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## **MATERNITY LEAVE POLICY**

### **1. POLICY STATEMENT**

- 1.1 This document outlines the Maternity Leave Policy and Procedure for The East of England Ambulance Service NHS Trust (the Trust). The Trust recognises the contributions of its female staff and offers all pregnant employees and new mothers their statutory maternity leave and pay entitlements in line with the Agenda for Change National Terms and Conditions Handbook, Employment Act 2002 and the Works and Families Act 2006.
- 1.2 The Trust also operates an enhanced NHS contractual scheme, which is open to pregnant members of staff and new mothers who meet some additional criteria not required under statutory arrangements.
- 1.3 This policy has been written in partnership by management and staff side.
- 1.4 A glossary of commonly used maternity terms can be found at Appendix 1.

### **2. SCOPE**

- 2.1 This policy applies to all staff employed by the Trust who are pregnant or new mothers.

### **3. ACCESS TO THE PROCEDURE**

- 3.1 All employees are entitled to access to this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. Copies are also available from the Human Resources Department and any employee can seek guidance from line management, their trade union representative or the Human Resources Department.
- 3.2 Employees and Managers may also wish to consult related Trust policies such as Flexible Working Arrangements, Special Leave, Paternity Leave and Adoption Leave.

### **4. ROLES AND RESPONSIBILITIES**

- 4.1 The Human Resources Department is responsible for keeping the provisions within this policy in line with employment legislation, best practice people management principles and NHS guidelines.

- 4.2 Managers, HR staff and Trade Union Representatives are responsible for providing advice and guidance to employees on the application of this policy and procedure.
- 4.3 Management and Trade Union Representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.
- 4.4 Employees are responsible for advising the Trust of their pregnancy, at the earliest opportunity, in order that decisions can be made regarding their health, safety and wellbeing.
- 4.5 Employees are responsible for obtaining information and advice regarding their entitlements and for providing such information and documentation as is necessary in order to secure these entitlements.

## **5. NOTIFICATION REQUIREMENTS**

- 5.1 Employees are encouraged to inform the Trust of their pregnancy, at the earliest opportunity, in order that decisions can be made regarding their health, safety and wellbeing during pregnancy. A risk assessment form will be completed by line managers to aid these decisions (Appendix 6). For example, it may be necessary for front line staff to be temporarily transferred from operational duties.
- 5.2 In order to receive their entitlements, a pregnant employee is required by law to formally notify the Trust of their intention to take maternity leave. She is required to do this by the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC) unless this is not reasonably practicable. This is called the 'notification week'.
- 5.3 It is anticipated that most women would be able to comply with this requirement unless they have an acceptable mitigating reason, such as not knowing they were pregnant or serious ill-health. Such cases would be looked at on their individual merits.
- 5.4 When formally notifying the Trust (as per Section 5.2 above), the pregnant employee should use the Maternity Leave Notification form at Appendix 3.
- 5.5 An employee may request to change her maternity leave start date. However, she must advise her manager at least 28 days before her intended new maternity leave start date, unless this is not reasonably practicable, by completing the Change of Maternity Leave Form at Appendix 4.
- 5.6 Once notified, the Trust will invite the employee to a meeting with a member of the Human Resources Department to inform them of the provisions contained within this Maternity Leave Policy. This is an informal meeting and attendance is voluntary.
- 5.7 The Trust will also respond in writing within 28 days of receiving the employee's MATB1 form, setting out:
  - The employee's paid and unpaid leave entitlements;

- Their expected date of return to work;
- Any agreed annual leave arrangements; and
- The need for the employee to give at least 56 days notice if she wishes to return to work before the expected return date.

## **6. MATERNITY LEAVE**

- 6.1 For ease of reference, please use the Maternity Guidance Chart at Appendix 2.
- 6.2 **All** pregnant employees, regardless of length of service or hours worked, are entitled to 26 weeks Ordinary Maternity Leave (OML).
- 6.3 OML can commence at any time from the 11<sup>th</sup> week before the expected week of childbirth (EWC).
- 6.4 All of OML and the first 13 weeks of Additional Maternity Leave (AML) attracts some level of pay, unless the employee has earnings of less than the maternity allowance threshold and has not been employed or self-employed for at least 26 weeks in the 66 weeks before her EWC.
- 6.5 OML and the first 13 weeks of AML pay could be:
- Statutory Maternity Pay (SMP) (see Section 7)
  - NHS Contractual Maternity Pay (see Section 8)
  - Maternity Allowance (MA).

