

# Maternity Policy

*We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non-written format.*

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如果你向我們提出要求，我們可以為你提供本資訊的其他語言的版本，或者是盲文或磁帶。如果你需要本資訊的任何一種這些版式的版本，請聯繫我們，電話號碼是 0800 479 7979。

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Haddii aad na weydiisato waxaanu warbixintan kugu siin karaa iyadoo ku qoran luuqad kale, farta ay dadka indhaha la' akhriyaan ama cajalad ku duuban. Haddii aad jeclaan lahayd in warbixintan lagugu siiyo mid ka mid ah qaababkaas, fadlan nagala soo xidhiidh telefoonka 0800 479 7979.

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Approval body	<i>Executive Team</i>
Date of approval	<i>27 September 2022</i>
Review Year	<i>October 2025</i>
Customer engagement required	<i>No</i>
Trade union engagement required	<i>Yes - For Consultation</i>
Equality Impact Assessment	<i>No</i>

## 1 INTRODUCTION

- 1.1 This policy is designed to inform employees of their statutory entitlement to maternity leave and pay and contractual rights to enhanced maternity pay (if applicable).
- 1.2 This policy has been developed to provide Wheatley Homes South Limited (WHS) employees with guidance and the procedures to follow when they are pregnant or have recently given birth.

## 2 SCOPE

- 2.1 This Policy and Procedure applies to all employees but does not apply to self-employed contractors or consultants. Some provisions will apply to eligible agency workers
- 2.2 This Policy and Procedure is non-contractual and may be amended or withdrawn at any time at the discretion of WHS, following consultation with the Trades Unions.

## 3 BASIC PRINCIPLES

- 3.1 It is WHS's policy to comply with current legislation on maternity leave and pay.
- 3.2 This Policy is for guidance only and does not form part of an employee's contract of employment. WHS may alter the terms of this Policy from time to time and details of any alterations or additions will be notified to employees.
- 3.3 In circumstances where there has been a legislative update that is not reflected in this policy, the statutory position will prevail and apply to employees.

## 4 RESPONSIBILITIES

General responsibilities are outlined in this section for:

- 4.1 Responsibilities of EMT and / or Board  
The Board and Executive Management Team's responsibilities include, but are not to be limited to:
  - Reviewing this Policy in line with the policy review dates and ensuring that it is reflective of WHS values and practice
- 4.2 Responsibilities of the Line Managers  
The line managers' responsibilities may include, but will not be limited to:
  - Bringing any breach of this policy to the attention of the Human Resources department and forwarding any queries about this policy to the Human Resources department (as required).
- 4.3 Responsibilities of the Employees  
The employees' responsibilities may include, but will not be limited to:

- Bringing any behaviour in breach of this policy to the attention of the line manager or where appropriate to the Human Resources department

## 5 POLICY

### 5.1 Policy Summary

5.1.1 Provided employees are eligible and comply with the terms of this document, in summary, employees have the following rights:

5.1.1.1 *Eligible employees will have the right to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave;*

5.1.1.2 *Eligible employees will be entitled to Statutory Maternity Pay ("SMP") and Enhanced Maternity Pay of 6 weeks' maternity pay at 9/10ths of salary, followed by 12 weeks' half pay plus SMP and followed by 21 weeks' SMP (as fully described in clause 5.3 below);*

5.1.1.3 *Before maternity leave begins, staff will be paid in full for any time off required to attend ante-natal care as long as this is confirmed by an appointment card and recommended by their doctor, midwife, or health visitor (this also applies to certain agency workers who have completed a period of 12-weeks' qualifying work with WHS); and*

5.1.1.4 *It is, of course, the case that no employee will be treated less favourably, suffer detriment, or be dismissed because they are pregnant or have requested any of the maternity leave and pay entitlements.*

5.1.2 This policy applies to employees. Some aspects of the policy also apply to certain qualifying agency workers, as set out the relevant paragraphs of the policy. No other aspects of this policy apply to agency workers. Such workers may, however, have a right to maternity leave and pay etc from their agency and should contact them for further information. This policy does not apply to consultants or self-employed contractors.

