

RotherFed Maternity Policy

1 Introduction

This document provides the framework and formal guidelines within which managers and staff at the organisation will address maternity leave and maternity pay. The policy applies to all staff and a copy will be supplied to existing employees and to new staff on commencement.

This document does not form part of a contract of employment and may be changed from time to time in line with current best practice and statutory requirements, and to ensure that business needs are met. Staff will be consulted and advised of any changes as far in advance as possible of the change being made, unless the change is required by statute.

2 Time Off for Ante-Natal Care

If a woman has an appointment for ante-natal care, she must be granted paid time off. However, she must provide at her Line manager's request an appointment card or some other proof of the appointment. Ante-natal care includes relaxation and parent-craft classes as well as appointments for ante-natal care.

3 Risk Assessment

Under the Management of Health and Safety at Work Regulations 1999 the law requires every employer to assess workplace risks for all their employees, and take practical action to control those risks. In addition employers must take particular account of risks to new and expectant mothers whether or not they have been informed that there are any.

The organisation has a responsibility to identify hazards in the workplaces that could pose a health or safety risk to new and expectant mothers and take appropriate action to remove or reduce the risk. We must also make this information known to all our female employees of child bearing age, not just those who have informed us they are pregnant.

Once we have been informed that an employee is pregnant there is a duty on the Line manager to ensure that an individual risk assessment for that employee is performed to identify any health and safety issues that could pose a higher risk to that pregnant employee.

If a risk is identified that could jeopardise the health and safety of a new or expectant mother or her baby, the organisation should first consider removing the hazards or preventing exposure to the risk. If the risk still cannot be avoided, further steps to protect her health and safety must be taken – changes in her working conditions or hours, offers of suitable alternative work or, if this is not available, suspension from her work, with pay, for as long as is necessary to protect her health and safety or that of her child.

4 Maternity Leave

All pregnant employees are entitled to 52 weeks' maternity leave – or as much of that period as they wish to take – no matter how long they have worked for the organisation. The purpose of maternity leave is to allow the mother to give birth and

to recover from giving birth to her baby, as well as to bond with and care for her new child.

While it is up to employees to decide how much maternity leave they wish to take, up to the 52 weeks' maximum, the law requires that a minimum of two weeks' leave must be taken immediately following the birth. This is known as compulsory maternity leave.

There are two phases of Maternity leave: **Ordinary Maternity Leave (OML)** and **Additional Maternity Leave (AML)**.

- **Ordinary Maternity Leave**

Ordinary Maternity Leave lasts for 26 weeks and may begin at a time of the woman's choosing, any time from 11 weeks before the expected week of birth up until the birth itself. If the employee is absent from work due to a pregnancy-related reason after the beginning of the fourth week before the expected week of childbirth, but before the date she has notified, the maternity leave period begins automatically on the day after the first day of her absence.

The contract of employment continues throughout the 26 weeks of Ordinary Maternity Leave, unless either the employer or employee expressly ends it or it expires. All contractual terms continue to apply throughout OML except for remuneration.

- **Additional Maternity Leave**

Additional Maternity Leave lasts for 26 weeks and, if taken, must follow immediately after Ordinary Maternity Leave. There cannot be a gap between the two types of maternity leave. The contract of employment continues throughout Additional Maternity Leave unless either party expressly ends it or it expires. All contractual terms continue to apply throughout AML except for remuneration.

5 Giving Notice of Maternity Leave

To be entitled to Statutory Maternity Leave, you must

- tell the employer that you are pregnant
- inform the employer of your EWC (expected week of childbirth)
- give notice to the employer of when you intend to commence your maternity leave — this must be given by the end of the 15th week before the EWC if this is reasonably practicable.

Employees must provide medical evidence of their EWC in the form of a maternity certificate. This certificate is the MAT B1 form and is available from the employee's doctor or midwife after the 20th week of pregnancy. It must be forwarded to the employer as soon as possible, but no later than three weeks after the start of the Maternity Pay Period. No Statutory Maternity Pay (SMP) will be payable without this certificate.

Where the MAT B1 is provided late, the employer or manager will decide whether or not the employee could have provided it earlier and will advise her of his or her decision.

6 Changing the Maternity Leave Start Date

If the employee subsequently wants to change the date from which she wishes her leave to start she should notify her Line manager at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable beforehand).