It should be noted that employees are entitled to retain all non wage contractual benefits during OML.

- 6.6 **All** pregnant employees, regardless of length of service or hours worked, are entitled to 26 weeks Additional Maternity Leave (AML).
- 6.7 AML begins at the end of OML and generally the first 13 weeks of this may attract statutory maternity pay (see Section 7 below).

## **7. ELIGIBILITY FOR STATUTORY MATERNITY PAY**

- 7.1 A pregnant employee will be eligible for SMP during OML and part of AML, if she satisfies all of the following conditions:
- She has weekly average earnings (in the eight weeks prior to the notification week) of at least the lower earnings limit for National Insurance Contributions;
  - She has met the notification rules as detailed in Section 5 above;
  - She continues to be employed up to the start of the notification week.
- 7.2 The rate of SMP is as follows:
- 90% of full pay for the first 6 weeks of OML. Full pay is calculated using the average earnings in the eight weeks prior to the last pay day before the notification week.
  - Standard rate SMP or 90% of the woman's average weekly earnings (whichever is the lower) for the remaining 33 weeks.

7.3 The employee may choose on which day of the week their SMP starts, unless the maternity pay period is triggered by an early birth or an absence from work because of a pregnancy-related illness (as per Section 11.2).

7.4 If the employee is not entitled to SMP, the Trust will provide her with an SMP1 Form which she should take to a social security office as she may be able to make a claim for Maternity Allowance (MA).

## **8. ELIGIBILITY FOR NHS CONTRACTUAL MATERNITY PAY**

8.1 A pregnant employee will be entitled to NHS Contractual Maternity Pay during OML if she satisfies all of the following conditions:

- She has twelve months continuous service with one or more NHS employers at the beginning of the 11<sup>th</sup> week before the EWC;
- She has met the notification rules as detailed in Section 5 above, including notification of the date that she wishes to start her maternity leave;
- She intends to return to work with the same or another NHS employer for a minimum of 3 months after her maternity leave has ended; and,
- She provides a MATB1 form from her midwife or GP giving the EWC.

8.2 The rate of NHS Contractual Maternity Pay is as follows:

- For the first 8 weeks, full pay less any SMP or MA payable (including any dependents' allowances receivable). Full pay is calculated using the average earnings in the eight weeks prior to the last pay day before the notification week;
- For the next 18 weeks, half pay plus any SMP or MA payable (including any dependents' allowances receivable) providing this total does not exceed full pay;
- Followed by 13 weeks SMP or MA (including any dependents' allowances receivable).

8.3 By prior agreement with the Trust, it may be possible for NHS Contractual Maternity Pay to be paid in a different way. For example, a fixed amount spread over the entire maternity leave period. Such requests must be made to the Human Resources Department.

## **9. FIXED-TERM CONTRACTS OR TRAINING CONTRACTS**

9.1 Employees subject to fixed-term or training contracts who are eligible for NHS Contractual Maternity Pay but whose contract will expire after the 11<sup>th</sup> week before the EWC will have their contracts extended, so as to allow them to receive 39 weeks paid NHS contractual maternity leave (as detailed in Section 8.2 above).

9.2 Employees on fixed-term contracts who do not meet the twelve months continuous service requirement for NHS Contractual Maternity Pay may still be eligible for SMP. Employees should contact the Human Resources Department in this instance.

## **10. KEEPING IN TOUCH ('KIT')**

10.1 Before going on maternity leave, the Trust and the employee should discuss

and agree any arrangements for keeping in touch during the employee's period of maternity leave. This may include:

- Any voluntary arrangements that the employee may find helpful to help her keep in touch with developments at work and facilitate her return;
- Keeping the Trust in touch with any developments that may affect her intended date of return.

