

POL43 – Maternity Leave Policy and Procedure

Serendipity Healthcare Ltd
Unit 5 Millennium Way, Dunston, Chesterfield, Derbyshire
S41 8ND



1. Purpose

1.1 To ensure that all staff members who are eligible are aware of their entitlements and the notification process under the pregnancy and maternity legislation.

1.2 To support Serendipity Healthcare Ltd in meeting the following Key Lines of Enquiry:

WELL-LED

W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?

1.3 To meet the legal requirements of the regulated activities that Serendipity Healthcare Ltd is registered to provide:

- Maternity and Parental Leave Regulations 1999
- Statutory Maternity Pay (Medical Evidence) Regulations 1987
- Statutory Maternity Pay (General) Regulations 1986
- Employment Act 2002
- Employment Relations Act 1999
- Equality Act 2010
- Health and Safety at Work etc. Act 1974
- General Data Protection Regulation 2016
- Data Protection Act 2018

2. Scope

2.1 This policy applies to:

- All staff

2.2 The following Service Users may be affected by this policy:

- Service Users

2.3 The following stakeholders may be affected by this policy:

- Family
- Representatives
- NHS
- Commissioners

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3. Objectives

- 3.1 That all eligible staff are aware of their eligibility to take maternity leave.
- 3.2 That all eligible staff are aware of the process for notification of pregnancy and maternity leave to their employer.

4. Policy

- 4.1 This policy outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth and sets out the arrangements for pregnancy-related sickness, health and safety, and maternity leave.
- 4.2 Arrangements for time off for antenatal care and to accompany a pregnant woman to antenatal appointments are set out in the Statutory Time Off Policy and Procedure of Serendipity Healthcare Ltd.
- 4.3 In some cases, you and your spouse/partner may be eligible to opt into shared parental leave ("SPL").
For more information about SPL, please refer to the Shared Parental Leave Policy and Procedure of Serendipity Healthcare Ltd.
- 4.4 Any data collected as part of this policy will be processed in accordance with current data protection legislation, the Privacy Notice issued to staff and the Data Security and Data Retention Policy and Procedure at Serendipity Healthcare Ltd. Serendipity Healthcare Ltd appreciates that certain health data and medical reports will be special category data and Serendipity Healthcare Ltd will process this data accordingly.

5. Procedure

- 5.1 **Summary of Employment Rights if you are Pregnant**
 - You are entitled to:
 - Paid time off for antenatal care
 - 52 weeks' maternity leave, consisting of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML), regardless of the length of employment
 - Statutory maternity pay for 39 weeks, provided you have worked for us for 26 weeks by the 15th week before your baby is due. You may qualify for maternity allowance if you do not qualify for SMP
 - With the exception of terms relating to pay, your terms and conditions of your employment contract remain in force during OML and AML
 - Return to the same employment after ordinary maternity leave. After AML you are entitled to return to the same job unless it is not reasonably practicable for you to do so. In such circumstances, you will be entitled to return to a different job which is suitable and appropriate to you. If you return to a

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different job, your remuneration, seniority and status will be maintained

- Protection from detrimental treatment or dismissal, including redundancy, on any grounds partly or wholly related to pregnancy
- 18 weeks' unpaid parental leave until the child's 18th birthday; and
- Dependants' leave, where appropriate

In some cases, you or your spouse/partner may be eligible to opt into the Shared Parental Leave (SPL) scheme which gives you more flexibility to share the leave and pay available in the first year after birth. Your spouse/partner should check with their employer if they are eligible

☑ You would need to give us at least eight weeks' written notice to end your maternity leave and opt in to SPL. You can give this notice before or after the birth, but you must remain on maternity leave until at least two weeks after birth. You would then be able to share any remaining leave with your spouse/partner

5.2 Notice of Maternity Leave

- The employee must notify Serendipity Healthcare Ltd that they are pregnant and of their intention to take ordinary maternity leave by the end of the 15th week before the child is due, or as soon as reasonably practicable, and the employee must give Serendipity Healthcare Ltd the information in writing if requested. The employee may choose to notify Serendipity Healthcare Ltd earlier than this, and may find it helpful to do so in order to ensure that their health and safety rights are observed, and that they have time off for antenatal care

