

## Maternity Leave Policy and Procedure

### Document Control

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| <b>Title:</b>                      | <b>Maternity Leave Policy and Procedure</b> |
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This policy will be reviewed periodically to ensure compliance with changes in employment law and equality and diversity legislation. In the event that this policy or procedure is not compliant, the relevant legislation shall prevail.

**Changes to this policy will be subject to consultation and agreement with the University's recognised Trade Unions before implementation**

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## 1. INTRODUCTION

Brunel University London is fully committed to equality of opportunity in employment for all our employees and to developing working practices and employment policies that support a positive work life balance. In particular, this policy demonstrates a commitment by the University to enable employees to manage their work and family life during the first year of their child's life.

This policy and procedure is designed to ensure that all eligible employees are aware of their entitlement to statutory maternity rights and that they are treated fairly and consistently in line with the relevant legislation.

The University is also committed to supporting good practice in relation to parental rights, recognising the value of achieving a gender diverse workforce and retaining and promoting talent. In support of this, the University provides parental benefits, including maternity pay that are above the statutory minimum.

## 2. SCOPE

This policy and procedure applies to employees of the University and conforms to statutory maternity entitlements.

## 3. GENERAL PRINCIPLES

The following general principles apply:

- To qualify for Maternity Leave and Maternity Pay, employees must meet the separate requirements for each as outlined in this policy and procedure.
- Maternity Leave can start on any day of the week. Only one period of leave will be available irrespective of whether more than one child is born i.e. in a multiple birth pregnancy.
- Employees are entitled to take up to 52 weeks' Maternity Leave, combining both paid and unpaid Maternity Leave, regardless of their length of service with the University.
- A minimum of two weeks leave must be taken following the birth of the baby.
- Employees can choose to stay on Maternity Leave for the whole 52 weeks or end it early. If they end it early, they can choose to share the remaining weeks leave with their partner by opting for [Shared Parental Leave](#).

## 4. ENTITLEMENT AND ELIGIBILITY TO TAKE MATERNITY LEAVE

All pregnant employees, regardless of length of service with the University or hours worked, are entitled to take up to 52 weeks Maternity Leave.

While employees can decide on how much Maternity Leave they wish to take, for health and safety reasons, they must take a minimum of two-weeks "compulsory leave" from the date of childbirth.

Employees are entitled to take two forms of Maternity Leave: Ordinary Maternity Leave and Additional Maternity Leave.

Ordinary Maternity Leave – lasts for 26 weeks' and can begin up to 11 weeks' before the expected week of childbirth.

Additional Maternity Leave – also lasts for 26 weeks' and, if taken, must begin the day after Ordinary Maternity Leave ends.

To be eligible to take Maternity Leave, a pregnant employee must notify the University, in writing, of the following **at least 15 weeks** before the baby is due:

- that they are pregnant;
- when the expected week of childbirth is;
- the date they intend to start Maternity Leave.

Please refer to section 6 for notification requirements.

## **5. ENTITLEMENT AND ELIGIBILITY TO MATERNITY PAY**

In order to receive Maternity Pay, employees must have provided the University with the appropriate notification of pregnancy (see section 6).

Maternity Pay (whether Statutory Maternity Pay or University Maternity Pay) is payable for a **maximum of 39 weeks**. The remaining 13 weeks that can be taken during Maternity Leave is unpaid.

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

An employee will be entitled to SMP, whether or not they intend to return to work, if they:

- have given due notice to their Manager and Human Resources (see section 4);
- have at least 26 weeks' continuous service with the University by the end of the 15<sup>th</sup> week before the expected week of childbirth; and
- earn average weekly earnings at or above the Lower Earnings Limit for National Insurance contributions<sup>1</sup> (or if pay is variable, average pay over the eight weeks up to and including the end of the 15<sup>th</sup> week before the expected week of childbirth. Weeks where no work was carried out will be ignored for the purposes of this calculation, and earlier weeks used instead.)

