



## Maternity Policy

effective from May 2007

### 1.0 SCOPE & ELIGIBILITY

This policy applies to all female staff directly employed by LDCVS and it applies irrespective of length of service, grade, role or hours worked. It is effective for any female member of staff for whom their expected week of birth, as specified on their Maternity Certificate (MATB1) is during week commencing 01 January 2006, or later

### 2.0 AIMS

The purpose of this document is to provide a comprehensive understanding of LDCVS's policy regarding Maternity Leave.

### 3.0 POLICY STATEMENT

As part of the commitment to attracting, retaining and motivating its workforce, LDCVS has established a comprehensive maternity benefits package. In this way, the organisation is emphasizing the value it places on its female employees by providing support during one of the most critical phases in their lives.

### 4.0 RESPONSIBILITIES

This section outlines the responsibilities of the employee and employer.

#### 4.1 Employee

- Should notify the Organisation as soon as possible after they are aware of the pregnancy in order for the Organisation to commence Health and Safety procedures. This will be treated in the utmost confidence in all cases.
- Inform the Organisation that they have an appointment to receive ante-natal care on the advice of a registered medical practitioner, midwife or health visitor, in order to have time away from work, on normal pay, to attend the appointment.
- For subsequent ante-natal appointments, employees should be able to provide written evidence of the appointment details, if requested, in the form of either certificate or other written confirmation from a registered medical practitioner, midwife or health visitor stating that you are pregnant, or an appointment card or some other document showing that the appointment has been made. If employees are unable to provide this evidence, the Organisation is not obliged to grant the time away from work with pay.
- Provide the Organisation with a valid MATB1 certificate – Statutory Maternity Pay cannot be paid without this.



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- Notify the Organisation no later than the end of the 15<sup>th</sup> week before the expected week of childbirth of the day they wish their Maternity Leave to start in order to be entitled to at least 26 weeks' Ordinary Maternity Leave
- Notify the Organisation at least 28 days before the date they wish to return to work following their maternity leave, if they wish to return to work early. Returning to work early is when: -
  - An employee is only entitled to Ordinary Maternity Leave, which is up to 26 weeks leave and they wish to return to work before the end of 26 weeks.
  - An employee is entitled to Additional Maternity Leave, which is up to 52 weeks and they wish to return to work before the end of 52 weeks.

NB: An employee must take at least two weeks maternity leave following the birth of their child.

- If an employee does not wish to return to work following their maternity leave, they must provide written notice of their decision to resign in accordance with their contract of employment or collective / site agreement.

### 4.2 Employer

- Once an employee has informed her line manager of her pregnancy, the line manager has a responsibility to ensure that a Risk Assessment and Safe System of Work is carried out as quickly as possible, to ensure a continued safe working environment. This may be carried out by the line manager with advice from a specialist Health and Safety Officer as appropriate.
- Once an employee has officially declared her pregnancy to the Organisation (and this is supported by a "medical document"), subject to qualifying criteria, the line manager is responsible for: -
  - Ensuring that the employee has paid time off work to attend ante-natal appointments.
  - Providing maternity leave.
  - Ensuring that appropriate administrative arrangements are implemented for the Maternity Leave.
  - Recruiting temporary cover for the employee on maternity leave, as appropriate.
  - Review the salary if an annual salary review takes place during the maternity leave and inform the employee of the outcome of the salary review as to whether their salary has been increased.
  - Facilitating the return to work at the end of the maternity leave.

## 5.0 LEGAL OBLIGATIONS

### 5.1 Maternity Leave Entitlement

The information below summarises maternity leave entitlements :-



## Compulsory maternity leave

Two weeks' maternity leave must be taken immediately following the birth of the baby.

### **Employees with less than 26 weeks' service by the end of the 15th week before EWC**

ORDINARY MATERNITY LEAVE (OML) Up to a total of 26 weeks

### **Employees with 26 weeks' or more service by the end of the 15th week before EWC**

ORDINARY MATERNITY LEAVE (OML) plus ADDITIONAL MATERNITY LEAVE (AML) Up to a total of 52 weeks made up of 26 weeks OML and 26 weeks AML

#### **5.1.1 Duration of Maternity Leave**

It is a legal requirement that a minimum of two weeks' maternity leave is taken following the birth of the child.

