

# Maternity leave

## Guidance for employees and their managers about maternity leave

This guidance is intended for pregnant employees, new mothers, and their managers and sets out the maternity leave and pay entitlements, and other rights of pregnant women and new mothers. It is essential that you read **all** the maternity guidance.

Separate guidance is available on adoption leave, paternity leave and shared parental leave.

Guidance on entitlements and obligations on the employee and her department, before, during and after her maternity leave are outlined in the relevant sections of this guide.

With effect from 1 January 2020 any employee who has:

- i. started work with the University before their child is born (or placed with them for adoption), and
  - ii. not already commenced family (maternity, adoption, paternity or shared parental leave), and
  - iii. intends to return to work for the University after their period of family leave
- will qualify for the University's enhanced maternity, adoption and paternity leave and pay benefits.

Shared Parental Leave requires both parents to meet statutory eligibility criteria and therefore it may not be possible to extend enhanced SPL and pay in all cases: cases will be determined on a case by case basis by reference to the statutory scheme.

Full details are set out in the scheme guidance for each scheme

## Contents

Maternity leave .....	1
Guidance for employees and their managers about maternity leave .....	1
Summary of maternity leave and pay .....	3
Overview of maternity leave .....	3
Overview of maternity pay .....	3
Surrogacy .....	4
Detailed guidance on statutory and contractual maternity pay .....	4
Qualifying for the University's Contractual Maternity Pay Scheme .....	4
The benefits of the University's Contractual Maternity Pay Scheme .....	4
Statutory Maternity Pay (SMP) .....	5
Qualifying for both types or only one type of maternity leave and pay .....	5
If the mother qualifies for SMP and contractual pay to be paid by the University .....	5
If the mother qualifies for the University's contractual pay but does not qualify for statutory payments to be made to her by the University .....	5
If the mother does not qualify for the University's contractual maternity pay but does qualify for statutory payments .....	5

If an employee decides not to return to work.....	6
Fixed-term contracts .....	6
Before the birth.....	7
Notification and discussions before going on maternity leave .....	7
Risk assessment .....	7
Antenatal appointments.....	7
MATB1 form.....	7
Other issues .....	8
When leave can begin .....	8
Changing the start of maternity leave .....	8
Confirmation by the department of the end date of leave .....	8
The start of maternity leave .....	9
(i) Absence due to childbirth before the intended start date.....	9
(ii) Sickness absence for a pregnancy-related reason before the intended start date .....	9
(iii) Dismissal, resignation or end of contract before the intended start date .....	9
Health and safety at work .....	9
Time off for antenatal appointments.....	10
During maternity leave.....	11
Contact during maternity leave .....	11
Work during the maternity leave period – ‘Keeping in Touch’ (KIT) days .....	11
Payment for ‘Keeping in Touch’ (KIT) days .....	12
Notification of change of return to work dates while on maternity leave .....	12
(i) Return to work before the end of the maternity leave period.....	12
(ii) Return to work later than previously notified.....	12
(iii) Employees who do not wish to return to work after maternity leave .....	12
Being paid .....	13
End of contract during maternity leave .....	13
Childcare .....	13
Employment benefits during maternity leave.....	14
Annual Leave.....	14
Pensions.....	14
Sickness during/at the end of maternity leave.....	14
After maternity leave .....	16
Rights on return to work .....	16
Health and safety .....	16
Changing hours of work.....	17

Temporary changes to hours of work.....	17
Permanent changes to hours of work.....	17
Annual leave / caring for those who are sick, and dealing with domestic emergencies.....	17
The 'Day One' Family leave scheme.....	18
Interaction with statutory benefits.....	18
Action for HR teams .....	18
Recording and coding on CoreHR .....	18
Informing Payroll .....	18

*Throughout the guidance reference is made to the term 'employee', which means that the individual holds a University contract of employment with the Chancellor, Masters and Scholars of the University and therefore, has entitlement to employment benefits. Casual worker (including TSS), visitors, or those with any other non-employment relationship are not covered by this policy.*

## Summary of maternity leave and pay

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The purpose of maternity leave is to allow a new 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.

There are differences between **maternity leave** (to which all new mothers are entitled) and **maternity pay** (for which there are qualifying criteria).

### Overview of maternity leave

All pregnant employees are entitled to 52 weeks' statutory maternity leave. It is up to the individual employee to decide how much of this entitlement she wishes to take but the law requires that a minimum of two weeks' leave must be taken immediately following the birth of the child. This is known as **compulsory maternity leave**.

### Overview of maternity pay

There are two types of maternity pay: statutory pay and contractual pay. As long as the mother meets the eligibility criteria the payment she receives will be a combination both types of pay.