### **5.2 University Maternity Pay (UMP)**

The University operates its own Maternity Pay Scheme (UMP), which is more generous than SMP.

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<sup>1</sup>Please refer to [www.gov.uk](http://www.gov.uk) for the Lower Earnings Limit

An employee who is eligible for UMP will be entitled up to 18 weeks full contractual rate of pay (or if pay is variable, their average pay over the eight weeks up to and including the qualifying week).

An employee will be entitled to UMP if they:

- have given due notice to their Manager and Human Resources (see section 4);
- have at least one year's continuous service with the University by the end of the 15<sup>th</sup> week before the expected week of childbirth; and
- return to work (50% or more is expected) for a period of at least three months following Maternity Leave.

With the exception of an employee who works on a fixed term contract which expires during their Maternity Leave, if an employee fails to return to work or leaves the University before the end of three months, the employee must reimburse the University the UMP, excluding SMP (after PAYE deductions) that have been received and the University reserves the rights to reclaim this sum directly from the employee.

If an employee is unsure about returning to work after their period of Maternity Leave, they may defer taking their UMP until their return to work. Employees will need to notify Human Resources should they decide to defer their UMP.

UMP contains the SMP elements (SMP is not an additional payment).

A breakdown of UMP that may be paid to an eligible employee is as follows:

- Weeks 1 – 18: full contractual rate of pay (or if pay is variable, average pay over the eight weeks up to and including the end of the 15<sup>th</sup> week before the expected week of childbirth)
- Weeks 19– 39: 21 weeks at the standard rate of SMP or 90% of average weekly earnings, whichever is the lesser amount.

All other remaining leave periods will be unpaid.

A summary of SMP and UMP payments is provided in **Appendix A**.

A flowchart to help employees understand their maternity entitlements is provided in **Appendix B**.

Human Resources will issue employees with an individual summary of their Maternity Pay entitlement once written notification of Maternity Leave has been received.

Maternity Pay is paid into the employee's bank account on the same day that they would normally receive their salary and will be subject to the usual deductions for tax, national insurance and pension contributions.

### **5.3 Maternity Allowance**

An employee with less than 26 weeks' continuous service by the end of the 15<sup>th</sup> week before the expected week of childbirth or who is not entitled to SMP may be entitled to Maternity Allowance.

To claim Maternity Allowance, an employee will need to obtain an SMP1 form from the Payroll team which explains the reason why they are not entitled to SMP. The employee will then need to send this to their local Job Centre Plus office together with a Maternity Claim form<sup>2</sup>. Job Centre Plus will then assess the employee's entitlements.

## 6. NOTIFICATION

### 6.1 When Can Maternity Leave Start?

Usually, the earliest an employee can start their Maternity Leave is **11 weeks** before the expected week of childbirth. The exceptions to this rule are:

Exception 1: Absence due to childbirth before the start of Maternity Leave:

If childbirth occurs before the intended start date of Maternity Leave, the Maternity Leave period starts automatically on the day after childbirth. In this circumstance, the employee should notify their Manager and Human Resources, as soon as reasonably practicable, and provide a copy of the child's birth certificate or a document signed by a doctor or midwife that confirms the actual date of birth.

Exception 2: Absence due to pregnancy related illness:

If an employee is absent from work for a pregnancy related illness in the 4 weeks before the expected week of childbirth, the employee's Maternity Leave will begin on their first day of their absence.

### 6.2 Notifying Manager and Human Resources

For the purposes of planning, an employee is encouraged to have an early informal discussion with their Manager regarding their intention to take Maternity Leave.

To qualify for Maternity Leave and Pay, an employee must formally tell the University that they wish to take Maternity Leave by completing the '[Notice of Intention to Take Maternity Leave](#)' form and submitting this to their Manager and Human Resources by **no later than the end of the 15<sup>th</sup> week before expected week of childbirth**.

Within the form, the employee will need to:

- Confirm that they are pregnant;
- Give the week in which their child is due (the expected week of childbirth); and
- Confirm when they want their Maternity Leave to start (this date cannot be earlier than the 11<sup>th</sup> week before expected week of childbirth).