All employees are entitled to at least 26 weeks' **Ordinary Maternity Leave**, providing they notify the Organisation no later than the end of the 15<sup>th</sup> week before their expected week of childbirth (EWC).

**Additional Maternity Leave** of up to 26 weeks is available for employees who, as at the 15<sup>th</sup> week prior to the EWC:

- have 26 weeks continuous service with the Organisation and
- are still employed at the start of this week

Additional Maternity Leave begins on the day immediately following the day on which the Ordinary Maternity Leave period ends. They are, therefore, entitled to take up to 52 weeks maternity leave in total.

#### **5.1.2 Start date for Maternity Leave**

Employees may choose to start their maternity leave at any time from the start of the 11<sup>th</sup> week before the EWC up to the date the child is actually born (subject to giving notice). For these purposes weeks begin on a Sunday, the calculation is made by counting back from the start of the week in which the child is due. If the child is born before the date the employee has chosen to begin maternity leave, the leave will begin automatically on that date (and maternity pay will commence on the day after the child has been born).

If the employee is absent from work, either wholly or partly due to a pregnancy related illness at any time from the start of the 4<sup>th</sup> week prior to the EWC, the Organisation reserves the right to require the employee to start maternity leave on the first day of the absence.



## 5.2 MATERNITY PAY

### 5.2.1 Statutory Maternity Pay (SMP)

Additional information regarding **rates of maternity pay** are contained within *Appendix A*

In order to qualify for Statutory Maternity Pay, employees must satisfy all of the following conditions:-

- Continuous employment with LDCVS for 26 weeks, ending at the 15<sup>th</sup> week (Qualifying Week) before the Expected Week of Childbirth (EWC). NB the first week need not be a complete week, employment for any part of that week is sufficient.
- Have average weekly earnings of at least the lower earnings limit for National Insurance payment purposes. There are rules defining the calculation of this average over the 8 week period up to and including the last pay day before the end of the 15<sup>th</sup> week before EWC.
- Still be pregnant (or have had the baby) at the 11<sup>th</sup> week before the EWC.
- Ceased work because of pregnancy/childbirth.

Irrespective of the above conditions, employees will not be eligible to receive SMP if:-

- no valid MATB1 Certificate is provided to the Organisation (or provided within a reasonable period of time); or
- late notice or no notice is given of the employee's intention to leave to have her baby (with the exception of premature births).

### Exclusions

SMP only becomes payable when the employee is absent from work on maternity leave. If the employee performs any duties for the Organisation while in receipt of SMP, then she will be automatically disqualified from receiving SMP for that entire week. (Please note, the money will be permanently lost and cannot subsequently be reclaimed). SMP will be reinstated the following week, unless the employee has already reached her full 26 week entitlement.

Maternity pay should cease if, during the maternity pay period, the employee commences work for another employer after the birth of the baby, or is taken into legal custody at any time during the first week of her maternity pay period (MPP).

### 5.2.2 Maternity Pay Period

The period for which SMP is paid (up to 26 weeks) is called the Maternity Pay Period (MPP). It usually commences on a Sunday, any week between the start of the 11<sup>th</sup> week before the EWC, and the Sunday following the date the baby is born. This is with exception in the case of a premature birth or where absence due to a pregnancy related



illness triggers maternity leave; in these cases the MPP begins the day after, respectively, the birth and the first day of sickness absence.

### **5.2.3 Maternity Allowance**

An employee who is not eligible to receive SMP, may be entitled to a Maternity Allowance, paid directly by the State. The Organisation completes a form SMP1 on her behalf and the employee is responsible for submitting this to the Department of Social Security, together with her MATB1 certificate.

## **5.3 Returning to Work**

The employee can decide to return to work early but the first 14 days of her maternity leave after the baby's birth are compulsory, she must not return to work until after this time.

### **5.3.1 Employee's notification of return to work**

If an employee is only entitled to Ordinary Maternity Leave (up to 26 weeks), the Organisation will assume that an employee is returning at the end of 26 weeks unless notified otherwise by the employee.

Equally, if an employee is entitled to Additional Maternity Leave (up to 52 weeks), the Organisation will assume that an employee is returning at the end of 52 weeks unless notified otherwise by the employee.

