

Title	Maternity Policy
Reference	HRP009
Version	2.0
Date	July 2008
Author	HR
Approved by	HRC
Impact assessment date	12 February 2008
Classification	Unclassified
Revision date	July 2009

Version	Date	Description
0.1	N/A	Inherited policy
0.2	16/03/06	Policy amended for HEFCW
1.1	April 07	Policy amended in line with legislation
2.0	Feb 08	Policy updated with style guide, OD, IS control table and equality impact assessment
2.1	July 08	Policy updated in line with legislative guidance

HEFCW has statutory obligations in respect of maternity leave, extended maternity absence and Statutory Maternity Pay (SMP). HEFCW's maternity policy is set out below although it is subject to changes from time to time in accordance with changes in legislation.

This policy applies to all employees whether part-time or full-time and should be read in conjunction with the Parental Leave policy.

1.0 Notification of pregnancy and maternity leave

- 1.1 In all cases, when an employee has her pregnancy confirmed she must provide HR with the MAT B1 certificate signed by her GP or midwife and inform her Line Manager and as soon as practicable after the pregnancy has been confirmed. The MAT B1 certificate will provide the date for the expected week of childbirth (EWC).
- 1.2 In addition the employee must give HR in writing, notification of the date on which she intends to start her maternity leave. This notice has to be given as soon as possible but at the latest by the end of the fifteenth week before the EWC (or if that is not reasonably practicable, as soon as is reasonably practicable).

- 1.3 The employee can vary the start date notified to her employer upon 28 days notice before the date of their maternity leave would originally have started. The revised date must however still be compliant with the rules in this policy.
- 1.4 As soon as practicable after the notification of her pregnancy, arrangements will be made for the employee to meet with HR. This will be an informal interview, the purpose of which is to confirm that:
- (i) the employee's right to Ordinary Maternity Leave and any Additional Maternity Leave are understood, including the requirements for her to give appropriate notice.
 - (ii) the right to return is explained, together with any potential opportunities for flexible working.
 - (iii) arrangements for time off are understood and any possible health and safety concerns are aired. HR will inform a member of the health & safety committee to ensure that suitable adjustments are made, if required.
 - (iv) the employee knows her entitlement to pay during Ordinary Maternity Leave, and understands her entitlement to additional maternity leave.
 - (v) accrual of annual leave entitlement during unpaid periods of leave is understood.

2.0 Time off for ante natal care

- 2.1 A pregnant employee is entitled to paid time off during the normal working day to attend ante-natal care i.e. hospital/doctor's appointments, although whenever possible appointments should be arranged at the start or at the end of the day. The employee should inform her line manager giving as much advance notice as possible. An employee may be asked to produce an appointment card or other such confirmation.

3.0 Maternity rights

- 3.1 Eligibility for contractual maternity rights are based on the employees length of service:

Ordinary Maternity Leave (OML)

All pregnant employees are entitled to take 26 weeks maternity leave regardless of their length of service with HEFCW (provided that they comply with the notification procedures outlined in this policy).

Additional Maternity Leave (AML)

All pregnant employees are entitled to take a 26 week period of AML from the end of their OML.

4.0 Start of ordinary maternity leave

4.1 An employee's OML period commences on the date she chooses to start her maternity leave provided that:-

- (a) she has notified HEFCW in accordance with the provisions of this policy;
- (b) the start date chosen is not earlier than the beginning of the eleventh week before the EWC.

The only exceptions to this are:-

- (c) if the employee falls ill because of her pregnancy at any time after the start of the fourth week before the EWC. In such case, the employee starts her OML on the first day of absence; and
- (d) if the employee does not comply with the notification procedure outlined in this Policy (i.e. the baby is born earlier than anticipated), the OML period begins on the day the child is born.

4.2 An employee's AML period automatically commences on the day after the last day of the OML period.

4.3 An employee must not, however, remain at work during her pregnancy if she is certified medically unfit to do so.

5.0 OML and return to work

5.1 Under health and safety legislation, the employee must take a minimum of two weeks maternity leave after the birth of her child. An employee's period of OML continues from the date on which it began for a period of 26 weeks. An employee who intends to return to work at the end of her OML period is not required to notify the HEFCW of the return date. However, an employee who wishes to return to work before the end of her OML period must give HEFCW not less than eight weeks written notice specifying the date on which she wishes to return to work.

