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Maternity Leave Policy

1. Introduction

ELHAP is committed to equality of opportunity in employment for all its staff and to developing work practices and human resource policies that support work-life balance.

The aim of this policy is to inform staff of their rights both before and after the birth of their child.

The policy applies to all female staff employed by ELHAP, whether they work full or part time.

All pregnant employees are entitled to a period of maternity leave regardless of their length of service. The amount of leave and maternity pay for which they will qualify will however differ as described below.

Employees adopting a child should refer to the ELHAP Adoption Leave Policy.

2. Maternity leave

Notification of an intention to take maternity leave:

An employee must tell ELHAP of the date she wishes to take her maternity leave no later than the 15th week before the baby is due or if this is not possible, as soon as is reasonably practicable.

The expected week of childbirth must be confirmed by the MAT B1 maternity certificate from the employee's doctor or midwife which must be submitted by the 15th week before the expected week of childbirth to qualify for maternity pay.

3. Statutory maternity leave

All pregnant employees are entitled to 26 weeks statutory Ordinary Maternity Leave regardless of their length of service.

4. Additional maternity leave

All pregnant employees with 26 weeks or more continuous service at the 15th week before the baby is due are entitled to take a further 26 weeks statutory Additional Maternity Leave (52 weeks in total).

5. Starting maternity leave

An employee can start maternity leave at any time from the 11th week before the baby is due up to the day of the birth or the expected week of childbirth whichever ever comes first. They must inform ELHAP of their intended start date.

An employee may change the date on which she starts her maternity leave provided she gives written notification of the new date at least 28 days before the original start date, or at least 28 days before the new date whichever is earlier, or, if that is not possible because they baby has been born early, as soon as is reasonably practicable.

Entitlement to maternity leave will be calculated from the agreed or actual date maternity leave commences whichever is earlier.

6. Time off for antenatal appointments

All pregnant employees, regardless of their length of service, are entitled to reasonable paid time off work to keep appointments made on the advice of a doctor, midwife or health visitor for antenatal care. Antenatal care can include not only medical examinations but also, for example, relaxation classes and parent-craft classes.

Except in the case of her first appointment the employee must be prepared to show her Line Manager an appointment card or similar evidence if asked to do so.

7. Absence due to childbirth before the intended start of maternity leave

If the baby is born before the date the employee has informed ELHAP she wishes to begin her leave or before she has notified a date, the maternity leave period commences automatically on the date of birth even if this is more than 11 weeks before the baby is due.

In order to keep her rights to maternity leave and Statutory Maternity Pay the employee must, as soon as is reasonably practicable, give ELHAP notice in writing of the date of the childbirth and if it has not already been given, evidence of the date the baby was expected.

8. Sick leave before maternity leave

If an employee is absent due to a pregnancy related illness from the 4th week before the baby is due her maternity leave starts automatically on the first date of absence. If the illness is unrelated to her pregnancy she can remain on sick leave up until the date of the baby's birth or until the date she has given as her start date for maternity leave.

An employee whose maternity leave has started due to a pregnancy related illness can not come back to work until 2 weeks after the birth at the earliest.

9. Compulsory maternity leave

Employees are not permitted to return to work within two weeks of the birth of their child (whether a live birth or not) after 24 weeks of pregnancy.

10. Statutory Maternity Pay

Pregnant employees with 26 weeks or more continuous service at the 15th week before the baby is due and whose earnings exceed the national insurance threshold are entitled to Statutory Maternity Pay (SMP). SMP is paid whether or not the employee intends to return to work.

To obtain Statutory Maternity Pay the employee must give ELHAP at least 28 days notice of her intention to take maternity leave and must provide a completed Maternity Certificate (MAT B1) by the 15th week before the expected week of childbirth.

Once entitlement to SMP has been established ELHAP must pay the full 26 weeks even if the employee resigns before or during her period of maternity leave.

SMP is paid at the rate of 90% of your average weekly earnings for the first 6 weeks followed by a further 20 weeks at the flat rate.

11. Maternity allowance

Employees with less than 26 weeks continuous service at the 15th week before the baby is due or who are not entitled to SMP may be entitled to Maternity Allowance (MA).

MA is paid directly by the Benefits Agency for up to 26 weeks. To claim MA an employee will need to send form SMP1, available from the ELHAP Administrator, to their local social security office with a MA claim form.

12. Health and safety

Risk assessments

ELHAP will, once notified of an employee's pregnancy, undertake a risk assessment to ensure that they are not exposed to any possible health and safety risks.

Where a risk is identified ELHAP will consult with the employee (and their trade union representative where appropriate) about what is being done to ensure that they are not exposed to risks that could harm them.

ELHAP arrangements to manage the risk can include:

- Temporarily adjusting the employee's working conditions or hours of work.
- Offering alternative work if it is not possible to adjust the working conditions to avoid the risk.
- If no suitable changes can be made to the employee's current post and no alternative position is available it may be necessary to suspend the employee on her normal full rate of pay until she can return without exposure to any health and safety risk.

