

# MATERNITY AND ADOPTION LEAVE POLICY



This document sets out the University's policy governing maternity and adoption leave.

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# **1. INTRODUCTION AND CONTEXT**

The maternity leave and maternity pay scheme outlined below will apply to all staff at Aston University.

This scheme has been developed in line with The Maternity and Parental Leave Act, and the Paternity and Adoption Leave (Amendment) Regulations 2006. Under these Regulations if you are pregnant, you are entitled to 52 weeks' maternity leave, or as much of that as you wish to take, regardless of your length of service.

You are required, by law, to take maternity leave for the first two weeks following the birth of your child.

Maternity Leave and Maternity Pay are separate entitlements. Maternity Leave is a single continuous period and is made up of 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave.

If you have been continuously employed by the University for twelve months before the expected week of confinement (EWC), you will be entitled to benefit from the University's Occupational Maternity Scheme – as detailed in section 3.

If you have been employed for less than twelve months before the expected week of confinement (EWC), you will be entitled to Statutory Maternity Benefits – as detailed in section 4.

You are advised to seek advice from your HR Advisor, as soon as practicable, to ensure that you are fully informed about all aspects of maternity leave. This contact will be completely confidential.

Deciding when to tell your manager that you are pregnant is a personal decision. However, you should bear in mind that the laws which protect you at work whilst pregnant only apply once your employer knows that you are pregnant.

Once your Line Manager knows that you are pregnant:

- You are entitled to paid time off to attend appointments for ante-natal care (you may be asked for evidence of these appointments) (see paragraph 2).
- You are protected from unfair treatment connected with your pregnancy.
- You can discuss how your and your baby's safety can be protected while you are pregnant (see paragraph 5).

# **2. ANTE-NATAL CARE**

Regardless of your length of service, or the hours you work, you have a statutory right to reasonable time off to keep appointments for ante-natal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor.

Appointments for ante-natal care should be arranged in consultation with your Line Manager, Dean or Head of Department.

Time-off to attend ante-natal care appointments will be paid at your normal rate of pay.

You will not be unreasonably refused time-off during working hours to attend ante-natal care, however, the University reserves the right to seek appropriate evidence of ante-natal appointments.

### **3. OCCUPATIONAL MATERNITY SCHEME**

Aston University's Occupational Maternity Scheme provides enhanced leave and maternity pay provisions. University maternity pay mentioned in this agreement will include any relevant Statutory Maternity Pay.

Note: There shall be no distinction between live and stillbirths in the granting of occupational maternity leave.

#### **3.1 Eligibility for Aston's Occupational Maternity Scheme**

You are entitled to maternity leave under this scheme, provided that you have been continuously employed by the University for a period of twelve months before the expected week of confinement.

#### **3.2 Occupational Maternity Leave and Pay**

If you are absent from work on the grounds of pregnancy or childbirth and qualify for maternity leave under 3.1 and have given notice under 3.3, you will be entitled to the following period of maternity leave and pay:

- 12 weeks' leave on full pay (against which SMP Payments are offset)
- 14 weeks' leave on half-pay (plus SMP at the appropriate rate, except to the extent that the combined amounts exceed full pay), and
- 13 weeks' SMP at the appropriate rate
- up to 13 weeks' unpaid leave

The University may, at its discretion, extend the period of paid or unpaid leave in cases of hardship. Any application for such assistance should be submitted to the Executive Director of Human Resources and Organisational Development in the first instance.

#### **3.3 Notification of Intention to take Occupational Maternity Leave**

If you wish to exercise your right to take occupational maternity leave you must notify the University of the following:

- that you are pregnant
- your expected week of confinement
- the date when you expect to start taking leave
- that you intend to return to work for the University for at least 6 months following your maternity leave

Notification should be given at least 15 weeks before the expected week of confinement unless this is not reasonably practicable.

Notification must be supported by a Medical Certificate from your Doctor or registered midwife, stating your expected week of confinement, (the maternity certificate MAT B1 can be used for this purpose).

