



POLICY:	Policy & Procedure for Availing of Maternity Leave
FIRST DRAFT:	
ADOPTED:	Approved UR 2019#01
AMENDMENTS:	
REVIEW:	2011 version reviewed in 2018

1.0 Policy Statement

- 1.1 All policies, guidelines and protocols of Mary Immaculate College, will reflect the Colleges commitment to the promotion of equality and will be fully compliant with the provisions of prevailing equality legislation.
- 1.2 This Policy and its procedures will be operated in accordance with the Maternity Protection Acts 1994 to 2004, relevant Circulars as issued by the Department of Finance in respect of Public Sector employees, and relevant Government Policy on Maternity Leave.

2.0 Scope of Policy

- 2.1 All female employees who are pregnant, who have recently given birth or who are breastfeeding up to the 26th week after the date of confinement are covered by the Maternity Protection Acts 1994 and 2004. In certain circumstances male employees are also covered by this legislation. Employees on fixed term contracts are covered by the protective provision of the Acts for the duration of their contract.

3.0 Legislation, Regulations and Related Policy

- 3.1 Governing legislation, regulation and policy in relation to this document includes:
- Maternity Protection Acts, 1994 to 2004
 - Safety, Health & Welfare at Work (Pregnant Employees) Regulations, 2000

4.0 Responsibilities

- 4.1 *An tUachtarán* and the Executive Team are responsible for the development of this policy and for oversight of its implementation. Adoption of the policy is the responsibility of *An tÚdarás Rialaithe*.
- 4.2 The Human Resources Office is responsible for processing applications for Maternity Leave.
- 4.3 All employees who wish to apply for Maternity Leave must comply with the provisions of this Policy.

5.0 Maternity Leave

- 5.1 A pregnant employee is entitled to 26 weeks maternity leave, subject to compliance with the notification provisions set out in the Maternity Protection Acts. This leave must commence at least two weeks before the end of the week in which the baby is due and end at least 4 weeks after the baby is born.

- 5.2 An additional period of up to 16 weeks unpaid Maternity Leave can also be availed of. These weeks must be taken immediately following the last day of the maternity leave period.

6.0 Payment of Salaries or Wages During Maternity Leave

- 6.1 Mary Immaculate College will operate a payment scheme to pensionable staff during the staff member's 26 weeks Maternity Leave.
- 6.2 In the case of staff employed on fixed term or a specified purpose contracts, the expiry date of the contract, if it falls during the period of maternity leave, will be the final date of the employee's maternity leave.
- 6.3 Where a staff member has an entitlement to receive Social Welfare Maternity Benefit from the Department of Social Protection, this benefit must be claimed, and the corresponding amount will be deducted from any payment of salary or wages made during paid maternity leave.
- 6.4 Where a staff member has no entitlement to receive a Social Welfare Maternity Benefit from the Department of Social Protection, payment of salary or wages will be made in full for the duration of the 26 weeks Maternity Leave.
- 6.5 In the event of an employee availing of any period of Additional Maternity leave, no payment will be made by either Mary Immaculate College or the Department of Social Welfare in respect of this period.

7.0 Maternity Leave Application Procedure

- 7.1 An employee should advise her Line Manager and the Human Resources Office of her pregnancy as soon as possible.
- 7.2 An employee must apply in writing to the Human Resources Office for Maternity Leave and Additional Maternity Leave. The letter of application for Maternity Leave must be signed by the employee and must include the expected due date of the baby and the desired commencement date of maternity leave. The letter of application must also include a letter from a registered Medical Practitioner confirming the pregnancy and the expected due date of the baby.
- 7.3 When applying for Maternity Leave, an employee must:
- (a) Give as much notice as is reasonably possible, of the expected dates of maternity leave, but no less than 4 weeks notice;
 - (b) Obtain Department of Employment Affairs and Social Protection Application Form for Maternity Benefit (comprising form MB1, MB2 and MB3) which is available from: Maternity Benefit Section Department of Social Protection, St. Oliver Plunkett Road, Donegal or available to download on www.welfare.ie.
 - (c) Forward Form MB2 to the Human Resources Office for completion. The form must

contain details of the date of commencement and end date of maternity leave.

