

MATERNITY POLICY

Change History

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MATERNITY PROVISION IN THE UNIVERSITY OF SURREY

The purpose of this document is to outline the main provisions relating to maternity leave. Regarding dates in this policy it does not matter when the baby is/was actually born; the important date is when it is due. Please contact your Human Resources representative if you wish to discuss any aspect of this policy.

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The University has other related policies that may be of interest to its employees or their partners who have or are expecting children. The Maternity Policy, and the policies listed below apply equally to same-sex and opposite sex couples.

- Leave Policy
- Flexible Working
- Adoption Leave
- Parental Leave
- Paternity Leave
- Shared Parental Leave

This policy and procedure do not form part of any employee's contract of employment. It may be amended from time to time with appropriate consultation with recognised trade union representatives.

From 1st December 2014 new Regulations will allow eligible women to curtail their statutory maternity leave to enable their partner to take Shared Parental Leave. The Regulations specify the notice requirements and conditions around curtailment, which cannot take effect before the end of the compulsory maternity leave period (two weeks from childbirth). Please refer to the Shared Parental Leave Policy for further details.

1. **Maternity Leave Scheme/Options**

- a. There are 3 types of maternity leave that may be applicable to an employee:

Ordinary Maternity Leave (OML)
Additional Maternity Leave (AML)
University Maternity Leave (UML)

- b. Which scheme an employee is eligible for will depend on length of service:

- i. To be eligible for any scheme an employee needs to have at least 26 weeks of continuous service with the University of Surrey.
- ii. All eligible employees are entitled to 26 consecutive weeks' statutory OML regardless of their length of service.
- iii. All eligible employees are entitled to an additional 26 weeks' AML regardless of their length of service. All eligible employees who have:
 - completed 52 weeks continuous service at the 15th week before the Expected Week of Childbirth (EWC) and
 - at the 15th week before their EWC have returned to work for a period of 52 weeks with University of Surrey since their last period of maternity leave (with University of Surrey enhanced maternity pay) ended (if applicable)

are entitled to UML, details of which are given in Appendix B.

- iv. After taking UML, an employee needs to return to work for the University for at least three months. If they do not, the University has the right to reclaim the whole of the non-statutory element of Maternity Pay. If it is unclear whether an employee will be able to fulfil this requirement, then they may defer receipt of University Maternity Pay until they have completed three months post maternity leave service.

2. **Pay/Benefits During Statutory Maternity Leave**

- a. Employees with 26 weeks continuous service by the end of the 15th week before the EWC will be entitled to receive 39 continuous weeks of Statutory Maternity Pay (SMP). SMP will be paid during the 26 weeks OML and for 13 weeks of the AML. Further details on these payments can be found in Appendix A.
- b. The employee must have normal weekly earnings of not less than the lower earnings level for National Insurance purposes and be pregnant or have given birth 11 weeks before the start of EWC.
- c. SMP may commence on any day of the week to allow the start of the payments to begin at the same time as the maternity leave.
- d. **Those who are not eligible:**

Where an employee has less than 26 weeks continuous service with the University they will not be eligible for SMP. Employees who do not qualify for SMP may still be able to claim Statutory Maternity Allowance (SMA) from Jobcentre Plus. Further details on this are provided in Section 4 below but they should contact HR as soon as possible, to confirm dates and discuss the process.

3. Pay/Benefits During University Maternity Leave

- a. Staff with at least 52 weeks continuous service at the 15th week before the EWC and who qualify for SMP are eligible for University Maternity Pay (UMP), details of which can be found in Appendix B.
- b. Where an employee works for less than 52 weeks in each year, (e.g. during semester periods only), maternity leave and pay will run continuously from the start date of maternity leave (rather than following the pay or working patterns of when the employee is not on maternity leave)
- c. Where UMP is paid at the employee's full weekly rate, it will include any relevant SMP. Where it is paid at half the employee's full weekly rate, it will exclude any SMP entitlement (which is then paid in addition).

