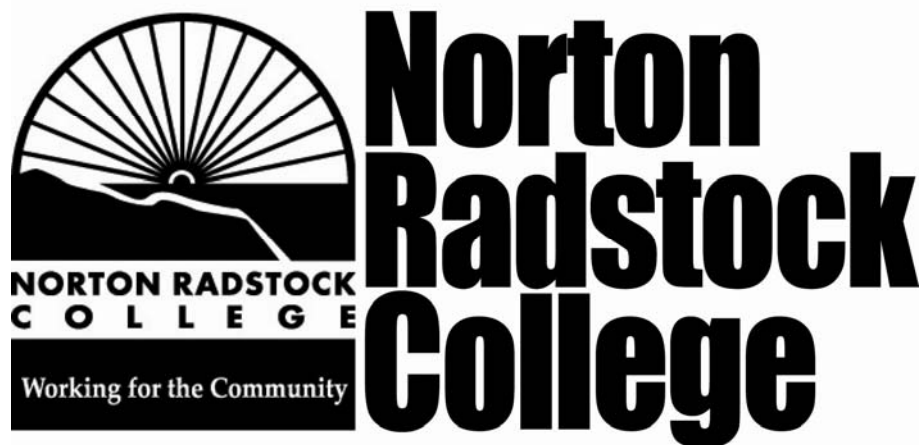


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## **Maternity Policy & Procedure**

Procedure Title: **Maternity**

**1 Introduction**

- 1.1 This scheme describes maternity rights, entitlements and obligations for all employees at the College. Employees are also encouraged to refer to other related policies such as parental leave, paternity leave, dependant care leave, leave of absence.
- 1.2 The College has an obligation to pay Statutory Maternity Pay (SMP) on behalf of the Benefits Agency to all employees who are eligible to receive it. This scheme explains entitlements to both statutory and contractual maternity benefits.
- 1.3 All written information or requests or notification from the member of staff need to be addressed to Personnel.
- 1.4 Women are protected from unfair treatment due to pregnancy, childbirth or taking maternity leave.

**2 Ordinary Maternity Leave (OML)**

- 2.1 All employees, regardless of length of service and numbers of hours worked, have the right to a statutory minimum of 26 weeks maternity leave provided that the conditions set out in this scheme are satisfied
- 2.3 The maternity leave period must include 2 weeks immediately after childbirth. This is compulsory maternity leave period.
- 2.4 OML cannot start earlier than the beginning of the 11<sup>th</sup> week before the week in which childbirth is expected (EWC).

**3 Additional Maternity Leave (AML)**

- 3.1 Employees who have 26 weeks continuous employment (regardless of the number of hours worked) by the start of the 15<sup>th</sup> week before the expected week of childbirth (EWC) have the right to take additional maternity leave (AML) of up to 26 weeks. AML will commence on the day immediately following the day on which OML ends.

**4 Giving Notice to begin Maternity Leave**

- 4.1 A woman who wishes to take statutory maternity leave, must give the College notice, by the 15<sup>th</sup> week before the EWC, of the following:
  - a. that she is pregnant
  - b. she should produce a certificate from a GP or registered midwife (form MATBI)
  - c. the expected date of childbirth
  - d. the date on which she wishes to start her maternity leave
  - e. if the woman wishes to claim Additional Maternity pay (see paragraph 6.2 below), she should also confirm that she intends to return to work at the end of the maternity leave period.

- 4.2 If it is not reasonably practicable for the woman to give this notice by the 15<sup>th</sup> week before EWC, then she must provide the information as soon as reasonably practicable.
- 4.3 When the above information is received the college will write to the woman, setting out the date on which she is expected to return to work.
- 4.4 Providing that she has given the College the required written notice, the employee may decide she wishes to start her maternity leave, and she may start at any time after the beginning of the 11<sup>th</sup> week before the week in which childbirth is expected.
- 4.5 If a woman is absent from work with a pregnancy-related illness during the four weeks before the start of the EWC, the College may require her to start her maternity leave from the day of her first absence.
- 4.6 Where childbirth occurs before the notified leave date or before she has notified such a date, maternity leave will start on the day after the birth and the woman should notify the College that she has given birth as soon as is reasonably practicable after the birth.