5.1.3 In this policy, references to expected week of childbirth are to the week (starting on a Sunday) in which the employee's doctor or midwife expects the employee to give birth.

5.1.4 If you are adopting a child, please see the WHS Adoption Leave and Pay Policy.

5.1.5 This policy is for guidance only and does not form part of an employee's contract of employment. WHS may alter the terms of this policy from time to time and details of any alterations and additions will be notified to employees.

## PROCEDURE

### 5.2 Maternity Leave

5.2.1 No qualifying period of employment is required. All pregnant employees are eligible to 52 weeks' maternity leave comprising of 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave. Pregnant employees must take at least two weeks' maternity leave (compulsory maternity leave) starting on the day their baby is born.

### 5.2.2 Notification of Pregnancy and Maternity Leave Start

5.2.2.1 *Employees must notify WHS through their Line Manager no later than the end of the 15<sup>th</sup> week before the expected week of childbirth or, if that is not reasonably practicable, as soon as reasonably practicable that they are pregnant and of certain other information (detailed below).*

5.2.2.2 *The notification must be in writing, stating that the employee is pregnant, when the expected week of childbirth will be and when they intend their maternity leave to start. Employees must provide the MAT B1 certificate confirming their expected week of childbirth, which will be issued to them by their Doctor or Midwife.*

5.2.2.3 *Subject to paragraph 5.2.2.2, employees can choose when they would like their maternity leave to start provided that it does not start any earlier than the 11<sup>th</sup> week before the expected week of childbirth. They can however work as close to the birth as they want as long as they have the consent of their Doctor or Midwife.*

5.2.2.4 *Employees can change their minds on the date they wish to take maternity leave as long as at least 28 days' notice is given of either the original start date or the new start date (whichever is earlier) or, if giving that amount of notice is not reasonably practicable, as soon as is reasonably practicable.*

### 5.2.3 Pregnancy Related Sickness or Early Birth

5.2.3.1 *Subject to paragraph 5.2.2.2, you will be paid for any periods of pregnancy-related sickness absence in the same manner as applies for any other type of sickness absence. Please see DHGP's Attendance Support Policy for further details.*

5.2.3.2 *If an employee is absent from work for a pregnancy-related reason at any time during the four weeks immediately before the expected week of childbirth or an employee gives birth before the planned maternity leave start date, then their maternity leave automatically starts the day after the first day of sickness absence / childbirth.*

5.2.3.3 *Periods of pregnancy related sickness absence from the start of your pregnancy until the end of your maternity leave will be*

*recorded separately from other sickness records and will be disregarded in any future employment related discussions.*

#### 5.2.4 Confirmation of Return-to-Work Date

- 5.2.4.1 *Once the HR Section has received written notification that an employee is pregnant and intends to go on maternity leave, they will respond within 28 days.*
- 5.2.4.2 *The HR Section will set out in writing the date on which the employee's maternity leave will end, calculated to be one year from the employee's chosen start date. From this letter the employee will know when WHS will expect them to return to work. If your maternity leave starts early because of early birth or pregnancy related illness, the HR Section will confirm in writing your new expected date of return to work within 28 days of receipt of your notification to WHS.*
- 5.2.4.3 *If an employee on maternity leave wishes to return to work before the expected return date (i.e., within the 52-week maternity leave period), the employee must give WHS the 8 weeks' notice in writing of the new proposed date of return. If the appropriate notice is not given, WHS may postpone the return date until the required 8 weeks' notice is given. However, an employee is not permitted to return to work during the first two weeks immediately after birth.*

### 5.3 Maternity Pay

#### 5.3.1 Eligibility

Employees are eligible for Statutory Maternity Pay and Enhanced Maternity Pay ("Eligible Employees") only if they have:

- 5.3.1.1 *at least 26 weeks' continuous service prior to the 15<sup>th</sup> week before the baby is due and who are still employed as at that date.*
- 5.3.1.2 *given at least 28 days' notice in writing (or, if that is not reasonably practicable, as much notice as is reasonably practicable) of when they intend to statutory maternity pay to commence;*
- 5.3.1.3 *provided the employer with a doctor's or midwife's certificate (Form MATB1) confirming their expected week of childbirth;*
- 5.3.1.4 *average weekly earnings during the eight weeks ending before the fifteenth week before the expected week of childbirth are not less than the lower earnings limit for Class 1 national insurance contributions (information on the lower earnings limit can be obtained from the websites of HMRC and/or the Department for Business, Innovation and Skills); and*

- 5.3.1.5 *remained pregnant 11 weeks before the start of the expected week of childbirth or have already given birth and are absent due to maternity leave.*

### 5.3.2 SMP

Eligible Employees are entitled to SMP which is calculated as follows: -

- 5.3.2.1 *for the first 6 weeks, Eligible Employees are paid 9/10ths of their average weekly earnings calculated over an 8-week period prior to the 15<sup>th</sup> week before their Expected Week of Childbirth (the “Higher Rate”); and*
- 5.3.2.2 *for the remaining 33 weeks, Eligible Employees are paid at the prevailing rate of SMP (or the Higher Rate if the Higher Rate is lower than SMP). Details of the current rate of SMP can be found at: <https://www.gov.uk/maternity-pay-leave/overview>*

### 5.3.3 Enhanced Maternity Pay

Eligible Employees are also entitled to Enhanced Maternity Pay as follows:

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- 5.3.3.1 *During weeks 7 to 19 of maternity leave, an Eligible Employee will be paid 12 weeks’ half pay in addition to SMP. The weekly total of Enhanced Maternity Pay and SMP for an Eligible Employee shall not exceed the employee’s contractual weekly pay. If this happens, the Enhanced Maternity Pay entitlement will be capped to ensure that the employee receives no more than her contractual weekly pay.*

- 5.3.4 Payments of SMP and Enhanced Maternity Pay will be made on the normal pay dates through payroll under deductions of income tax, national insurance, and pension contributions (as appropriate).

### 5.3.5 Pay Rises during Maternity Leave

- 5.3.5.1 *For SMP purposes, if WHS awards a pay rise between the beginning of the 23<sup>rd</sup> week before the employee’s Expected Week of Childbirth and the end of the employee’s maternity leave, and the employee would be entitled to benefit from this pay rise if they were not on maternity leave, the employee’s entitlement will be treated as if the pay rise had applied from the 23<sup>rd</sup> week before the Expected Week of Childbirth.*

- 5.3.5.2 *In such cases, the Employer will recalculate the SMP entitlement taking into account the impact of the pay rise. This may result in SMP being increased retrospectively, or it may mean that the Employee will qualify for SMP if they did not qualify previously (because their earnings did not meet the lower earnings limit). Where appropriate, WHS will pay the employee a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP*

*payments at the higher rate (if any) will also be increased as necessary.*

**5.3.5.3** *If an Eligible Employee leaves their job with WHS for any reason (including dismissal) at any time after the 15<sup>th</sup> week before the Expected Week of Childbirth and before the end of maternity leave, the employee is still entitled to SMP but not Enhanced Maternity Pay. However, if they start work for a different employer (one they weren't employed by in the 15<sup>th</sup> week before their expected week of childbirth) within 39 weeks of childbirth, they won't be able to receive SMP.*

**5.3.5.4** *If an Eligible Employee leaves their job with WHS for any reason (including dismissal but excluding dismissal on the grounds of redundancy) before returning to work for a minimum period of 3 months (which shall exclude unpaid leave), they are not entitled to Enhanced Maternity Pay. If Enhanced Maternity Pay has been paid, the employee is required to repay on demand the Enhanced Maternity Pay to WHS, and WHS may also make any relative deduction from outstanding wages due to the employee.*

