|  |  |
| --- | --- |
| **Table of Contents** | 1. Introduction……………………………………….………………………………………... p.01 2. Maternity Pay…………………………………….…….............................................. p.01 3. Maternity Leave……………………………………………………………...…………... p.02 4. Timing of Maternity Leave…………………………………………………….…...... p.04 5. Notice Requirements…………………………………………………………….…….. p.04 6. Changing of Maternity Dates………………………………………….…….……... p.05 7. Time Off for Antenatal Care …………….………………………………….……..... p.05 8. Pregnancy Risk Assessment ……………………………….…….………………... p.06 9. Sickness Absence………………..……………………………………….……….……... p.07 10. Rights During Maternity Leave ……..……………………………….………..…... p.07 11. Contact During Maternity Leave …………………………………………..……... p.08 12. Keeping-in-Touch Days ……………………………………………….….……...…... p.08 13. Returning to Work After Maternity Leave ……..………….……………..…... p.09 14. Resignation Following Maternity Leave ………………….…..…………..…... p.10 15. Transfer of Maternity Leave …………………..…………….……………………... p.10 16. Other Relevant Policies ………………………………………………….……….…... p.11   **Appendices**   * Appendix 1 - Maternity Rights Flowchart…………………………..……..…….. p.12 * Appendix 2 – The Shared Parental Leave Process.…………….……………. p.14 |

1. **Introduction**
   1. This policy sets out the rights of colleagues to maternity leave and pay and provides information regarding the University’s maternity provisions and entitlements. It takes into account the Work and Families Act 2006 which came into force on 1 October 2006 and which takes effect in relation to all female colleagues, irrespective of their length of service, who’s expected week of childbirth (EWC) is on or after 1 April 2007. This policy also takes into account the Management of Health & Safety at Work Regulations 1999, which requires the University to assess all the risks of its work activities. The Shared Parental Leave Regulations 2014 which applies to parents of babies who are due on or after 5 April 2015 (or adopters of children placed for adoption on or after 5 April 2015) may be relevant**,** further details can be found in the University’s Shared Parental Leave Policy.
   2. The University recognises that, from time to time, colleagues may have questions or concerns relating to their maternity rights. It is Edinburgh Napier University's policy to encourage open discussion with colleagues to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if a colleague becomes pregnant she should clarify the relevant procedures with The People Team to ensure that they are followed correctly.

1.3 The following definitions are used in this policy:

* "Expected week of childbirth" means the week, starting on a Sunday, during which the colleague's doctor or midwife expects her to give birth.
* "Qualifying week" means the 15th week before the expected week of childbirth.

1.4 The University’s Equality and Diversity Statement states that recruitment, training and promotion opportunities will be open to all staff on a fair and equitable basis. The University will monitor the use of the Maternity policy to ensure that it is applied fairly and to ensure that colleagues are not unreasonably denied access to suitable opportunities.

1. **Maternity Pay**

2.1 Depending on her length of service, the colleague will be entitled to either University Maternity Pay or Statutory Maternity Pay or Maternity Allowance during her Maternity leave. University Maternity Pay, Statutory Maternity Pay and Maternity Allowance begin when maternity leave commences. Statutory Maternity Pay can start on any day of the week in accordance with the start date of maternity leave. University Maternity Pay will be adjusted to take account of any pay increases.

2.2 University Maternity Pay

If the colleague has at least one year’s continuous service by the 15th week before her baby is due, she is entitled to receive University Maternity Pay. This will be:

* 13 weeks’ leave at full pay, less appropriate statutory deductions
* a further 26 weeks’ paid leave at the flat rate of Statutory Maternity Pay (SMP), or 90% of her average weekly earnings whichever is the lesser. The flat rate is subject to review every April.
* any further period of leave (i.e. remaining Additional Maternity Leave), up to a maximum period of a further 13 weeks will be unpaid

Payment of University Maternity Pay is conditional upon the colleague returning to work for a minimum period of three months.

Any pay awards which take effect during the period of maternity leave will be applied as normal.

2.3Statutory Maternity Pay (SMP)

If the colleague has less than one year, but more than 26 weeks’ continuous service by the 15th week before her baby is due, she is entitled to receive Statutory Maternity May (SMP), providing that:

* they are still pregnant 11 weeks before the start of the expected week of childbirth (or have already given birth);
* they have provided a MAT B1 form stating their expected week of childbirth; and
* their average weekly earnings are not less than the lower earnings limit for national insurance contributions.