## **5 The Right to Return to Work after Maternity Leave**

### **5.1 Ordinary Maternity Leave**

- 5.1.1 A woman who wishes to return to work at the end of 26 weeks Ordinary Maternity Leave period, is entitled to return to the same job that she left.
- 5.1.2 If returning from ordinary maternity leave, notification of return to work is not necessary, unless the employee wishes to return early. In such cases the employee must provide at least one months written notice if she intends to return to work before OML expires.
- 5.1.3 A woman will not be allowed to return to work within 2 weeks immediately after childbirth (compulsory Maternity Leave).
- 5.1.4 Annual Leave will continue to accrue during this time period.

### **5.2 Additional Maternity Leave**

- 5.2.1 A woman, who wishes to return to work following an AML, has the right to the same job with the same terms and conditions if this is reasonably practicable. However, if this is not reasonably practicable, she has the right to be offered an alternative job that is suitable and appropriate on terms and conditions not less favourable than her original contract.
- 5.2.2 The College may write to the woman no earlier than 21 days before the end of the OML to confirm the date of birth and ask whether she intends to return to work after 26 weeks . The woman must reply within 21 days of receipt of this letter.
- 5.2.3 Annual leave will not accrue from week 40 to week 52 inclusively of AML

## **6 General Points**

- 6.1 If the employee's job becomes redundant during the course of her maternity leave, the College will offer her any other suitable alternative work that becomes available. She will have the right to be considered for such work, even though she is on maternity leave. The offer will be made before her previous employment ends and (if accepted) the new employment will commence immediately. It must involve suitable work and the terms and conditions will not be less favourable than the old contract. If there is no work available, then she will be made redundant, and receive redundancy pay in line with her statutory and contractual entitlements.
- 6.2 If industrial action or any other interruption of work makes it unreasonable for the employee to return to work on the date which she has specified, she may, instead, return when work resumes.
- 6.3 If a woman returning from maternity leave wishes to return on a part-time basis, the College will give consideration to any such request. Returning to work on a part-time basis can be:
- either a phased return, or return to a reduced working day.

Such arrangements could be either:

- a short-term arrangement; or
- a permanent reduction.

It could also be for a set period of time, leading to a return to full hours. Such arrangements will be on a fractional basis.

Where changes to working are not possible, the reasons will be fully discussed and put in writing to the employee concerned.

## **7 Maternity Pay**

### **7.1 Statutory Maternity Pay (SMP)**

A woman will be eligible to receive statutory maternity pay (SMP) if she satisfies the following criteria:

- 7.1.1 she must have completed 26 weeks continuous service at the 15<sup>th</sup> week before the expected week of childbirth and
- 7.1.2. she must be earning an amount equivalent to at least the lower earnings limit for National Insurance contributions and
- 7.1.3. she must still be pregnant at the 11<sup>th</sup> week before the expected week of childbirth and
- 7.1.4. she must have stopped work wholly or partly because of her pregnancy, or childbirth

## 7.2 SMP is payable over 39 weeks

7.2.1 First 6 weeks of OML, employees will receive either 90% of their average weekly earnings or the SMP rate , whichever is the greater.

7.2.2 Weeks 7 to 39 will be paid at the SMP rate or 90% of their average weekly earnings whichever is less.

In summary- 6 weeks at 90% average weekly earnings  
33 weeks at SMP or 90% of average weekly earnings - whichever is less than the current SMP flat rate

7.3 Not all employees will be eligible for SMP, in which case they should apply to the Jobcentre Plus to see whether they may be entitled to maternity allowance.