If an employee wishes to return to work before the end of their maximum period of Maternity Leave entitlement (either 26 or 52 weeks), she must give 28 days notice of the date on which she intends to return. In the event that the employee fails to provide 28 days notice, the Organisation can postpone her return to work until such a date that would provide the full notice period. (However, this cannot be to a date beyond the end of the normal maternity leave period). With the exception of Health and Safety reasons, there are no other circumstances where the Organisation is able to postpone the return from maternity leave.

### **5.3.2 Job on returning to work**

Employees who return to work at the end of 26 weeks Maternity Leave (Ordinary Maternity Leave) have the right to return to the same job on the same terms and conditions held prior to commencing maternity leave.

Employees who return to work at the end of 52 weeks Maternity Leave (Additional Maternity Leave) have the right to return to the same job in which she was employed prior to taking maternity leave. However, if this is not practical, then she should be offered another similar role with no less favourable terms and conditions.

## **5.3 DISMISSAL**

The employee cannot be dismissed from the Organisation by sole reason of her pregnancy, nor should she be treated less favourably because of pregnancy, childbirth or



maternity absence. The treatment of benefits and continuous service during maternity leave are contained in *Appendix B*.

All employees regardless of length of service, or hours of work are protected from dismissal if the principal reason for their dismissal is that:

- They are pregnant or any other reason connected with their pregnancy (such as a pregnancy-related illness).
- Their maternity leave period is ended by the dismissal because they have given birth to a child or any other reason connected with their having given birth to a child
- They are dismissed after taking maternity leave because they took, or availed themselves of the benefits of maternity leave (both ordinary and additional).
- During pregnancy, the employee can no longer carry on her existing work for health and safety reasons.

Dismissal for any of the above reasons will automatically be unfair, and therefore liable to challenge at an Employment Tribunal. However, this does not mean that a pregnant employee or an employee on maternity leave is completely immune from the Organisation's disciplinary policy or from termination of employment due to redundancy for genuine reasons. In any case where this action is necessary, the Line Manager must provide the employee with a written statement of the reason for the decision.

## **5.5 RESIGNATION**

If the employee states in writing, before leaving work to have her baby, that she does not wish to take maternity leave and will not be returning to work following the birth of her baby (therefore, resigning from the Organisation), the date of termination of employment will be the leaving date she has notified to the Organisation.

In this case, providing the employee is still employed after the start of the 15<sup>th</sup> week before the expected week of childbirth and meets all other criteria to qualify for SMP, the Organisation will still pay the Maternity Pay entitlement (see *Appendix A*).

If the employee intends to return to work and, at a later date decides not to return, she should give the Organisation notice of termination required by her contract. The employee would not be required to repay any Maternity Pay entitlement (see *Appendix A*).

## **6.0 OTHER ASSOCIATED POLICIES**

- Parental Leave
- Adoption Leave
- Paternity Leave



## **APPENDIX A: RATES OF MATERNITY PAY**

### **Statutory Maternity Pay**

If, at the end of the Qualifying Week, the employee has at least 26 weeks' continuous service with the Organisation, but less than 52 weeks continuous service, her Maternity Pay will be calculated on the following basis (which is subject to annual review by the Inland Revenue):-

- During the first 6 weeks of the Maternity Pay Period (MPP): 90% of average earnings (with no upper limit). This is calculated over the 8 weeks up to and including the last pay day before the end of the Qualifying Week.
- For the remaining 20 weeks of the MPP: the lesser of the lower rate of SMP (which is £108.85 per week as at January 2007; this rate is set and adjusted annually by the Inland Revenue) or 90% of her average weekly earnings if this is less than the flat rate.

