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## **MATERNITY AND ADOPTION POLICY**

This policy document applies to your employment at the Organisation. However, this policy does not form part of your contract of employment.

### **1. Policy Statement**

**1.1** The employer's policy is to comply with the law of England & Wales regarding maternity and adoption rights. The aim of this policy is to set out the law applicable to the rights of employees with new children. The policy is not a contractual document.

**1.2** In the event that this policy and the law conflict, the law shall take precedence. If employees are in any doubt as to what their rights are they should discuss matters with the employer. Should this policy change as a result of amendments in the law the changes will be notified to the employee via the employer's notice board.

**1.3** This policy is intended to apply to all employees who are either:

**(a)** Pregnant employees (including surrogate women and women who underwent IVF treatment).

**(b)** Employees who have a child placed with them for adoption.

**1.4** Any employee who is dissatisfied with any decision affecting their maternity or adoption rights should use the employer's formal grievance procedure.

### **2. Definitions**

**2.1** Expected Week of Childbirth (EWC) - The week in which the childbirth occurs. "Week" means the week beginning Sunday and ending the following Saturday.

**2.2** Ordinary Maternity Leave - this is the right of all eligible employees to a period of 26 weeks maternity leave regardless of length of service but provided they comply with certain notification requirements.

**2.3** Additional Maternity Leave - this is the right to an additional period of maternity leave regardless of length of service, but provided ordinary maternity leave has been taken. The right is to an additional period of leave of 26 weeks from the date on which the ordinary maternity leave ends.

**2.4** Compulsory Maternity Leave - this is a period of leave imposed by law on all eligible employees who are prevented from returning to work for a period of 2 weeks from the date of childbirth.

**2.5** Statutory Maternity Pay (SMP) - Compulsory pay payable to all eligible employees taking maternity leave who have at least 26 weeks continual service with the employer, provided they satisfy certain criteria.

**2.6** Maternity Allowance - Payments to be made by the DWP to eligible employees taking maternity leave who do not qualify for statutory maternity pay.

**2.7** Ordinary Adoption Leave – This is the right of eligible employees to take a period of 26 weeks leave provided they have worked for the employer for a continuous period of 26 weeks by the week in which an approved match is made (the matching week) and they meet certain notification and other criteria.

**2.8** Matching Week – This is the week in which an employee is notified by an adoption agency that they have been matched with a child and starts on a Sunday and ends on a Saturday.

**2.9** Additional Adoption Leave – This is the right to an additional period of leave of a further 26 weeks where ordinary adoption leave has been taken.

**2.10** Statutory Adoption Pay – Compulsory pay payable to all employees who have had a child placed with them for adoption, provided they have at least 26 weeks continual service with the employer and satisfy certain criteria.

**2.11** Adopter – Means a person who has been matched with the child for adoption. In the case of two people who have been matched jointly this shall mean whichever of them elected to be the child's adopter.

**2.12** Child – Means a person who is, or was when placed with an adopter for adoption, under the age of 18.

**2.13** Remuneration - Wages or salary.

**2.14** Partner – for the purposes of unpaid leave to attend antenatal appointments partner is defined as a person in a qualifying relationship - husband, civil partner, father of an expected child, a party living with the pregnant employee in a relationship, an applicant for a parental order as part of a surrogacy arrangement, or a same-sex partner where child conceived by sperm donation.

### **3. Maternity Rights**

#### **3.1 Time off for Antenatal Care**

**3.1.1** An employee should notify the employer in writing of their pregnancy as soon as they become aware to enable the employer to provide the employee with advice and details of other arrangements associated with maternity.

**3.1.2** The employee will be entitled to reasonable paid time off from work, (this includes travel time to and from appointments) in order to attend antenatal classes and appointments and receive antenatal care subject to them fulfilling the following requirements:

**3.1.3** The employee must be able to produce for the employer, on request, after the first appointment:

**(i)** A certificate from a registered medical practitioner, registered midwife or registered health visitor confirming that they are pregnant and,

**(ii)** An appointment card or some other document showing an appointment has been made. The appointment must have been made on the advice of a duly qualified doctor, midwife or health visitor.

**3.1.4** Employees will be paid their normal hourly rate of pay (including travel time) during the time of antenatal care (including medical examinations, relaxation classes and parent craft classes) as long as these occur during the employee's normal working hours.

**3.1.5** A Partner of the employee is entitled to take unpaid leave to attend two antenatal appointments, up to a maximum of 6.5 hours for each appointment. The Partner is not required to have worked for a qualifying period in order to benefit from this right.

**3.1.6** The main adopter is entitled to paid time off for up to five adoption appointments. The secondary adopter is entitled to unpaid time off for up to two appointments.

**3.1.7** Parents who are undertaking a surrogacy arrangement (and who will become parents of the child or children by applying for a Parental Order) are entitled to unpaid time off work for up to two antenatal appointments.

#### **3.2 Entitlement to Maternity Leave and Maternity Pay**

**3.2.1** In order to protect an employee's right to take maternity leave and statutory maternity pay (SMP) the employee must comply with the following notification provisions no later than the end of the 15<sup>th</sup> week before the expected week of childbirth:

**(i)** Notice in writing that the employee is pregnant together with details of the expected week of childbirth (EWC). This will usually be form MAT B1. This is normally available from a doctor or midwife from the 20th week before the expected week of confinement. No statutory maternity pay will be payable without this certificate or an acceptable alternative. Where it is not reasonably practicable to provide the maternity certificate within the stipulated time scale it must be provided as soon as possible, and an explanation of the delay given in writing to the employer.