The employee's notice must state:

- That they are pregnant
- The expected week of childbirth; and
- The date on which they wish for their ordinary maternity leave to start
- Serendipity Healthcare Ltd can request that the employee provides a copy of the MAT B1 certificate which the employee will be given by either the GP or midwife when they are around 20 weeks pregnant and which will state the week that the child is due. This is required as medical evidence of the expected week of childbirth as well as evidence of the employee's entitlement to SMP. Serendipity Healthcare Ltd can request that all the notice that given is in writing

5.3 Time Off Work to Attend Antenatal Classes

- If an employee is pregnant, they are entitled to take reasonable time off during working hours in order to receive antenatal care. This includes appointments with their GP, midwife or health visitor. There will be no deduction from their salary for attendance at authorised appointments
- The employee has the right to reasonable paid time off for antenatal appointments, and this includes the time spent travelling to an

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appointment and waiting. It does not include entitlement to pay for time where you could reasonably attend work beforehand or return to work afterwards

- Please try to give as much notice as possible of the appointment. Serendipity Healthcare Ltd may ask you to provide the following, unless it is the first appointment:
 - A certificate from the doctor, midwife or health visitor stating that you are pregnant; and
 - An appointment card
- The employee is not under any obligation to make up your time spent at the antenatal appointment at a later date
- There is no qualifying period that an employee is required to have worked for Serendipity Healthcare Ltd in order to be eligible to claim time off for antenatal care. However, if the employee is an agency worker they must have worked for us for a period at least 12 weeks in order to be eligible

5.4 Antenatal Rights for Fathers and Partners

- Fathers and partners are entitled to unpaid leave to accompany an expectant mother to antenatal care appointments irrespective of length of service
- In order to be eligible to take this leave, the father or partner must have a qualifying relationship with the expectant mother. They must be one of the following:
 - The baby's father
 - The expectant mother's spouse or civil partner
 - Living with the expectant mother in an enduring family relationship and not a relative of the expectant mother
 - Expecting or are entitled to apply for a parental order in respect of the child; or
 - In a same sex relationship and are to be treated as the child's other parent under assisted reproduction provisions
- Fathers and partners can take unpaid time off work to accompany a pregnant woman to see a midwife or obstetrician
- The right is to take time off on up to two occasions for a maximum of 6.5 hours each
- Fathers and partners must complete the antenatal appointment request form if they are an expectant father or the partner of the expectant mother and plan to accompany the mother to an antenatal appointment

5.5 Starting Maternity Leave

- The earliest that you can start the maternity leave is 11 weeks before the expected week of childbirth, which is when you are around 29 weeks pregnant. To ensure that your rights are upheld, you should use the due date given on the MAT B1 pregnancy certificate that your midwife or GP will give to you
- In order to work out when the 11th week before the expected week of childbirth falls, you should find the Sunday before the date which the certificate states the baby is due, or the due

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date if it is a Sunday, and count back 11 Sundays from that date. The earliest date on which you can start the leave is that Sunday. As long as it does not fall before the 11 weeks before the baby is due, it is generally up to you as to when your maternity leave begins

- You can even choose to work right up to the date that the baby is born
- You should note that the start of the maternity leave might be triggered automatically if:
- You have a pregnancy related illness or absence in the last four weeks of your pregnancy. In this case you must inform us that you have an illness that relates to the pregnancy and we can insist that you start your maternity leave even if you are off sick for only one day. However, we may allow you to carry on working until you had planned to start your leave, especially if you have only been away for a short time; or

Your baby is born before the day on which you were planning to start the maternity leave. In this situation, your leave starts automatically on the day after the day of the birth. You must notify us as soon as is reasonably practicable that you have given birth, as well as noting the date of the birth

If you should wish to change the commencement date of your maternity leave you must provide us with 28 days prior notice as soon as possible, unless this is not reasonably practicable

Having been notified of your intention to take maternity leave and the date on which it will begin, we will give you notice of the date that your maternity leave period shall end. We will provide you with this information within 28 days of you informing us of the date on which the maternity leave period will start, or on which it has started