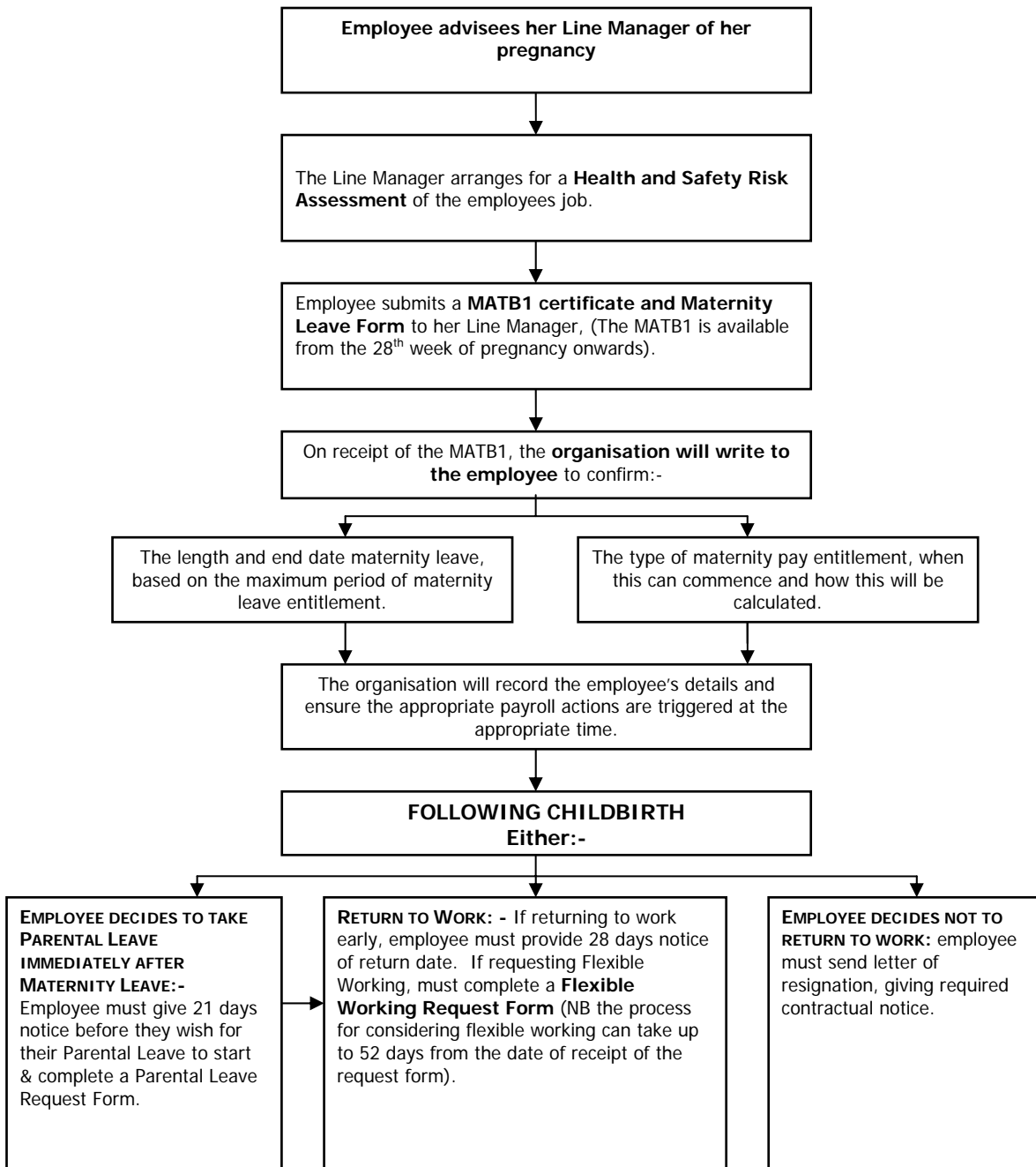
## **APPENDIX B: TREATMENT OF BENEFITS AND CONTINUOUS SERVICE**

Employment benefits are maintained during the maternity leave period, with the exception of salary/wages. In this way, the employee will be able to:-

- Accrue annual leave at the standard rate of accrual as per their contract or collective / site agreement.
- Accrue payment public / bank holidays that occur during their maternity leave, paid at the rate in accordance with their contract.
- Should the employee be absent on maternity leave at the time of her normal annual review date, she will remain eligible to receive a salary review and this will take effect in line with her peer group or department ie no different than if she were present in work.