The employee should also enclose a MAT B1 form, signed by their midwife or GP, confirming the expected week of childbirth. The earliest the certificate may be issued by the midwife or GP is 20 weeks before the expected week of childbirth.

Refer to **Appendix C** for notification process.

Changing Maternity Leave start date:

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<sup>2</sup> A Maternity Claim form can be obtained from the [www.gov.uk](http://www.gov.uk) website.

If an employee wants to change their Maternity Leave start date once it has been notified, they should give their Manager and Human Resources **at least 28 days written notice**, or if this is not possible, as soon as reasonably practicable.

If an employee experiences any difficulty in notifying the University inside the stated timeframe, they should contact Human Resources for advice. **The University reserves the right to refuse Maternity Pay if due notice is not given.**

Human Resources will write to the employee confirming their leave and pay arrangements **within 28 days** of receiving their 'Notice of Intention to take Maternity Leave' form.

## **7. SUPPORT DURING PREGNANCY**

### **7.1 Pre-Maternity Checklist**

Prior to the commencement of Maternity Leave employees and Managers are encouraged to use the ['Pre-Maternity Leave Checklist'](#) as this will serve as a reminder for both the employee and Manager and to help ensure that all necessary steps are taken prior to and during Maternity Leave.

### **7.2 Time Off for Antenatal Care**

Once an employee has notified their Manager that they are pregnant, the employee has the right to take a reasonable amount of time off work with pay to attend antenatal care made of the advice of a registered medical practitioner. Antenatal care includes GP and hospital appointments and relaxation classes.

The employee should notify their Manager of any such appointment as far in advance as possible. With the exception of the first antenatal appointment, employees should show their Manager (if requested), an appointment card or other documents showing that an appointment has been made.

### **7.3 Health and Safety Considerations**

The University will take necessary steps to protect the health and safety of its pregnant employees or those who have given birth 6-months previously or who are breast-feeding.

Once an employee informs their Manager that they are pregnant or that they are breastfeeding, it is the duty of the Manager to arrange for a risk assessment (see ['Pregnant Workers Risk Assessment'](#)) to be undertaken and to ensure that the employee is not exposed to any identified risks. If there is an identified risk to the employee or their baby, the University may take the following steps:

- It may temporarily alter the employee's working conditions or hours of work to remove the employee from risk;
- It may offer suitable alternative employment (if available);
- In the last resort it may suspend the employee from duty on full pay for as long as necessary to avoid the risk.

The University considers the process of determining whether a pregnant employee has difficulty in completing their job role (including any issues of health and safety) a two-way process and as such expect pregnant employees to raise any concerns known to them with their Manager or Human Resources.

Where an employee is advised by their doctor or midwife that they should not continue with the type of work they are currently performing during pregnancy, the Manager, in consultation with Human Resources, will arrange for the employee's working conditions to be adjusted or for the employee to be moved to an alternative role with no loss of pay. Occupational Health may need to consult with the employee regarding any changes that are required to the employee's duties in order to remove/prevent risks.

If no alternative can be found the employee may be sent home however they will remain on full pay. Such suspension will not affect the employee's statutory or contractual rights in any way.

#### **7.4 Sickness During Pregnancy**

An employee's entitlement to sick pay will not be affected by absences due to pregnancy-related sickness. Absence due to pregnancy-related sickness will not be included in monitoring data when reviewing attendance records of employees.

If an employee is absent due to pregnancy related sickness at any time in the last 4 weeks before the expected week of childbirth, the employee's maternity leave will commence on the first day of their absence.

### **8. EXCEPTIONAL CIRCUMSTANCES**

In the very sad event that an employee's pregnancy ends in miscarriage in the first 24 weeks of pregnancy, the employee will not be entitled to Maternity Leave or Pay. Instead, the arrangements for sick and compassionate leave may apply.

