

APPENDIX 12 – MATERNITY LEAVE AND PAY POLICY

This policy has been amended due to the new statutory 2010 regulations resulting from the Work and Families (NI) Order 2006.

Conditions of Entitlement to Maternity Leave

All women are entitled to 52 weeks' maternity leave, 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML). All women whose expected week of birth begins on or after 3 April 2011 are entitled to transfer up to 26 weeks of their outstanding maternity leave and outstanding Statutory Maternity Pay to their spouse, civil partner or partner, or the father of their child, to be taken as additional paternity leave (and additional paternity pay) on her return to work.

Conditions of Entitlement to Maternity Pay

Statutory Maternity Pay (SMP)

Statutory Maternity Pay (SMP) will be paid for 39 weeks. SMP will be paid at 90% of average weekly earnings for six weeks and £128.73* per week (or 90% of average weekly earnings if this is less) for 33 weeks. To qualify for SMP a woman will need to have been employed for 26 weeks by the 15th week before the EWC and earn over the Northern Ireland lower earnings limit.

*2011 figure – this will change 6 April each year.

Women who are not entitled to SMP but meet the qualifying conditions based on their recent employment and earnings record may claim from their Social Security Office up to 39 weeks' Maternity Allowance.

The remaining 13 weeks of additional maternity leave will continue to be unpaid.

Women may, by agreement with NICVA, undertake up to 10 days' work during their maternity leave, under their contract of service without losing any SMP or Maternity Allowance (MA) (see Keeping in Touch days).

Contact during maternity leave

During the maternity leave period NICVA may make reasonable contact with an employee, and in the same way an employee may make contact with NICVA. The frequency and nature of the contact will depend on mutual agreement and a number of factors, such as:

- The nature of the work and the employee's post.
- Any agreement that the line manager and employee might have reached before maternity leave began as to contact.
- Whether either party needs to communicate important information to the other such as, for example, news of changes at the workplace that might affect the employee on her return.

NICVA will also keep the employee informed of promotion opportunities and other information relating to her job that she would normally be made aware of if she was working.

Some women will be happy to stay in close touch with the workplace. Others, however, will prefer to keep such contact to a minimum. NICVA will respect the wishes of individual employees.

Keeping in Touch Days

Employees may undertake up to ten '**Keeping in Touch Days**' during their maternity leave, allowing work under their contract of employment, by agreement with NICVA.

Such days are different to the reasonable contact that NICVA and employees may make with one another; employees can actually carry out work, for which they will be paid.

The type of work that the employee undertakes on KIT (Keeping in Touch) days will be agreed between NICVA and the employee prior to the work being carried out. They may be used for any activity which would ordinarily be classed as work under the woman's contract, for which she would be paid, but could be particularly useful in enabling an employee to attend a conference, undertake a training activity or attend for a team meeting for example.

Working for part of a day will count as one day's work. It is always the employee's right to refuse to work on a KIT day.

If the employee is entitled to occupational pay and a KIT day falls during the period of full occupational pay, then NICVA will pay the employee for an additional day's maternity leave at the occupational rate.

If the KIT day falls within a basic SMP period, the employee will be paid SMP as normal during the week in which they worked a KIT day. NICVA will then top up the SMP for the day on which the employee has worked in order to make it up to a normal day's pay.

Any KIT day worked during unpaid AML would be paid at normal full pay.

The employee will also be offered the option of taking a KIT day as paid time off in lieu at the end of maternity leave, to be taken before returning to work.

Company Maternity Pay

(1) **Category A – Employee with one or more year's service at the qualifying week**

Such an employee shall be entitled to 18 weeks' pay equivalent of normal full salary (made up of Statutory Maternity pay, which is applicable, plus the balance from NICVA).

The remaining 21 weeks will be paid at the lower of the current rate of SMP or 90% of the employee's average weekly earnings.

(2) **Category B – Employee with between 26 and 52 weeks' service at the qualifying week**

Such an employee will receive during her period of maternity leave:

- (i) The equivalent of full pay for the first four weeks of leave.
- (ii) Half pay plus SMP for the remaining 14 weeks of leave (subject to the total thus received not exceeding what would be payable on full pay) or for the remaining weeks of the contract if this is a shorter period.

The remaining 21 weeks will be paid at the lower of the current rate of SMP or 90% of the employee's average weekly earnings.