#### **5.3.6 Maternity Allowance**

**5.3.6.1** *Any employee who does not qualify for SMP or Enhanced Maternity Pay, may be entitled to a Maternity Allowance. In this case they will be sent an SMP1 form from WHS payroll. To claim Maternity Allowance, you should contact your local job centre plus. You should claim as soon as you can after you have been pregnant for 26 weeks. If you delay, you may lose benefit.*

#### **5.4 Time Off For Antenatal Care**

**5.4.1** Pregnant employees (and certain agency workers who have completed a period of 12-weeks' qualifying work with WHS) are entitled to take paid time off work for ante-natal care where the ante-natal care is recommended by your doctor, midwife, or health visitor. Ante-natal care is not necessarily restricted to medical appointments and may include relaxation or parenting classes provided that your doctor, midwife, or health visitor has advised you to attend such classes.

**5.4.2** Employees who take paid time off for ante-natal care should inform their Line Manager as soon as possible of the time and date of any appointment and, except for the first appointment, provide proof of the appointment if asked to do so. Employees should endeavour to arrange the times of these appointments at the beginning or end of the working day and in consultation with their supervisor, if possible.

**5.4.3** Normal pay will continue to be received whilst attending ante-natal care appointments.



## 5.5 Health and Safety

- 5.5.1 All pregnant employees (including qualifying agency workers) will receive an Occupational Health Risk Assessment to ensure that the working environment is safe for them and their unborn child. A similar assessment will be carried out to identify any risks to female employees of child-bearing age.
- 5.5.2 WHS may also carry out a risk assessment if an employee returns to work within 6 months of giving birth or where the employee is still breast feeding or otherwise on the employee's return to work.
- 5.5.3 Similar obligations and safeguards apply in relation to certain agency workers who have completed a period of 12-weeks' qualifying work with WHS.

## 5.6 Pension Contributions During Maternity Leave

- 5.6.1 Employees in the Local Government Pension Scheme (Scotland) will be sent a form to complete with regard to pension contributions. Employee pension contributions are automatically deducted from the employee's pay during maternity leave but, in accordance with the provisions of the pension regulations, employees may elect to pay pension contributions during a period of unpaid maternity leave.
- 5.6.2 Anyone opting to pay contributions during the unpaid maternity leave period will have arrears deducted from their pay at regular intervals on their return to work.
- 5.6.3 Employer's contributions will be paid at the normal percentage rate for the LGPS scheme during the period of leave which is paid (i.e., up to 39 weeks), subject to clause 5.6.4
- 5.6.4 In the LGPS scheme if the employee elects to pay contributions during the additional unpaid maternity leave period, then the employer will pay contributions for that period at the normal percentage rate. If no employee contributions are made, then no employer contributions will be made.
- 5.6.5 Employees who elect to pay contributions during the unpaid additional maternity leave period will have their contributions based on the last pay received immediately prior to not receiving pay.
- 5.6.6 Employees in the Group Personal Pension Scheme can choose to pay or not to pay contributions throughout the periods of paid maternity leave and unpaid maternity leave. The employer will pay employer contributions at the normal percentage rate only throughout the period of leave which is paid (i.e., up to 39 weeks).
- 5.6.7 Members of the Group Personal Pension Money Purchase Scheme will be sent a form to complete regarding their wishes in respect of their contributions during maternity leave.