Suitable alternative work

Alternative work must have been risk assessed to be suitable and must be appropriate for the employee to perform on terms and conditions that are no less favourable than her normal terms and conditions.

If an employee has unreasonably refused an offer of suitable alternative work no remuneration is payable for the period during which the offer applies.

If an employee feels that there is suitable alternative work available which ELHAP has failed to offer before suspending her, or conversely, if they feel that the alternative work offered is not suitable, they are entitled to make a complaint through the grievance procedure.

13. Still birth and miscarriage

In the unfortunate event of a still birth during or after the 25th week of pregnancy all the maternity rights apply in same way as with a live birth.

If an employee has a miscarriage before the start of the 25th week of pregnancy she will not be entitled to statutory maternity leave or pay. Absence from work in this instance would be dealt with under the normal sick pay and/or compassionate leave arrangements.

14. Terms and conditions of employment

Annual leave

To avoid the risk of unused annual leave being lost it should normally be taken prior to an employee going on maternity leave. Up to five days annual leave may be carried forward from one leave year to another with the agreement of the employee's line manager.

Annual Leave continues to accumulate while an employee is on paid or unpaid maternity leave and can be taken in the normal way. It accrues at the rate of hours worked before maternity leave.

If an employee does not return to work following her maternity period annual leave will be accrued for the first 26 weeks of the maternity leave period only, regardless of their length of service.

Payment for the accrued leave will be made after resignation. This will include, if applicable, an allowance for Bank Holidays and Concessionary Days.

Sick pay during and at the end of maternity leave

Employees are not entitled to sick leave whilst entitled to receive Statutory Maternity Pay or Maternity Allowance or whilst on unpaid leave.

If the employee is ill and unable to return to work at the end of the leave period the normal arrangements for leave due to sickness will come into force.

Pay rises

Employees will, on their return to work, receive any pay rises that have been awarded between the eight weeks before the baby is due and the end of maternity leave, including Additional Maternity Leave.

Redundancy

If, during an employee's maternity leave, their post is made redundant they will be offered suitable alternative work if it is available.

The new role they are offered must be both suitable and appropriate for them to do in the circumstances and the capacity and place in which they are employed. The terms and conditions of employment must be no less favourable than those of their previous job.

If ELHAP has a suitable alternative vacancy available but fails to offer it to the employee the redundancy will be regarded as unfair dismissal.

If ELHAP offers the employee a suitable alternative vacancy and they unreasonably refuse it the employee may forfeit their right to a redundancy payment.

An employee who feels they have been unfairly selected for redundancy on grounds related to their pregnancy is entitled to make a complaint of unfair dismissal through the grievance procedure.

Returning to work

An employee cannot return to work within 2 weeks of having her baby.

An employee returning to work after maternity leave, paid and unpaid, is entitled to have the same job and the same terms and conditions of employment as if she had not been absent unless a redundancy situation has arisen during the employee's absence (see above).

15. Notification of a return to work

An employee who intends to return to work at the end of the 26 weeks Ordinary Maternity Leave does not need to give notice of, or confirm their return to work.

An employee who intends to return to work before the end of the 26 weeks Ordinary Maternity Leave must give 28 days notice of their intention to return which need not be in writing.

If less than 28 days notice is given the University may postpone the employee's return to work to give the necessary 28 days notice or until the end of the maternity leave period, whichever is earlier.

Before the end of Ordinary Maternity Leave ELHAP may write to an employee who qualifies for Additional Maternity Leave, and who has indicated that they intend to take advantage of that right, to seek confirmation that that is still their intention. The earliest ELHAP may do this is 28 days before the end of their Ordinary Maternity Leave.

An employee receiving such a letter, and who intends to take Additional Maternity Leave, has 28 days from receipt to respond with details of their intentions. A failure to reply within 28 days could mean that the employee would not be able to rely on any special protection if they suffer a detriment because they decide to take Additional Maternity Leave.

An employee who qualifies for, and exercises their right to take, Additional Maternity Leave must give at least 28 days notice of their intention to return to work in writing whether return is likely during or at the end of their Additional Maternity Leave Period.

16. Extending additional maternity leave

Additional Maternity leave may be extended under certain circumstances which are as follows:

If the employee is ill when she is due to return to work in which case normal contractual provisions will apply.

ELHAP may postpone an employee's return due to an interruption of work or for other reasons for up to four weeks as long as they have notified her in advance of the reasons for the postponement and of the new date of return.

17. Return to work interview

An employee returning from Maternity Leave will have, on her first day back, a return to work interview with her line manager and/or a representative from the ELHAP Board of Trustees.

**Implemented by the ELHAP Board of Trustees
3rd October 2005**