



# **MATERNITY AND FAMILY CARE POLICY**

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	<b>EIS</b>
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# MATERNITY AND FAMILY CARE POLICY

## 1. Purpose

In order to comply with employment legislation the College has developed the Maternity and Family Care Policy which is intended to apply to all College staff and which outlines employees' entitlements in relation to Maternity Leave and Pay; Parental Leave/Paternity Leave and Pay; Adoption Leave and Pay; Flexible Working and Time Off for Dependants.

## 2. Scope

This Policy applies to all employees of West Lothian College.

## 3. Maternity Rights

### 3.1 Risk Assessment

The College will ensure that, as soon as they are made aware of an employee's pregnancy, a Risk Assessment is carried out by the Occupational Health Nurse or other suitably qualified designated person in relation to the pregnant woman's work situation. A copy of the Risk Assessment will be placed in the employee's file. It is your responsibility to contact HRM to notify them of your pregnancy.

### 3.2 Basic Maternity Rights

A pregnant employee, irrespective of her length of service, has the right to 52 weeks maternity leave and the right to return to the job she was in before her maternity leave and on terms and conditions not less favourable than those which would have applied had she not been pregnant. This is known as Ordinary Maternity Leave (OML) for the first 26 weeks and Additional Maternity Leave (AML) for the second 26 weeks. It will be assumed by the College that a woman will utilise her full entitlement and she will not be required to give any further notification to the College in order to return to work at the end of that period. However the woman must give the college **8 weeks** notice, in writing, if it is her intention to return to work **earlier** than the end of her Maternity Leave entitlement.

### **3.3 Compulsory Maternity Leave**

No woman is permitted to work during the first 2 weeks after giving birth. This is known as 'Compulsory Maternity Leave'.

### **3.4 Notification of Pregnancy**

In order to exercise a right to Maternity leave the pregnant employee must notify Human Resource Management (HRM) by the 15th week before her EWC. Notification must include the following information:

- that she is pregnant
- the Expected Week of Childbirth (EWC)
- the date on which she intends to start her maternity leave (which date cannot be earlier than the beginning of the 11th week before the EWC.

(A woman who is absent from work wholly or partly because of her pregnancy after the beginning of the 4th week before the EWC will automatically trigger her period of maternity leave.)

For this purpose the College will require the pregnant employee to produce form MATB1 (available from a registered medical practitioner or a registered midwife) which states the EWC.

Within 28 days of receipt of her notification of pregnancy the College will advise the woman, in writing, of her Maternity Leave entitlement. The College will ensure that a Risk Assessment is carried out in relation to the pregnant woman's work situation at the next Occupational Health Clinic after receipt of her formal notification of pregnancy, if this has not previously been undertaken.

The woman may alter the date on which she intends to start her maternity leave, providing she gives a minimum of 28 days' notice, in advance, of the amended date (or giving as much notice as possible if this is not reasonably practicable).

### **3.5 Statutory Maternity Pay**

Providing that the pregnant employee has been employed by the College for not less than 26 weeks at the Qualifying Week (i.e. the 15th week prior to the Expected Week of Childbirth – EWC) then, subject to her average earnings being in excess of the lower earnings limit, she will have an entitlement to Statutory Maternity Pay (SMP).

SMP is payable for 39 weeks as follows:

- 6 weeks x 90% of average weekly gross earnings
- 33 weeks x Statutory Maternity Pay allowance applicable at that time (or 90% of their average weekly earnings if this is less than the weekly Statutory Maternity Pay allowance)

Women who do not qualify for Statutory Maternity Pay may be eligible to claim Maternity Allowance from the Benefits Agency.

The college will provide the appropriate forms and letter detailing why payment is not being made.

### **3.6 Occupational Maternity Pay**

Pregnant employees with not less than 1 year's service by the beginning of the 15<sup>th</sup> week prior to the EWC and, subject to their average earnings being in excess of the lower earnings limit, are entitled to 13 weeks of Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) - taken together these payments will be equal to the employee's normal salary.

## **4. Parental Leave**

Parental leave offers qualifying parents the right to take unpaid time off work to look after your child or make arrangements for their welfare. It can help you spend more time with your child and strike a better balance between your work and commitments.