In order to assist the University to discharge its health and safety responsibilities towards you and your unborn child, it is advisable that notification should be made at an early stage in the pregnancy. Such notification may be made in confidence to your designated HR Advisor or to the University's Health and Safety Advisor. See section 5 - Health and Safety for further information.

You should notify your Dean / Head of Department and Human Resources, in writing, of the intended start date of the leave 28 days before the leave is due to start, unless this is not reasonably practicable. The University will then notify you of the date on which your leave will end. This will normally be 52 weeks from the start of the maternity leave.

Once you have notified the University of the date you wish to start leave, you can change this date as long as you notify the University of the new start date by whichever is the earlier date of either 28 days before the date you originally intended to start leave or 28 days before the new date you want to start leave. Where it is not possible to give this much notice (for, example where the baby is born early) you should give as much notice to the University as is reasonably practicable.

If you are eligible for occupational maternity leave and pay, but you have not given notice of your intention to return to work you will receive 9/10ths of your average weekly earnings for 6 weeks and the standard rate of statutory maternity pay for a further 33 weeks.

### **3.4 Failure to Return to Work Following Occupational Maternity Leave**

It is a condition of the Occupational Maternity Leave Scheme that you must return to work for a period of no less than 6 months following your maternity leave on the same basis as you were employed prior to taking maternity leave.

Nothing in this agreement shall prejudice the right of the University to reclaim the whole or part of the non-statutory element of maternity pay if you fail to return to work and continue in employment for at least 6 months. The University will take into account the relevant circumstances of each individual case, when deciding to reclaim occupational maternity pay.

## **4. STATUTORY MATERNITY SCHEME**

### **4.1 Eligibility for Statutory Maternity Scheme**

Regardless of your length of service, you are entitled to 52 weeks Statutory Maternity Leave (SML).

### **4.2 Statutory Maternity Leave and Pay**

The 52 weeks SML comprises 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML).

Statutory Maternity Pay (SMP) is paid for a 39-week period by the University to qualifying pregnant employees.

To qualify for 39 weeks' SMP you must:

- have been continuously employed by the University for at least 26 weeks up to and including the **qualifying week** (QW). The qualifying week (QW) is the 15th week before the EWC.
- have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance Contributions in the 8 weeks up to and including the QW.
- have given 28 days' notice, to the University, of your intention to stop work because of your pregnancy.
- have produced medical evidence of the EWC.
- still be pregnant at the start of the 11th week before the EWC.
- have stopped working due to the pregnancy or the birth.

Statutory maternity pay is only payable for the first 39 weeks of Statutory Maternity Leave. 13 weeks of the Additional Maternity Leave period is unpaid.

The first 6 weeks of SMP are paid at 90% of your average weekly earnings. The following 33 weeks are paid at the SMP flat rate. These rates change from time to time. Please contact your HR Advisor for details of the current rate.

SMP is paid from the first day of your maternity leave.

#### **4.3 Notification of Intention to take Statutory Maternity Leave**

If you wish to exercise your right to take Statutory Maternity Leave you must notify the University of the following:

- that you are pregnant
- your expected week of confinement
- the intended start date of maternity leave

This notification should be given at least 28 days before you wish to commence maternity leave.

Notification must be supported by a Medical Certificate from your Doctor or registered midwife, stating your expected week of confinement, (the maternity certificate MAT B1 is normally used for this purpose).

You should notify your Dean / Head of Department and Human Resources, in writing, of the intended start date of the leave 28 days before the leave is due to start, unless this is not reasonably practicable.

Once you have notified the University of the date you wish to start your leave, you can change this date as long as you notify the University of the new start date by whichever is the earlier date of either 28 days before the date you originally intended to start leave or 28 days before the new date you want to start leave. Where it is not possible to give this much notice (for, example where the baby is born early) you should give as much notice to the University as is reasonably practicable.

