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Maternity Leave Policy/Procedure



Approved by	The Executive		
Date Approved	September 2018	Status	Approved
Policy Owner	HR Manager	Impact assessed	Yes
Version	1.1	Date of next review	November 2023

Version Number	Purpose/Change	Date
1	Creation of Policy	September 2018
1.1	Policy has been updated into new standard template and Policy owner has been updated from Director of HR to HR Manager.	August 2022

MATERNITY LEAVE

1. Policy Statement

- 1.1 The University aims to support all employees in achieving a healthy work/life balance, recognising that many employees will have family responsibilities that will require them to be absent from work from time to time. As such the University has built on its statutory obligations and developed a number of flexible family friendly policies which are available to all staff irrespective of their gender or sexual orientation. Employees can access these policies [here](#).
- 1.2 For further advice and information on this policy or any of the University's other family friendly policies, please contact the HR department.

2. Purpose & Scope

- 2.1 This policy sets out the rights of employees to maternity leave and pay, including enhancements the University provides for eligible employees. It outlines the process employees and managers should follow, and ensures a consistent and fair approach in line with legislative requirements and commitment to best practice.
- 2.2 A flowchart (see appendix 2) is attached to help explain the process and maternity leave planning checklists have also been created for both employees (see appendix 4) and managers (see appendix 3). These should be used alongside this policy/procedure, to guide discussions and considerations before, during and after maternity leave.

3. Surrogacy

- 3.1 If the employee is a birth mother in a legal surrogacy arrangement then they have the same maternity rights as any other pregnant employee, irrespective of what happens after the child/children is born. Guidance should be followed as per the Maternity Leave Policy.
- 3.2 If the employee is entering into a legal surrogacy arrangement subject to a parental order, they should follow the [Adoption/Surrogacy Leave Policy/Procedure](#).

4. Definitions

- 4.1 The following definitions are used within this policy.

Term	Definition
Expected Week of Childbirth (EWC)	The week, beginning with midnight between Saturday and Sunday, in which it is expected that childbirth will occur.
Qualifying Week	The 15th week before the EWC.
Ordinary Maternity Leave (OML)	The first 26 week period of maternity leave entitlement.
Additional Maternity Leave (AML)	The remaining 26 week period of maternity leave entitlement.
Statutory Maternity Pay (SMP)	A statutory payment made by the University to eligible employees for up to 39 weeks, paid at the statutory rate set by the Government in the relevant tax year.

Term	Definition
Occupational Maternity Pay (OMP)	An enhanced payment made by the University to eligible employees for up to 26 weeks (the OML period). This is paid (see amounts in section 7.2) on top of SMP entitlement.
Maternity Allowance (MA)	Paid to eligible employees - who are not entitled to SMP or OMP - for up to 39 weeks by Jobcentre Plus .
Keeping in Touch (KIT) Days	Days that can be used whilst on maternity or adoption leave for any activity which would ordinarily be classed as work under the contract of employment.
MATB1 Certificate	Issued by a doctor or registered midwife verifying the pregnancy and confirming the EWC.

5. Eligibility & Notification

- 5.1 To ensure that the University can provide support with regards to health, safety and wellbeing, employees should advise their manager of their pregnancy as early as possible.
- 5.2 Further to advising their manager, employees should confirm their pregnancy and EWC in writing by email to the HR department at HRInbox@rgu.ac.uk and copy in their manager. An HR Representative will then contact the employee to arrange a pregnancy risk assessment (see section 6 below).

- 5.3 Employees should submit their MATB1 certificate (no later than the end of the qualifying week) followed by a completed [Maternity Leave Notification Form](#) (no later than 8 weeks before their intended maternity leave start date) to the HR department. This form can be found in appendix 5.
- 5.4 On receipt of both the MATB1 certificate and the Maternity Leave Notification Form, the HR department will write to the employee to confirm their maternity leave and pay arrangements.

6. Risk Assessment

- 6.1 Employees expecting or nursing children are advised to inform the HR department as soon as possible so that a suitable risk assessment can be carried out to enable potential risks to be identified and control measures put in place.
- 6.2 The University has a duty to take care to safeguard the health and safety of all its employees and to fully examine any potential risks that could affect the health and safety of new and expectant mothers and that of their children.
- 6.3 On completion of the risk assessment, the manager should ensure that any adjustments are made as recommended on the form. This is particularly important where there are known personal or work area risks.