## APPENDIX C SUMMARY OF MATERNITY LEAVE PROCESS





## APPENDIX D FREQUENTLY ASKED QUESTIONS

### SECTION 1 – MATERNITY LEAVE

#### ***Q1 When can I take my annual leave ?***

You are not entitled to take your annual leave during your Maternity Leave. This must be taken either at the beginning or the end of your Maternity Leave. You may also receive payment for holidays you have not or are unable to take in the holiday year you commence or return from maternity leave. This includes Statutory Bank Holidays. Your Line Manager will advise you.

#### ***Q3 Can the Organisation force me to take Maternity Leave ?***

Yes. You are not permitted to work immediately after giving birth to your child. Employment legislation requires that you take a minimum of two weeks' leave immediately following the birth. Maternity Leave can also be enforced if you absent from work, either wholly or partly due to a pregnancy related illness at any time from the start of the 4<sup>th</sup> week prior to the EWC, in which case the Organisation reserves the right to require the employee to start Maternity Leave on the first day of the absence. In addition, if your baby is born early and before the date that you had planned to start your maternity leave, your Maternity Leave will automatically commence from the day after childbirth.

### SECTION 2 – MATERNITY BENEFIT

#### ***Q4 What if I know I do not wish to return to work, will I still be entitled to SMP***

Yes, providing you are still employed after the start of the 15<sup>th</sup> week before the expected week of childbirth and meet all other criteria to qualify for SMP, the Organisation will still pay the Maternity Pay entitlement (see *Appendix B*) and you will not be required to repay it if you resign during your maternity leave.

#### ***Q5 How will I get paid ?***

You will only receive SMP when you are absent from work, it is a weekly benefit that usually begins on a Sunday and ends on Saturday.

This is usually paid to you in the same way as you are normally paid i.e. on the same day/date and directly into your bank or building society account.

If you have not started your Maternity Leave and your baby is born early, or you are absent from work for a pregnancy related reason 4 weeks before your EWC, then your maternity payments will either begin on the day following the childbirth or the day after the first day of absence from work for a pregnancy related reason.



**Q6 What must I do to be eligible?**

You are entitled to Maternity leave if you have informed your manager at least by the end of the 15<sup>th</sup> week prior to your EWC, (unless this is not reasonably practicable) of:

1. Your pregnancy
2. The expected week of childbirth, confirmed on a MATB1 certificate. This is provided by either your GP, hospital doctor or midwife and is available from the 20<sup>th</sup> week of pregnancy.
3. The date (in writing) of when you intend to start your Maternity Leave.

**Q7 What happens if I do not notify the Organisation ?**

There may be certain circumstances that you are not able to notify the Organisation of your intention to start Maternity Leave, such as having an early birth. In this case your Maternity Leave period will start automatically on the day after the date of birth.

You may find that you are absent from work after the beginning of the 4 weeks' before your EWC. In this case your Maternity Leave period will start automatically on the day after the first day of your absence.

You must notify your manager as soon as reasonably possible. Delaying notifying the Organisation unreasonably may jeopardize your entitlement to maternity pay.

**Q8 What is the earliest date I can start Maternity Leave ?**

You may choose to start your Maternity Leave at any time from the beginning of the 11<sup>th</sup> week before your EWC.

**Q9 What happens if I am sick during my pregnancy ?**

If you are absent through sickness due to a pregnancy-related reason during the 4 weeks before your EWC then the Organisation will automatically start you on your Maternity Leave. (This does not include ante-natal appointments).

Any sicknesses that you may have prior to the 4<sup>th</sup> week of your EWC and that are not related to your pregnancy, will be treated as normal sickness and absence.

**Q10 What happens if I want to change my leave dates after I have notified the Organisation ?**

You may change your date provided that you notify your manager of the new start date by whichever is the earlier of: -

- a 28 days before the date you originally intended to start the leave, or
- b 28 days before the new date you want to start your leave;



Unless this is not reasonably practicable, in which case you must notify your manager as soon as reasonably practicable. The notification must be in writing.

#### **SECTION 4 – RETURNING FROM MATERNITY LEAVE**

***Q11 How will I know when I am due to return to work ?***

Once you have notified the Organisation of your intended start date for Maternity Leave, you will be sent a letter which will confirm the latest date that you can return to work, based on your maximum Maternity Leave entitlement.