7 Confirming Maternity Leave and Pay

Following receipt of notice from the employee of their intention to take maternity leave, the Line manager should confirm in writing, within 28 days:

- (a) The employee's statutory entitlements;
- (b) Unless an earlier return date has been given by the employee, her expected return date based on her 52 weeks paid and unpaid leave entitlement;
- (c) The length of any period of accrued annual leave, which has been agreed and may be taken following the end of the formal maternity leave period;
- (d) The need for the employee to give at least 8 weeks notice if she wishes to return to work before the expected return date.

8 Contact During Maternity Leave

Before going on maternity leave, the employer and the employee should also discuss and agree any voluntary arrangements for keeping in touch during the employee's maternity leave including:

- (a) Any voluntary arrangements that the employee may find helpful to help her keep in touch with developments at work and, nearer the time of her return, to help facilitate her return to work;
- (b) Keeping the employer in touch with any developments that may affect her intended date of return.

9 Working During the Maternity Leave Period – Keeping in Touch (KIT) Days

To facilitate the process of Keeping in Touch (KIT) Days it is important that the Line manager and employee have early discussion to plan and make arrangements for KIT days before the employee's maternity leave takes place.

KIT days are intended to facilitate a smooth return to work for employees returning from maternity leave. An employee may work for up to a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity leave period. The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace.

Any such work must be by agreement and neither the Chief Executive nor the employee can insist upon it.

The employee will be paid at their basic daily rate for the hours worked less appropriate maternity leave payment for KIT time worked. If employees choose to work for less than a day, it will count as one KIT day.

10 Statutory Maternity Pay - Eligibility

An employee working full-time or part-time will be entitled to Statutory Maternity Pay (SMP) if she:

- (a) Has at least 26 weeks continuous service with the organisation by the 15th week before the expected week of childbirth.
- (b) Has average earnings at least equal to the lower earnings limit for National Insurance contributions
- (c) Notifies the line manager in writing by completing 'Notification of Intention to take Maternity Leave Form' (attached as Appendix B) before the end of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter) the following:
 - (i) her intention to take maternity leave;
 - (ii) the date she wishes to start her maternity leave – she can choose when to start her maternity leave – this can usually be any date from the beginning of the 11th week before the baby is born;
 - (iii) and provides a MATB1 form from her midwife or GP giving the expected date of childbirth.
- (d) is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- (e) provides a MAT B1 form stating her expected week of childbirth;
- (f) gives the organisation proper notification of her pregnancy in accordance with the rules set out above.

SMP is payable for up to 39 weeks and comprises:

- 6 weeks at 90% of average weekly earnings
- 33 weeks at a flat rate set by the Government (or 90% of average weekly earnings if this is less than the flat rate).

Payment of SMP is made in the same way and at the same frequency as normal wages or salary and NI and PAYE deductions are made.

Employees who have no entitlement to Statutory Maternity Pay will be issued with a Statutory Maternity Pay Exclusion Form SMP1, which they should submit to the local Job Centre Plus or social security office along with their Certificate of Expected Date of Confinement Form MATB1, in order to claim state Maternity Allowance.

11 Returning to Work

An employee who intends to return to work at the end of her full maternity leave will not be required to give any further notification to the employer, although if she wishes to return early she must give at least 8 weeks notice.

An employee has the right to return to her job under her original contract and on no less favourable terms and conditions. In the event that her post is made redundant, suitable alternative employment will be offered, if available.

12 Returning on Flexible Working Arrangements

If at the end of maternity leave the employee wishes to return to work on different hours the employer has a duty to facilitate this wherever possible, with the employee returning to work on different hours in the same job. The woman should make a formal Flexible Working request.

If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period this will not affect the employee's right to return to her job under her original contract at the end of the agreed period.

13 Sickness Following the End of Maternity Leave

In the event of illness following the date the employee was due to return to work normal sick leave provisions will apply as necessary.

14 Supplementary Notes

(a) Sick Leave

If an employee is off work ill, or becomes ill, with a pregnancy related illness during the last 4 weeks before the expected week of childbirth, maternity leave will normally commence the day after the first day of pregnancy related illness. Odd days of pregnancy related illness during this period may be disregarded, at the discretion of the employer, if the employee wishes to continue working till the maternity leave start date previously notified to the employer.