#### i. Statutory pay

Employees are always expected to claim any statutory payments to which they are due. Statutory pay may be either Statutory Maternity Pay (SMP) or Maternity Allowance (MA):

##### a) **Statutory Maternity Pay (SMP)**

Eligible mothers receive SMP for up to 39 weeks in total. Although this is a state benefit it is paid via an employer's payroll and the employer then reclaims the payments from HMRC. If the mother has 26 weeks service with the University at the qualifying week, it is paid by the University. If the mother is a recent new starter and was employed by another employer at the qualifying week she may qualify for SMP via her previous employer, and need to claim her SMP from them.

##### b) **Maternity Allowance (MA):**

Mothers who don't meet the SMP eligibility criteria but who do meet a lower threshold of criteria may be eligible for MA. MA is paid at either a higher or lower statutory rate, and for either 39 or 14 weeks, depending on the mother's circumstances and previous earnings. The mother claims it directly from Jobcentre Plus.

Further information is given in this guidance but details of statutory family leave and pay is available from the Gov.uk website <https://www.gov.uk/maternity-pay-leave/pay>.

## ii. Contractual maternity pay

Some employers offer their employees a contractual, enhanced rate of pay, which supplements the statutory rate. The University's contractual maternity pay scheme is exceptionally generous, and any statutory payments to which the mother is eligible are 'topped up' by the University so that she continues to receive pay at a rate equivalent to her normal full pay for up to the first 26 weeks of her maternity leave period. After that, if she remains on maternity leave she may be eligible for a further 13 weeks' pay at the rate of statutory pay, which will be paid to her by either the University, or her previous employer if she was employed by them at the qualifying week..

## Surrogacy

Where a surrogacy arrangement is planned, particular rules apply. Staff should speak to their Departmental Administrator (or equivalent) who should in turn seek advice from their HR Business Partner, who will advise on a case-by-case basis.

## Detailed guidance on statutory and contractual maternity pay

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The University's contractual maternity pay scheme entitles all eligible employees (regardless of their grade or the hours worked) to receive some pay during their maternity leave that is paid to them at a rate which is equivalent to their normal full rate of pay. If the employee is eligible for SMP or MA the payment made by the University will effectively 'top up' the statutory pay so that the employee receives the equivalent of their normal full pay for up to 26 weeks.

## Qualifying for the University's Contractual Maternity Pay Scheme

In order to qualify for the contractual maternity pay scheme, at the qualifying week the employee must:

- i. hold a current CMS contract of employment with the University; and
- ii. have started employment with the University before her EWC **and** before the start of her period of maternity leave; and
- iii. provide her department with the correct notification of her intention to take leave; and
- iv. confirm her intention to return to work following the birth of her baby (and to actually return for a minimum of three months). If an employee is on a fixed-term contract, which is due to end during the planned maternity leave read the guidance below.

## The benefits of the University's Contractual Maternity Pay Scheme

If an employee meets all the qualifying requirements outlined above, **and** her University contract of employment will continue throughout the entire period of the proposed maternity leave she will be eligible to receive the following:

- up to 26 weeks' leave during which she will receive pay equivalent to her full rate of pay through a combination of statutory payments from whatever source, and University 'top up'
- up to 13 weeks' leave paid at the rate of SMP only (if eligible); followed by
- up to 13 weeks' unpaid leave.

Total maternity leave = up to 52 weeks.

## Statutory Maternity Pay (SMP)

SMP is a state benefit paid at a [statutory flat rate](#) set by the government. It is always paid via an employer's payroll (the employer then reclaims this from HMRC).

To qualify for SMP, the woman must:

- have worked for an employer continuously for at least 26 weeks, continuing into the qualifying week (15<sup>th</sup> week before the expected week of childbirth);
- have average weekly earnings above the [National Insurance lower earnings limit](#);
- have given her department the correct notice and proof of pregnancy (see 'Before the birth' section).

There is a [government calculator](#) which can help determine the statutory benefits to which an employee may be entitled. The Payroll team can also help to establish whether a woman is eligible for SMP at the appropriate time.

SMP is paid over the first 39 weeks of maternity leave at the rate of:

- 90% of average weekly earnings (this figure is worked out at the qualifying week) for each of the first six weeks of maternity leave; followed by
- 33 weeks of flat rate SMP (for current rates [see the Gov.uk website](#)). The flat rate is set by the government and is subject to review every April.

## Qualifying for both types or only one type of maternity leave and pay

### If the mother qualifies for SMP and contractual pay to be paid by the University

If the mother has 26 weeks continuous service with the University at her qualifying week she will continue to receive her normal full rate of salary for up to the first 26 weeks' maternity leave, and any SMP which is due to her is automatically incorporated into those payments: that is, SMP is not paid in addition to full pay.

After the first 26 weeks the University continues to pay SMP, on behalf of HMRC, for a further 13 weeks. A further 13 weeks unpaid leave are also available.

### If the mother qualifies for the University's contractual pay but does not qualify for statutory payments to be made to her by the University

New starters to the University who do not have 26 weeks continuous service at the qualifying week will be expected to claim any statutory benefits to which they are entitled either directly from Jobcentre Plus, or from a previous employer, and to disclose the amount they are receiving to the University.