5.6 Additional Maternity Leave

- The second 26 weeks of maternity leave are deemed additional maternity leave. This leave starts on the day after the ordinary maternity leave period finishes. Your employment contract continues during additional maternity leave
- You are entitled to return to the same job on the same terms and conditions. If, exceptionally, this is not possible (for example, if the job no longer exists) you are entitled to suitable alternative employment on terms that are not substantially less favourable
- The contractual rights of women on additional maternity leave are maintained, except those rights related to pay, as they are during ordinary maternity leave
- The only difference between ordinary maternity leave and additional maternity leave is in relation to pension rights. We will maintain your contributions to the pension scheme, if such applies, throughout ordinary maternity leave and

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throughout a period of paid additional maternity leave (based on the salary you would have received if you were not on leave). We are not obliged to maintain our contributions for any period of unpaid maternity leave. This means if you are paid for 39 weeks of maternity leave, and you take the full 52 weeks entitlement to leave, our employer contributions may not be made for the final 13 weeks. If this is any different it will be shown in your contract

- Employee contributions to the pension scheme, if applicable, will be based on your actual pay for the period of the maternity pay period (39 weeks)

5.7

Entitlement to Statutory Maternity Pay

- The employee must meet the following three conditions in order to be entitled to SMP:
- The employee must have worked for Serendipity Healthcare Ltd for at least 26 weeks by the end of the qualifying week (i.e. by the end of the 15th week before the week the baby is due)
- The employee must still be in the job in the qualifying week; and
- The employee must have been paid at least the lower earnings limit on average in the 8 weeks (if they are paid weekly) or the two months (if they are paid monthly) up to the last payday before the end of the qualifying week. The lower earnings limit is set by the government each year
- SMP is payable for 39 weeks provided you meet the eligibility criteria. The first six weeks of SMP are paid 90% of the employee's average earnings and the remaining 33 weeks are at a rate set by the government each year
- To receive SMP the employee must give Serendipity Healthcare Ltd 28 days' notice of the date on which they want the pay to start and this date cannot be changed
- The employee's SMP can start on any day of the week that they choose and, in most cases, will start on the same day as the maternity leave period starts
- To claim SMP, the employee must give Serendipity Healthcare Ltd a copy of the MAT B1 form, the maternity certificate which states the expected week of childbirth which the midwife or GP will provide when the employee is around 20 weeks pregnant. The employee may find it easier to give the notice for the leave and pay together in the 15th week before the baby is due. However, if the employee decides to do this then they must remember that they cannot change the date on which the pay starts, even if they decide to vary the date on which the leave begins
- SMP shall be paid in the same way as the employee's salary and shall be subject to the usual deductions for tax and national insurance contributions

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5.8 **Compulsory Maternity Leave**

- It is compulsory for you to take 2 weeks of maternity leave, following the birth of your baby. This is for health and safety reasons
- All employment entitlements and conditions that apply during the maternity leave period will also apply during the period of compulsory maternity leave

5.9 **Maternity Leave and your Employment Contract**

- All the terms and conditions of your employment remain in force during OML and AML except for the terms relating to pay, in particular:
- Benefits in kind shall continue
- Annual leave entitlement under your contract shall continue to accrue; and
- Pension benefits shall continue
- Additionally, as your employer, we must not discriminate against you while you are on any part of the maternity leave

5.10 **Keeping in Touch (KiT) Days**

- To enable the employee to keep in touch with us, the employee may agree with us that they may undertake work, training or activities for a limited number of up to ten days during their leave period, without bringing that leave period to an end or losing your entitlement to SMP or maternity allowance

5.11 **Notice of Return to Work**

- The employee does not need to give any notice that they are returning to work at the end of their maternity leave. However, the employee may find it helpful to contact us just to make sure that we know they are coming back and the contact would be appreciated. The employee will be entitled to return to the same job on the same terms and conditions which applied before they commenced maternity leave
- On the other hand, if the employee wishes to return to work earlier than the 52 weeks entitlement, the employee must give Serendipity Healthcare Ltd 8 weeks' notice of the intention to return early. If the employee fails to do so, we reserve the right to postpone their return