4. Procedure for Taking Maternity Leave

- a. An employee must provide written notice of pregnancy, stating the EWC, and the proposed starting date for maternity leave. This should be sent to her Line Manager and copied to the Faculty or Administrative/Service Department HR Representative no later than the 15th week before the EWC.
- b. As part of this notification process an original MATB1 (which confirms the expected date of childbirth) will need to be included. These are issued by midwives after 20 weeks. In some cases they may be issued later than this so in these situations the employee should provide their MATB1 after the initial notification but no later than the 15th week before EWC. HR are responsible for notifying Payroll and Pensions of the employee's leave dates as well as sending the MATB1 form to Payroll.
- c. In order to assist the University in discharging its responsibilities for the health and safety of the pregnant employee and her unborn child, written notification **should be made at an early stage in the pregnancy.**
- d. If an employee later wishes to change the intended start date of their leave, they will have to give at least 28 days' notice before her amended start date (or as soon as is reasonably practicable).
- e. Once the request for maternity leave has been received, a written response will be made within 28 days. This will set out the expected date of return (which unless advised differently will be 52 weeks after the advised commencement date).
- f. Formal notification of the baby's actual date of birth should be made to the School or Administrative/Service Department HR Representative as soon as reasonably practicable after the birth.
- g. If the employee does not comply with the above or does not notify the University as soon as reasonably practicable that they are absent because of the birth of their child, then the employee will not have the right to maternity leave.
- h. For those employees who are not eligible for SMP (see section 2d), they will need to notify the relevant departments as in sections a) and b). HR will send their MATB1 to payroll and confirm the Maternity Leave dates. Payroll will then provide an SMP1 form and letter to HR for the employee, which may enable the employee to claim SMA from Jobcentre Plus.

5. Health & Safety

- a. Once an employee has provided written notification of pregnancy, the University will ensure that any additional actions are taken as necessary (e.g. risk assessment) to protect her health and safety and that of her baby.
- b. Where an employee is employed on work which could involve risk to her health and safety, or to that of her baby, arrangements will be made to protect both. Where the risk cannot be removed, consideration will be given to changing the parent's working conditions /hours or providing alternative suitable work. If these options are not available, it may be necessary to suspend the employee on full pay if it is deemed necessary to protect her and/or her unborn child.

6. Ante-Natal Care

- a. Permission to take paid time off for recommended antenatal check-ups during the course of the pregnancy will be granted.
- b. With the exception of the first ante-natal appointment, the employee must be prepared to show on request:
 - a certificate from a registered medical practitioner, midwife or health visitor to confirm they are pregnant;
 - an appointment card to show an appointment has been made.
- c. Fathers and partners and intended parents in a surrogacy situation have the right to take time off work (unpaid) to accompany a pregnant woman at an antenatal appointment on two occasions. Employees are entitled to be absent for the appointment time, up to a maximum of 6.5 hours on each such occasion and the appointment must be on the advice of a registered medical practitioner, midwife or nurse. The University may require the employee to provide a signed declaration confirming various matters, including: the employee's qualifying relationship with the pregnant woman or her expected child; that the purpose of the time off is to accompany the woman at her antenatal appointment; and the date and time of the appointment. If an employee fails to comply with a request to provide a written declaration, they are not entitled to take time off under the provision.

7. Stillbirth or Early Birth

- a. If the baby is stillborn after the 24th week of pregnancy, or if the baby is born alive at any stage of the pregnancy but subsequently does not survive the employee will be entitled to her full maternity rights including pay and leave. The employee's entitlement to opt for the University's Maternity Leave Scheme also applies. If the employee miscarries before the 24th week of pregnancy, they will not be entitled to full maternity rights including pay and leave. However, the University will support the employee and offer assistance, including referral to well-being support.
- b. In the event that the employee wishes to return to work earlier than previously notified to the University the employee should give as much notice as is practicable. Under Maternity Leave legislation the employer can request that the employee gives at least 8 weeks' notice of an intention to return earlier than 52 weeks after the start of her maternity leave. In the case of a still birth or the child not surviving the University would waive this requirement according to individual circumstances.