The University will take such payments into account and 'top up' so that the combination of SMP from her previous employer or MA from Jobcentre Plus **and** the payment from the University will total her normal full rate of pay from the University (ie full pay is not paid in addition to statutory benefits).

In the case of a multiple birth, an employee is entitled to the same benefits as if she were having one child.

Please read the [full guidance](#) on arrangements for employees who qualify for the contractual family pay benefits but do not have 26 weeks continuous service at the qualifying week (15<sup>th</sup> week before EWC)

### If the mother does not qualify for the University's contractual maternity pay but does qualify for statutory payments

If an employee does not meet the qualifying criteria for the University's contractual maternity pay scheme, (for example, because she is not intending to return to work after her leave) she may still qualify for statutory pay ([SMP or MA](#)) and the payment route will be as described above.

A woman who wishes to take maternity leave (and return to work) but who does not qualify for contractual or statutory pay through the University, still needs to provide a 'MATB1' form to her department, and to fill in a Maternity leave plan.

## If an employee decides not to return to work

If an employee decides **before** she goes on maternity leave not to return to work afterwards, then she will not be eligible for the University's contractual maternity pay scheme. She may still qualify to receive [SMP](#)

If an employee who has previously confirmed that that she will return to work after her leave, subsequently changes her plans and does not to return to work, or returns to work for less than three months, the University reserves the right to reclaim all or part of the 'top up' payments made under the University's contractual pay arrangements. Statutory pay is not subject to an employee returning to work so she may retain any statutory pay element she has received.

If an employee resigns during her maternity leave, she must do so in the normal way, giving the notice period stated in her employment contract. Although all other contractual benefits will end as at the end date of her employment with the University, an employee may continue to be entitled to SMP after employment ends. Any such payment will be paid to the employee as a lump sum amount at the end of her employment.

## Fixed-term contracts

If an employee's fixed-term contract is due to expire during the maternity leave period (or the contract ends due to redundancy), she may still qualify for a portion of the University's contractual maternity pay scheme. However, the payments under the University's contractual scheme and all other contractual employment benefits will cease on the contract end date. An employee may continue to be entitled to SMP after employment ends. Any such payment will be paid to the employee as a lump sum amount at the end of her employment.

The normal arrangements for ending contracts will also apply. However, it is recommended that the department contacts their HR Business Partner for guidance on the appropriate procedures.

## Before the birth

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Before maternity leave begins there are actions for both employees and their managers. The 'timeline of key actions and considerations' document and the 'maternity calculator' tool (available from the right hand menu of the website) will assist the employee and the department in working out any key dates and considerations in relation to the employee's maternity leave.

### Notification and discussions before going on maternity leave

Employees are encouraged to share the news of pregnancy with their department as early as possible as it will mean that their department knows that they are entitled to time off for antenatal appointments and that particular health and safety rules apply.

In order to qualify for and to claim maternity leave and pay, an employee must notify her department of:

- i. the fact she is pregnant; and
- ii. the EWC; and
- iii. the date when she intends to start taking leave; and
- iv. whether she intends to return to work after the birth of her baby. A woman who does not intend to return will not qualify for the University's contractual pay scheme. A woman who has indicated that she intends to return and then does not, or returns for less than three months, will be liable to repay the non-statutory element of any maternity benefits which have been paid. If an employee is on a fixed-term contract, please refer to the 'Fixed-term contracts' section below.

She should notify them no later than the qualifying week if she is employed by the University then, or if her employment begins after the qualifying week she should inform the University as soon as possible after she starts work.

The Maternity Leave Plan, which can be downloaded from the right hand side of the webpage, is provided for employees and departments to use to collect the above information and other details relating to the proposed maternity leave period. If the Maternity Leave Plan is completed fully by the employee and the department, this will ensure that the notification requirements are met. Within 28 days of completing the Maternity Leave Plan, if the employee plans to return to work, her return to work date should be confirmed (if appropriate) with her in writing. If an employee does not **intend** to return to work after the birth of her baby, any entitlement to [statutory maternity benefits](#) should be outlined to her, as she will not qualify for the University contractual maternity pay scheme. A pregnant employee is entitled to up to 52 weeks of maternity leave regardless of whether or not she qualifies for any type of maternity pay.

### Risk assessment

As soon as the department has been notified by their employee that she is pregnant, they should arrange to carry out appropriate risk assessments. For further information see: <https://occupationalhealth.admin.ox.ac.uk/pregnancy>.

### Antenatal appointments

The employee should notify her department of her antenatal appointments, once they have been confirmed by her healthcare provider.

### MATB1 form

The employee should also provide her department with a copy of her 'MATB1' form that she will have been given by her healthcare provider sometime around the 25th week of pregnancy.