***Q12 What happens if I do not wish to take my full entitlement and I want to return to work early?***

You can decide to return to work early but the first 14 days of her maternity leave after the baby's birth are compulsory and you cannot return to work until after this time.

If you wish to return to work before the expiry of your full entitlement then you must give your manager 28 days' notice of your intention. Your Manager has the right to refuse you the right to return until a total of 28 days notice has been given, but this cannot be delayed beyond the end of the normal maternity leave period.

***Q13 What is my entitlement if I leave the Organisation before my baby is due?***

If you leave the Organisation before your Maternity Pay Period has started, but after the 15th week before the EWC, you will still be entitled to maternity pay. In this situation the first week of the Maternity Pay Period will be the week after the week in which you left the Organisation and all maternity pay will be paid as a lump sum to you in your final salary payment.

Additionally, if you leave the Organisation after your baby has been born, but before the end of the Maternity Pay Period, you will remain eligible to receive the remaining amount of your Maternity Pay entitlement and this would be paid as a lump sum to you in your final salary payment.

***Q14 What happens if I am sick at the end of my Maternity Leave ?***

If you are ill following your OML or AML and you are unable to attend work, then you will be treated under the Organisation's normal Sickness and Absence Policy.

#### **SECTION 5 – RIGHTS ON AND AFTER YOUR RETURN TO WORK**

***Q15 What if I do not know whether I want to return to work, will my job be kept open ?***

You do not have to make a decision immediately as to whether you wish to return to work or not. You will have been issued with a letter confirming the maximum



period of your entitlement to Maternity Leave; you will have the whole period of your Maternity Leave to make a decision.

- a. If you wish to return to work after your OML, then you are entitled to return to the same job on the same terms and conditions as if you had not been absent, unless a redundancy situation arises.
- b. If you wish to return to work following AML then you are also entitled to return to the same job on the same terms and conditions as if you had not been absent, unless a redundancy situation arises. If, however, there is some reason other than redundancy why it is not reasonably practicable for you to return to the same position as your original job, then you will be offered a suitable alternative role on terms and conditions no less favourable.
- c. If you decide you do not want to return to work then you must hand your notice of termination in the normal way, as outlined in your terms and conditions of employment.

***Q16 Do I have a right to reduce/increase my hours on return to work ?***

You have the right to return to your job under your original contract and on no less favourable terms and conditions. However, you do have the right to request for flexible working and the Organisation has a duty to consider this request and accommodate wherever possible

***Q17 I do not wish to return to work immediately following Maternity Leave and I do not wish to leave the Organisation, what am I entitled to?***

Although it is not possible to extend your maternity leave beyond the period of leave you are entitled to (OML or AML), if you have completed one years' service with the Organisation, before or during your Maternity Leave you may wish to extend your period of leave by taking Parental Leave immediately after OML or AML, See the Parental Leave Policy for further details.

***Q18 What happens if I fall pregnant again during my Maternity Leave ?***

Then you would be entitled to take full Maternity Leave consecutively without returning to work and you will be entitled to return to your original job, or if this is not practicable, to another one that is similar.



**APPENDIX E: MATERNITY LEAVE FORM**

**PERSONAL DETAILS**

Name:	Employee No:
Job Title:	
Line Manager (Name and Job Title):	

**MATERNITY DETAILS**

My baby is expected to be born during the week of: (date)

Please tick and complete as appropriate:

I would like my maternity leave to commence on: (date)

(Please note that you can change your mind providing you give notice; see *Appendix E* of Maternity Policy, FAQ, Q10)

I do not wish to take any Maternity Leave and intend to resign from the Organisation.

My resignation date will be:

**RETURN TO WORK**

Please tick and complete as appropriate:

I shall be returning to work following the birth of my baby.

My date of return will be:

(Please note, you may change your mind at a later date, providing you give 28 days notice; refer also to section 5.3.1 of the Maternity Leave Policy).

I intend to terminate my employment with LDCVS, therefore will not be returning to work after my baby's birth.

**MATERNITY CERTIFICATE (MATB1)**

Please tick as appropriate:

I enclose my MATB1 Certificate.

I will forward on my MATB1 Certificate at a later date.

My MATB1 Certificate should be returned to me, as I will need it to claim State Maternity Allowance from the DSS.

Signed .....

Date .....