## 5.7 Holiday Entitlement

- 5.7.1 Employees continue to accrue annual leave during maternity leave in the usual way.
- 5.7.2 An employee, where possible, must take all their annual leave entitlement that will accrue during the current holiday year prior to the start of their maternity leave.
- 5.7.3 If an employee returns to work in a new holiday year any outstanding balance from the previous year will be carried forward and added to the current holiday leave entitlement.
- 5.7.4 In the event that the employee does not return to work after maternity leave, their annual leave entitlement will be calculated on the basis of the number of calendar months served from the commencement of the annual leave year, therefore 1<sup>st</sup> January, until the date their employment terminates. In these circumstances, the employee will be required to repay the appropriate amount of annual leave taken in excess of their entitlement.
- 5.7.5 In the event that the employee returns to work on a part-time basis, annual leave accrued whilst working full time must be taken before they return to work
- 5.7.6 The employee should discuss holiday arrangements with their Line Manager and request holidays as per normal working arrangements and policy.
- 5.7.7 Bank Holidays accrue during the whole period of maternity leave.

## **5.8 Car Allowances**

- 5.8.1 Employees in receipt of an Essential User Car Allowance will continue to be paid their current allowance throughout maternity leave.

## **5.9 Contact During Maternity Leave**

- 5.9.1 WHS may make regular contact with the employee (and vice-versa) whilst they are on maternity leave, as long as the amount and type of contact is not unreasonable, to discuss a range of issues, including but not limited to their plans for returning to work or inform the employee of developments at the workplace.
- 5.9.2 The employee should be informed of any relevant promotion opportunities or job vacancies that arise during maternity leave.

## **5.10 Terms and Conditions**

- 5.10.1 During maternity leave, employees will continue to receive all their contractual benefits as set out in their contracts of employment (with the exception of any sums payable by way of wages and salary) and will be expected to continue to comply with the terms of their contracts of employment as well as their statutory obligations. Employees will remain bound by the implied obligations including trust and confidence, good faith,

loyalty, and fidelity, and bound by the terms in their contracts relating to giving notice of resignation and disclosure of confidential information and the acceptance of gifts or other benefits and participation in any other business.

### **5.11 Keeping In Touch Days**

- 5.11.1 An employee on maternity leave is permitted to work (including attendance at training sessions) for up to 10 days at any stage during the maternity leave period (except during the first two weeks of maternity leave) without bringing maternity leave or entitlements to SMP or Enhanced Maternity Pay to an end. These days are referred to as Keeping In Touch days. The arrangements for taking any Keeping In Touch days will be agreed between you and WHS.
- 5.11.2 Either the employee on maternity leave or WHS may suggest Keeping in Touch days.
- 5.11.3 Any work done on a particular day will count as a whole Keeping In Touch day. So if a part day is worked it will count for a whole Keeping In Touch day.
- 5.11.4 Payment for Keeping In Touch days will be in accordance with the employee's contract of employment.
- 5.11.5 Both WHS and the employee have the right to refuse the Keeping in Touch provisions and there will be no detriment to either if they exercise this right.

### **5.12 Returning To Work**

- 5.12.1 Employees returning during or at the end of the first 26 weeks' ordinary maternity leave are entitled to return to the same job that the employee performed on the same terms and conditions that the employee would have been on if they had not been on maternity leave.
- 5.12.2 If the returning employee has taken more than 26 weeks' maternity leave then they are entitled to return to the same job that the employee performed on the same terms and conditions that the employee would have been on if they had not been on maternity leave or, if that is not reasonably practicable, then they are entitled to return to a job which is both suitable for them and appropriate for them to do in the circumstances and on terms and conditions of employment that are not substantially less favourable.
- 5.12.3 Any employee wishing to return to work part-time, on a job share basis or otherwise flexibly, may make a flexible working request in accordance with the WHS Flexible Working Policy. WHS supports flexible working including job sharing and all requests will be considered.
- 5.12.4 You are encouraged to notify WHS as soon as possible if you decide not to return to work following maternity leave. If you decide not to return, you should give notice of resignation to WHS in accordance with your contract of employment. When you give notice to WHS you should ensure that you have sufficient maternity leave left to run (i.e. at least equal to your

contractual notice period) otherwise you might be required to return to work for the remainder of the notice period.