7.4 If an employee is awarded a pay increase between the beginning of the original calculation period and the end of her period of statutory maternity leave, her normal weekly earning for the purpose of calculating entitlement to SMP will be recalculated as if the pay increase applied each week of the relevant period, regardless of whether SMP has already been paid. The employee will be paid retrospectively for any difference between SMP already paid and the amount payable as a result of the pay increase. (see 'Statutory Maternity Pay , general Amendments Regulations 2005)

## 8 Additional Maternity Pay (AMP)

8.1 An employee will be entitled to receive additional maternity pay for part of the maternity leave period if:-

8.1.1 She has completed 26 weeks continuous service at the 15<sup>th</sup> week before the expected week of childbirth (EWC) and

8.1.2 she satisfies the other qualifying conditions to be eligible for SMP

8.2 Additional maternity pay is paid in addition to the SMP from week 7-18 inclusive of the maternity pay period.

- 6 weeks at 90% of average weekly earnings
- 12 weeks at 50% of average weekly earnings plus SMP
- 21 weeks remaining at SMP

8.3 Additional Maternity Pay will be paid at the rate of half-pay plus the SMP. This is subject to the combined SMP and half pay not exceeding the normal *full weekly salary*.

8.4 Any employee, who does not return to work for a period of at least 13 weeks service following her maternity leave can be required to repay the 12 weeks half-pay in 8.2 or a lesser amount if applicable, to be determined by the college. (There will be no requirement to repay SMP)

8.5 AML beyond 39 weeks will be unpaid

## 9 Pensions Contributions

- 9.1 A woman in receipt of remuneration, whether salary, or SMP, or both, will be treated as though she is working normally for the purposes of access to occupational pension scheme membership and benefits. The College will pay the normal contribution towards the pension scheme for the period of ordinary maternity leave. The employee is only required to pay contributions on the amount of actual remuneration or SMP she is in receipt of.
- 9.2 Employees who wish to continue contributions during this period of unpaid maternity leave should contact the pension authority to obtain the appropriate advice on how to do so.

## 10 Early Births

- 10.1 If the baby is born early, but after the employee has started to receive SMP, SMP will continue to be paid. If the employee has not yet started to receive SMP it will be triggered. For the purpose of calculating the return to work, calculate from the actual week of birth.

## 11 Late Births

- 11.1 If the baby is born after the EWC, SMP is not affected. For the purpose of calculating the return to work date, calculate from the actual week of birth. This is particularly important when calculating the AML period, which can be up to 29 weeks from the actual week of birth.

## 12 Stillbirths

- 12.1 In the unfortunate event of a stillbirth, the employee continues to be entitled to SMP if the child is born after the 24<sup>th</sup> week of pregnancy. She will also be entitled to the maternity leave period. In the event of a miscarriage during or before the 24<sup>th</sup> week of pregnancy, provisions and regulations of the sick pay scheme will apply.

## 13 *Circumstances in which SMP is lost*

- 13.1 An employee will lose her right to receive SMP if:
- She is taken into legal custody.
  - She starts work for another employer.
  - She returns to work. (Excluding circumstances when a 'Keeping in touch day' is undertaken under Section 8)

## **14 Time off for Antenatal Care**

- 14.1 A pregnant employee is entitled to take paid time off for antenatal care appointments. Wherever possible, she should arrange her appointments at the start or end of her working day. Evidence of appointments must be provided to the line manager. The line manager must record the and forward the evidence to Personnel.
- 14.2 Reasonable requests for time off for parent classes should be considered. Decisions will be based on alternative opportunities to attend parent classes and the effects upon the service.