8. Starting Maternity Leave

- a. An employee may commence maternity leave at any time from the 11th week before the EWC, up to the day of the birth.
- b. An employee's maternity pay period will begin the day after they give birth if that day is before the day specified in her notice to their employer.
- c. Maternity leave may start on any day of the week.
- d. If the employee is absent from work because of a pregnancy-related reason in the four weeks before the EWC, her maternity leave will start automatically the day after the first date of absence.

9. Contact During Maternity Leave

- a. Reasonable contact is permitted from time to time between an employee and her employer (for example for departmental updates or to discuss an employee's return to work).
- b. The contact between employer and employee can be made in any way that best suits both of them (for example it could be by email, by letter, or involving the employee making a visit to the workplace). This should be agreed before the employee goes off on Maternity Leave.
- c. The employee will be kept informed of any promotion opportunities or vacancies which arise in their department during maternity leave. The employee is also encouraged to visit the job vacancies webpage on the University's website, to view job vacancies across the University.

10. Working Whilst on Maternity Leave

- a. An employee may, by agreement in advance with their Line Manager and in conjunction with their HR representative, do up to 10 days work, known as Keeping In Touch days (KIT days), under her contract of employment during her maternity leave period. KIT days may be used for any activity which would ordinarily be classed as work under the employee's employment contract (for example attend a conference, a team meeting or a training event). These days may be undertaken at any stage during the maternity leave period, except during the first two weeks after the baby is born.
- b. This regulation does not confer any right on an employer to require that any work be carried out during the statutory maternity leave period, nor any right on an employee to work during the statutory maternity leave period. For the purposes of this regulation, any activity carried out on any day shall constitute one day's attendance. Any such KIT day shall not have the effect of extending the maternity leave period. If an employee completes more than 10 KIT days during her maternity leave, this will bring an immediate disqualification from SMP and UML for the week in which the work was carried out.
- c. Because KIT days allow work to be done under the employee's contract of employment they will attract contractual payments and in this way are different to the reasonable contact that employers and employees may make with one another. The employee will be paid their contractual rate of pay for the hours actually worked during the KIT day, not for a full day's work (i.e. if an employee attends a two-hour meeting on one day this will count as one KIT day, but will only be paid for 2 hours work). Any SMP and/or UML pay for the week in which the work is done will be counted towards the contractual pay. The University will pay the shortfall between the maternity pay and the employee's contractual rate

of pay for each agreed KIT days. If a KIT day falls during the paid period of maternity leave pension scheme contributions will be deducted accordingly. Where an employee is in a no pay period, but receives pay for KIT days, pension contributions may be deducted. This will be dependent on the pension scheme rules appropriate to their membership.

- d. If the employee carries out any paid work for another employer or for the same employer that is not under her current contract of employment and therefore is not a KIT day this will bring an immediate disqualification from SMP and UML for the week in which the work was carried out and if paid work continues will result in permanent disqualification.
- e. In order for payment to be arranged for KIT days the employee's Line Manager needs to notify HR of the dates and exact hours worked. HR will then need to notify Payroll.

11. Not Returning to Work

- a. An employee who does not wish to return to work after the birth of their child is still entitled to receive SMP or SMA if they qualify for these payments (see Section 2).
- b. The notice period of an employee not returning to work should be in accordance with the notice requirements set out in their Principal Statement.
- c. Where an employee has decided, after the birth of her child, not to return to work, her employment is terminated at the end of her paid maternity leave, unless an earlier date is requested by the employee. They will remain in the Pension Scheme until their paid maternity leave period comes to an end or until the date of her resignation or the end of her contract if this is earlier.
- d. Where an employee resigns from their employment after the 11th week before her EWC but before her maternity leave is due to start, then the maternity leave period will start the day after the day her employment ends. There will be no pension contributions due to the pension scheme and their membership will cease from the date of resignation.
- e. Where an employee resigns from her employment before the 11th week before her EWC then there is no obligation to pay pension contributions and the member will be deemed to be a leaver from the Pension Scheme.