10.2 The employee may also request, subject to the agreement of the Trust, to carry out up to 10 days' work during her maternity leave without bringing it to an end or jeopardising her right to maternity pay. These cannot be until after the two-week compulsory leave period immediately after the baby's birth. These days can be taken as individual days or block weeks. Where an employee chooses to work less than a full day, e.g. attending for a 2 hour training course, this is classed as using one of her 10 allocated 'KIT' days.

10.3 Employees will be paid equivalent to full pay for actual KIT hours or days worked. Any applicable SMP paid will be off-set against this figure in order that the employee will not be paid more than equivalent to full pay.

## **11. SICKNESS ABSENCE**

11.1 Any sickness absence occurring prior to the last four weeks before the EWC, which is supported by a medical statement or self-certificate, will be treated in accordance with normal sick leave provisions.

11.2 Any pregnancy related sickness absence within the last four weeks before the EWC, will result in the automatic commencement of maternity leave. In such instances, the maternity leave will start on the first day of the employee's absence falling within the last four weeks before the EWC.

11.3 From the expected date of return to work, normal sick leave provisions will apply as necessary.

## **12. PREMATURE BIRTH**

12.1 Where an employee's baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term.

12.2 Where an employee's baby is born before the 11<sup>th</sup> week before the EWC and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence.

12.3 Where an employee's baby is born before the 11<sup>th</sup> week before the EWC and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start on the day after the day of birth.

12.4 Where an employee's baby is born before the 11<sup>th</sup> week before the EWC and the baby is in hospital, the employee may split her maternity leave entitlement, taking a minimum period of two weeks maternity leave

immediately after childbirth and the rest of her leave following her baby's discharge from hospital.

12.5 Please refer to Section 6.6 regarding Additional Maternity Leave.

**13. STILL BIRTH**

13.1 Where an employee's baby is born dead after the 24<sup>th</sup> week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

**14. MISCARRIAGE**

14.1 Where an employee has a miscarriage before the 25<sup>th</sup> week of pregnancy normal sick leave provisions will apply.

**15. HEALTH AND SAFETY OF EMPLOYEES**

15.1 Where an employee is pregnant, has recently given birth or is breastfeeding, the Trust should carry out a risk assessment of her working conditions (Appendix 6). If the risk assessment finds (or a medical practitioner considers) that the employee or her child would be at risk if she continued her normal duties, then the Trust should provide suitable alternative work for which the employee will receive her normal rate of pay.

15.2 Where it is not reasonably practicable to offer suitable alternative work, the employee will be suspended on full pay.

15.3 The Health and Safety Executive encourages employers to provide a private, healthy and safe environment for women who are breast-feeding to express and store milk. The Trust will take any reasonably practicable steps to achieve this. Should this not be possible, the provisions of paragraphs 15.1 and 15.2 above will apply.

**16. RETURN TO WORK**

16.1 All women must take a minimum of 2 weeks compulsory maternity leave immediately after childbirth.

16.2 An employee who intends to return to work at the end of her full maternity leave (on her expected date of return) will not be required to give any further notification to the employer.

16.3 If an employee wishes to return to work before the expected date of return, she must give at least 56 days notice using the Change of Return Date Notification Form (Appendix 5).

16.4 An employee will have the right to return to the same job under the original contract and on no less favourable terms and conditions when returning from OML. However, on her return from AML the employee will only have the right to return to a similar job.

**17. RETURNING ON FLEXIBLE WORKING ARRANGEMENTS**

- 17.1 If at the end of maternity leave the employee wishes to return to work on Flexible Working Arrangements, the Trust has a duty to consider the request. All such requests will be considered under the Trust's Flexible Working Arrangements Policy.
- 17.2 If the request is refused, the Trust will provide written, objectively justifiable reasons for refusal and an opportunity to appeal against the decision. A refusal of a flexible working request does not affect the employee's right to return to her job under her original contract, if returning from OML, or to a similar job if returning from AML.
- 17.3 Under the Flexible Working Arrangements policy, it may be possible to agree a temporary trial period. Should the arrangements not be made permanent at the end of this trial period, the employee will retain her right to return to her job under her original contract, or a similar job if returning after AML, at the end of the agreed period.