In order to assist the University to discharge its health and safety responsibilities towards you and your unborn child, it is advisable that notification should be made at an early stage in the pregnancy. Such notification may be made to your HR Advisor or to the University's Health and Safety Advisor. See section 5 - Health and Safety for further information.

Having complied with the notice provisions outlined above, you do not have to inform the University that you wish to take additional maternity leave at the end of your ordinary maternity leave. It will be presumed that you will take the additional leave unless you inform the University otherwise. However, if you intend to return to work before the end of your additional maternity leave entitlement you should provide the University with 8 weeks' notice before the planned date of return.

#### **4.4 Maternity Allowance**

If you are not entitled to receive SMP, Maternity Allowance (MA) may be payable.

If you have been employed or self-employed and paid National Insurance contributions in 26 out of the 66 weeks up to and including the week before your baby is due you may be entitled to claim a maximum of 26 weeks MA from Jobcentre Plus.

MA is payable only when you have stopped working due to the forthcoming birth.

MA should be claimed by completing Form MA1 and returning this to Jobcentre Plus. MA is paid by Jobcentre Plus directly to you.

If you are not eligible to receive SMP, the Payroll section will provide you with form SMP1, which will explain the reasons why you are not eligible. The form also gives you instructions on how to apply for MA.

For more information about MA contact your local Jobcentre Plus Office.

Note: If a stillbirth occurs after the end of the 24th week of pregnancy, entitlement to SMP or Maternity Allowance and to maternity leave applies in the same way as if the baby had been born alive.

If a stillbirth occurs during the first 24 weeks of pregnancy SMP or Maternity Allowance are not payable. Any absence in these circumstances will be treated as sickness absence and you will be entitled to sick pay in accordance with the appropriate Sick Pay Scheme.

## 5. HEALTH AND SAFETY

The University recognises the importance of protecting you from avoidable risk when you are pregnant, when you have recently given birth and when you are breastfeeding. In order to assist the University to discharge its responsibilities towards the health and safety of you and your unborn child, it is advisable that you notify your Dean / Head of Department, your HR Advisor and the Safety Office at an early stage in your pregnancy. This is particularly important if you work in an area where there are particular risks such as exposure to toxic substances, substantial manual handling or work with radiation.

Once you have notified them of your pregnancy, an initial risk assessment will be carried out by the Safety Office and an action plan will be developed to resolve any problems you may be experiencing. Where necessary, you may be referred to the Occupational Health Service for professional medical advice.

Measures to avoid or reduce risk may include altering such things as your working conditions, your hours of work, tasks or procedures you undertake and evacuation procedures. If these measures are not adequate in terms of avoiding the risk to you or your unborn child, it may be necessary to offer you suitable alternative work. If suitable alternative work is not available it may be necessary to suspend you on maternity grounds in order to protect you and your unborn child.

Suspension from work on maternity grounds will be paid unless you have unreasonably refused the offer of suitable alternative work.

The Safety Office will review risk assessments at a frequency which will be agreed with you during your initial assessment. If your circumstances change, between risk assessments, you are encouraged to contact the Safety Office so that a review can be undertaken sooner.

The risk assessment will need to be reviewed if you return to work within 6 months of the birth of your baby or if you are still breast feeding when you return to work.

For further information regarding health and safety, including statutory regulations and responsibilities contact the University's Health and Safety Advisor.

If you have any concerns about notifying your Dean/Head of Department about your pregnancy or if you have any concerns about your risk assessment, you should contact your HR Advisor.

## 6. START OF MATERNITY LEAVE

Whichever maternity leave scheme applies to you, you may start your maternity leave at any time from the 11th week before the expected week of confinement up to the day of birth.

If the birth occurs earlier than anticipated, and prior to the planned maternity leave period, maternity leave and pay will commence from the day after the date of the birth. You should inform Human Resources of the actual date of birth as soon as reasonably practicable.

Maternity leave will automatically start any time after the 4th week before the expected week of confinement if you are absent from work because of your pregnancy.