(3) **Category C – Employee with less than 26 weeks' service on the qualifying date**

Such an employee will receive during her period of maternity leave:

- (i) The equivalent of full pay for the first four weeks of leave.
- (ii) Half pay plus Maternity Allowance (if she is eligible for it) for the remaining 14 weeks of leave (subject to the total thus received not exceeding what would be payable on full pay) or for the remaining weeks of the contract if this is a shorter period.

The remaining 21 weeks will be paid at the lower of the current rate of SMP or 90% of the employee's average weekly earnings

Notice of intention to take maternity leave

The employee is required to notify NICVA of their intention to take maternity leave by the 15th week before the EWC – the employee should notify the Human Resources Officer:

- That she is pregnant.
- The week her baby is expected to be born as confirmed by a medical certificate (MatB1).

- When she wants her maternity leave to start (the earliest date for this is 11 weeks before the EWC).

Human Resources will respond in writing within 28 days of receiving her notification, giving the date of her expected return to work following the full period of maternity leave.

If the woman wishes to change the start date of her maternity leave, she must advise the Human Resources Unit at least 28 days in advance (unless this is not reasonably practical).

Maternity risk assessments

Human Resources should be advised as soon as is reasonably practicable that the employee is pregnant in order to arrange to carry out a specific risk assessment, paying particular attention to risks that could harm an expectant mother or her child. Further risk assessments will be carried out as necessary during the pregnancy.

Less favourable treatment

Every accommodation will be made to ensure a pregnant woman is not shown less favourable treatment by reason of her pregnancy. NICVA will endeavour to ensure particular attention is paid to the pregnant woman's health and safety and that any requests for additional comfort breaks or flexibility to working times are reasonably accommodated.

Right to return to work

Human Resources will arrange to carry out a specific risk assessment, paying particular attention to risks that could harm new mothers and mothers who are breastfeeding on their return to work.

If the employee decides not to return to work at the end of her ordinary or agreed maternity leave, she will be entitled to continue to receive her full amount of statutory maternity leave and pay. However, in these circumstances she must give at least eight weeks' notice of this new, later, date of return before start of the original date of return. If the employee wishes to take AML at this point, she must inform the Human Resources Officer in writing at least eight weeks before the agreed return date of her new expected return date.

If the employee wishes to return to work before the end of her full maternity leave (ordinary and/or additional), or change the date of her return, she must give Human Resources eight weeks' notice of the date she wishes to return.

If the employee attempts to return to work earlier than the end of her ordinary or additional or agreed maternity leave without giving NICVA eight weeks' notice, NICVA may postpone her return until eight weeks' notice has been given.

Transfer of Maternity Leave

If an employee proposes to return to work by giving proper notification in accordance with this policy, 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 (APL) (and additional statutory paternity pay (ASPP)) 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 APL is 2 consecutive weeks and the maximum period is 26 weeks. The employee must therefore have at least two weeks of her maternity leave that remains unexpired.

Further details should be obtained from the employee's spouse or partner's employer. If the 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 that employer. The HM Revenue and Customs SC7 form will be used to gather this information. That employer may also make additional enquiries of the Company to verify its employee's entitlement to APL and ASPP.

Returning after:

OML - the employee will have the right to return to the previous job she was employed in before her absence.

AML - the employee will have the right to return to her job or if not practicable to a suitable alternative which is not less favourable in terms of status, pay or terms and conditions provided she satisfies all the appropriate conditions.

Employees will have the legal right to request a flexible working pattern for her return to work (see flexible working policy).

Employees on short-term contracts have the right to return to work for the balance of their contractual period.

Sickness Trigger

An employee's maternity leave will start automatically if she is absent from work for a pregnancy-related illness during the four weeks before the start of her EWC, regardless of when the actual date of maternity leave is due to start.

Attendance at Clinics

A member of staff will be allowed a reasonable period of time off with pay for attendance at ante and post-natal clinics (up to four hours per visit) and this will not count against sick leave entitlement.

Annual Leave and Maternity Leave

Employees on ordinary and additional maternity leave will continue to accrue their occupational entitlement to annual leave throughout their maternity leave. They will also accrue any public or bank holidays during this period which must be taken at the end of the maternity leave, before returning to work. The public or bank holidays will be accrued on a day for day basis or pro rata where the employee works part time.

Employees will normally only be allowed to carry nine days' accrued annual leave into a new leave year. Employees will therefore be able to and should take any leave which otherwise would be lost at the end of the OML or AML and before returning to work. Arrangements to carry accrued annual leave into the following leave year or to amend working hours to use annual leave on return from maternity leave can be arranged with agreement from the line manager and Deputy Chief Executive.