Absence prior to the last 4 weeks before the expected week of childbirth, supported by a medical statement of incapacity for work, or a self certificate, shall be treated as sick leave in accordance with normal leave provisions.

(b) Annual Leave

Annual leave will continue to accrue during paid or unpaid maternity leave, provided for by this agreement.

Where the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and the line manager.

(c) Public Holidays

Public holidays will continue to accrue during your maternity leave.

(d) Increments

As the whole maternity leave period, paid and unpaid, counts towards continuous service, the incremental date will be retained.

(e) Extensions to Maternity Leave

There can be no extension to maternity leave beyond the period of entitlement. If an extension to maternity leave is requested, it must be treated as a normal application for unpaid leave and should be granted or refused depending upon the circumstances of each individual case subject to management agreement. Where it has not been possible to grant the employees annual leave entitlement prior to maternity leave because of service needs, it may be possible to use this to extend the maternity leave with the line manager's agreement.

(f) Subsequent Maternity Leave

Once an employee has established her entitlement to maternity leave, any subsequent requests for maternity leave can be granted without having to gain further qualifying service. No part of a period of maternity leave should be regarded as a break in service.

(g) Twins or Multiple Births

If the employee is expecting more than one child, their entitlement to Maternity Pay and Maternity Leave is the same as if they were expecting only one.

(h) Pre-term Birth

(i) If the baby is born after the Maternity Pay period has started SMP will not be affected and will be paid for the full payment period. The employee will get SMP just as if the baby had been born when it was due.

(ii) If the baby is born before the MPP has started but after the qualifying week the employee must, if reasonably practicable, inform the employer of the birth within 3 weeks. She will then receive the SMP due but the pay period will now start on the day following the day that the baby is born.

(iii) If the baby is born before or during the qualifying week, then within 3 weeks of the birth, the employee must give written evidence that she was away from work because of the baby's birth– the baby's birth certificate will do. She must also still provide the employer with medical evidence of the date the baby was due to be born. Evidence of both the expected date and the actual date of birth can be provided together on part B of the maternity certificate (form MATB1) issued by the doctor or midwife. The employee must do this within 3 weeks of the baby's birth. The employer may agree to extend this time limit to 13 weeks (but no longer) if they feel you had good reason for delay.

(i) Still Birth/ Death of a Newborn Child

In the event of a still birth in or after the 24th week of pregnancy the employee shall be entitled to maternity leave and pay entitlements as if her baby had been alive.

In the event that a child is born alive, but dies shortly after birth, the employee shall be entitled to full maternity leave and SMP.

If the child is stillborn or dies after birth within the period of maternity leave, the employee should be allowed to return to work after a compulsory minimum of 2 weeks from delivery if she wishes, and is fit to do so.

(j) Miscarriage

Where an employee has a miscarriage before the 25th week of pregnancy normal sick leave provisions will apply as necessary.

(k) Breastfeeding

The Line manager is required to arrange that a risk assessment is undertaken and to provide breastfeeding women with suitable private rest facilities. The Health & Safety Executive Guidance recommends that employers provide:

- (a) A clean and safe environment for women who are breastfeeding;
- (b) Suitable access to a private room to express milk
- (c) An appropriate refrigerator in which to store milk, if possible.

Requests for flexible working arrangements to support breastfeeding women at work will be considered.

(l) Redundancy

An employee on Maternity Leave will be given priority for alternative employment, if any is available, should her post become redundant during her leave.

(m) Detrimental Treatment

An employee has the right not to be subjected to detrimental treatment on the grounds of pregnancy, childbirth, maternity or by the virtue of having taken Ordinary or Additional Maternity Leave. Employees who feel that they have been thus subjected may refer to the Grievance Policy and Procedure.

If a pregnant employee or an employee on Maternity Leave is dismissed, she will receive accurate, written reasons for her dismissal. She does not have to request them. She is entitled to this statement regardless of her length of service.

It is not unlawful for an employer to dismiss an employee if the grounds are wholly unrelated to her pregnancy or childbirth, unless the detriment is unfair for some other reason.

Date adopted: 8th February 2010

Signed:

Chair of the Board