## **7. CONTACT DURING MATERNITY LEAVE**

During the maternity leave period the University may make reasonable contact with you and, in the same way, you may make contact with the University. Your line manager will discuss with you, prior to your maternity leave, what the type and frequency of contact is likely to be. Every effort will be made to reach a mutual agreement about the contact.

While you are on Maternity Leave, you will be able to keep informed of job and promotion opportunities through the University's website. However, if you do not have access to the website, arrangements can be made to provide this and other relevant information.

## **8. WORK DURING THE MATERNITY LEAVE PERIOD**

You may, by agreement with your line manager/Dean/Head of Department, do up to ten days' work – known as "keeping in touch days". These are days for which you will be paid.

The type of work for which you may be paid is a matter for agreement between yourself and your School or Department. It may, for example, include attendance at conferences, training activities or team meetings but could include any activity which would normally be classed as work under your contract of employment. However, it is not intended that you use these days to work from home.

You may not use any of your "Keeping in Touch Days" during the first two weeks following the birth of your baby.

Work during maternity leave may only take place with the agreement of both you and your line manager/Dean/Head of Department. The University may not require you to work if you do not wish to do so, nor do you have the right to work "Keeping in Touch Days" if the University does not agree to them.

You will be paid at your normal rate of pay for any work you do on a "Keeping in Touch Day". In order for you to be paid for these days, your manager needs to inform your HR Advisor (in writing) that you have used a "Keeping in Touch Day". Your HR Advisor will then arrange for you to be paid.

## **9. RETURNING TO WORK AFTER MATERNITY LEAVE**

At the end of your maternity leave you will have the right to return to the job that you were employed in under your contract of employment and on terms and conditions not less favourable than those that would have applied had you not been absent.

If it is impracticable for you to be taken back in your original job, you will be found a similar appropriate job on terms and conditions not less favourable than those that would have applied had you not been absent.

Should a redundancy situation arise whilst you are on maternity leave, you will be offered suitable alternative employment where a suitable alternative vacancy exists. If a suitable alternative vacancy does not exist you will be subject to the University's Redundancy Agreement.

You may return to work at any time within the 52 weeks of the commencement of your maternity leave period, except that you may not return to work within two weeks of the date of birth of your child. This is defined in legislation as 'Compulsory Maternity Leave'.

If you intend to return to work before the end of the period of your full Maternity Leave entitlement (52 weeks) you should provide the University with at least 8 weeks' notice in writing of the intended date of your return to work.

If you are prevented from returning to work at the end of your maternity leave due to ill health, the right to return may be extended beyond the notified date of return, providing an appropriate medical certificate has been submitted. This period will be treated as sick leave in accordance with the University's Sick Pay Scheme.

## **10. TERMS AND CONDITIONS OF EMPLOYMENT DURING MATERNITY LEAVE**

While on maternity leave, you retain your normal employment rights and benefits (apart from wages) throughout your ordinary and additional maternity leave.

You will continue to accrue annual leave, bank holidays and closure days during your maternity leave. If you are unable to take all of your holiday entitlement in a particular leave year due to maternity leave, you can carry forward any untaken annual leave to the following leave year. Prior to starting your maternity leave it is recommended that you discuss arrangements for using annual leave with your manager.

On return from maternity leave, payment at your normal rate of pay will be made for any Bank or Statutory Holidays and University Closure days to which you would have been entitled had you not been on maternity leave.

You are entitled to receive the normal annual increment on your salary scale in accordance with your contract of employment to take effect from the normal incremental date.

Pension rights and contributions are dealt with in accordance with the provisions of the appropriate pension scheme providing that these provisions do not conflict with any relevant statutory requirements that may at the time apply. For further information regarding pensions contact the Pensions Officer.

Any pregnancy-related sickness absence prior to, during or following your maternity leave will be recorded separately and will not be included in your total sickness absence in relation to the achievement of targets or any disciplinary or redundancy purposes. However, time taken off for a pregnancy-related illness will count towards your total sickness absence for sick pay purposes.