**18. FAILURE TO RETURN TO WORK**

- 18.1 Any employee who fails to return to work for 3 months for the same or a different NHS employer within 15 months of the beginning of her maternity leave, will be liable to refund the whole of her NHS contractual maternity pay, less any SMP received.
- 18.2 In exceptional circumstances the Trust may, at its discretion, waive their rights to recovery of NHS Contractual Maternity Pay, where doing so would cause extreme hardship or distress. Authorisation to do this would require the agreement of two Trust Directors.
- 18.3 For those on fixed-term contracts, where there is no right of return to be exercised because the contract would have expired if pregnancy and childbirth had not occurred, the repayment provisions set out in 18.1 do not apply.

**19. ANTENATAL AND POSTNATAL CARE**

- 19.1 Pregnant employees and those who have recently given birth have the right to paid time off for antenatal and postnatal care. This may include relaxation and parent-craft classes as well as appointments for antenatal care and attendance at health clinics.

**20. CONTRACTUAL RIGHTS**

- 20.1 During ordinary and additional maternity leave an employee retains all of her contractual rights except remuneration.
- 20.2 Absence on ordinary and additional maternity leave for up to 52 weeks shall not constitute a break in service.

**21. ACCRUAL OF ANNUAL LEAVE**

- 21.1 Annual leave will continue to accrue during all maternity leave (both OML and AML).
- 21.2 The amount of annual leave to be taken before and/or after the formal maternity leave (i.e. OML plus AML) should be agreed between the Trust and employee in discussion with the Human Resources Department.
- 21.3 The amount of annual leave which will be permitted to be carried over from one annual leave year to the next will be at the discretion of the Trust in discussion with the Human Resources Department.

**22. PENSIONS**

- 22.1 Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Superannuation Regulations.

**23. POLICY REVIEW**

- 23.1 This policy will be reviewed on an annual basis or amended in the light of new employment legislation and/or relevant case law.