This will be:

* 90% of the colleague’s average weekly earnings for the first six weeks, followed by the lesser of a flat rate for the remaining 33 weeks. The flat rate is subject to review every April.
* any further period of leave (i.e. remaining Additional Maternity Leave), up to a maximum period of a further 13 weeks will be unpaid.

The colleague may work until the day before her baby is due and still retain her right to 39 weeks Statutory Maternity Pay.

2.4Maternity Allowance (MA)

If the colleague has less than 26 weeks’ continuous service by the 15th week before her baby is due, she is entitled to Maternity Allowance (MA) which is available from her local Benefits Agency / Jobcentre plus Office.

2.5 University Pay, Statutory Maternity Pay and Maternity Allowance are only payable during the weeks the colleague has stopped working for the University.

For further information regarding the current flat rate and other details regarding Statutory Maternity Pay and Maternity Allowance, click on the links below:

<http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Expectingorbringingupchildren/DG_10018741>

1. **Maternity Leave**

3.1 All pregnant colleagues are entitled to a maximum of 52 weeks’ **Maternity Leave**. This entitlement applies regardless of the colleague's length of service with the University. Her contract of employment continues during this period and she will continue to receive all contractual benefits except normal salary. Information concerning maternity and pension scheme contributions is detailed in [on](#Appendix_B) the relevant pension website. For academic staff this is [Scottish Teachers Pension Scheme](http://2015.sppa.gov.uk/scheme/teachers) (<http://2015.sppa.gov.uk/scheme/teachers>) and for Professional Service staff this [Lothian Pension Fund](http://www.lpf.org.uk/lpf1/info/3/current_members) (<https://www.lpfmembers.org.uk/lothian-pension-fund-members-site/paying-in/membership-and-contributions/what-if-i-am-absent-from-work/>)

3.2 Maternity leave is a single continuous period and is made up of:

26 weeks’ **Ordinary Maternity Leave ("OML")** – during which the contract of employment continues, and during which the colleague must continue to receive all her contractual benefits except wages or salary (see section 10) with no detriment to the benefits which Edinburgh Napier would provide.

*And*

26 weeks’ **Additional Maternity Leave ("AML")** – during which the contract of employment continues, the same non-cash benefits as currently apply during OML will also apply throughout AML.  i.e. these benefits will be provided throughout the entire 52 weeks that a colleague is absent on maternity leave.  These rights apply to all colleagues who fulfil the relevant criteria, regardless of their length of service. AML follows OML and there must be no gap between the two.

3.3Colleagues cannot return to work for the University immediately after the baby is born. This period of Compulsory Maternity Leave lasts for:

* Two weeks from the date of childbirth; or
* Until a later date, if there exists a statutory requirement (apart from any requirement to suspend the colleagues from work on maternity grounds under health & safety regulations e.g. if the colleague works with hazardous chemicals or dangerous materials) which prohibits her from working due to the fact that she has recently had a baby.

After the compulsory 2 week maternity leave the remaining leave may be transferred or shared under the Shared Parental Leave Policy (see section 15 under Transfer of Maternity Leave).

1. **Timing of Maternity Leave**

4.1 Ordinary maternity leave can start at any time after the beginning of the 11th week before the colleague'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:

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

If the colleague 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.

1. **Notice Requirements**

5.1 On becoming pregnant, a colleague should notify her line manager as soon as possible. This is important as there are health and safety considerations for the University.

5.2 Additionally, the expectant colleague must complete and return to The People Team and Development a Maternity Leave Notification Form, no later than the end of the 15th week before the baby is due, confirming the following:

* That she is pregnant.
* The week she expects the baby to be born, by means of a MAT B1 medical certificate issued by her midwife/GP after 26 weeks’ pregnancy. This certificate should be sent to The People Team and Development as soon as it is issued
* When she intends to start her maternity leave. The start of the maternity leave must be no earlier than the 11th week before the baby is due.

The university will formally respond in writing to the colleague's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52 week entitlement to maternity leave.