Employees with a minimum of 1 year's continuous service and with parental responsibility for a child (including an adopted child)

- either** (a) Under 5 years of age (under 18 if disabled)  
**or** (b) In the case of adoption, the 5<sup>th</sup> year anniversary of their placement or until their 18<sup>th</sup> birthday

shall be entitled to a maximum of \*13 weeks' unpaid parental leave for each child, for the purpose of caring for the child, with the following provisos:

**\* In this context a week will be taken to be the length of time that particular employee is normally required to work in a week**  
**e.g. 5 days (Monday-Friday) = 1 week**  
**2 days (Monday & Wednesday) = 1 week**

- leave must be taken before the child's fifth birthday or before the fifth anniversary of placement for adoption or unless the child has a disability, in which case the leave is extended to a maximum of 18 weeks unpaid parental leave and leave can be taken until the child is 18 years of age
- three weeks' notice, (or as much notice as possible if this is not reasonably practicable) in writing, should be given by the employee of the intended dates to be taken as parental leave and providing evidence of parental responsibility (i.e. birth certificate/adoption order, etc.)
- College Management has the right to postpone the leave for up to six months (other than when it immediately follows the birth of the child or the date when the child is placed with the family for adoption or on conclusion of maternity leave) if it is considered to be particularly disruptive to the business of the College, but must state the reason for the postponement in writing.

No limit will be set on the number of weeks to be taken at any one time, subject to this number not exceeding the maximum 13 weeks under this provision.

The College will seek evidence to confirm the person making application for parental leave is the parent or legal guardian with responsibility for the child.

An employee taking parental leave for a period of 4 weeks or less (other than immediately after taking additional maternity leave) is entitled to return to their own job on no less favourable terms and conditions. Employees absent on parental leave for more than 4 weeks have the right to return to the same job, or if it is not reasonably practicable to do so, to another job which is both suitable and appropriate in the circumstances. Terms and conditions will be no less favourable than those which applied before going on leave.

An employee who takes parental leave for a period of 4 weeks or less immediately after additional maternity leave is entitled to return to her old job unless it would not have been reasonably practicable to return to that job if she had returned at the end of additional maternity leave and it remains not reasonably practicable for her to return to that job after parental leave. Otherwise, she is entitled to return to another job, which is suitable for her and appropriate in the circumstances.

During absence for parental leave purposes the contract of employment continues to be in existence except in relation to the employers duty to provide work and to pay wages.

## **5. Flexible Working**

Employees with a minimum of 26 weeks service who:

- Have or expect to have parental responsibility of a child aged 16 or under or a disabled child under 18 who receives Disability Living Allowance (DLA)
- Are the parent/guardian/special guardian/foster parent/private foster carer or as the holder of a residence order or the spouse, partner or civil partner of one of these and are applying to care for the child

The College, as the employer, will have a duty to consider such requests seriously and must set up a meeting to discuss the request for Flexible Working within 28 days of its receipt. The rejection of such an application must specify the grounds for rejection with sufficient explanation for these grounds and must include details of an appeals process. If the member of staff's application is rejected a further application cannot be made within a year of the original application.

*Please refer to Flexible Working Policy and Procedure.*

## **6. Ordinary Paternity Leave**

Ordinary Paternity Leave will normally be given at or around the time of the birth of a baby, to the biological father/spouse/partner. Ordinary Paternity Leave will be for a maximum of 2 weeks taken consecutively in weekly blocks within 56 days of the baby's birth. Paternity Leave requests for time off should be made by completion of a Leave of Absence request form. In exceptional circumstances additional leave may be granted at the discretion of the Principal.

Employees will be entitled to a maximum 2 weeks paid Ordinary Paternity Leave at the appropriate Statutory Paternity Pay allowance. Those employees with 26 weeks qualifying service prior to the 15th week before the Expected Week of Childbirth (EWC) will be entitled to Enhanced Paternity Pay as follows:

- Week 1 – full pay
- Week 2 – Statutory Paternity Pay Allowance

### **Additional Statutory Paternity Pay**

Additional Statutory Paternity Pay (ASPP) is given to eligible fathers, partners, civil partners of mothers and adopters where there is entitlement to statutory maternity pay, maternity allowance or statutory adoption pay and that payment has been brought to an end by the mother or adopter returning to work. The employee must be taking time off work to care for the child.

### **Qualifying Periods**

The employee must:

- Satisfy the condition for entitlement to ASPP
- Provide the employer with the right evidence at least eight weeks before the start of the ASPP period
- Have been employed by the employer continuously for at least 26 weeks in the qualifying week and continue to work until the end of the week before the ASPP period begins
- Have average weekly earnings which are not less than the lower earnings limit

### **Conditions for Entitlement to ASPP**

The employee and the child's mother must both satisfy certain conditions for entitlement to ASPP.