## Other issues

Additionally, the employee and the department should discuss, explore and/or agree on the following:

- 'Keeping in Touch' (KIT) days arrangements;
- arrangements for staying in touch during the maternity leave period;
- how the work will be covered in the employee's absence, and any other concerns or issues, such as issues related to externally funded contracts;
- how the employee's employment benefits are affected during a period of maternity leave;
- the option (if eligible) of using the provisions under the Shared Parental Leave (SPL). Both the employee and her partner will need to meet the eligibility criteria for the scheme, and additional processes will need to be followed.

To read more about SPL, including the eligibility criteria, please go to the [Shared Parental Leave website](#).

## When leave can begin

A woman may choose to start her maternity leave any time after the beginning of the 11th week before the EWC. Maternity leave will start automatically if she gives birth before her notified date, or if she is ill for a pregnancy-related reason during the last four weeks of her pregnancy.

If an employee does not give her department the required notification for the start of her maternity leave, she may lose her right to start maternity leave on her chosen date. Departments are only required to make exceptions to this where it was not reasonably practicable for the notice to have been given any earlier.

If the department and employee fill in the Maternity Leave Plan then this will satisfy the notification requirements in this respect. Use the 'maternity calculator' tool (found on the [HR Support](#)) website to work out the various key maternity dates.

## Changing the start of maternity leave

Once a woman has notified her department of the date she wishes to start her maternity leave, she can change this date as long as she notifies her department of the new start date by whichever is the earlier of either 28 days before the date she originally intended to start her leave or 28 days before the new date she wants to start her leave.

If it is not reasonably practicable for her to give this much notice (for example, if the baby is born early and she has to start her leave straight away) then she should tell her department as soon as she can. The notification does not have to be in writing unless the department requests it.

## Confirmation by the department of the end date of leave

Once an employee has provided the necessary notice of the intended start date of her leave, her department should in turn notify the employee of the date on which the leave will end. This will normally be 52 weeks (one year) from the start of maternity leave, except where an employee has already stated her intention to take only a portion of the 52 week entitlement. A 'maternity calculator' tool, a Maternity Leave Plan and a letter can be used for this purpose.

The department should normally confirm the end date of the employee's maternity leave with her within 28 days of the notification.

## The start of maternity leave

The maternity leave period normally starts on the date the employee has notified her department that she intends to start leave. There are some exceptions to this rule as follows:

### (i) Absence due to childbirth before the intended start date

If the baby is born before the date the employee has notified that she wishes to start leave (or before she has had the opportunity to notify any date) the maternity leave period starts automatically on the day after the date of the birth. This happens even if the birth takes place before the 11th week before the birth was originally expected. In this circumstance the woman should give her department notice (in writing if the department asks for it) of the date of the birth if it has already taken place, and the date on which the baby was originally expected. The actual and expected dates of birth can be provided together on the maternity certificate (MATB1) if this is still to be issued by the time the baby is born.

In the unusual circumstance that the baby is born prematurely before the qualifying week, the employee will be taken as satisfying the continuous employment rule for the University's contractual maternity pay scheme if she would have been continuously employed but for early childbirth. The maternity pay will be paid from the day following the birth of the baby.

In the very unfortunate circumstances that a baby is stillborn before the 25th week of pregnancy, the woman is not entitled to pay under the statutory or University pay provisions. Sick leave or compassionate leave should be considered in such circumstances. The Departmental Administrator (or equivalent) should seek advice from their HR Business Partner should such a situation arise.

### (ii) Sickness absence for a pregnancy-related reason before the intended start date

An employee who is absent from work due to illness will normally be able to take sick leave until she starts maternity leave on the date notified to her department. However, if a pregnancy-related illness occurs at or after the beginning of the fourth week before the EWC, the maternity leave period will start automatically on the day after the first day of absence.

### (iii) Dismissal, resignation or end of contract before the intended start date

If an employee resigns, her contract ends or she is dismissed before the date she has notified to begin her leave, or before she has notified a date, she loses the right to the University's contractual maternity pay scheme and all other employment benefits as at the end date of her employment with the University. She may still [qualify for SMP](#) if the eligibility criteria are met. The Departmental Administrator (or equivalent) should seek advice from their HR Business Partner should such a situation arise.

## Health and safety at work

The University is required to protect the health and safety at work of all employees, including new and expectant mothers and mothers who are breastfeeding.

The Management of Health and Safety at Work Regulations 1999 require employers to assess risks to their employees, including new and expectant mothers, and to do what is reasonably practicable to control those risks.

The University is required to carry out a specific risk assessment paying particular attention to risks that could affect the health and safety of the new or expectant mother or her child. Once the department has been informed by the employee that she is pregnant, has recently given birth or is breastfeeding, the risk assessment should be carried out.

If the risk assessment identifies any specific risks that cannot be avoided (eg work with dangerous chemicals, radioactive material etc), the University is required to follow a series of steps to ensure that the woman is not exposed to that risk. If this extremely rare situation arises, the department should always seek advice from the University Safety Office and the relevant HR Business Partner in all such cases.