1. **Changing Maternity Leave Dates**

6.1 The colleague is permitted to bring forward 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. The colleague may also postpone her maternity leave start date, provided that she advises the university in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

6.2 The colleague is required to give at least 28 days' notice of the date that she wants her Statutory Maternity May to begin. If it is not possible for the colleague to give 28 days' notice, for example if the baby arrives early, she should tell the university as soon as reasonably practicable.

1. **Time Off for Antenatal Care**

7.1 Once a colleague has advised the university that she is pregnant, she will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

7.2 To be entitled to take time off for antenatal care, the colleague is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the colleague should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

7.3 Antenatal care may include relaxation and parent craft classes that the colleague's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations.

7.4 The colleague 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.

7.5 She may also wish her nominated partner to accompany her when she is attending these appointments. If the nominated partner is also a colleague of the University, paid time off will be allowed for the partner for up to a maximum of three appointments subject to the operational requirements of the school/service.

1. **Pregnancy Risk Assessment**

8.1 The University is required to protect the health and safety at work of all colleagues, including new and expectant mothers and mothers who are breast feeding. The University has a specific risk assessment process which must be completed for all colleagues, who are pregnant, have recently given birth or are breast feeding. A risk assessment should be carried out by a competent individual e.g. the line-manager or risk assessor at the earliest opportunity, once the colleague has advised their line manager of their pregnancy. The process is outlined in detail below.

### 8.2 What is a Risk Assessment?

The University has a robust system in place to ensure areas carry out risk assessments and these assessments should already highlight any risks (biological, chemical or physical) specific to women of child bearing age and to pregnant women. The majority of health and safety issues relating to women of child bearing age and to pregnant women should therefore already be addressed by good health and safety management procedures.

8.3 Once a line manager has been informed that one of their colleagues is pregnant, they should arrange for a New and Expectant Mothers Risk Assessment to be undertaken, and also for any reasonable adjustments to be made as appropriate.

8.4 When the colleague finds out, or suspects, that she may be pregnant she is encouraged to confidentially speak to her line manager in order to ensure that a review of risk assessments is carried out, as early as possible in the pregnancy. This will enable the colleague to discuss and review the activities she is involved in and raise any concerns she may have regarding her work during her pregnancy. The colleague and her line-manager/risk assessor should review the work activities as the pregnancy progresses in order to take into account any risks which may arise at different stages.

1. **Sickness Absence**

9.1 If a colleague is absent from work during pregnancy owing to sickness, she will receive contractual sick pay in the same manner in accordance with the Managing Sickness Absence Policy as she would during any other sickness absence, provided that she has not yet begun ordinary maternity leave. If, however, the colleague is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.

9.2 In order to preserve her rights, she must notify her Line Manager and The People Team, as soon as reasonably practicable, that she is absent from work wholly or partly because of pregnancy. This notification should be in writing. Pregnancy related sickness is not included in any sickness absence triggers.

9.3 In the unfortunate event of a still birth during or after the 25th week of pregnancy, all the maternity rights stated in this policy will apply in the same way as with a live birth. If the colleague has a miscarriage before the start of the 25th week of pregnancy, she will not be entitled to statutory maternity leave or pay. Absence from work in this instance will be dealt with under the normal sick pay arrangements.

**10. Rights During Maternity Leave**

10.1 During her Maternity Leave, the colleague is entitled to the benefits of all her normal terms and conditions with the exception of salary. Information concerning Pension scheme contributions is detailed in [on](#Appendix_B) the relevant pension website. For academic staff this is [Scottish Teachers Pension Scheme](http://2015.sppa.gov.uk/scheme/teachers) (<http://2015.sppa.gov.uk/scheme/teachers>) and for Professional Service staff this [Lothian Pension Fund](http://www.lpf.org.uk/lpf1/info/3/current_members) (<https://www.lpfmembers.org.uk/lothian-pension-fund-members-site/paying-in/membership-and-contributions/what-if-i-am-absent-from-work/>).

Maternity leave counts towards her period of continuous employment for the purposes of entitlement to other statutory employment rights that would normally apply.

10.2 Annual leave will accrue at the rate provided under their contract during both Ordinary Maternity Leave and Additional Maternity Leave. It is not possible for a colleague to take annual leave at the same time as maternity leave. It will, though, usually be possible for a colleague to use any untaken annual leave either before she starts her maternity leave, or once her maternity leave has finished. Although it should be remembered, that if the baby is born early the maternity leave must start from that point. The untaken annual leave is not lost.