**(ii)** Notice (in writing if so, requested by the employer) of the date when they intend to begin their period of maternity leave. Where this is not reasonably practicable a letter must be forwarded as soon as possible to the employer with an explanation for the reasons for failing to give the required notice.

**3.2.2** Within 28 days of receipt of notification under sub-paragraph 3.2.1 (ii) the employer shall notify the employee when their ordinary maternity leave will end, and when their additional maternity leave will end.

**3.2.3** An employee who has notified their employer under sub-paragraph 3.2.1 (ii) of the date they intend their ordinary maternity leave period to start may subsequently vary that date provided that they notify their employer of the variation at least:

**(a)** 28 days before the date to be varied, or

**(b)** 28 days before the new date, whichever is the earlier, or if that is not reasonably practicable as soon as is reasonably practicable.

**3.2.4** On receipt of notification of variation under sub-paragraph 3.2.2, the employer shall notify the employee of when their ordinary or additional maternity leave will end. Such notification must be made within 28 days of the date on which the employee's ordinary maternity leave commenced.

**3.2.5** Where the required notice has not been given under paragraph 3.2 or the maternity certificate is provided late the employee may lose their right to start maternity leave on their chosen date or to receive statutory maternity pay. It will be a matter for the employer to decide whether or not it was reasonably practicable for the employee to comply, and the employer will advise the employee of its decision. If the employee is refused statutory maternity pay under these circumstances, they may ask for a written statement to that effect or apply to an adjudication officer of the Social Security Tribunal for a formal decision.

**3.2.6** Where the period of leave starts the day which follows after the beginning of the 4th week before the expected week of childbirth, the employee must notify the employer as soon as reasonably practicable that they are absent wholly or partly because of pregnancy and the date on which their absence for that reason began.

**3.2.7** Where the childbirth occurs before the notified leave date or before they have notified such a date, the employee must notify the employer that they have given birth and of the date on which the birth occurred and do so as soon as is reasonably practicable after the birth.

**3.2.8** In the case of sub-paragraphs 3.2.6 and 3.2.7 the employer will within 28 days of the date on which the employee's ordinary maternity leave commenced, notify the

employee of when their ordinary maternity leave will end and when their additional maternity leave will end.

#### **4. Commencement and Period of Ordinary Maternity Leave/Additional Maternity Leave**

**4.1** Maternity leave will normally start on the date chosen by the employee and must not be a date earlier than the 11th week before the expected week of childbirth. Maternity leave automatically starts on the date childbirth occurs if that is earlier than the notified date or where no date has yet been notified.

**4.2** Ordinary maternity leave will last for a period of 26 weeks. Additional maternity leave is also available to employees. This additional period of leave is 26 weeks. The additional maternity leave period actually starts on the day after the last day of ordinary maternity leave ends.

**4.3** If an employee has not yet taken maternity leave, but their pregnancy does not allow them to continue in the same job for health and safety reasons, the employee will be offered suitable alternative work if such work is available or suspended on medical grounds on full pay. (See clause 10).

**4.4** An employee on maternity leave may agree with the employer to work for up to 10 days during the statutory maternity leave period, (both ordinary and additional) without bringing the leave period to an end as a result of having carried out that work. "Work", shall include training and any other activity undertaken to keep the employee in touch with the workplace. No work shall be carried out in the first 2 weeks after childbirth. Any work carried out on any day shall constitute a day's work. Any day's work carried out shall not have the effect of extending the total duration of the statutory maternity leave.

**4.5** During the statutory maternity leave period the employee and employer shall be entitled to make reasonable contact with each other from time to time, e.g. to discuss the employee's return to work. Such contact shall not bring the statutory maternity leave to an end.

**4.6** The employee will be entitled to their normal basic rate of pay for time spent working on such days and this will be inclusive of any maternity pay entitlement.

**Sample document – the remaining are clause headings only  
Full document contains all clauses**

#### **5. Statutory Maternity Pay (SMP)**

#### **6. Maternity Allowance (MA)**

#### **7. Notification Requirements Prior to Return from Ordinary Maternity Leave**

#### **8. Notification Requirements Prior to Returning to Work from Additional Maternity Leave**

- 9. Non-Maternity Related Illness**
- 10. Contractual Rights during Maternity Leave**
- 11. Maternity Suspension**
- 12. Changes to Employment upon Return from Maternity Leave**
- 13. Adoption Rights**
- 14. Notification Requirements For Adoptions In The UK**
- 15. Notification Requirements For Overseas Adoptions**
- 16. Commencement and Period of Ordinary Adoption Leave/Additional Leave**
- 17. Disrupted Placements**
- 18. Statutory Adoption Pay**
- 19. Notification requirements prior to returning to work from Additional Adoption Leave**
- 20. Contractual rights during Adoption Leave**
- 21. Changes to Employment upon return from Adoption Leave**
- 22. Contractual Rights to Adoption Leave and Paternity Leave**
- 23. Date of Implementation**
- 24. Questions**

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