7. Entitlement

7.1 Maternity Leave

- 7.1.1 All pregnant employees are entitled to 52 weeks maternity leave, regardless of their length of service, which is made up of 26 weeks OML and 26 weeks AML. Any AML must immediately follow OML – there can be no break in-between.

- 7.1.2 Providing the employee has given the required notice, maternity leave will commence on the date that is decided by the employee, but unless the baby is born early, leave cannot commence before the beginning of the 11th week before the EWC.
- 7.1.3 The two weeks immediately following childbirth are classed as compulsory maternity leave and the employee is not permitted to work during this time.
- 7.1.4 The employees maternity leave start date can be altered but the University must be informed of the proposed change at least 28 days ahead of the revised date.

7.2 **Maternity Pay**

7.2.1 **Maternity Allowance:**

- 7.2.1.1 Employees with less than 26 weeks' service at the 26th week of pregnancy will normally be entitled to MA which is provided by the local Jobcentre Plus Office on receipt of an SMP1 form (to be completed by the employer) and an MA1 form (to be completed by the employee).
- 7.2.1.2 Where applicable, an SMP1 form will be issued to an employee by the HR department on receipt of their MATB1 certificate. Employees should take this to their local Jobcentre Plus Office along with their completed MA1 form in order to claim MA.
- 7.2.1.3 For more information or to access a MA1 form please refer to the [government website](#).

7.2.2 **Statutory Maternity Pay:**

- 7.2.2.1 Employees with a minimum of 26 weeks' service ending with the 15th week before the EWC, i.e. those with at least 41 weeks continuous service by the EWC, will qualify for SMP.

7.2.2.2 Also to qualify for SMP & OMP, an employee's average weekly earnings in the 8 weeks up to and including the 15th week before their EWC must be at least equal to the lower earnings [limit for national insurance contributions](#).

7.2.2.3 Employees who leave the University between the qualifying week and the 11th week before the EWC, will be paid SMP from the beginning of the 11th week before EWC. If an employee leaves the University after the start of the 11th week before EWC, their SMP will start the day after they leave.

7.2.2.4 Statutory Maternity Pay Breakdown:

Weeks 1-6 are paid at 90% of normal pay

Weeks 7-39 are paid at [SMP rate](#)

Weeks 40-52 are unpaid

7.2.3 Occupational Maternity Pay:

7.2.3.1 To qualify for OMP, employees must have accrued the same service and earnings as required for SMP (please read Statutory Maternity Pay above)*. In addition, employees must intend to return to work for a minimum period of 3 months. OMP is not suitable for those who are not planning on returning to the University after their maternity leave.

7.2.3.2 Prior to commencing maternity leave, the employee will be asked to sign a declaration agreeing that in the event they do not return to work for the minimum period, they will undertake to reimburse the University for the full amount of OMP which they received.

7.2.3.3 Occupational Maternity Pay breakdown:

Weeks 1-13 will be enhanced to full pay

Weeks 14-26 will be enhanced to half pay

Weeks 27-39 are paid at SMP rate

Weeks 40-52 are unpaid

i.e. the first 13 weeks are paid at full pay, followed by 13 weeks half pay, followed by 13 weeks statutory pay, followed by 13 weeks unpaid.

8. Sickness Absence

- 8.1 An employee who is absent from work due to a pregnancy related illness during the 4 weeks before the EWC will automatically commence their maternity leave. Any pregnancy related illness prior to the 4 weeks before the EWC will be managed under the University's [Sickness Absence Policy](#).

9. Antenatal Care

- 9.1 All pregnant employees are entitled to paid time off to attend antenatal care appointments. Please note, the employee may be asked to provide a certificate confirming pregnancy and/or relevant appointment cards.
- 9.2 Where possible, employees are encouraged to arrange medical and antenatal care appointments at suitable times to minimise disruption to their work.
- 9.3 An employee who is supporting their partner should refer to the [Paternity/Supportive Partner's Policy/Procedure](#) for their appointment entitlement.