Maternity leave will automatically start any time after the 4th week before the expected week of confinement if you are absent from work because of your pregnancy, and you will receive maternity pay at the appropriate rate instead of sick pay.

# **11. ADOPTIVE PARENTS-RIGHTS TO LEAVE AND PAY**

## **11.1 Introduction**

The Government has approved new rights to leave and pay for adoptive parents for employees whose children are placed with them on or after 1st April 2007. The University undertakes to make provisions for adoptive parents which are equitable with its Maternity Leave Agreement save that the 26 weeks' service requirement for SMP does not apply.

The new rights to adoption and paternity leave and pay will entitle eligible employees to take paid leave when a child is newly placed for adoption. Adoption leave and pay will be available to:

- Individuals who adopt
- One member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave)

The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay.

As with maternity leave, the payment period for adoption will be 39 weeks.

## **11.2 Eligibility for Occupational Adoption Leave**

To qualify for adoption leave under the occupational scheme, you must:

- be newly matched with a child for adoption by an approved adoption agency. (Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example where a step-parent is adopting a partner's children or adoption by existing foster carers).
- have worked continuously for the University for 12 months prior to the expected date of placement

## **11.3 Notification of Intention to take Occupational Adoption Leave**

You should inform the University of your intention to take adoption leave within 7 days of being notified by the adoption agency that you have been matched with a child for adoption, unless this is not reasonably practicable. You will need to say:

- when the child is expected to be placed with you and
- when you want your adoption leave to start
- that you intend to return to work for the University for at least 6 months following your adoption leave

Notification should be given to your Dean / Head of Department, with a copy to Human Resources.

Notification should be supported by a "matching certificate" from the adoption agency as evidence of your entitlement to adoption leave and pay. The certificate should include basic information on matching and expected placement dates.

## **11.4 Commencement of Leave**

You can choose to start your leave:

- from the date of the child's placement (whether this is earlier or later than expected), or
- from a fixed date which can be up to 14 days before the expected date of placement

Leave can start on any day of the week

You should notify your Dean / Head of Department and Human Resources, in writing, of the intended start date of the leave 28 days before the leave is due to start, (unless this is not reasonably practicable).

You will be able to change your mind about the date on which you would like your leave to start providing you tell the University at least 28 days in advance, unless this is not reasonably practicable.

#### **11.5 Adoption Leave and Pay**

If you are absent from work on the grounds of adoption and if you qualify for adoption leave under 9.2 and you have given notice under 9.3 and 9.4, you will be entitled to the following period of adoption leave and pay:

- 12 weeks' leave on full pay (against which SAP Payments are offset)
- 14 weeks' leave on half-pay (plus SAP at the appropriate rate, except to the extent that the combined amounts exceed full pay), and
- 13 weeks' SMP at the appropriate rate
- up to 13 weeks' unpaid leave

The University may, at its discretion, extend the period of paid or unpaid leave in cases of hardship. Any application for such assistance should be submitted to the Director of Human Resources in the first instance.

Only one period of leave will be given, irrespective of whether one or more child is placed for adoption as part of the same agreement

If the child's placement ends during the adoption leave period, you will be able to continue adoption leave for up to eight weeks after the end of the placement.

Nothing in this agreement shall prejudice the right of the University to reclaim the whole or part of the non-statutory element of adoption pay if you fail to return to work and continue in employment for at least 6 months. The University will take into account the relevant circumstances of each individual case, when deciding to reclaim occupational maternity pay.