**Glossary**

AML = Additional Maternity Leave

EWC = Expected Week of Childbirth

MA = Maternity Allowance

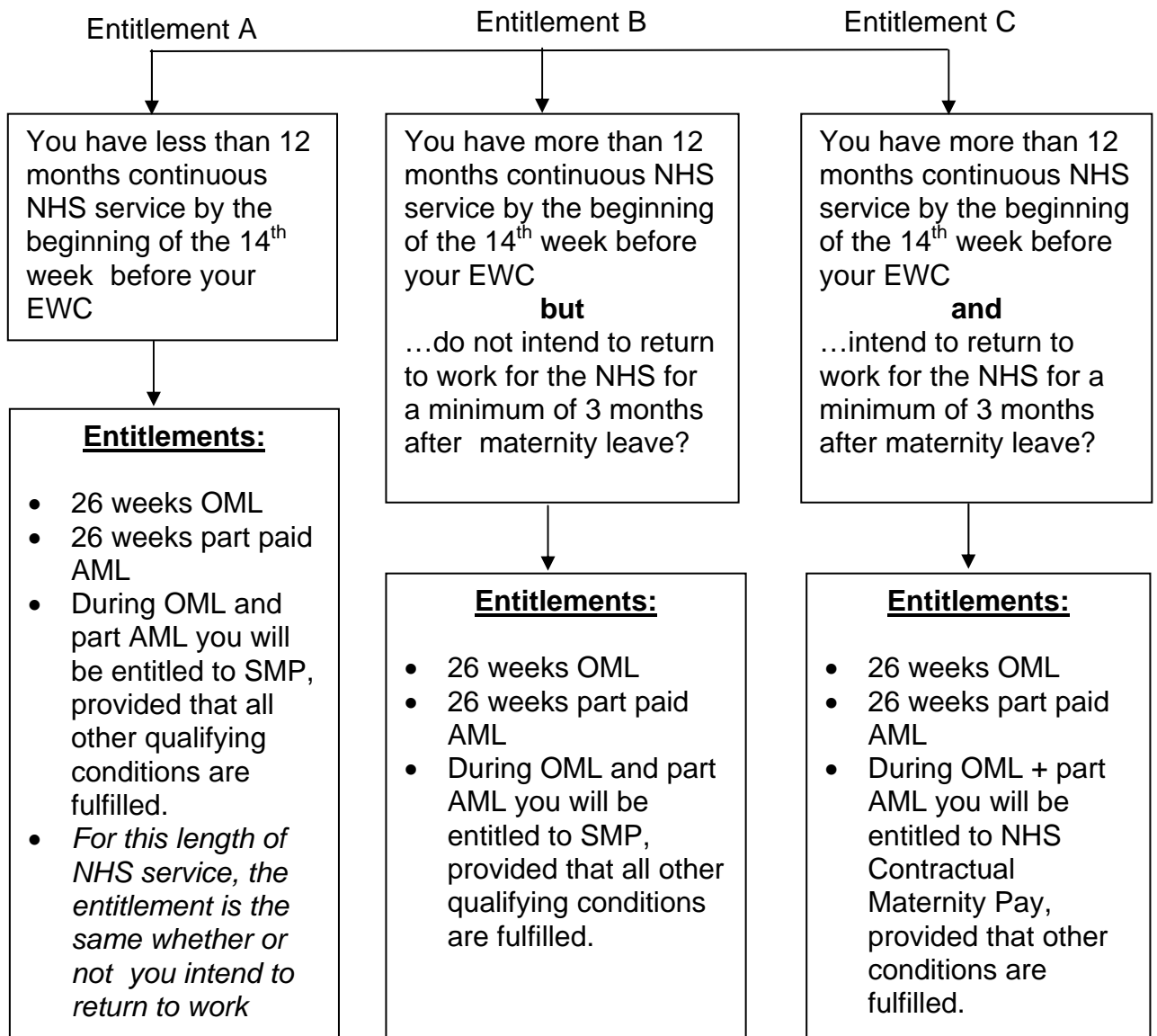
Notification Week = The end of the 15<sup>th</sup> week before the expected week of childbirth

OML = Ordinary Maternity Leave

SMP = Statutory Maternity Pay

Appendix 2

**Maternity Leave and Pay Entitlements Guidance Chart**



**Maternity Leave Notification**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	
<p>(Tick as appropriate).</p> <p><input type="checkbox"/> I wish to inform you that I am pregnant and do not intend to return to work after my maternity leave and will therefore leave the Trust's employment on the last day prior to the commencement of my maternity leave.</p> <p><input type="checkbox"/> I wish to inform you that I am pregnant and it is my intention to return to work for at least 3 months after my maternity leave.</p> <p>I intend to take maternity leave as follows:</p>	
<b>I will be starting my Maternity Leave on:</b>	
<b>My expected date of childbirth is:</b>	
<p>I will forward my MAT B1 form, issued by my doctor/midwife/recognised medical practitioner, confirming the date my baby is due as soon as it is issued to me. (Delete as appropriate)</p>	
<b>Signed:</b>	
<b>Name (Printed):</b>	
<b>Dated:</b>	
<p><b>To qualify for maternity leave, you must return this form to your Line Manager no later than the end of the 15th week prior to your expected week of childbirth. Your maternity leave cannot begin prior to the eleventh week before the expected week of childbirth.</b></p>	
<i>For Line Manager's use only:</i>	
<b>Signature of Line Manager:</b> _____ <b>Date Received:</b> _____	
<i>For the Human Resources Department use only:</i>	
<b>Date received by HR Dept:</b> _____ <b>Meeting arranged for:</b> _____ <b>Date letter issued:</b> _____	

**Change of Maternity Leave Start Date Notification**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	
<b>I previously notified you that I wished to commence my maternity leave on:</b>	
<b>I now wish to vary this date. Instead of commencing my maternity leave on the above date, I would like to start my leave on:</b>	
<b>My expected date of childbirth is:</b>	
<b>Signed:</b>	
<b>Name (Printed):</b>	
<b>Dated:</b>	
Please return to your Line Manager at least 28 days prior to the new date on which you wish your maternity leave to commence.	
<i>For Line Manager's use only:</i>	
<b>Signature of Line Manager:</b> _____	
<b>Date Received:</b> _____	
<i>For the Human Resources Department use only:</i>	
<b>Date received by HR Dept:</b> _____	
<b>Date letter issued:</b> _____	