10. Childbirth Before the Intended Start Date

- 10.1 If the child/children is born early and before the intended maternity leave start date, the employee's maternity leave will automatically commence the day after childbirth.

11. Miscarriage or Stillbirth

- 11.1 If an employee suffers a miscarriage prior to 24 weeks of pregnancy and is therefore unable to attend work, the University's [Sickness Absence Policy](#) will apply.
- 11.2 In the event that an employee has a stillbirth after 24 weeks of pregnancy, they will be entitled to the same amount of maternity leave and pay as confirmed in section 7.

12. Keeping In Touch (KIT) Days

- 12.1 Employees can work up to 10 days during maternity leave without bringing it to an end. These are called keeping in touch (KIT) days.
- 12.2 KIT days cannot be worked during the two week period of compulsory maternity leave immediately after childbirth.
- 12.3 It is important to note that KIT days must be agreed by both the employee and the University. The employee is not obliged to work any KIT days nor is the University obliged to provide or agree to them.
- 12.4 An employee wishing to work a KIT day should complete a KIT Claim Form (Appendix 6) and submit this to their manager for approval in advance of carrying out the work.

13. Shared Parental Leave (SPL)

- 13.1 SPL allows eligible parents to convert maternity leave into SPL to share between both parents in order to care for their child/children during their first year. Full details can be found in the University's [shared parental leave and pay](#).

14. Returning to Work

- 14.1 The maternity leave [Planning Checklist for Employees](#) and [Planning Checklist for Managers](#) highlights the key considerations to be taken into account when an employee returns to work following a period of maternity leave.
- 14.2 An employee who returns to work following OML is entitled to return to the same job on the same terms and conditions as if they had not been absent. If it is not practicable for the employee to return to the original job this should be discussed in full and, the employee must be offered a suitable alternative role with no less favourable terms and conditions.
- 14.3 An employee does not need to give notice of their return to work date unless they wish to return before or after the date stated on their maternity leave acknowledgement letter. The employee must give the University 8 weeks' notice of the new date they wish to return to work. This notice applies during periods of OML and AML.
- 14.4 If an employee wishes to return to work on alternative working arrangements, i.e. reduced hours, a flexible working application should be submitted. There is no statutory right for an employee to change the terms and conditions of their employment following leave. There is however the right to request a flexible working pattern and the University has a duty to consider this request. Further information including the application form can be found in the University's [Flexible Working Scheme](#).

- 14.5 Employees may also wish to familiarise themselves with the University's other family friendly leave policies/procedures such as [Parental Leave](#) and [Dependents Leave](#).
- 14.6 If an employee is unable to return to work due to sickness or injury, this will be treated as sickness absence in line with the University's [Sickness Absence Policy](#).

15. Breastfeeding

- 15.1 An employee may wish to continue to breastfeed or express breast milk after they have returned to work, including during any KIT days. If so, a Health and Safety Risk Assessment for New and Expectant Mothers will be completed by an HR representative and any issues raised will be addressed accordingly. Facilities such as a private room and access to a refrigerator for the employee to store expressed milk can be provided.
- 15.2 Managers should consider any short break from work reasonably and objectively against the likely impact it might have on the business and should be careful not to discriminate against breastfeeding employees. Refusal to allow an employee to express milk or to adjust their working conditions to enable them to continue to breastfeed, may amount to unlawful sex discrimination under the Equality Act 2010, which makes it unlawful for women to be treated less favourably in regards to their need to breastfeed/express.
- 15.3 Any concerns by an employee or manager should be raised immediately with the HR department.

16. Employees on Fixed-Term Contracts

- 16.1 Employees on a fixed-term contract which expires before the start of maternity leave will be able to claim SMP from the University subject to eligibility. The employee will not be eligible for OMP as they will not be returning to work after their maternity leave.

- 16.2 If eligible, the employee will receive SMP for the full 39 weeks even if the fixed term contract will end before this.