#### **Employee**

The employee will satisfy the conditions for ASPP if:

- They are the child's father, or if not the child's father, they are the spouse, civil partner of the mother
- They have, or expect to have, the main responsibility (apart from the mother) for the upbringing of the child
- They have been employed long enough
- They have normal earnings above the Lower Earning Limit in the relevant period
- They intend to care for the child during the ASPP period
- The mother satisfies her maternity conditions below
- The mother has completed and signed her declaration
- They have given a completed declaration to HRM

#### **Child's Mother**

The child's mother must have:

- Satisfied the conditions for entitlement to statutory maternity pay (SMP) or maternity allowance (MA)
- Taken action to return to work
- Taken at least two weeks off work after the birth
- At least two weeks of her SMP or MA period remaining
- Signed the declaration form SC7 to confirm they intend to return to work and will stop receiving SMP or MA (available from HRM)

### **Evidence for ASPP**

The employee must apply for ASPP at least eight weeks before ASPP is due to start. The application must be in writing and made to HRM. This can be done by submitting the form SC7.

### **Additional Information**

We may also ask you to provide additional information as follows:

- A copy of the child's birth certificate, and
- The name and business address of the mothers employee or, if self employed her business address

You must also inform us as soon as possible when:

- You no longer satisfy the conditions
- You work for another employer who is not liable to pay them ASPP

### **Paying ASPP**

ASPP is paid to you in the same way as wages. ASPP is paid at the lower of the weekly amount or 90% of average weekly earnings (AWE). The minimum period ASPP can be paid for is two weeks and it will cease when the SMP or MA period ends.

The employee has the right to choose when they want to take pay and leave within the set period. However, this must be approved prior to commencement of the leave.

## **7. Adoption Leave and Pay**

### **Leave**

If an employ is adopting the child with their partner, the couple must decide who gets Statutory Adoption leave & Pay and who gets statutory Paternity pay. Members of staff with a minimum of 26 weeks continuous service by the week in which they are notified of being matched with a child for adoption, have an entitlement to 26 weeks Ordinary Adoption Leave and a further 26 weeks Additional Adoption Leave.

## **Pay**

Subject to average earnings being in excess of the lower earnings limit, a member of staff applying for Ordinary Adoption Leave will have an entitlement to receive Statutory Adoption Pay (SAP). SAP is payable for 39 weeks at the appropriate statutory rate (or 90% of average weekly earnings if this is less than the applicable Statutory Adoption Pay allowance). The remainder of additional Adoption Leave will be unpaid.

Application for paid Ordinary Adoption Leave should be made, in writing, within 7 days of being notified by the adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. The application must include the following details and giving as much notice as possible

- the date when the child is expected to be placed with them and
- the date on which they wish their adoption leave to start.

The College will expect the member of staff to provide the 'matching certificate' as proof of their application for Adoption Leave.

The College will respond within 28 days of receipt of written notification Requesting Adoption Leave, setting out details of the date on which the employee is expected to return to work if the full entitlement to Adoption Leave is taken. The member of staff may alter the date on which they intend to take their adoption leave, providing they give a minimum of 28 days' notice, in advance, of the amended date (or giving as much notice as possible if this is not reasonably practicable).

Members of staff returning to work following Additional Adoption Leave will have the right to return to the same job. If this is not reasonably practicable then they must be offered another job, which is suitable and appropriate – on terms and conditions no less favourable than those which would have applied had they not been absent on Adoption Leave.

A member of staff returning to work at the end of their additional adoption leave will not be required to give any further notification to the College in order to return to work at the end of that period. However the member of

staff must give the College 8 weeks notice, in writing, if it is their intention to return to work earlier than the end of their additional Adoption Leave.

## **8. Time Off for Dependants** (Emergency dependency leave)

All employees, irrespective of their length of service, shall have the right to take a reasonable period of unpaid time off work to deal with an emergency involving a dependant, providing they inform the College under the normal absence reporting procedures in place.

For this purpose a dependant may be regarded as:

- a spouse
- a child
- a parent
- a person who lives in the same household as the employee (but not tenants, lodgers, etc.)

Examples of the type of emergency circumstances where time off may be Considered appropriate would be

- when a dependant falls ill or has been injured or assaulted
- when a dependant gives birth
- making longer term care arrangements for a dependant who is ill or injured
- time off as a consequence of the death of a dependant, which will cover making funeral arrangements and attending a funeral
- dealing with an unexpected disruption or breakdown in care arrangements for a dependant
- dealing with an incident involving the employee's child while the child is at school or on a school activity.

In certain circumstances the employee may be given a proportion of this time off with pay. Such payment will be decided by submission of details on the appropriate Leave of Absence form to the HR Section. Paid leave may be given, up to a maximum of 5 days for any one instance and, subject to a maximum of 5 days in any 12 month period (excluding bereavement leave). However in exceptional circumstances additional leave may be granted at the discretion of the Principal.

## **9. Revision Date**

This Policy will be reviewed in 2 years or subject to legislative

requirements.