5.12 **Workers**

- A worker rather than an employee (e.g. because you obtained work through an agency, or area freelancer), a worker will not get the full set of maternity rights, but they will still receive protection, such as health and safety risk assessments that we must carry out, and the right to claim sex discrimination or pregnancy/maternity discrimination if they are subject to any detriment as a result of their pregnancy
- A worker may qualify for maternity allowance, which is paid by the Government through their local Jobcentre Plus office, rather than through us

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5.13 Benefits for Those not Entitled to SMP

- If a person is not entitled to receive SMP because they are a worker or because they do not satisfy the eligibility criteria, they may qualify for Maternity Allowance (MA) and they must seek advice from the local Jobcentre Plus office or Citizens Advice Bureau about their eligibility

5.14 Sickness During Pregnancy, Maternity Leave, or when you are due to Return to Work

- If the employee is absent through sickness during pregnancy, this will not automatically trigger their maternity leave and the employee will be treated as every other member of staff who is off sick. The employee will usually be paid sick pay in the same way as other staff. However, if the employee is sick during the last four weeks of their pregnancy then Serendipity Healthcare Ltd can insist that the maternity leave starts, although we may overlook occasional days of absence
- Once the maternity leave has started, the employee cannot claim sick pay from us if they become ill. If the employee is sick when the maternity leave is due to end, the usual sickness procedures at Serendipity Healthcare Ltd will apply

5.15 Termination of Employment and SMP

- As long as the employee is employed in the 'Qualifying Week', then they are still entitled to receive SMP, provided they meet all of the other conditions outlined above. It does not matter if the employee is off sick or on holiday in the Qualifying Week
- Once the employee has qualified for SMP, they are entitled to receive it for the full 39 weeks. This is the case even if the employee is made redundant, leave the job, or a fixed-term contract comes to an end at any time after the 15th week before the baby is due or during the maternity leave

5.16 Part-time Working

- The maternity rights of part-time employees are the same as those of a full-time employee

5.17 More than one Part-time Job and SMP

- If the employee works for a second employer, they are allowed to exercise their rights regarding maternity pay and leave with both employers, on a pro rata basis for each job. However, the employee must ensure that they have worked for each employer for 26 weeks by the Qualifying Week (15th week before the baby is due), and that they give the correct notification of when the maternity leave will start to both employers
- In total the employee is entitled to receive the same amount of maternity pay as someone who works in a full-time job. However, if the employee has not worked for Serendipity Healthcare Ltd for 26 weeks by the qualifying week, then the employee will not be entitled to receive maternity pay from us

5.18 Health and Safety Considerations

Serendipity Healthcare Ltd will consider any specific workplace risks within its general risk assessment in relation to employees who are of childbearing age and who are pregnant, have been pregnant within the last six months or are breastfeeding.

Your line manager will meet with you and undertake a risk assessment. You must ensure that you advise Serendipity Healthcare Ltd of any specific health and safety

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advice received from your doctor or midwife.

5.19 **Switching to Shared Parental Leave (SPL)**

In some cases, an employee and their spouse/partner may be eligible to opt into the SPL scheme, which gives the employee more flexibility to share the leave and pay available in the first year after the birth of a child. The spouse/partner must check with their employer to check if they are eligible.

The employee must provide eight weeks' written notice to end their maternity leave and opt into SPL. The employee can give this notice before or after the birth of a child, but the employee must remain on maternity leave until at least two weeks after birth. The employee will then be able to share any remaining leave with their spouse/partner. For further information, please refer to our Shared Parental Leave Policy and Procedure.

6. Definitions

6.1 **OML**

Ordinary Maternity Leave

6.2 **AML**

Additional Maternity Leave

6.3 **SMP**

Statutory Maternity Pay

6.4 **Special Category Data**

Special category data is a category of data which is more sensitive than normal personal data. This includes data which relates to:

- **Race**
- **Ethnic origin**
- **Politics**
- **Religion**
- **Trade union membership**
- **Genetics**
- **Biometrics (where used for ID purposes)**
- **Health**
- **Sex life**
- **Sexual orientation**

6.5 **SPL**

Shared Parental Leave

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Reviewed 26.01.2022

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HR Manager

POL13 – Anti-Bribery Policy and Procedure

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