17. Resignation

- 17.1 In the event that an employee resigns from their post, they must give the required notice as detailed in their contract. If the employee is employed during the qualifying week they will remain entitled to SMP and maternity leave regardless of later submitting their resignation.
- 17.2 If an employee receives OMP and does not return to work for a minimum period of 3 months after maternity leave the enhancement will be subject to repayment. The Payroll department will calculate the amount of OMP to be repaid and will notify the employee as soon as possible so that arrangements can be made for repayment. Any form of leave taken immediately after maternity leave does not count e.g. sickness absence, annual leave, unpaid leave etc.

APPENDIX 1 – MATERNITY LEAVE FAQs

1. How is my contract of employment affected?

The contract of employment continues throughout the period of maternity leave unless either party expressly ends it. The period of leave therefore counts towards the period of continuous service for the purposes of entitlement to statutory employment rights.

2. What happens to my annual leave?

Annual leave will continue to be accrued at the contractual rate during both OML and AML. Annual leave cannot be taken during a period of maternity leave. After the period of maternity leave, arrangements should be made to take any annual leave which has been accrued immediately following leave, unless it is not a full day.

3. What happens with public holidays?

All public holidays that fall in the period of maternity leave will be accrued (pro- rata). Accrued holidays will be dealt with as per the provisions for annual leave detailed above.

4. What are the Health & Safety considerations?

The University will conduct a maternity risk assessment for all pregnant employees. The assessment will be conducted by a member of the HR department upon notification of the pregnancy. For further information please refer to your HR Business Partner/ Adviser or a member of the University's Health and Safety team or visit [HSE: New and expectant mothers](#).

5. How does maternity leave affect increments?

Incremental salary increases will not be affected by maternity leave and, where appropriate, you will be entitled to receive your normal annual increment on your salary scale.

6. How will maternity leave/pay affect my pension?

During any period of paid OML and paid AML (this includes employees who are only eligible for MA), your full pension membership will continue. Your normal pension contributions will be based on the actual pay you receive during this period and the University will continue to pay normal contributions based on your notional full pay.

Local Government Pension Scheme (LGPS)

During any period of unpaid AML, your membership will cease to continue for that period unless you have the right to return to work, in which case you can choose to make up pension contributions to cover the unpaid period. If you do this within 30 days of returning to work (or within 30 days of leaving, if you do not return to work) the costs of making up contributions will be split 1/3rd payable by you, and 2/3rds payable by the university. You may still elect to make up the pension after the 30 day period has expired, but the costs will fall fully to you. The cost of paying back is based on the last rate of pay you received just prior to the period of unpaid leave (excluding any increase in pay due to working a keep in touch day). You can discuss this directly with an LGPS Advisor at 01224 264264 or e-mail at pensions@nespf.org.uk.

Scottish Teachers Superannuation Scheme (STSS)

During any period of unpaid AML, your membership will cease to continue for that period. Under the current rules of the scheme members are not able to buy back the lost pension during any period of unpaid leave.

7. What other Family Friendly support does the University offer?

The University is committed to helping working parents and carers, and offers a variety of family friendly benefits and flexible arrangements. Policies and procedures within the suite of [family friendly](#) include: maternity leave and pay, paternity/supporting partner leave and pay, adoption/surrogacy leave and pay, shared parental leave and pay, parental leave, fertility treatment leave and pay, foster care leave and pay and time off for dependents. In addition the University offers:

Childcare facilities

The Treehouse Early Care Centre is a purpose build facility based on the University Campus. It provides high quality care and education for children aged 3 months to 5 years during Monday to Friday, 7.30am – 6pm.

Employees may be eligible to salary sacrifice part of their salary for the full cost of their childcare place, saving between 30% and 42% depending on the tax rate. Employees are advised to submit applications to their preferred nursery provider(s) as early as possible as places are normally reserved very quickly.

Kings Camps is a holiday childcare provider (OFSTED-registered) which operate from RGU:SPORT on the University campus during the Easter, Summer and October holidays. University Employees can book in advance to spread the cost and currently receive a discount.