12. Returning to Work after Maternity Leave

- a. Where an employee takes maternity leave, the University will presume they will take their full entitlement (OML and AML combined) unless they have notified the University of her intention to return earlier.
- b. It is expected that the employee will return to work at the end of 52 weeks of combined OML and AML *i.e.* on the first working day immediately following the day on which her AML ends.
- c. Where a member of academic staff has been on maternity leave from the university their teaching load may be varied to enable a phased return to normal work levels. Each potential case will be judged on its own merits, although there is an expectation that teaching and/or administration loads will be reduced for a semester to facilitate staff reaching their research targets. The details of this sabbatical leave from teaching and administration will be discussed with their Head of Department (or equivalent) or Dean of Faculty as appropriate and must

be considered in the light of their teaching and administrative commitments prior to them starting their period of maternity leave. Reductions should be discussed with Human Resources before any final revision is confirmed to the individual concerned. Any changes will not affect employee's right to their full contractual pay during a phased return.

13. Return to Work during Ordinary or Additional Maternity Leave

- a. If an employee decides they want to return to work before the end of the 52-week period, they must give at least 8 weeks' notice of their intention to return to work.
- b. An employee who has notified the University that they wish to return to work before the end of the 52 weeks period is entitled to change their mind and to extend their maternity leave. However, they will need to notify the University of the new, later date of return at least 8 weeks prior to the original return date.
- c. If the employee fails to give at least 8 weeks' notice of their intention to return, the University may delay the return to work by up to 8 weeks or until the end of the 52-week period – whichever is the shortest.
- d. As Maternity Pay is paid based on a full week, if an employee returns to work part way through their week during Ordinary or Additional Maternity Leave they will not be paid any of that week's payment. Therefore, the employee should consider this impact if planning their return before the end of Maternity Leave.

14. Returning to Work after Ordinary or Additional Maternity Leave

- a. An employee returning from OML is entitled to return to work in the same job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen, in which case they are entitled to be offered a suitable alternative vacancy.
- b. An employee returning from OML is entitled to return to work in the same job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen. They will be entitled to benefit from any improvements as if they had not been away, such as pay rises. The rights of an employee returning from AML are similar unless it is not reasonably practicable for them to return to the same job. In which case, they should be offered a similar job on terms and conditions which are no less favourable than their original job.

15. Returning to Work Part-Time

Whilst returning to work part-time is not a right, the University will give consideration under the terms of the statutory rights to flexible working which are detailed in the separate Flexible Working Rights Policy.

16. Staff on Fixed Term Contracts

If you are employed on a fixed-term contract or an open ended fixed funded contract and this contract expires or the funding ceases during your maternity leave period, your contract of employment will be terminated as normal and you will receive a lump sum payment, within your final payslip, for any outstanding enhanced University Maternity Pay and/or Statutory Maternity Pay. Please note, you will not be required to repay any University or Statutory Maternity Pay received in your maternity period prior to, or at the point of, your contract ceasing.

Please see the Fixed Term Contract policy for further information on how end of contracts are managed.

17. Annual Leave and Maternity Leave

- a. An employee should take advice from their HR Representative about their annual leave entitlement as the terms on which it is taken will differ in each circumstance.
- b. Annual leave should normally be taken prior to an employee going on maternity leave as only up to 5 days can be **exceptionally** carried forward from one leave year to another. Unused annual leave may be lost.
- c. Annual leave will continue to accrue for as long as the employee is on maternity leave, whether this is paid or unpaid. There is a legal entitlement to paid annual leave during maternity leave, which the employee may use directly prior or after the maternity leave, or to receive payment for the leave, *in lieu* of that portion of unpaid maternity leave. Bank holidays and University closure days will be accrued during the maternity leave period.
- d. Annual leave will be the employee's contractual leave entitlement.

18. Sickness Absence

- a. Where an employee is absent due to a pregnancy-related illness following the fourth week before the EWC her maternity leave will automatically commence on the day after the first day of absence.
- b. If the illness is not pregnancy-related the employee can remain on sick leave until the date they have notified as the start date for their maternity leave, or the day after the date of childbirth whichever is sooner.