There is no statutory right to time off work for breastfeeding mothers. However, on returning to work the employee should provide her employer with written notification that she is breastfeeding, so appropriate risk assessments can be carried out. For further information see <https://occupationalhealth.admin.ox.ac.uk/pregnancy>.

## Time off for antenatal appointments

All pregnant employees are entitled to paid time off to attend antenatal appointments made on the advice of a registered medical practitioner, registered midwife or registered health visitor. This entitlement applies regardless of the employee's hours of work or length of service and time off for antenatal care will be paid at the employee's normal rate of pay.

An employee should provide notification of her antenatal appointments to her department, once the appointments have been confirmed. The employing department should clarify with their employee what notice and information are expected from her in relation to this.

Antenatal care is not restricted to medical examinations related to the pregnancy. It could, for example, include relaxation classes and parentcraft classes as long as these are advised by a registered medical practitioner, registered midwife or registered health visitor.

With the exception of the very first antenatal appointment, departments are entitled to ask the employee for evidence of antenatal appointments and, on request, the employee must show her department an appointment card or some other document showing that an appointment has been made.

Fathers and partners of pregnant women are entitled to take unpaid time off to accompany their partners to up to two antenatal appointments. Any additional time off that might be required to accompany pregnant women to appointments should be requested as annual leave in the normal way from the employing department. This provision also applies to parents whose child will be born through a surrogacy arrangement and where they meet the requirements for and intend to apply for a Parental Order for this child. Further information about this provision may be found under 'Family leave' on the [HR Support website](#).

## During maternity leave

This section explains:

- what an employee has to tell her department while she is on maternity leave
- contact arrangements between department and employee during maternity leave
- what work can be undertaken when an employee is on maternity leave.

### Contact during maternity leave

Departments and their employees will often find it helpful, before maternity leave starts, to discuss arrangements for staying in touch with each other. This might include agreements on the way in which contact will happen, how often, and who will initiate the contact. It might also cover the reasons for making contact and the types of things that might be discussed. There is a section in the Maternity leave plan for the employee to note her preferences in this respect.

During the maternity leave period, a department may make reasonable contact with an employee and, in the same way, an employee may make contact with her department. What constitutes "reasonable" contact will vary according to the circumstances. Some women will be happy to stay in close touch with the department and will not mind frequent contact. Others, however, will prefer to keep such contact to a minimum. The frequency and nature of the contact will depend on a number of factors such as the nature of the work and the employee's post, any agreement that the employer and employee might have reached before maternity leave began as to contact and whether either party needs to communicate important information to the other, such as, for example, news of changes at the workplace that might affect the employee on her return.

The contact between department and employee can be made in any way that best suits either or both of them. For example, it could be by telephone, email, letter, involving the employee making a visit to the workplace, or in other ways.

Departments should note that they must, in any event, keep the employee informed of information relating to her job that she would normally be made aware of if she was working.

### Work during the maternity leave period – ‘Keeping in Touch’ (KIT) days

An employee may, by agreement with her department, do up to a maximum of 10 days' work - known as ‘Keeping in Touch’ (KIT) days - under her contract of employment during the maternity leave period. Such days are different to the reasonable contact that departments and employees may have with each other, as during KIT days employees can actually carry out work for the department, for which they will be paid.

Any work carried out during the maternity pay period (39 weeks) or maternity leave period (52 weeks) will count as a whole KIT day, up to the 10 day maximum. In other words, if an employee comes in for a one hour training session and does no other work that day, she will have used one of her KIT days. Once a woman has exhausted her 10 KIT days, if she does any other work she will lose a week's SMP for the week in which she has done that work.

The type of work that the employee undertakes on KIT days is a matter for agreement between the two parties. They may be used for any activity which would ordinarily be classed as work under the woman's contract but would be particularly useful, for example in enabling her to attend a conference, undertake a training activity or attend for a team meeting .

This work during maternity leave may only take place by agreement between both the department and the employee. A department may not require a woman to work during her maternity leave if she does not want to, nor does a woman have the right to work KIT days if her department does not agree to them.

The KIT days can be undertaken at any stage during the maternity leave period, by agreement with the department with the exception that during the first two weeks after the baby is born (the compulsory maternity leave period) no work is permitted.

If it has been agreed with the department that the employee would like to work 'Keeping in Touch' days during her maternity leave, the employee will need to make sure that she responds when her department offers her this work. The department should give as much notice as possible of the work that they would like the employee to do and clarify what she will be paid for the work she does.

## Payment for 'Keeping in Touch' (KIT) days

As KIT days allow work to be carried out under the employee's contract of employment, the employee is entitled to be paid for that work. If a woman attends for work, she should be paid the equivalent of her normal hourly rate for the hours she works on the day in question. Therefore during the period of maternity leave that she is being paid at the rate of full pay, no further payment would be due. If an employee works her KIT day(s) during a period of SMP, her statutory pay should be enhanced to full pay, and if work takes place during a period of unpaid maternity leave, she should be paid the equivalent of her normal hourly rate for the hours she works. She will continue to be paid her SMP (if eligible) for the week in which the work is done.

