minimum length of service required for the mother's premature baby leave and pay.
- 5.6.2 Partners with premature babies will also be entitled to the same premature baby leave and pay benefit subject to them having completed 26 weeks service.
- 5.6.3 Mothers are required to give notice of their premature baby leave within 8 weeks of the end date of their original maternity leave. Partners must give notice of their premature baby leave within the first week of their paternity/partner leave.
- 5.6.4 Staff should provide a letter from the neonatal care unit or their GP/healthcare professional to support their entitlement to premature baby leave and pay
- 5.6.5 Premature baby leave and pay will be added at the end of the original maternity or paternity/partner leave end date.

5.7 **Sickness absence**

- 5.7.1 If a staff member is absent from work during pregnancy they will receive contractual sick pay as normal. However, if they are absent with a pregnancy related illness after the 4th week before EWC, their maternity leave will start automatically from the day following the start of their illness. Maternity leave will not count against normal sick leave entitlements.
- 5.7.2 If they are unable to return to work at the end of their maternity leave due to ill-health, pregnancy related or not, this will be dealt with under the arrangements for sick leave. Absences should be supported by a Medical Certificate.

5.8 **Contact during maternity leave**

- 5.8.1 Under the Work and Families Act 2006, staff and their managers can agree to up to 10 'Keeping in Touch' (KIT) days during a period of maternity leave, without bringing the maternity leave to an end. During these days, they may attend work, undertake training or keep in touch with work developments through other means (please note KIT days cannot be taken within the first two weeks of maternity leave).
- 5.8.2 Arrangements should be agreed with the Head of Department, with notification sent to Human Resources. A KIT form is available from the HR website and should be filled out for every month a member of staff completes one or more KIT days. The form should be signed by the department and sent to either the HR Operational Services team or (for staff working in the Gulbenkian and Hospitality) the HR department, Tanglewood.
- 5.8.3 This provision does not give the University any right to require any work to be carried out during the maternity leave period, nor any right on a member of staff to request work during this period. There is no obligation on either the University or the member of staff to use all 10 days.

- 5.8.4 Any amount of hours worked during 1 day will constitute 1 KIT day. Any KIT days worked will not have the effect of extending the total maternity leave period.
- 5.8.5 KIT days, where taken when staff are on nil pay, are paid at the member of staff's flat rate. Staff taking a KIT day whilst on half pay will have their pay 'topped up' to their flat rate of pay for that KIT day. Where staff take a KIT day when on a period of paid annual leave as part of their paid maternity leave, the days' leave should be added back onto their annual leave entitlement, to be used at a later date. All KIT days are paid in arrears.
- 5.8.6 Staff are able to take a KIT day during any full pay period of maternity leave. This should be recorded on the KIT day form in the same way, but will not result in any additional remuneration.

5.9 **Return to work**

- 5.9.1 If the staff member is returning to work at the end of their maternity leave period on the date already agreed with the University, no further notification is required.
- 5.9.2 If the staff member works during term-time only, and their date of return falls at a time when they would not be required to be at work, their actual return date will be postponed until the first day they are required to work after their period of maternity leave.
- 5.9.3 Staff who have stated they wish to return to work after maternity leave may exercise this right at any time, within 52 weeks of the commencement of the maternity leave period (except for the 2 weeks immediately after the birth of their child). If they have not taken their full maternity entitlement and wish to delay their return date, notification must be given at least 8 weeks prior to their original return date. If they wish to return earlier than the date originally agreed 8 weeks' notice must be given prior to the date they wish to return.
- 5.9.4 Staff will normally have the right to return to the job in which they were employed under the original contract of employment. In the event of this not being possible, by reason of general reorganisation or redundancy, they will be offered a suitable alternative vacancy, where one exists.
- 5.9.5 The University will give favourable consideration to all requests from staff who wish to reduce their hours of work, either to a part-time or job share basis, after maternity leave. Staff should submit their request to their line manager in writing as early as practicable, but in any event not later than 28 days before the notified date of return to work. This should be done in line with the University's Flexible Working policy and procedure.
- 5.9.6 Staff who wish to breastfeed should discuss their requirements prior to returning to work. A risk assessment should be undertaken to identify any possible factors preventing a member of staff from doing this. The risk assessment should include consideration of appropriate breaks for women breastfeeding or expressing milk.

- 5.9.7 There are parenting rooms available on both campuses for breastfeeding purposes: Room E3-W8 in Rutherford building (Canterbury, request key access at Tyler Court reception) and Room MO-04 in the Medway building (Medway).
- 5.9.8 Managers should discuss any additional resting or breastfeeding requirements with HR and Occupational Health, who can advise how suitable arrangements can be made for this on campus.
- 5.9.9 In situations where the member of staff's current working conditions prevent them from continuing to breastfeed successfully, or do not allow the reasonable removal of risk (such as reasonable adjustments to working conditions or hours of work), then suitable alternative work may be offered.

5.10 Pensions contributions

- 5.10.1 Whilst on paid maternity leave a member of staff will remain a member of the USS or SAUL scheme (where applicable) and will continue to accrue pensionable service.
- 5.10.2 During the first 26 weeks, if no remuneration is due from the University, pension's contributions are maintained by the University. However, for any periods of unpaid leave after this time, staff will not accrue any pensionable service.
- 5.10.3 On a member of staff's return to work, the Pensions team will write to the staff member to offer them the opportunity to pay any missing pensions contributions.
- 5.10.4 Any KIT days worked will have pensions contributions deducted from any pay received.

6. Review

- 6.1 This policy and procedure will be reviewed every three years, or in line with changes to relevant legislation or University Practice, whichever is sooner.

7. Associated practices

- 7.1 This policy and procedure complies with relevant UK employment legislation.
- 7.2 In addition, other relevant University of Kent People Practices include:
- KIT Days form
 - Family Friendly Checklist
 - Adoption Leave & Pay
 - Paternity Leave & Pay
 - Parental Leave
 - Flexible Working
 - Shared Parental Leave
 - Work-life/home-life practices
 - Special Leave Policy and Procedure