19. Calculation of Weekly Earnings

- a. Average weekly earnings are calculated in accordance with the Employment Rights Act 1996 [sections 221-229] - full details are available from the Payroll Office or HR Department. Because of the way maternity pay is calculated the amount of pay may fluctuate each month.
- b. Please note that any Maternity calculations that Payroll provide will be gross, rather than net.

20. Pension Arrangements

Contributors to University of Surrey Pension Plan

- a. Employees contributing to the University of Surrey Pension Plan (UPP) are required to pay pension contributions whilst in receipt of maternity pay whether UMP or SMP. The employee's contributions will be calculated on the basis of the actual pay received. The University will maintain the appropriate employer contributions during the paid maternity period only.
- b. No contributions are due during unpaid maternity leave unless the employee elects to make these contributions or works a KIT day during this period. Pension contributions will be deducted automatically, based on the level of pay received for a worked KIT day. An employee may elect to increase their contributions for the unpaid maternity leave period when they return to work, to make up for any loss of payments while they were not contributing. Where this election is made the employer will also pay their standard contributions for the same period. If an employee is not entitled to receive any payment during her maternity leave period and is not eligible for SMP, the University will pay the employer contributions to the Scheme for the statutory period.

Contributors to Surrey County Council (SCC) Superannuation Scheme

- a. Employees contributing to the Surrey County Council (SCC) Superannuation Scheme are required to pay superannuation contributions whilst in receipt of maternity pay whether UMP or SMP. The employee's contributions will be calculated on the basis of the actual pay received. The University will maintain the appropriate employer contributions during the paid maternity period only.
- b. No contributions are due during unpaid maternity leave unless the employee elects to make these contributions or works a KIT day during this period. Pension contributions will be deducted automatically, based on the level of pay received for a worked KIT day. An employee may elect to pay contributions on unpaid maternity leave to buy the lost pension. Where this election is made within 30 days of their date of return to work from maternity leave, the cost to purchase the amount of lost pension is split between the employee and the employer. If no election is made on their return to buy the lost pension, the period will not count for pension purposes.
- c. If an employee is not entitled to receive any payment during her maternity leave period and is not eligible for SMP, the University will pay the full employer contributions to the Scheme for the statutory period. The employee will be credited with full benefits for the statutory period.

Contributors to the Universities Superannuation Scheme (USS)

It should be noted that pension contributions do NOT have to be paid by the employee during her maternity leave period, and the employee can elect to stop such contributions. Where the employee elects to do this, the employer contribution will not be paid and the membership will be suspended for the period. Any election not to maintain pension scheme contributions should be made in writing to the University Pensions Department prior to the commencement of maternity leave.

- a. Unless an election is made prior to the commencement of maternity leave not to maintain contributions, employees contributing to the Universities Superannuation Scheme (USS) are required to pay superannuation contributions whilst in receipt of maternity pay whether SMP or UML. The employee's contributions will be calculated on the basis of the actual pay received. The University pays the shortfall of the employees' contributions and continues to maintain the full employer's contributions.
- b. No contributions are due during unpaid maternity leave and membership of USS is suspended. Where an employee receives pay for a KIT day during a no pay period, no pension contributions will be deducted from any amount paid for the KIT day. The member may elect to repay additional contributions following their return from maternity leave, to cover any unpaid maternity leave. Application should be made to the University Pensions Department. They will calculate the cost and method of payment. If the additional contributions are not made following the employees' return from maternity leave, the unpaid period will be treated as non-pensionable.
- c. If an employee is not entitled to receive any payment during her maternity leave period and is not eligible for SMP, the University must pay the full employee and employer contributions to the Scheme for the statutory period. These contributions will be based on the salary the member would have received if they were not absent due to maternity leave.

d. **PensionPlus Salary Exchange Scheme**

To protect employees, anyone only receiving statutory maternity pay, statutory adoption pay or long-term statutory sick pay will be temporarily suspended out of the PensionPlus Salary Exchange Scheme. The employee will automatically re-join if their earnings meet/exceed these amounts.