There is a maximum limit of 10 KIT days allowed under the maternity leave regulations and once a woman has used up her 10 KIT days and she then does any further work, she will lose a week's SMP for the week in which she has done that work. The hours to be worked must be agreed in advance between the department and the employee. The pay for this work should also be confirmed by the department in advance.

Any questions from departments about payment during KIT days should be directed to their HR Business Partner.

## Notification of change of return to work dates while on maternity leave

Unless otherwise notified, the date on which an employee returns to work will normally be the first working day 52 weeks after her maternity leave began. The actual return date will normally be recorded in the Maternity Leave Plan, and can be checked by using the maternity calculator tool.

### (i) Return to work before the end of the maternity leave period

If the employee wishes to return to work before the end of her full maternity leave period (this will normally be the end date that the department confirmed to her before she went on leave), she must give her department at least eight weeks' notice of her return to work. This notice requirement applies throughout the whole period of leave. The notice period is the minimum that the department is entitled to expect, but the department may, at its discretion, accept less notice.

If the employee tries to return to work without having given the appropriate eight weeks' notice, the department may postpone her return until the end of the eight weeks' notice period. However, the department may not postpone her return to a date later than the end of her maternity leave period.

### (ii) Return to work later than previously notified

An employee who has notified her department that she wishes to return to work before the end of her 52 weeks' entitlement to maternity leave, is entitled to change her mind. However, in these circumstances, she should give her department notice of this new, later date at least eight weeks before the earlier date.

### (iii) Employees who do not wish to return to work after maternity leave

An employee who does not wish to return to work after her maternity leave must give her department the notice of termination required by her contract of employment. However, if a woman is in the position to do so, it would be helpful to her department if she can give as much notice as possible of her intention to leave her employment.

Please note: If a woman does not return to work for at least three months following her maternity leave period, departments may reclaim the whole of the non-statutory element of maternity pay. If a woman cannot return to work because her fixed-term contract has ended, she would not be required to repay any of her maternity pay as long as she had confirmed at the start of the maternity leave that she intended to return to work if suitable alternative work could be found.

## Being paid

Whilst on full-pay maternity leave:

- if the mother is eligible for SMP to be paid by the University it is included within full pay. It is not paid in addition to full-pay;
- If the mother is claiming SMP from a previous employer, or MA from Jobcentre Plus the pay she receives will be calculated to take account of the SMP she is being paid so that the combination of the statutory pay and her pay from the University will be equivalent to her normal full rate of pay;
- If the mother has no entitlement to statutory payments she will receive payment equivalent to her normal full rate of pay.

Payments made by the University will be paid in exactly the same way that the employee's salary would be paid if she were at work, on the day of the month as set by Payroll. Payments being made from previous employers or Jobcentre plus will be paid according to their own pay arrangements.

Payslips can be viewed as normal via HR Self-Service.

If an employee is sick during her maternity leave, she cannot claim sick pay. If the employee is sick when her maternity leave is due to end, she will be deemed to be an employee who has returned to work but who is on sick leave under the University sick pay scheme.

## End of contract during maternity leave

If a woman's contract is due to end during her maternity leave period, normal arrangements for ending contracts will apply. However, it is recommended that the Departmental Administrator (or equivalent) contacts their HR Business Partner for guidance on the appropriate procedures.

If the woman has provided written confirmation that she wishes the department to seek suitable alternative employment for her within the University, this should be sought in the normal way.

If it has not been possible, under the normal University rules, to redeploy her, and her employment ends, then University pay and rights under the University's contractual maternity pay scheme end on the same day that her contract expires, and employment ends. If she has been receiving SMP via the University she may continue to have entitlement to statutory maternity pay. Any such payment will be paid to the employee as a lump sum amount at the end of her employment.

## Childcare

Parents using the University nursery provision, childcare vouchers or salary sacrifice schemes must contact Childcare Services before the unpaid period, as the schemes operate differently during the **unpaid period** of maternity leave.

## Employment benefits during maternity leave

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During the whole period of maternity leave the employee is entitled to receive all her contractual benefits with the exception of remuneration. This includes all non-cash benefits such as childcare vouchers.

**Please note:** If an employee is currently using University childcare tax saving schemes (such as the nursery fee salary sacrifice scheme or the childcare vouchers scheme) it is important that they seek advice about the changes which occur within these schemes during the **unpaid period** of maternity leave. Further information can be obtained by contacting the Childcare Services team at [childcarefinance@admin.ox.ac.uk](mailto:childcarefinance@admin.ox.ac.uk) or on 01865 (2) 89835 or visit the [Childcare Services](#) web pages.

### Annual Leave

Contractual annual leave (including bank holidays and fixed closure days) will accrue throughout the full 52 weeks of maternity leave.