#### **11.6 Terms and Conditions of Employment**

The same conditions apply as for Maternity Leave (see 10)

#### **11.7 Returning to Work Following Occupational Adoption Leave**

The same conditions apply as for Maternity Leave (see 3.4)

#### **11.8 Contact during Adoption Leave**

The same conditions apply as for Maternity Leave (see 7)

#### **11.9 Work during the Adoption leave Period –“Keeping in touch Days”**

The same conditions apply as for maternity leave (see 8)

#### **11.10 Statutory Benefits for those who do not qualify under the University’s Occupational Adoption Agreement**

Statutory Adoption Pay (SAP) is paid by the University to qualifying employees. To qualify for 39 weeks' SAP you must:

- have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance Contributions in the 8 weeks up to and including the QW.
- have given 28 days' notice, to the University, of your intention to stop work because of your intention to adopt.

NB: The previous requirement to be employed by the University for at least 26 weeks leading into the week in which you are notified of being matched with a child for adoption no longer applies. You become eligible for Statutory Benefits from your first day of employment.

The first 6 weeks of SAP are paid at 90% of your average weekly earnings. The following 33 weeks are paid at the SAP flat rate.

Leave can start on any day of the week

The current level of the SAP flat rate is available from Human Resources or Payroll.

SAP is paid via the University payroll.

SAP is paid whether or not you intend to return to work for the University.

SAP is payable only when you have stopped work

Notification periods are as in 4.3

Start of Leave is as in 6.

Adopters who have average weekly earning below the Lower earnings Limit for National Insurance Contributions will not be eligible for Statutory Adoption Pay. Employees in low-income families may be able to seek financial support from their Local Authorities. Additional financial support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. Further information is available from your local Jobcentre Plus office.

## 12. GENERAL INFORMATION

The University will undertake, when requested, to inform staff who are on maternity or adoption leave of current vacancies via the internal vacancy list – Job Spot. If you wish to receive copies of Job Spot whilst you are on maternity leave please inform your HR Advisor.

The Department for Business Innovation and Skills (BIS) offers some useful guidance notes on statutory maternity benefits and rights when pregnant at

<http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/Pregnancyandmaternityrights/index.htm>

For further information regarding the University's Maternity benefits contact your HR Advisor.

## 13. PROTECTION ARRANGEMENTS FOR ACADEMIC STAFF

Academic staff (as defined in the statutes) who were in an academic post on 1 April 2011 have a protected right to receive maternity/adoption pay as follows:

- **26 weeks' leave on full pay (against which SMP Payments are offset)**
- **26 weeks' leave on half-pay (plus SMP at the appropriate rate, except to the extent that the combined amounts exceed full pay)**

Otherwise the same conditions apply as for maternity/adoption leave outlined above.



## 14. GLOSSARY OF TERMS

**AML Additional Maternity Leave** - This refers to the second 26 weeks' maternity leave and follows, without a break, from ordinary maternity leave. During this period certain, but not all, of the terms of the contract apply.

**AWE Average Weekly Earnings** - For SMP purposes, average weekly earnings are calculated, in most cases, from the average of eight weeks earnings immediately prior to the qualifying week

**CML Compulsory Maternity Leave** - No employee may return to work within two weeks of the birth of the child.

**EWC Expected Week of Confinement or Childbirth** - The week in which your baby is expected to be born.

**MA Maternity Allowance** - Paid by the Benefits Agency who qualifies for it and is not entitled to SMP.

**MAT B1 Maternity Certificate** - Issued by a doctor or registered midwife giving the date on which the baby is due to be born. The MatB1 is issued not earlier than 14 weeks before the EWC.

**OML Occupational Maternity Leave** - Given in accordance with the Occupational Maternity Scheme

**OMP Occupational Maternity Pay** - Paid in accordance with the Occupational Maternity Scheme during which period the employee continues to receive all her contractual benefits except (unless agreed otherwise) salary.

**QW Qualifying Week** - 15 weeks before the EWC

**OML Ordinary Maternity Leave** - This refers to the first 26 weeks maternity leave.

**SAP Statutory Adoption Pay** - Paid in accordance with the statutory adoption benefits provided by law.

**SMP Statutory Maternity Pay** - Paid in accordance with the statutory maternity benefits provided by law.



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