**Change of Maternity Leave Return Date Notification**

<b>Name of employee:</b>	
<b>Job title:</b>	
<b>NHS Continuous Service Start Date:</b>	
<b>My expected date of return from maternity leave is:</b>	
<b>I now wish to vary this date. Instead of returning from maternity leave on the above date, I would like to return on:</b>	
<b>My expected date of childbirth is:</b>	
<b>Signed:</b>	
<b>Name (Printed):</b>	
<b>Dated:</b>	
Please return to your Line Manager at least 56 days prior to the new date in which you wish to return from maternity leave.	
<i>For Line Manager's use only:</i>	
<b>Signature of Line Manager:</b> _____	
<b>Date Received:</b> _____	
<i>For the Human Resources Department use only:</i>	
<b>Date received by HR Dept:</b> _____	
<b>Date letter issued:</b> _____	



<b>New Or Expectant Mothers RISK ASSESSMENT</b>				<b>Department</b>	
<b>ACTIVITY: New Or Expectant Mothers</b>				<b>Date Of Assessment</b>	
<b>Name:</b>				<b>Locality/ Station</b>	
<p>This assessment is designed for individuals who might be harmed</p> <p style="padding-left: 40px;">An employee:</p> <ul style="list-style-type: none"> <li>- Who Is pregnant</li> <li style="padding-left: 20px;">Who has given birth within the previous six months (i.e. delivered a living child or, after 24 weeks of pregnancy, a still born child)</li> <li>- Who Is breast feeding</li> </ul>					
<b>HAZARDS (INCLUDING INADEQUATE/LACK OF ARRANGEMENTS)</b>	<b>EXISTING CONTROL MEASURES</b>	<b>✓ IF IN PLACE X IF NOT (OR N/A IF NOT APPLICABLE)</b>	<b>IF X STATE THE ACTION TO BE TAKEN WITH TIMESCALES OR INDICATE ANY ADDITIONAL CONTROL MEASURES</b>	<b>RESIDUAL RISK RATING</b> <small>HIGH, MEDIUM, LOW</small>	
<b>PHYSICAL</b>					
<b>MANUAL HANDLING</b>		<p>Are arrangements in place to avoid the need for hazardous manual handling, including reaching up/over stretching? e.g Lifting Patients Emergency evacuation of patients Furniture/equipment/ stationery etc</p>			



<b>EXPOSURE TO SHOCK/VIBRATION, VIOLENCE / UNPREDICTABLE BEHAVIOUR</b> Are arrangements in place to avoid exposure to harm due to: -Physical activity -Assisting patients when using equipment etc -Violence e.g. from physical intervention or restraining -Accidental collisions			
<b>IONISING/NON IONISING RADIATION</b> Has consideration been given to exposure to ionising/non ionising radiation?			
<b>BIOLOGICAL</b> Are arrangements in place for the new or expectant mother to avoid contact with: - Hepatitis B or C? - HIV? - Chicken Pox? - German measles? - Rubella (early stages of pregnancy)? - Chlamydia?			
<b>CHEMICAL AGENTS</b> Has consideration been given to the hazards presented by certain activities? Exposure to mercury, lead or toxic substances? Exposure to any substances with risk			



<b>WORKING CONDITIONS</b> <b>PERSONAL PROTECTIVE EQUIPMENT</b>	Has appropriate personal protective equipment been provided, where necessary?		
<b>OFF SITE VISITS</b>	Has consideration been given to: - Capability of the new or expectant mother to carry out supervisory duties e.g. escort duty on transport? - Avoidance of certain off site visits e.g farms (see also under biological hazards)		
<b>USE OF VDUs</b>	Has the new or expectant mothers' workstation and/or work procedures been adjusted in order to avoid postural problems? N.B Although scientific studies show that there is no harmful exposure to radiation arising from the normal use of VDUs, any concerns should be taken up with the Line Manager		