### **5.13 Breastfeeding Mothers**

- 5.13.1 All mothers intending to continue breastfeeding following return to work should notify the HR Department in writing in advance of their return to work. The Health and Safety Co-ordinator will carry out a specific risk assessment. All breastfeeding mothers will have access to a suitable private and clean environment to express and store their milk.

### **5.14 Failure to Return on Expected Return Date**

- 5.14.1 Maternity leave cannot last longer than 52 weeks. If an employee on maternity leave wishes to return later than their Expected Return Date, they should either request unpaid parental leave in accordance with the WHS Parental Leave Policy, giving no less than 21 days' notice, or request paid annual leave in accordance with their contract of employment. If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence and the WHS Attendance Support Policy will apply. In any other case, late return without good cause will be treated as unauthorised absence.

### **5.15 Redundancy During Maternity Leave**

- 5.15.1 Employees returning during or at the end of the first 26 weeks of ordinary maternity leave are entitled to return to the same job on the same terms and conditions as if they had not been away.
- 5.15.2 If the returning employee has taken more than the 26 weeks ordinary maternity leave then they are entitled to return to the same job on the same terms and conditions or, if that is not reasonably practicable, then they are entitled to return to another job which is both suitable for them and appropriate for them to do in the circumstances.
- 5.15.3 Notwithstanding the terms of clauses 5.14.1 and 5.14.2, if a redundancy situation arises during an employee's ordinary or additional maternity leave which makes it impracticable for WHS to continue to employ them under their existing contract of employment, the employee will be entitled to be offered (before that contract ends) a suitable alternative vacancy, where one is available.
- 5.15.4 This will include a vacancy with any successor to the original employer. The new contract will take effect immediately on the ending of the original one and will be work both suitable in relation to the employee and appropriate for the employee to do in the circumstances; and on terms and conditions of employment that are not substantially less favourable than if the employee had continued to be employed under their previous contract.

### **5.16 Miscarriage or Stillbirth**

- 5.16.1 In the unfortunate circumstances that an employee miscarries, or their baby is stillborn, the employee is entitled to the following: -

5.16.1.1 *If the miscarriage or still birth occurs prior to the 24<sup>th</sup> week of pregnancy, the employee is entitled to sick pay and sick leave only. The employee is not entitled to maternity leave or pay.*

5.16.1.2 *If the miscarriage or still birth occurs during or after the 24<sup>th</sup> week of pregnancy or if the employee's baby is born but dies, the employee will be entitled to maternity leave and pay as detailed in the relevant sections above.*

5.16.2 If this regrettable situation happens the employee should inform their Line Manager or the HR Section to agree contact arrangements with the employee.

## 5.17 Shared Parental Leave

5.17.1 A mother may wish to curtail their maternity leave and take advantage of shared parental leave and pay. WHS's Shared Parental Leave and Pay Policy has full details of the eligibility requirements, as well as instructions as to how the mother's maternity leave can be curtailed. The compulsory period of maternity leave (i.e., the two weeks immediately following childbirth) must be taken before a mother switches to shared parental leave.

Employees are entitled to other related Parental Rights. For more information on Family Friendly rights see the WHS Family Friendly policies or contact the HR Department.

Alternatively, you may find further information from the following websites:

- Directgov – A public service information website – [www.direct.gov.uk](http://www.direct.gov.uk)
- Acas – Independent advice for employees and employers – [www.acas.org.uk](http://www.acas.org.uk)

## 6 GOVERNANCE AND REGULATION

6.1 This policy is the responsibility of the Human Resources Department.

6.2 The policy is due for formal review every three years.

## 7 SANCTIONS

7.1 Any breaches of this policy may be subject to disciplinary action under WHS's Disciplinary Policy.

## 8 RELATED / REFERENCED POLICIES

- 8.1 Shared Parental Leave Policy
- 8.2 Flexible Working Policy
- 8.3 Parental Leave Policy