In tragic circumstances where the baby is stillborn after the twenty fourth week of pregnancy or if the baby is born alive and sadly dies at, or shortly after birth, the employee's entitlement to Maternity Leave and Pay are unaffected.

Supporting an employee with returning to work after such sad events should be handled sensitively and with compassion. A free, 24 hour, confidential advice service is available for employees from Carefirst who can be contacted by telephone on 0808 168 2143 or by going online: [www.carefirst-lifestyle.co.uk](http://www.carefirst-lifestyle.co.uk). If an employee wishes to use this service, they should quote 'Brunel' as the username and 'employee' for the password.

### **9. SHARED PARENTAL LEAVE**

This policy should be read in conjunction with the University's Shared Parental Leave Policy which provides employees with more flexibility in how they can share the care of their child in the first year following birth. Subject to the obligatory two week period of leave following childbirth, employees can opt to curtail their Maternity Leave and share their remaining leave and pay entitlement with their partner by using Shared Paternal Leave. This enables parents to choose to be off work at the same time and/or take it in turns to have periods of leave to look after their child.



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

During Maternity Leave the following conditions will remain in place:

- A period of Maternity Leave counts as continuous service and an employee's continuous service rights are not affected.
- Employees are entitled to receive any increments and/or cost of living increases, which they would have been due, had they not been on Maternity Leave.
- Employees will continue to benefit from all their contractual terms and conditions – except for salary which will be paid in accordance with an employee's eligibility under Maternity Leave (see section 5).
- Employees will continue to accrue annual leave, including bank holidays whilst on Maternity Leave. However, annual leave cannot be taken during a period of Maternity Leave. Employees are encouraged to take any accrued annual leave in the year in which it was accumulated. Upon returning to work, the Head of Department can approve for the employee to carry forward up to a maximum of 5 days annual leave to the new holiday year.

## **11. PENSION CONTRIBUTIONS DURING MATERNITY LEAVE**

During Maternity Leave employee pension contributions will continue to be made and will be based on actual pay received and not salary payments prior to taking Maternity Leave.

Once Maternity Leave Pay ends, it may have an impact on the pension contributions for both the employee and employer. As rules vary between the Pension Schemes that the University offers, it is advised that you contact [Pensions@Brunel.ac.uk](mailto:Pensions@Brunel.ac.uk) for guidance on your personal situation.

## **12. CONTACT AND KEEPING IN TOUCH DAYS (KIT)**

Employees and their Manager are encouraged to maintain reasonable contact during the Maternity Leave period. Shortly before the employee starts Maternity Leave, the Manager should discuss the arrangements for them to keep in touch with the employee during Maternity Leave. Contact may be made, for example, to discuss the employee's plans to return to work, to ensure that they are aware of any possible job opportunities, to discuss any special arrangements to be made or training to be given to ease the employee's return to work or simply to update them on developments at work during their absence.

Employees may agree to work for the University (or attend training) for up to 10 days during Maternity Leave without bringing their period of Maternity Leave to an end or impacting on their right to Maternity Pay. These are known as "Keeping in Touch" or "KIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes and should be recorded on the '[Maternity Leave Keeping in Touch KIT Days Claim Form](#)'.

The University has no right to require employees to carry out any work and is under no obligation to offer any work during Maternity Leave. Any work undertaken, including the amount of salary paid for any work done on KIT days, will be agreed with the employee in advance.

Any KIT days worked do not extend the period of Maternity Leave. If a KIT day occurs during a week when employees are receiving SMP, this will be effectively 'topped up' so that they receive full pay for the day in question.

Employees may, with the agreement of the University, use KIT days to work part of a week during Maternity Leave. The use of KIT days can be used to affect an employee's gradual return to work towards the end of a long period of Maternity Leave or to trial a possible flexible working pattern.

## **13. RETURNING TO WORK**

### **13.1 Return to Work – Reintroduction and Interview Checklist**

The University recognises that returning to work following a period of Maternity Leave is a transition and can be a challenging time. As with all change, effective preparation will help the employee, the Manager and the wider University to benefit from a smooth transition with a positive outcome for all.