5.2 If the employee was to attempt to return to work before the end of the OML period without giving the notice required, HEFCW is entitled to postpone her return date for 28 days, or until the expiry of the OML period (whichever is shorter). If the employee returns to work in breach of HEFCW having postponed her return date, the employee will not be paid under her contract of employment until that proper return date.

5.3 An employee will be notified in writing by HR of the date on which their OML or AML will end.

6.0 AML and return to work

6.1 An employee's AML period automatically commences on the day after the last day of the OML period, and continues for 26 weeks.

6.2 Where the employee intends to return to work before the end of the OML or AML period to which they are entitled; she must give HR at least eight weeks notice in writing of the date on which she intends to return. If the employee attempts to return to work before giving the necessary notice of her return from OML/AML, the employer is entitled to postpone her return date for 28 days or until the expiry of the OML/AML period (whichever is shorter). If the employee returns to work in breach of the employer having postponed the return date, HEFCW will not pay the employee under her contract of employment until the proper return date. Furthermore, failure to notify the employer in accordance with this provision prevents the employee from claiming the protection of the Unfair Dismissal legislation in relation to her leave, so it is important that the employee complies in this respect.

7.0 Absences during or following maternity

7.1 An employee must not remain at work during her pregnancy if she is certified as medically unfit to do so.

7.2 If the employee is absent on account of illness attributable to the pregnancy including by reason of miscarriage, which occurs outside the period of absence for maternity leave, this shall be treated as ordinary absence on sick leave and will be subject to normal sickness procedures (see paragraph 12.8).

7.3 If the employee is absent from work, as a result of the pregnancy (on the first day after the beginning of the fourth week before the EWC, the OML period will commence. The employee should notify HR as soon as is reasonably practicable.

If the employee is unable to return to work on either:

- a) the date she has notified HR that she would return; or
- b) the date she has been notified by HR is the return date; or
- c) at the expiry of the relevant maternity leave period;

due to sickness (whether pregnancy related or not) the employee must submit medical certificates under the normal sickness procedure in the same way as if she were absent from work at any other time.

8.0 Arrangements on return to work

8.1 The employee has the right to return to work after OML to the same job in which she was employed before her absence, with her level of seniority preserved under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. "Job", for this purpose, means the nature of the work which she is employed to do and the capacity and place in which she is so employed.

- 8.2 On return from AML, the employee is entitled to return to the job in which she was employed before her absence, or if it is not reasonably practicable, to another job which is both suitable for her and appropriate for her to do in the circumstances. This employment will be on no less favourable terms and conditions as to remuneration as would have applied had she not been absent at any time since the commencement of her OML. In respect of her seniority this will be no less favourable than applied prior to the AML period.
- 8.3 If an employee wishes to return to work part-time she must inform her line manager as early as possible of her preferred hours of work. The line manager will make every effort to meet the request, however if this is not possible, the employee will return to her former hours and conditions. The employee will be informed in writing as early as possible whether or not the request can be made.
- 8.4 At least two weeks before the employee is due to return to work, she will be invited by HR to attend an informal meeting with their line manager and HR in order to provide an opportunity for discussion of any material points concerning her return to work. This will include:
- updating regarding developments at work;
 - considering whether any re-training needs have arisen;
 - providing an opportunity to discuss consideration for flexible working arrangements, flexible working patterns or part time hours; and
 - an opportunity to discuss and explain any necessary and unavoidable changes to the employee's work.

9.0 Annual leave during maternity absences

- 9.1 Annual leave can only be taken after OML and AML if prior express written permission has been obtained from the line manager.
- 9.2 Accrual of annual leave during the OML period will be based on the employee's current contractual entitlement.
- 9.3 Accrual of annual leave during the unpaid period of AML will be based on the employee's contractual entitlement. Annual leave entitlement is pro rata for part-time employees.

10.0 Terms and conditions – OML

- 10.1 During OML, an employee is entitled to maternity pay. In addition, an employee's contract of employment continues during OML and she is entitled to receive all contractual benefits except remuneration.
- 10.2 During the OML period, continuity of employment is preserved. Pension contributions will be made based on the appropriate level of pay.