7.4 The employee must inform the Human Resources Office in writing at least 4 weeks before the end date of her Maternity Leave of either her intention to return to work or of her intention to avail of the Additional Maternity Leave, which is unpaid.

7.5 The employee must inform the Human Resources Office in writing at least 4 weeks before the end date of her Additional Maternity Leave of her intention to return to work following the Additional Maternity Leave

8.0 Postponement or Termination of Maternity Leave

8.1 In the event of hospitalisation of the baby, an employee may apply to have maternity leave or additional maternity leave postponed. The employee must have taken at least fourteen weeks maternity leave, four of which have to be taken after the end of the week of confinement to qualify. The maximum period of postponement of the leave is for six months. The postponement of maternity leave or additional maternity leave is subject to the prior written agreement of the College. If the College agrees to postpone the leave then the employee must return to work on the date agreed between both parties.

8.2 If the remaining leave is postponed, the employee will resume leave not later than seven days after the discharge of the baby from the hospital. The remaining leave must be taken in one block. If the employee is granted postponed maternity leave and becomes ill after returning to work and before taking resumed leave she may be considered to have started her resumed leave on the first day of absence because of illness. Alternatively she may choose to forfeit her right to resumed leave and have her leave treated in the normal manner under the sick pay scheme. The employee will be required to produce documentation from the hospital in which the baby concerned is hospitalised confirming the hospitalisation and confirming the date of discharge.

8.3 An employee who is in the last four weeks of maternity leave and who has notified the College of her intention to take additional maternity leave or who is already on additional maternity leave may, if she becomes ill request termination of the additional maternity leave and request to take sick leave instead. In this instance, the employee must notify the Human Resources Office in writing of her request as soon as practicable. There will be no entitlement to resumption of additional maternity leave after this period of sick leave. If approved, this period of sick leave will be treated in the same manner as any absence from work of the employee due to sickness. The Human Resources Office will notify the employee in writing of the decision in relation to the employee's request as soon as practicable following receipt of the request.

9.0 Public Holidays and Annual Leave

9.1 An employee is entitled to the benefit of any Public Holiday, and of Good Friday, which occurs during her Maternity Leave. The employee will be entitled to a paid day off for every Public Holiday that occurs during her Maternity Leave period. Such days

off must be taken after all maternity leave including Additional Maternity Leave has finished but prior to the staff member returning to work.

- 9.2 An employee will retain her right to accrue annual leave while on Maternity Leave. Where a period of annual leave spans two consecutive annual leave years, an employee must take any outstanding annual leave from the previous year before returning to work.
- 9.3 In order to avoid the on-going accumulation of a large amount of untaken Time Off in Lieu (TOIL) from year to year, staff members are expected to take this paid leave before returning to work after the period of maternity leave.

10.0 Ante and Post Natal Care and Antenatal Classes

- 10.1 Pregnant employees are entitled to time off with pay during working hours to attend for medical appointments for ante and post natal care. It will be necessary for an employee to provide evidence of appointment i.e. an appointment card must be submitted to the Line Manager.
- 10.2 Entitlement to time off for ante and post natal care appointments is subject to written notification of the date and time of the appointment being given at least 2 weeks in advance.
- 10.3 Pregnant employees are entitled to attend one set of ante-natal classes without loss of pay (except for the last 3 classes in a set). Evidence of appointment will be necessary i.e. an appointment card must be submitted to the Line Manager. The employee is required to return to work immediately after the class if the class ends during the normal working day.
- 10.4 Written notification should be provided as soon as practicable but not later than 2 weeks before the date of each class.
- 10.5 Paid time off will not be given to attend exercise and relaxation classes.