<b>WORK AT HEIGHT</b>	<b>Is the use of access equipment e.g. use of step ladders, kick steps, avoided as far as is practicable e.g. access to storage/displays?</b>			
<b>STORAGE</b>	<b>Are adequate storage facilities provided?</b>			
<b>RESTING FACILITIES</b>	<b>Has the issue of fatigue been considered? Has the new or expectant mother been provided with suitable seating? Has the new or expectant mother access to adequate rest facilities? Are arrangements in place to avoid exposure to passive smoking? Are arrangements in place to avoid any exposure to extreme heat/cold</b>			
<b>HYGIENE / DRINKING WATER</b>	<b>Are adequate welfare facilities (e.g. toilets etc) available?  Has the new/expectant mother ready access to clean drinking water?</b>			



<b>LONE WORKING including emergency action</b>	<p>Is lone working avoided as far as is practicable?</p> <p>Are suitable arrangements in place for communication in an emergency?</p>		
<b>MENTAL / PHYSICAL / WORK RELATED STRESS</b>	<p>Are arrangements in place to ensure that the hours, volume and pacing of work are not excessive?</p> <p>Are suitable rest breaks provided?</p>		
<b>DRIVING/TRAVELING TO AND FROM WORK</b>	<p>Are suitable arrangements in place for the new or expectant mother to avoid: Travelling to/from work during rush hour traffic?</p> <p>Are any driving tasks avoided where appropriate avoiding any emergency driving? Is night driving avoided where possible? Are sufficient facilities/toilet/water and breaks being provided?</p>		



<b>DRIVING WHILST AT WORK</b>	<p>Are suitable arrangements in place for the new or expectant mother to avoid: Traveling to/from work during rush hour traffic?</p> <p>Are there any driving tasks that need to be avoided e.g. any emergency driving? Is night driving avoided where possible? Are sufficient facilities/toilet/water and breaks available?</p>			
<b>GENERAL</b> Have all female employees been informed of the risks? N.B. It is important that employers identify hazards for ALL FEMALE EMPLOYEES of childbearing age. Where assessments reveal a risk you should inform all female employees of childbearing age about the potential risks if they are, or could be in the future, pregnant. Are there any other foreseeable hazards associated with activities carried out by the new or expectant mother? List any additional control measures				
<b>LINE MANAGER / ASSESSOR:</b>		<b>SIGNATURE:</b>		<b>DATE:</b>
<b>NEW OR EXPECTANT MOTHER:</b>		<b>SIGNATURE:</b>		<b>DATE:</b>



**New Or Expectant Mothers RISK ASSESSMENT**

**Legislation and References**

**NCC Health and Safety Guidance and Information sheets**  
**Employment Rights Act 1996, sex discrimination Act 1975, Equal Pay Act 1970**  
**Management of Health and Safety at Work regulations 1999**  
**Workplace (health, safety and welfare) regulations 1992**  
**Health and Safety (Display screen Equipment) Regulations 1992**  
**Noise at work Regulations 1992**  
**Manual Handling Operations Regulations 1992**  
**Ionising Radiations Regulations 1999**  
**Control of Substances Hazardous to Health Regulations 2002**  
**Control of Lead at Work Regulations 1998**

**Some Health and Safety Executive guidance:**

**5 Steps to risk assessment INDG 163 (rev 1) 1997**  
**COSHH: a brief guide to the regulations INDG 136 (rev1) 1999**  
**Infection risks to new and expectant mothers in the workplace: a guide for employers 1997**  
**Ionising radiation, working safely: guidelines for expectant /breastfeeding mother INDG 334 2001**  
**Manual Handling INDG 14 (rev 1) 2000**  
**Mercury: medical guidance notes MS12 1996**  
**New and expectant mothers at work - a guide for employers HSG 122 2002**  
**Passive smoking at work: INDG 63 (rev 1) 1992**  
**Violence in the Education sector (second edition) 1997**  
**Work related stress INDG 281 (rev 1) 2001**  
**Working alone INDG 73 (rev) 1998**