Questions should be directed to the University's Pension department by email at pensions@surrey.ac.uk

21. Miscellaneous Provisions

An employee has the right not to suffer any detriment on the grounds of pregnancy, childbirth or maternity.

The Employment Rights Act 1996 provides that where an employee exercises her right to return to work her continuity of employment is not broken by absence on maternity leave. In this connection, it is agreed that:

- pension rights and contributions shall be dealt with in accordance with the provisions of the relevant superannuation scheme.
- the employee shall be entitled to receive the normal annual increment on her scale in accordance with her contract of employment to take effect from the normal incremental date.

Where the pregnancy lasts at least 24 weeks, there shall be no distinction between live and still births in the granting of any maternity leave or pay entitlements.

22. Taking Maternity Leave Outside the UK

Staff can elect to take their Maternity Leave outside the UK. If they do, so they will need to be aware that any pay provided under the terms of this policy may be subject to different tax arrangements and employees are advised to discuss any intention to spend part or all of their maternity leave abroad in advance with Human Resources.

APPENDIX A - Glossary of Terms and Abbreviations

Mat B1.	This is the medical certificate which confirms that you are pregnant and the date your baby is due. It will be given to you by your doctor or midwife when you are 20 weeks into your pregnancy. You must let your HR Representative have this certificate as soon as possible, but in any case before you start your maternity leave.
Expected Week of Childbirth.	The EWC is defined as the week beginning midnight between Saturday and Sunday in which it is expected that the child will be born. It is used to calculate entitlement to maternity leave and pay.
Qualifying Week	The Qualifying Week or QW is the 15 th week before the EWC. It is used to calculate entitlement to the type of maternity leave an employee is entitled to, and the right to SMP.
Ordinary Maternity Leave	All women, irrespective of length of service and the number of hours worked are entitled to 26 weeks' OML. OML can start at any time from the beginning of the 11 th week before the EWC.
Additional Maternity Leave	Employees who have taken 26 weeks' OML are entitled to a further 26 weeks' AML.
University Maternity Leave	UML may encompass either, or both, OML and AML and it may exceed these statutory entitlements. UML is specific to the University of Surrey. UML includes commitments to continued salary payments equivalent to full pay or half pay, according to the provisions that have been agreed locally.

Statutory Maternity Pay	Subject to average weekly earnings of not less than the lower National Insurance earnings limit, employees with at least 26 weeks' service at the Qualifying Week are entitled to receive 39 weeks SMP. The University pays SMP through the payroll and it is subject to tax and National Insurance deductions. The SMP rate is available from your HR Representative.
Statutory Maternity Allowance	If an employee is not eligible for SMP and has paid at least 26 weeks' National Insurance contributions over the preceding 66 weeks (ending with the week before the EWC) then they may be entitled to SMA or some other payment. This can be claimed from the Jobcentre Plus/Social Security Office.
Shared Parental Leave	Once the compulsory two weeks have expired, women can opt to curtail their Maternity Leave and take Shared Parental Leave in order to share childcare responsibilities with their husband or partner. Further information can be found in the Shared Parental Leave Policy on the HR website.

APPENDIX B - University Maternity Leave Entitlements

Where payment is made at full pay it will include any relevant SMP and where payment is made a half pay it will exclude any relevant SMP which will then be paid in addition.

All Staff (UML and statutory entitlement) subject to qualification period

Where payment is made at full pay it will include any relevant SMP and where payment is made a half pay it will exclude any relevant SMP which will then be paid in addition.