11.0 Terms and conditions – AML

- 11.1 During the first 13 weeks of AML, the employee is entitled to SMP/MA and in addition, an employee's contract of employment continues during this period and

she is entitled to receive employment related benefits for as long as paid maternity absence continues. There is no further entitlement to pay. Contributions for pension will be made during the first 13 weeks of AML only. During the last 13 weeks of AML, the employee is entitled to non pay terms and conditions. Continuity of employment is preserved throughout the paid AML period and will be treated as qualifying service for pension purposes

11.2 During the final 13 weeks of AML the terms and conditions are limited to the following:

- the implied duty of mutual trust and confidence;
- code of conduct;
- notice requirements;
- Disciplinary policy;
- grievance procedures;
- contractual redundancy entitlements.

The employee is also bound by confidentiality and non-competition provisions during this period.

11.3 During AML, annual leave will accrue at the employee's contractual entitlement rate (pro rata for part-time employees) for the period of unpaid leave / half pay, regardless of length of service. Annual leave can only be taken immediately after OML and AML if express written permission has been obtained from the line manager (as per Annual Leave policy).

12.0 Maternity pay

12.1 Maternity pay will depend on an employee's length of service. If the employee has continuous service of one year or more on the Sunday of the fifteenth week before the EWC (qualifying week), she will be entitled to contractual maternity pay. If the employee has been employed for less than one year but has more than 26 weeks' service at the qualifying week) the employee will be entitled to statutory maternity pay (provided she is still pregnant at the eleventh week before the EWC). For both such payments the employee must have complied with the requirements set out in section 1 above for "notification of pregnancy".

12.2 Employees with less than 26 weeks' service at the qualifying week are not entitled to statutory maternity payments (SMP) although they may qualify for maternity allowance (MA) which can be claimed from the department of work and pensions (DWP). MA is paid for up to 39 weeks and is only payable when the employee is actually absent from work. Eligibility to receive MA will depend on whether the employee has paid enough national insurance contributions during the rest period of 66 weeks up to and including the week before the baby is due. Employees wishing to claim MA should request an MA pack from the DWP.

- 12.3 Contractual maternity pay is payable at the employee's normal basic rate for 18 weeks and the lower rate of statutory maternity pay for the remaining eight weeks commencing no earlier than the eleventh week prior to the EWC. Contractual maternity payments include any SMP entitlement and any further maternity leave after 39 weeks is unpaid. If the employee does not return to work at the end of her maternity leave entitlement or leaves before she has three months continuous service upon her return to work, contractual maternity pay, less SMP must be repaid.
- 12.4 SMP can start on any day after the employee leaves work or starts maternity leave and is payable for a maximum period of 39 weeks. SMP is paid for six weeks at 90% of average pay and the remainder at the lower of 90% of average pay or the fixed statutory rate per week (provided that the employee's average weekly earnings for NI contributions are at least equal to this figure during the eight weeks up to and including the qualifying week). Further information concerning SMP and SMP rate per week can be obtained from HR.
- 12.5 SMP is payable whether or not the employee intends to return to work.
- 12.6 SMP and contractual maternity pay will be paid into the employee's bank account on the same day that the salary would have been payable, and will be subject to deductions for tax, national insurance and pensions contributions in the same way.
- 12.7 The period of OML will be treated as a period of pensionable service, even if the actual pay received is less. The employer's contributions will remain the same, although the employee's contributions will be based on actual pay received during OML.
- 12.8 If an employee is expecting more than one child her entitlement to maternity pay and the amount is not affected.
- 12.9 If the child is stillborn before the 25 week of pregnancy, SMP is not payable. If the child is stillborn after the 25 week of pregnancy, the employee will be treated as if she was confined and will receive entitlements as if it were a normal birth.
- 12.10 Employees who return to work before SMP or contractual maternity pay entitlement has been exhausted will revert to salary payments and will cease to receive SMP.

13.0 Keeping in touch

- 13.1 The line manager or HR may make contact with the employee (and vice-versa) while she's on maternity leave, as long as the amount and type of contact is not unreasonable, to discuss a range of issues – e.g. her plans for returning to work or to keep her informed of important developments at the workplace. The employee should be informed of any relevant promotion opportunities or job vacancies that arise during maternity leave.
- 13.2 The employee can work or undertake training for up to ten days' under her contract of employment, as long as both she and HEFCW have agreed for this to happen, and agree on what work/training is to be done without losing their right to maternity pay.

14.0. Records

HR will be responsible for keeping records relating to OML and AML taken by employees on the HR/Payroll database.

15.0 Paternity leave, parental leave and adoptive leave

Please refer to the Paternity Leave policy, Parental Leave policy or the Adoptive Leave policy for details.

16.0 Further information

HR will provide further information that may not be covered by this policy.