## **15 Protection of New & Expectant Mothers**

- 15.1 The College is committed to creating and maintaining a healthy and safe working environment. This is particularly important in relation to safety of new and expectant mothers, who should inform Head of Facilities of their pregnancy as soon as possible. As part of normal health and safety practices the College will risk assess work areas. In addition the College will undertake the following in order to create a healthy workplace for new and expectant mothers:
  - 15.2 Work areas will be risk assessed to take account of particular risks to new and expectant mothers. Once Personnel has received written confirmation of an expectant employee, a risk assessment will be carried out by the College H&S Officer as soon as possible.
  - 15.3 Employees will have the right to transfer from hazardous work areas, or hazardous work, without loss of pay or status, to suitable alternative work and/or alter hours/work conditions if suitable actions cannot be identified to avoid an assessed risk.
  - 15.4 An employee may be temporarily suspended, on full contractual pay, from the site in order to maintain an appropriate level of safety if suitable temporary alternative employment cannot be found, and/or the expectant mother is a night worker who has a medical certificate which recommends restricting her work schedule/times.
  - 15.5 Suitable accommodation will be provided for new and expectant mothers to allow for appropriate rest periods, or to express milk. Staff members need to make their needs known to their line manager or Personnel.
  - 15.6 Health and Safety management will be undertaken in accordance with The Workplace (Health, Safety and Welfare) Regulations 1992.

## **16 General Issue**

- 16.1 Maternity leave is not sick leave, and will not be taken into account when calculating any period of paid sick leave.
- 16.2 During the 39 weeks of OML, the employee is entitled to benefit from the terms and conditions of her contract that would normally have applied had she not been absent, except in relation to payment of salary. The employee is bound by any obligation under her contract except those that are inconsistent with her rights to take OML, such as the obligation to attend work. The contract continues to run and the employee continues to accrue annual leave. .

- 16.3 During the 26 weeks of AML the employee is entitled to benefit from the trust and confidence obligation and any new terms and conditions, relation to notice, compensation in the event of redundancy and discipline or grievance procedures. The employee is bound by the obligation of good faith and any terms and conditions relating to notice, disclosure of confidential information, acceptance of gifts or other benefits and participation in any other business.
- 16.4 The College is entitled to maintain reasonable contact with the employee during the maternity leave period should circumstances make this necessary. This entitlement is separate from the keeping in touch arrangements described in Section 17 below, and may be necessary to communicate and consult with the employee about issues relevant to her employment. For example:
- to communicate important news about the college or to update the employee on any developments which have occurred during her absence;
  - to keep the member of staff advised of any changes that may arise which could affect her job, such as mergers, restructuring or job evaluation and
  - to discuss and plan the employee's return to work.

Communication could take the form of a staff newsletter, HR bulletin or individual letter.

- 16.5 Any employee who is unable to return to work at the end of their maternity leave period due to illness, will be treated as if they were on sick leave, and will therefore be entitled to sick pay under the terms and condition of the College Sick policy.
- 16.6 Periods of maternity leave and maternity absence are regarded as continuous service for the purpose of calculating entitlement to employment benefits.
- 16.7 If in the early months of pregnancy, an employee is advised by an approved medical practitioner to absent herself from work because of the risk of rubella, she will be entitled to leave with full pay.
- 16.8 Women are protected from unfair treatment due to pregnancy, childbirth or taking maternity leave.
- 16.9 This scheme will be reviewed on a regular basis in accordance with legislative developments and the need for good practice within the Corporation.

## **17 Keeping in touch**

- 17.1 Except during the 2 weeks immediately following childbirth, a 'keep in touch' day may be used to enable the employee to attend work without losing her right to SMP or AMP. Up to 10 'keep I touch' days may be undertaken during the maternity leave period without bringing the woman's maternity leave to an end.
- 17.2 There is no pressure on the employee to come into work and no obligation on the employee to undertake work, nor is there an obligation for the College to provide work.

- 17.2.1 Remuneration for a 'Keep in touch' day will be mutually agreed by the employee and Head of School and be paid for the hours she attended work (but not travel expenses)
- 17.3 If a 'keep in touch' day is agreed, the purpose should be agreed in advance so that both parties are clear what the employee will actually do - this can include training, a meeting or other activities to help keep the employee in touch

This policy has been updated in accordance with the Employment Act 2002, the Work and Families Act 2006 and the statutory duties on employees under the statutory Maternity Pay (General) (Amendments) Regulations 2005 and Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2006.