POLICY FOR NEW AND EXPECTANT MOTHERS

BACKGROUND & LEGISLATION

Pregnancy is not an illness and should not be treated as such. However, the stage and progression of pregnancy will have bearing on health and safety. Postural problems can develop and the growing unborn child can restrict blood flow to the mother’s lower limbs.

Dexterity, agility, co-ordination, speed of movement, reach and balance may all be impaired because of the mother’s increasing size. The level of risk will vary between individuals and at different times during a pregnancy. Some prohibitions are in place for new and expectant mothers undertaking certain work processes that may have adverse effects.

THE MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1999 (MHSAWR)

The Management of Health and Safety at Work Regulations 1999 in particular apply to new and expectant mothers.

- **Regulation 16 (1):** where a woman of childbearing age is carrying out work that could involve a risk to the health and safety of a new or expectant mother and/or the baby, the risk assessment should take account of such risks.

- **Regulation 16 (2):** in the case of an individual employee, where the risks cannot be avoided, the employer must alter the employees working conditions or hours of work, if this will avoid the risks. This may include offering suitable alternative employment.

- **Regulation 16 (3):** if it is not reasonable to alter the working conditions or hours of work, or if it would not avoid the risk, the employer should suspend the employee from work for so long as is necessary to avoid the risk.

- **Regulation 17:** where a new or expectant mother works at night and a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for her health and safety that she should not be at work for any period, the employer must find suitable alternative work or suspend her from work for so long as is necessary.

- **Regulation 18 (1):** employers are not required to take the actions under regulation 16 until the employee has notified the employer in writing that she is pregnant, or has given birth within the previous six months or is breastfeeding.
• **Regulation 18 (2):** the employer may request, in writing, a certificate from a registered medical practitioner or registered midwife confirming the pregnancy. If within a reasonable period of time the employee has not produced the certificate, the employer is not required to continue with the requirements detailed above.

Other relevant legislative requirements which apply to new and expectant mothers are:

**THE WORKPLACE (HEALTH, SAFETY AND WELFARE) REGULATIONS 1992**

• Regulation 25 of the Workplace (Health, Safety and Welfare) Regulations 1992, suitable rest facilities shall be provided for any person at work who is a pregnant woman or nursing mother.

**THE MATERNITY AND PARENTAL LEAVE REGULATIONS 1999**

• Under the Maternity and Parental Leave Regulations 1999, a woman shall not be permitted to work by her employer during the two week period beginning with the date of her confinement. (See also The Public Health Act 1936 below)

**THE EMPLOYMENT RIGHTS ACT 1996**

• Under the Employment Rights Act 1996, an employer may offer work that is suitable and appropriate to avoid a risk. Terms and conditions must be no less favourable than the employee's normal terms and conditions. An employer can suspend an employee on maternity grounds (on full pay) under any recommendation in any relevant provisions of a Code of Practice issued or approved under the Health and Safety at Work, etc Act 1974.

**THE CONTROL OF LEAD AT WORK REGULATIONS 2002**

• Under Regulation 10 of the Control of Lead at Work Regulations 2002, if an employee’s blood–lead concentration equals or exceeds the appropriate action level, the employer must determine the reasons why and take measures, so far as is reasonably practicable, to reduce those levels to below the action level. For women of reproductive capacity, the action level is 25µg/d1.

**THE IONISING RADIATIONS REGULATIONS 1999**

• Regulation 8 of the Ionising Radiations Regulations 1999 requires that the conditions of exposure to ionising radiation for pregnant employees must, after the employer has been notified of the pregnancy, be such that the foetus is unlikely to be exposed to an equivalent dose of more than 1M 5V during the remainder of the pregnancy.

**THE PUBLIC HEALTH ACT 1936**

• The Public Health Act 1936 prohibits factory owners from employing a woman within four weeks of her having given birth.
DEFINITIONS

The term “new or expectant mother” means an employee who is pregnant, who has given birth within the previous six months, or who is breastfeeding. “Given birth” is defined in the Management of Health and Safety at Work Regulations 1999 as having “delivered a living child or, after 24 weeks of pregnancy, a stillborn child”.

There is no time limit on the period of breastfeeding, this will be for the mother herself to decide.

RISK ASSESSMENT

It is recommended in the relevant HSE Guidance, that an initial risk assessment should be undertaken, taking into account any hazards and risks to females of childbearing age. Risks should be reduced or removed if possible.

A more specific assessment should be carried out when the employer is notified by an employee of pregnancy. This should be based on the outcome of the initial risk assessment and any medical advice received on the health of the employee.

The assessment should be reviewed periodically. The frequency of the review will be dependent upon many factors. Any change in the work process or activity, use of new equipment or machinery, introduction of new workstations, the presence and use of different physical, chemical or biological agents and working conditions (summer versus winter working) will require a reappraisal and review.

HAZARDS

When performing the risk assessment, a number of hazards may have to be taken into account.

These can be summarised as:

- Physical agents, eg shock, vibration and manual handling of loads, noise, ionising and non-ionising radiation, temperature extremes, postures and movements that cause mental and physical fatigue, and hyperbaric (high pressure) atmospheres.

- Biological agents, eg. bacteria, viruses and other micro-organisms known to cause adverse human health effects, especially those known to cause abortion or physical/neurological damage.

- Chemical agents, eg. mercury, lead, substances absorbed through the skin, cytotoxic drugs, carbon monoxide and chemicals labelled with the following risk phrases: R40, R45, R46, R49, R61, R63, R64 and R68.

- Working conditions, eg. poor welfare facilities, working hours, shift work, stress, passive smoking, work with display screen equipment, lone working (which would for example, be undesirable in the later stages of pregnancy) working at height, travelling and violence.
ACTIONS

If the risk is seen to be greater than the level of risk expected outside the workplace and cannot be removed, then the following steps should be taken.

Action 1

Temporarily adjust working conditions and/or hours of work. If not reasonable to do this or if the risk will not be avoided, go to action 2.

Action 2

Offer suitable alternative work if available. If this is not feasible, go to action 3.

Action 3

Suspend the individual from work on paid leave for as long as is necessary to protect the employee and the child.
NOTIFICATION

Until the employee provides written notification of pregnancy, having given birth in the last six months or that she is breastfeeding, Lews Castle College are not obliged to take any other action than those resulting from the risk assessment for all employees.

It is therefore important that the employee provides written notification from a GP or midwife as early as possible to enable the employer to take appropriate action.

Notification should be given to the Head of Department and the Finance Office at Lews Castle College.

The Stage 1 and Stage 2 Flowchart provides an outline of the action the employer must take prior to and after notification has been given.

RECORDING THE RISK ASSESSMENT

The findings of the risk assessments for new and expectant mothers should be recorded using the Lews Castle Form “Risk Assessment – New and Expectant Mothers”.