Departments may wish to ask women to take any accrued annual leave prior to their maternity leave.

Departments may also ask that a woman takes at least 28 days' annual leave (the annual statutory holiday requirement) before she goes on maternity leave if she will not return to work before the end of the current leave year. In the event that a maternity leave period crosses over two annual leave years, the employing department may ask a woman returning to work to use up the balance of her annual leave from the leave year that has ended at the end of her maternity leave period. It is not possible for an employee to take annual leave at the same time as maternity leave. This will assist departments in managing the larger amounts of annual leave that will be accrued during maternity leave.

However, departments retain the right to make annual leave arrangements with their employees to fit in with operational requirements. Women must agree when they will take annual leave in advance with their department, and they may wish to consider retaining some of their annual leave to allow them to take time off as required to look after their children should they be ill, or need some additional support whilst settling into a nursery or with new childcare workers. It should be clarified to the employee early on that whilst a small amount of paid leave is available to staff for dealing with domestic emergencies, this is not intended to cover foreseeable domestic problems such as those outlined above, and in most cases it would be anticipated that annual leave would be used to cover such circumstances.

If a woman wishes to take annual leave at the end of her maternity leave period, she is deemed to have returned to work at the notified date and then she may take her annual leave as agreed with her department.

### Pensions

When an employee is on maternity leave, her normal employee contributions to her pension will continue to be deducted at the appropriate rate while she is on full pay and when she is on statutory maternity pay. The University will also continue to make its contributions at the appropriate rate. When the employee is on zero pay, no contributions are payable by either her or the University.

If, when she returns to work, she would like to make up the pensions contributions that she did not pay because she was on reduced or zero pay during maternity leave, the employee may do so. The Pensions Office will be able to advise the employee on her individual situation.

### Sickness during/at the end of maternity leave

The University follows the same rules as are applied to statutory payments and sick pay cannot be claimed at the same time as maternity pay. Employees are therefore disqualified from receiving sick pay until the period of paid maternity pay has ended.

If an employee comes to the end of maternity leave and is too ill to return to work, because of childbirth or some other reason, she should still notify the department in the normal way that she wishes to return to work. If she remains too ill to return to work after the date on which she was intending to return to work, she must provide the department with a medical certificate and should be treated as though she had returned to work and was absent from work due to sickness.

**The University sick leave scheme only covers the sickness of the employee and not sickness suffered by any of their dependents.**

## After maternity leave

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This section explains:

- an employee's rights on returning to work following maternity leave;
- the health and safety provisions which apply to new mothers at work;
- matters relating to taking time off to care for sick dependents or domestic emergencies.

### Rights on return to work

An employee may not return to work before the end of her compulsory two-week maternity leave period, from the date of childbirth.

An employee who is returning to work after a period of Ordinary Maternity Leave only (the first 26 weeks), is entitled to return to the same job in which she was employed before she went on leave, on terms and conditions that are the same as, or no less favourable than those that would have applied had she not been absent on maternity leave (unless a redundancy situation has arisen or a fixed-term contract has come to an end).

An employee who is returning to work after a period of Additional Maternity Leave (weeks 27-52), or a period of at least four weeks' parental leave on top of her OML, will normally return to the same job she was in before she went on leave. However, if there is a reason other than redundancy which means that it is not reasonably practicable for the University to permit her to return to the same job, she is entitled to return to a different job which is both suitable for her and appropriate in the circumstances, on terms and conditions that are no less favourable than they would have been had she not been absent (unless a redundancy situation has arisen or a fixed-term contract has come to an end).

Employees have the right to request flexible working (such as a change to their hours, times or place of work) and the employing department must deal with this request in accordance with the University's flexible working request procedure. However, if an employee wishes to work a flexible working pattern on a temporary basis to ease her return to work, she should discuss this with her department as soon as possible. It may be possible to use accrued annual leave for this purpose.

Employees returning from maternity leave may also have a separate entitlement to Parental Leave which is a period of unpaid leave.

### Health and safety

The University is required to protect the health and safety at work of all employees, including new and expectant mothers and mothers who are breastfeeding.

The Management of Health and Safety at work Regulations 1999 require employers to assess risks to their employees, including new mothers, and to do what is reasonably practicable to control those risks.

The University is required to carry out a specific risk assessment paying particular attention to risks that could affect the health and safety of the new mother or her child. Once the department has been informed by the employee that she has recently given birth or is breastfeeding, the risk assessment should be carried out. For further information please contact the University Safety Office.

A woman who has recently given birth or is breastfeeding, and is unable to continue in her post on designated health and safety grounds, will be offered alternative work or, where none is available, she may be suspended on full pay until such times as she is able to resume her duties. In such cases departments should seek advice from the relevant HR Business Partner before taking action.

There is no statutory right to time off work for breastfeeding mothers.