The '[Return to Work Interview Checklist](#)' form provides a useful tool for Managers to assist employees in making a successful transition back into work. This should be used on the employees' return or during keeping in touch days in the lead up to their return to work.

Two follow up meetings, which can take place during an employee's one-to-one meeting, should also take place at 3 and 6 months intervals after the employee's return to work to discuss any previous issues raised and to identify if any further support is required

### **13.2 Changing Return Date**

Unless notified otherwise, it will be assumed that an employee's return to work date from a period of Maternity Leave is as originally stated and confirmed by Human Resources in writing. However, if an employee wishes to change their intended return to work date for any reason, they must provide **at least 8 weeks' notice, in writing**, of their new intended date of return to their Manager and to HR Resources. Human Resources will write to the employee within 28 days to confirm the new return date. (Note the return to work date is the date after Maternity Leave ends and does not include annual leave which the employee intends to take after this date.)

### **13.3 Returning to Existing Job Role**

If an employee is returning to work at the end of the Ordinary Maternity Leave period i.e. within 26 weeks of starting Maternity Leave, they have the right to resume working in the same job that they were in before they went on leave, on terms and conditions that are no less favourable than those that would have applied had they not been absent.

If an employee has stated their intention to return to work during or at the end of Additional Maternity Leave, i.e. after 26 weeks Ordinary Maternity Leave, they will normally be re-employed in their previous post but, if there are exceptional reasons why this is not reasonably practicable from the University's perspective they will be employed on similar work and on terms and conditions no less favourable than if they had not been absent. If this situation applies to an employee, they will be given opportunities for consultation at all stages of this process, in discussion with their relevant trade union representative. Suitability for another potentially suitable role will depend of all relevant factors such as its appropriateness to the employee's skills, aptitudes and experiences, level of responsibility and available training will all be taken into consideration.

### **13.4 Flexible Working Request**

If an employee wants to change their hours or other working arrangements on return from Maternity Leave they should make a request under the university's Flexible Working Policy. It is helpful if such requests are made as early as possible.

If a Flexible Working request is not yet finalised on an employee's expected return date to work, the employee will be required to return to work on their current terms and conditions until such time that the request is concluded.

## **14. LEAVING THE UNIVERSITY**

Should an employee choose not to return to work after Maternity Leave, they will need to give written notice of resignation to the University as soon as possible and in accordance with the terms/notice period in their contract of employment.

If an employee does not return to work after Maternity Leave for 50% or more of their contracted hours or work, or if they leave within 3 months of their return to work after Maternity Leave, the University has the right to recover any payment made in excess of SMP. This provision shall not apply to employees on a fixed term contract that expires either before their return to work or within a period of 3 months from return to work. SMP will be paid up until the end of their contract and thereafter SMP (if applicable) will continue to be paid through the University.

