



## **MATERNITY RIGHTS, LEAVE & PAY POLICY**

### **1. Antenatal Care**

As an expectant employee you have a legal right to paid time off for any medical appointments in connection with your pregnancy. After your first appointment your manager will need to see your appointment card.

### **2. Maternity Leave**

#### Notice of Pregnancy

To take full advantage of your right to maternity leave you must notify us in writing that you are pregnant before the end of the 15<sup>th</sup> week before your baby is due (that is 15 weeks before the Expected Week of Confinement/Childbirth or EWC).

You must provide medical evidence of your pregnancy and the due date. This is usually the MAT B1 certificate. (In York this is usually issued by the midwife when expectant mothers have attended their hospital scan appointment at around 20 weeks.)

You must indicate in writing when you intend to start your maternity leave and when you would like your maternity pay to start. (Maternity pay dates can be notified at a later date but the minimum period of notice for this is 28 days.)

You are encouraged to notify your manager of your pregnancy at the earliest opportunity so that the necessary risk assessments can be carried out.

York Childcare (YC) will respond in writing within 28 days of receiving notification, to let you know the date on which you should return to work, should you take your full maternity leave.

#### Compulsory Maternity Leave

No woman is permitted to work during the two weeks immediately following childbirth. This period of compulsory maternity leave must last for two weeks from the date of childbirth.

#### Statutory Maternity Leave. (SML)

All pregnant employees regardless of length of service are entitled to 52 weeks SML made up of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave  
You can start your leave any time from 11 weeks before the week when your baby is due.

Maternity Leave will automatically start if the baby is born early.

If you are off work because of your pregnancy in the 4 weeks before the expected week of the birth date, YC can insist that you start your maternity leave.



Your contract of employment continues during your statutory maternity leave and you will continue to receive all contractual benefits except wages or salary whilst on SML. Your annual leave entitlement shall continue to accrue during Ordinary Maternity Leave and Additional Maternity Leave.

If the holiday year is due to end during your maternity leave, you should ensure that you have taken the full year's entitlement before starting your maternity leave. Annual leave cannot usually be carried over to the next holiday year.

Pension contributions made by YC (employer) will continue to be made during paid maternity leave as though you were working as usual. If you are in the NEST pension scheme your personal (employee) contributions will be based on your actual income. Pension contributions cannot be made by either YC or by you as an employee during periods of unpaid Maternity Leave unless by personal arrangement with your pension provider.

Employees remain bound by contract to YC regarding matters such as disclosure of confidential information, participation in any other business, acceptance of gifts and termination of employment.

### **3. Returning to work**

#### Returning Before the End of Statutory Maternity Leave

YC will assume that you will take all of your Statutory Maternity Leave, including Additional Maternity Leave, equating to 52 weeks. If you intend to return to work before the end of your Statutory Maternity Leave, you must give at least 8 weeks written notice to the HR Coordinator of your intended date of return. It is helpful if you give this notice in writing.

#### Returning to Work After Statutory Maternity Leave

You do not have to give advance notice if you intend to return to work immediately after the end of your Statutory Maternity Leave, ie after 52 weeks, but it is helpful if you do so.

#### Returning to Work Later

If you wish to return later than the end of your statutory maternity leave, you should either request unpaid parental leave, giving us at least 21 days notice or request paid annual leave in accordance with your contract, which will be at our discretion.

Employees have the right to request flexible working but there is no absolute right to insist on working part-time. YC is committed to give serious consideration to all requests and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the business. Requests for flexible working should be made in writing to the HR Coordinator and it is helpful if requests are made as early as possible.

If you are ill when you are due to return to work after maternity leave the normal contractual arrangements apply – you must inform your manager in the usual way. If you are



ill when you are due to return to work after Statutory Maternity Leave, it is possible that you will not have been earning enough to qualify for Statutory Sick Pay (SSP). Please seek advice from Job Centre Plus. In any other case, late return will be treated as unauthorised absence.

#### Deciding not to return

If you do not intend to return to work, or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period, otherwise we may require you to return to work for the remainder of the notice period. Once you have given notice that you will not be returning to work, you cannot change your mind without our agreement. This does not affect your right to receive SMP.

#### Your rights when you return

You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent. However, if you have taken any additional maternity leave or more than four weeks' parental leave, and it is not reasonably possible for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

### **4. Maternity pay and Benefits**

#### Maternity Pay

Employees are entitled to a maximum of 39 weeks Statutory Maternity Pay (SMP) as long as they meet the following criteria:

- They have worked for YC for at least 26 weeks by the end of the 15<sup>th</sup> week before the baby is due. (To work out which week you are in, ignore the week the baby is due and work backwards from the Sunday before the due date.)
- They are still employed by YC in this 15<sup>th</sup> week (known as the 'Qualifying Week');
- The correct advance notice of the employees intentions has been received by YC (as explained in Section 2); and
- Their average weekly earnings during the eight weeks ending with the Qualifying Week are not less than the lower earnings limit set by the Government.

#### Rates of Maternity Pay

The first six weeks of Statutory Maternity Pay are paid at 90% of your average weekly earnings. The remaining 33 weeks are paid at the Statutory Maternity Pay flat rate, fixed by the government each year. Please visit [Maternity pay and leave: Pay - GOV.UK \(www.gov.uk\)](https://www.gov.uk) for confirmation of these rates.



SMP will be paid by BACS on the last Thursday of each month and a payslip issued detailing payments made as normal. Tax and National Insurance may continue to be deducted from SMP. As an employee you remain entitled to a National Insurance credit for each week in which you receive SMP, even if maternity pay falls below the NI level. (These months/years are known as “home responsibility protection” and will count toward long term state benefits such as retirement pension.)

Employees are advised to contact their local Jobcentre Plus or Citizens Advice Bureau to see if they are entitled to any other benefits during the 13 weeks of unpaid maternity leave.

### Maternity Allowance

As an employee, if you do not qualify for SMP you may be entitled to Maternity Allowance (MA). We will give you a form – SMP1 to help you apply for MA.

As an employee, even if you do not qualify for any maternity pay, you remain entitled to 52 weeks Maternity leave, unpaid.

### Other State Benefits

As an employee, once you become a parent, you may become entitled to other state benefits such as Income Support, Working Tax Credit (including Childcare Tax Credit if you are paying for childcare) Child Tax Credit, Housing and Council Tax credits. You may also qualify for a Sure Start Maternity Grant. Please contact your local Citizens Advice Bureau for further advice.

## 5. Miscarriage and Stillbirth

Employees whose babies are stillborn or who miscarry after the 24<sup>th</sup> week of pregnancy may still qualify for the maternity rights listed. Please see the Miscarriage or Stillborn Policy for more details.

## 6. Keeping in touch

During your leave it is often helpful to keep in touch with YC.

YC is entitled to make reasonable contact with you during your maternity leave. This might be to discuss such things as arrangements for your return to work, or to update you on any significant changes in the workplace while you’ve been away.

Your maternity leave and pay will normally come to an end when you return to work. However, you are entitled to do up to ten days work during your maternity leave without losing maternity pay or bringing your leave to an end. These ‘Keeping in Touch Days’ (known as KIT days) may only be worked if both you and your manager agree. They may be used for training or team events or any other form of work which would help to make it easier for you to return to work after your leave. Please note that these days are not to be used for



YORK CHILDCARE  
day nurseries

'social visits' to the nursery. Please see the Visitors Policy for guidance on visiting while you are on maternity leave.  
You will need to agree with your manager what work is to be done on Keeping in Touch Days.