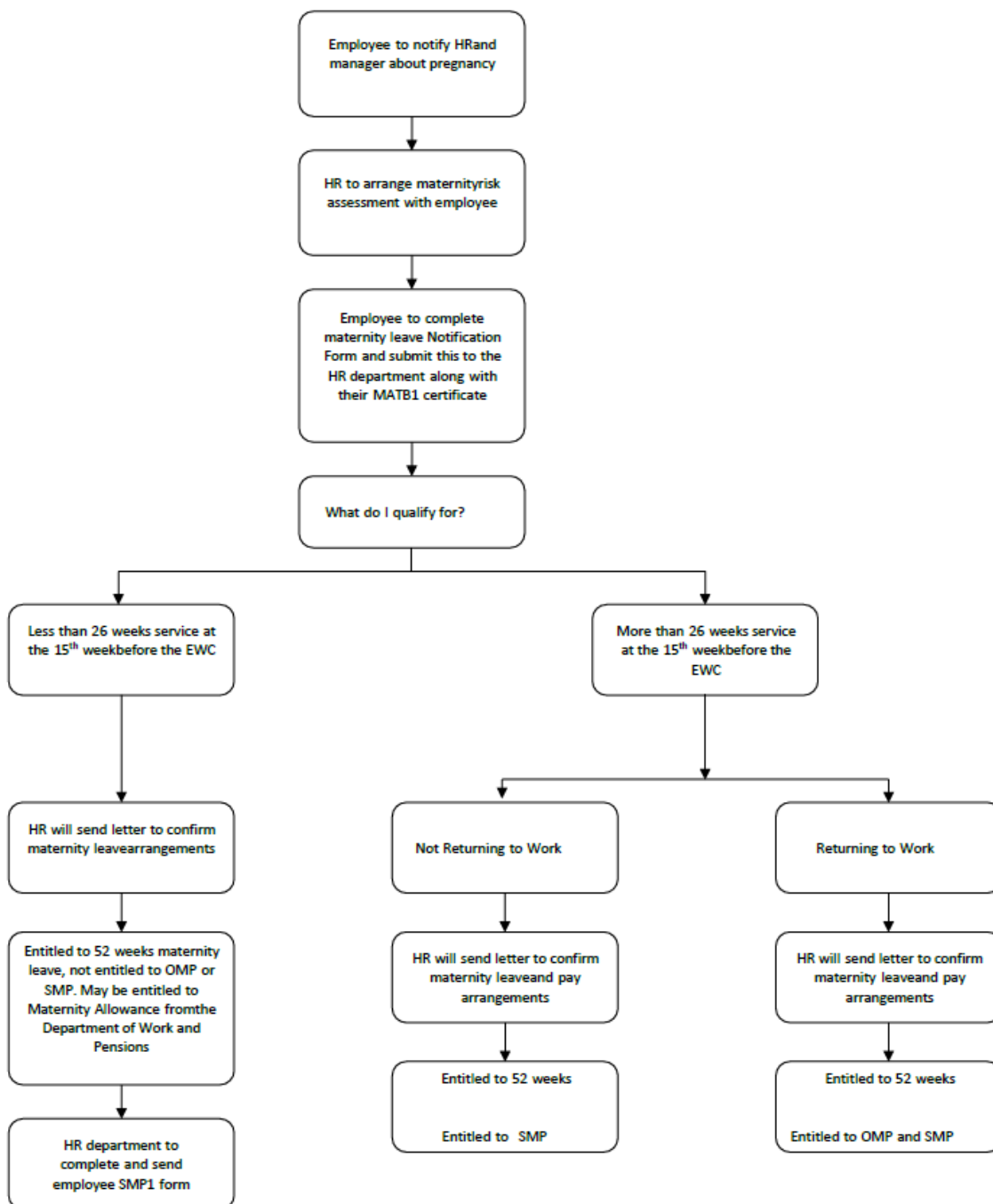
Further information and contact details can be found at [Supporting Working Parents](#).

Employees will also find information here on childcare support including the Governments Tax Free Childcare scheme.

University Support Helpline

The University recognises that employees may need confidential independent help, information, and guidance. For that reason a 24 hour confidential support [employee helpline](#) is available to employees and their family members to access. Professionals are available to answer queries on a wide range of practical and more sensitive issues and the service offers: life support, legal information, bereavement assistance, medical information, a wellbeing portal and online CBT.

APPENDIX 2: PROCESS FOR MATERNITY LEAVE





Robert Gordon University,
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