10.3 The Line Manager and the colleague should incorporate annual leave arrangements into their planning where it is possible to do so.

**11.**  **Contact During Maternity Leave**

11.1 During the maternity leave period, the Line Manager and the colleague on maternity leave are entitled to make reasonable contact from time to time without the leave period coming to an end.

11.2 The frequency of reasonable contact will vary according to individuals and circumstances and will also depend on what has been discussed and agreed between the colleague and Line Manger prior to the leave starting. The frequency of the contact will depend on a number of factors such as nature of the work, promotion opportunities or other changes at the workplace, contact can be by telephone, by email, letter or involve the colleague making a visit to the workplace, or in other ways. Line managers should discuss and record such arrangements with the colleague prior to leave commencing.

**12.** **Keeping-in-Touch Days**

12.1 In addition to the reasonable contact detailed above, “keeping in touch days” (KIT) allows the colleague to work for up to ten days without losing statutory pay for that week or bringing her leave to an end. Line Managers will explain KIT days and will discuss the opportunities to use KIT days with the colleague prior to leave commencing.

12.2 The colleague should agree with her Line Manager the type of work undertaken on a KIT day. This could be a normal activity or a conference, training activity or team meeting.

12.3 The colleague is not obliged to do any workor attend any events during maternity leave but if both agree the colleague canhave up to ten days’ KIT days during her maternity leave. KIT days are not limited to her usual job. They could be used for conferences, training or team meetings. They can also be used to ease the colleague’s return to work. However the colleague cannot work during the first two weeks after the birth. The colleague and her Line Manager must both agree that she will work these days and agree the arrangements including what the colleague will be doing.

12.4 The colleague is not required to take up KIT days and her Line Manager is not obliged to offer her although it is recommended that the Line Manager should look for opportunities to offer KIT days. The Line Manager cannot demand the colleague go into work at any time during her maternity leave period nor can she be penalised for refusing to take up a KIT day.

12.5 Any work done on any day during the maternity pay or leave period will count as a KIT day, up to the ten days maximum, e.g. if someone comes in for a one-hour training session it counts as one KIT day.

12.6 The colleague making use of a KIT day will receive a normal days pay for each KIT day. The Line Manager must complete a KIT Notification Form for The People Team which states the colleague came in for a KIT day. The form **must** be sent to payroll in the month the KIT day was taken so the KIT day can be processed through the HR and payroll system and the colleague can be paid accordingly in the next pay day.

12.7 The colleague will retain her entitlement to University Maternity Pay, Statutory

Maternity Pay and Maternity Allowance if she chooses to participate in up to ten KIT days.

**13. Returning to Work After Maternity Leave**

13.1 The colleague may return to work at any time during ordinary maternity leave or additional maternity leave, provided that she gives the appropriate notification. Alternatively, the colleague may take her full period of maternity leave entitlement and return to work at the end of this period. If the colleague wishes to return before the full period of maternity leave has elapsed, she must give at least eight weeks' notice in writing to the University of the Date on which she intends to return.

13.2 The colleague has the right to resume working in the same job if returning to work from ordinary maternity leave. If the colleague returns to work after a period of additional maternity leave, she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

13.3 Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the colleague is sick and produces a current medical certificate before the end of the maternity leave period.

13.4 The Line Manager should arrange for another new and expectant mothers risk assessment to be completed if the colleague is returning six months after giving birth or is breastfeeding. Please read Section 8 for more information on the New and Expectant Mothers Risk Assessment procedure.

13.5 If you intend to continue breast-feeding, you must let your line manager know before returning to work. Suitable facilities can then be identified for expressing and storing breast milk. The risk assessment should be carried out with particular attention paid to exposure to risks that may affect a breast feeding the colleague and her child. It is also important that you inform your manager when these facilities are no longer required.

**14.** **Resignation Following Maternity Leave**

14.1 If the colleague decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to the university as soon as possible and in accordance with the terms of her contract of employment. She will be required to pay back any University Maternity Pay over and above the Statutory Maternity Pay provisions which she may have received during her Maternity Leave period.