## Changing hours of work

### Temporary changes to hours of work

If an employee requests a temporary change to her normal working hours at the end of maternity leave, the department should, subject to operational needs, consider allowing her the opportunity to return to her normal working hours (before the change occurred) on a phased basis. Accrued annual leave may also be used to facilitate such a request.

If an employee would like to return to work gradually at less than her normal full-time hours, she should discuss this possibility with her department before she begins her maternity leave. This will allow departments time to arrange cover. Departments are asked to consider such requests favourably where at all possible, but any arrangement will depend on the operational needs of the department.

It is important to note that this flexibility of return does not allow an employee to choose from week to week what hours she would like to work. The intention is for employees and departments to agree a regular timetable of hours to help an employee to return to full-time work as smoothly as possible. Any arrangements must be agreed with the Head of Department so that they fit into the operational requirements of the department and/or group with whom the employee works. For the period of part-time work, employees will be paid at the appropriate pro-rata rate. This will have implications for pensions contributions which employees may wish to discuss with the Pensions Office.

### Permanent changes to hours of work

Following maternity leave, an employee's legal right is to return to the job which she held prior to her maternity leave (subject to the further guidance above). If an employee decides that she would like to amend her working hours permanently, she may apply to her department under the University's flexible working procedures. The department should seriously consider the possibility of a return on a different basis, which might include shorter hours or working fewer weeks of the year, but agreement to this type of request is dependent upon the operational requirements of the department. For any period worked part-time, pay and pensions contributions will be adjusted accordingly.

## Annual leave / caring for those who are sick, and dealing with domestic emergencies

In the early days of settling a child into a new care arrangement, in a nursery or with a child carer, there are often quite a number of matters which may require new mothers to be absent from the workplace, such as minor illness to be dealt with, or problems with settling into the new care arrangements. New mothers may wish to consider retaining some of their accrued holiday leave to enable them to deal with these situations.

Whilst absence from work to attend to an emergency such as the sickness of a member of an employee's immediate family or equivalent or to attend to a family or domestic emergency will normally be paid in the first instance, it is intended that this is to enable employees to make the necessary arrangements for continued care or attention. Such paid leave will therefore normally be very limited (from half a day to no more than two days) and is not intended to cover repeated absences for minor problems, but rather to deal with exceptional circumstances. Additional leave, which will normally be unpaid or taken as annual leave, may be granted. In certain exceptional circumstances a department may grant a further limited period of paid leave for these purposes. It is important that these provisions are not abused and departments will monitor the frequency of leave requests.

Wherever possible employees must apply in advance to the Departmental Administrator (or equivalent), or Head of Department, or to the person to whom they would normally report sickness absence, and should not leave their place of work without having obtained permission from an appropriate person. For further information see the [staff handbooks](#).

## The 'Day One' Family leave scheme

Since January 2020 any new starter to the University will qualify for the University's contractual enhanced family leave benefits as long as:

- they have started work for the University before the EWC of their child and before they commence any period of family leave
- they intend to return to work for the University after their period of leave<sup>1</sup>

### Interaction with statutory benefits

Entitlement to the University's family leave benefits does not make staff eligible for statutory benefits.

Eligibility for statutory benefits is determined by the Government. There is an online calculator to help you work out your entitlements

- For maternity, paternity, shared parental leave see <https://www.gov.uk/pay-leave-for-parents>
- For adoption leave see <https://www.gov.uk/adoption-pay-leave>

Where an employee is entitled to statutory benefits they must claim them – the University scheme 'tops up' statutory entitlements but does not replace them. Employees claiming maternity payments through the Day One scheme will be required to give their employing department details of the statutory benefits they are receiving (Statutory Maternity Payments from another employer, and the amounts paid, or Maternity Allowance and details of the rate and period of payment).

### Action for HR teams

#### Recording and coding on CoreHR

It is essential that employees taking up the 'Day One' family leave scheme benefits are easily identifiable on CoreHR and distinct from those who are eligible to have statutory payments made to them through the University's Payroll. Action and Reason codes have therefore been created to allow recording of family leave taken under 'Day One' entitlement:

- Maternity leave start and end– no SMP included
- Adoption leave start and end– no SAP included
- Paternity leave start and end– no SPP included
- Shared Parental leave start and end – no ShPP included

Please refer to the updated [ORG CH10](#) – Family leave for further details.

#### Informing Payroll

The Payroll forms for family leave (available from the Finance website) set out the information that HR teams need to collect from employees about any statutory pay entitlements they have. Employees who started work with the University after the qualifying week may be eligible for Statutory Adoption or Maternity Pay from a previous employer. Payroll need not only confirmation that SMP or SAP is being claimed elsewhere, but also – where 6 weeks' pay at 90% of AWE is payable - the amount to be paid during that period so that the appropriate amount can be paid via the University to mean that the employee will continue to receive the equivalent of their full University salary during that period.

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<sup>1</sup> If they do not return, or upon return, do not work for a minimum of three months then the University reserves the right to reclaim any non-statutory payments the individual has received.