11.0 Early or Late Confinement

- 11.1 If the baby is born at least four weeks prematurely and the mother has not yet commenced her maternity leave, the 26 weeks Maternity Leave will commence from the day on which the baby is born.
- 11.2 The employee must notify the Human Resources Office in writing of the changed dates within 14 days of the birth.
- 11.3 Revised arrangements for maternity leave in the case of premature births are in place from 1st October 2017. Further details are available from the HR Office.
- 11.4 Maternity leave may be extended by a further period of four weeks in situations

where the confinement is delayed to such an extent that the employee has less than the mandatory four weeks leave before she is required to return to work. Any extension of the minimum period is treated as maternity leave. This extension should not be confused with additional maternity leave.

- 11.5 An employee must notify the Human Resources Office as soon as is possible in writing when an extension is required.

12.0 Miscarriage

- 12.1 In the event of a miscarriage up to and including the 24th week of pregnancy, the employee is not entitled to maternity leave. An entitlement to maternity leave arises in respect of any confinement occurring after the 24th week, even if it does not result in a live birth.

13.0 Leave for Fathers

- 13.1 A father will be entitled on a once off basis to time off from work without loss of pay to attend the last 2 ante-natal classes immediately prior to the birth. Evidence of appointment will be necessary i.e. an appointment card must be submitted to the Line Manager. The employee is required to return to work immediately after the class if it ends during the normal working day.
- 13.2 Fathers are entitled to maternity leave if the mother dies within 40 weeks of the birth. In these circumstances, the father is entitled to a period of leave, the extent of which depends on the actual date of the mother's death. If the mother dies within 24 weeks of the birth he is entitled to the remainder of the maternity leave. If the mother's death occurs more than 24 weeks after the birth, the father is entitled to additional leave until 40 weeks after the birth.
- 13.3 This leave will begin within 7 days of the mother's death and the father must notify the Human Resources Office in writing as soon as possible of the death of the mother and of his intention to take this leave.

14.0 Health and Safety Leave

- 14.1 Under the Safety, Health and Welfare at Work Act 1989 - 2005, employers have a duty of care to their employee during their pregnancy or while breastfeeding.
- 14.2 Once notified of the pregnancy, the Health & Safety Manager will arrange for a Pregnancy Risk Assessment to be carried out.
- 14.3 If a risk is identified which cannot be removed, Mary Immaculate College will take the following steps to ensure that the employee is no longer exposed to the risk:-
(a) Temporarily adjust the employee's working conditions or working hours, to the extent needed to avoid the relevant risk;

- (b) if step (a) is not technically or objectively feasible, then the employee must be transferred to other work;
- (c) if step (b) is not technically or objectively feasible, then the employee must be given health and safety leave.

14.4 A staff member is entitled to the first 21 calendar days pay from Mary Immaculate College while on Health and Safety Leave, with any subsequent payments to be made by the Department of Social Protection. The staff member will remain on Health and Safety Leave until the maternity leave commences or the risk no longer exists.

15.0 Breastfeeding

15.1 Following Maternity Leave, a breastfeeding mother is entitled without loss of pay to a reduction of her working hours of a maximum of one hour each day, until that child is 6 months old (26 weeks) under the Maternity Protection Act 2004. Breastfeeding facilities are provided in the College and breaks may be taken as follows:

One 60 minute break or

Two 30 minute breaks each or

Three 20 minute breaks or

As agreed between the College and the employee.

15.2 The right to time off or a reduction in working hours for breastfeeding is subject to an employee giving written notification at least four weeks before the date of return to work. The employee will be required to produce the birth certificate of the baby concerned or similar document establishing the date of birth of the baby. Part time employee entitlements are calculated on a pro rata basis.

16.0 Audit and Review

16.1 This policy will be reviewed on a five yearly basis or if any legislative changes are enacted in the interim. The Director of Human Resources will initiate the review.