**15. Transfer of Maternity Leave**

Shared parental leave

15.1 Shared parental leave is available in relation to babies due on or after 5 April 2015. Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave with their partner.

15.2 Shared parental leave must be taken in blocks of at least one week. Individuals can request to take shared parental leave in one continuous block (in which case the university is required to accept the request as long as the individual meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (which is subject to the University's agreement).

15.3 To be able to take shared parental leave, a colleague and his/her partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the mother curtailing her maternity leave.

15.4 Colleagues can refer to the Shared Parental Leave policy, where they will find full details of the eligibility requirements, as well as instructions as to how the mother's maternity leave can be curtailed. The policy also sets out the notice periods with which colleagues must comply and what evidence they must provide to the university. It also contains more details on colleagues' entitlement to shared parental pay.

15.5 The mother and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

**16** **Other Relevant Policies**

* Adoption Policy
* Flexible Working Policy
* [Managing Sickness Absence Policy](http://staff.napier.ac.uk/services/hr/Documents/Managing%20Sickness%20Absence%20Policy%202010.doc)
* Paternity Policy
* Shared Parental Leave Policy
* Unpaid Parental Leave Policy

**[Appendix A](#Appendix_A)**

**Maternity Rights Flowchart**

Midwife/GP confirms the colleague is pregnant

The colleague is entitled to paid time off for antenatal care

Length of Maternity Leave does not depend on the colleague’s length of service

The colleague may be entitled to Maternity Allowance (MA) or other benefits from her local Benefits Agency or Jobcentre plus Office.

Over 1 year’s continuous employment by the 15th week before baby is due?

Over 26 weeks’ continuous service by the 15th week before baby is due?

#### NO

#### NO

##### YES

##### YES

The colleague is entitled to 39 weeks [Statutory Maternity Pay (SMP)](#Statutory_Maternity_Pay_SMP), followed by 13 weeks additional unpaid [Maternity Leave](#Maternity_Leave).

The colleague is entitled to 39 weeks [University](#University_Maternity_Pay) Maternity Pay (UMP), followed by 13 weeks [Additional Unpaid Maternity Leave](#Maternity_Leave).

The colleague must inform the University of their intention to take [Maternity Leave](#Maternity_Leave) by the 15th week before the baby is due, unless this is not reasonably practical. The colleague needs to tell the University in writing:

* That they are pregnant
* The week the baby is expected to be born
* When the colleague wants the maternity leave to start

[Notification](#Notice_Requirements) must be received no later than the 8th week before the baby is due and medical evidence i.e. a maternity certificate MAT B1 is required

* Colleague decides if Shared Parental Leave is suitable and follows process outlined in that policy

The colleague must give 28 days’ notice of any change of dates

The University must respond to the notification within 28 days, setting out when the colleague is expected to return to work if they take the full leave entitlement

Earliest start date for Maternity Leave is the beginning of the 11th week before the baby is due

If the colleague is absent from work with a pregnancy related illness during the 4 weeks before the baby is due, maternity leave starts automatically, regardless of when the colleague actually want the maternity leave to start

If baby is born before the date the colleague has notified (or before any notification), maternity leave period starts automatically and they must notify the University as soon as is reasonably practicable

**Maternity Rights Flowchart**

Continued from previous sheet.

Mother can consider if Shared Parental Leave is appropriate

The colleague may work up to ten “Keep in Touch” (KIT) days during maternity leave or maternity pay period by mutual agreement without affecting the entitlement to maternity pay

The colleague return to the same job after Ordinary Maternity Leave as if the colleague hadn’t been away.

The colleague return to the same job after Additional Maternity Leave as if the colleague hadn’t been away, unless not reasonably practicable, and then the colleague should be offered a similar job on terms and conditions no less favourable than original job.

The colleague continues to benefit from all terms and conditions during Maternity Leave except pay. The colleague can decide to share their additional leave with the father or their partner, including same sex and adoptive partners, if they do not take all of their maternity leave and pay in line with the Shared Parental Leave policy.

The colleague must give eight weeks’ notice if they intend to return to work prior to the agreed return date

The colleague will normally return to the same job after maternity leave as if they had not been away, unless this is not reasonably practicable, and then the colleague should be offered a similar job on pay, status and terms & conditions no less favourable than original job

**Appendix B**