- 8 weeks leave on full pay, including SMP
- 16 weeks leave on half pay, plus SMP
- 15 weeks SMP
- 13 weeks without pay

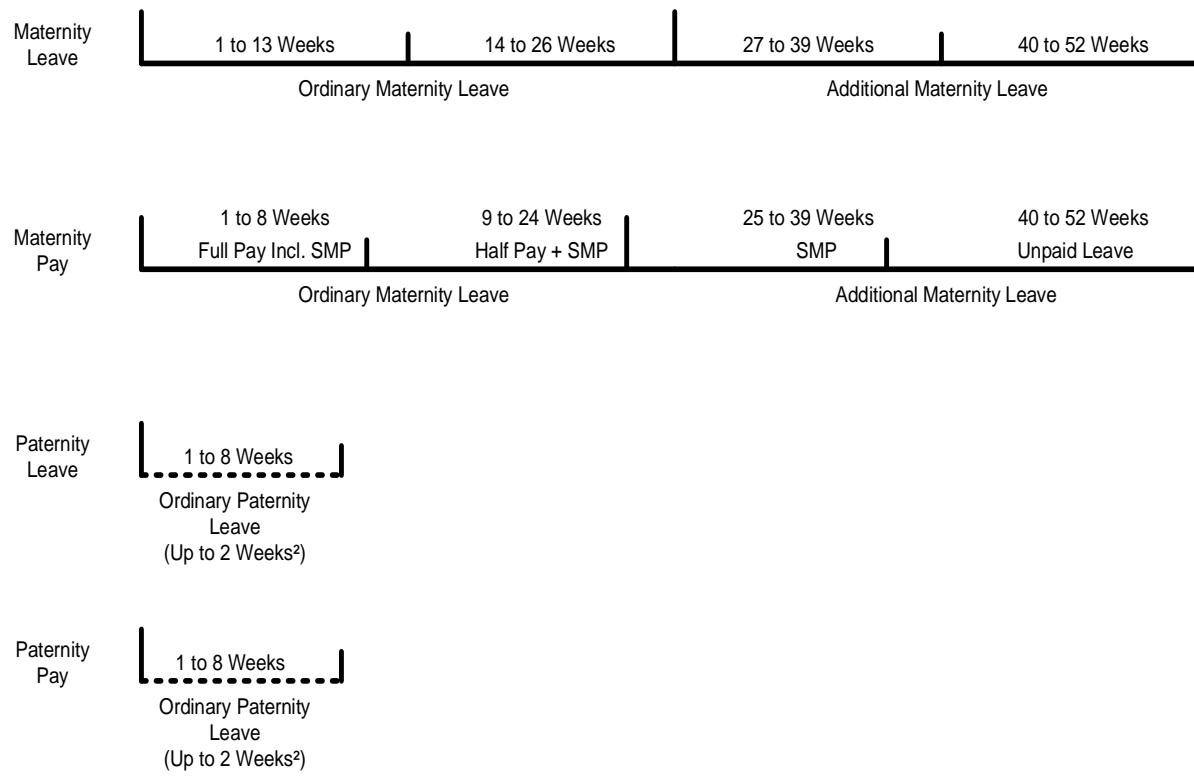
APPENDIX C - Health & Safety Guidance Relating To Pregnancy

The following list of factors is taken from guidance published by the Health & Safety Executive. Pregnant employees or those who have recently given birth should note these risks:

- Lifting /carrying heavy loads
- Standing or sitting for long lengths of time including awkward working positions, badly set out workstations and posture
- Working at heights
- Exposure to infectious diseases
- Exposure to lead and radioactive material
- Ionising radiation
- Extremes of heat and cold
- Excess physical or mental demand from any cause
- Biological agents *i.e.* infective micro-organisms
- Chemical agents *e.g.* identified in COSHH assessment as carcinogenic, teratogenic or mutagenic. Chemical agents of known and dangerous skin absorption, including some pesticides
- Mercury and mercury derivatives
- Antimitotic (cytotoxic) drugs
- Carbon monoxide
- Jolting uncomfortable body vibration, blows to the abdomen
- Excessively noisy workplaces
- Work –related stress
- Threat of violence in the workplace
- Long working hours
- Other people’s smoke in the workplace
- Specific regulations governing night workers

Appendix D

Comparative chart of Maternity and Paternity¹



¹ For staff with at least 52 weeks service at the 15th week before the expected week of childbirth

² Week 1 and Week 2 at Full Pay (inclusive of Statutory Paternity Pay)