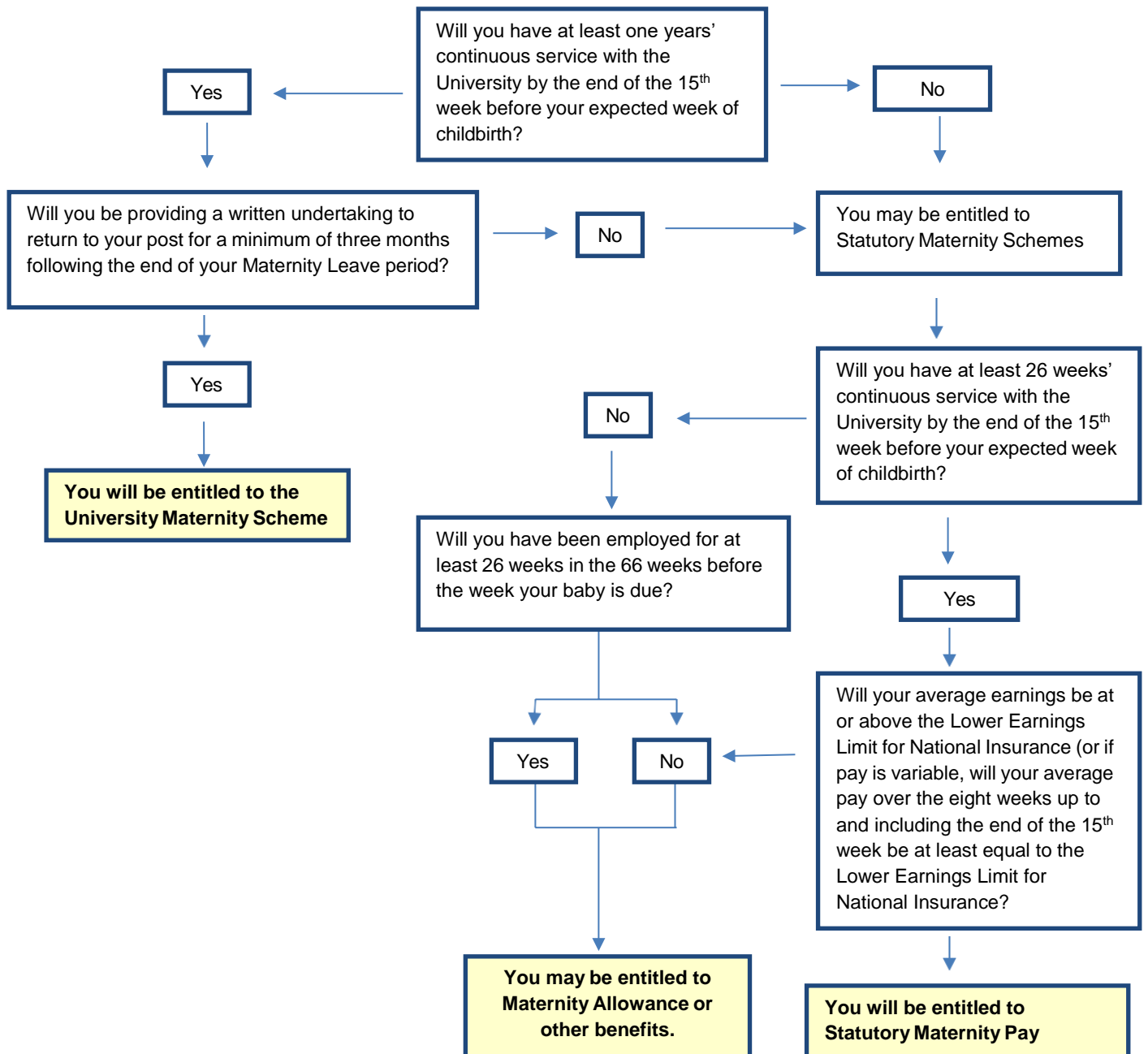
## **15. SICKNESS AT THE END OF MATERNITY LEAVE PERIOD**

Should an employee be ill and unable to return to work at the end of a period of Maternity Leave, the normal contractual arrangements and reporting procedures for sickness absence will apply.

**SUMMARY OF MATERNITY PAY**

| Week  | Statutory Maternity Pay (SMP)  | University Maternity Pay (UMP)  |
|-------|--|---|
| 1     | SMP is paid for up to 39 weeks: 90% of average weekly earnings (before tax) for the first 6 weeks. Followed by statutory weekly pay rate or 90% of average weekly earnings (whichever is lower) for the next 33 weeks. | SMP topped up to make employee's full contractual pay.  |
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| 19    | Statutory weekly pay rate or a rate equivalent to 90% of average weekly earnings, whichever is the lower.  | Statutory weekly pay rate or a rate equivalent to 90% of average weekly earnings, whichever is the lower. |
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| 39    |  |   |
| 40-52 | Unpaid leave   | Unpaid leave  |

FLOWCHART: ASSESSING MATERNITY ENTITLEMENT



**FLOWCHART: NOTIFICATION AND SUPPORT PROCESS**

**Responsibility Key**

- Employee
- Manager
- Human Resources

