



Maternity leave and pay

There should be a recognised procedure from your employer in dealing with Maternity leave and Pay.

The procedure should normally be referred to in your contract of employment or staff handbook. You must read your employer's procedure where it is available.

Below we have outlined your rights and responsibilities and those of your employer when you are pregnant or have recently given birth. These rights and obligations do not apply if you are an agency worker or a self-employed consultant.

There are four categories of maternity rights:

- time off for antenatal care
- maternity leave
- maternity benefit (statutory maternity pay (SMP) or maternity allowance)
- protection against unfair treatment or dismissal

Antenatal care

You may take time off for antenatal care and this is paid at your normal rate of pay. You must notify your employer as to the dates and times of your antenatal appointments, showing your appointment cards.

Maternity leave

All pregnant employees are entitled to both 26 weeks ordinary maternity leave (OML) and 26 weeks additional maternity leave (AML) if they wish, irrespective of their length of service. There is a period of compulsory maternity leave of two weeks following the birth of your child in which you may not return to work.

In order to qualify for maternity leave you must notify your employer of the following information, no later than the end of the 15th week before your expected week of childbirth (EWC):

- that you are pregnant
- when your EWC will be (show them your MatB1 Form)
- the date you want your ordinary maternity leave to start

You may start your ordinary maternity leave no earlier than the beginning of the 11th week before the EWC.

Upon receipt of this notification your employer should confirm in writing the start and finish dates of your OML and AML. Such confirmation will be provided within 28 days of the date of receipt of notification from you.

Once you have notified your employer of the date that you intend your ordinary maternity leave to start you may subsequently vary that date provided you notify your employer of the variation at least 28 days before the date varied or 28 days before the new date, whichever is earlier.

Changes to start date

Absence due to childbirth before the intended start date

If you give birth before your maternity leave start date; your leave will start automatically on the day which follows the day on which the childbirth occurs. You must inform your employer as soon as reasonably practicable.

Absence for a pregnancy-related reason before the intended start date

If you are absent from work due to illness which is pregnancy-related, your maternity leave period will start automatically on the day which follows the first day of absence after the beginning of the fourth week before the EWC.

Absence due to illness not related to pregnancy before the intended start date

If you are absent from work due to illness which is not pregnancy related, you may remain on sick leave up to the date of the baby's birth, or until the date that your maternity leave was due to start, whichever is earlier.

Dismissal or resignation before the intended start date

If you resign or are dismissed before the date notified, or before you have notified a start date, in respect of ordinary maternity leave you will lose your right to maternity leave. You may still be entitled to SMP.

Dismissal during ordinary or additional maternity leave

If you are dismissed after the commencement of an ordinary or additional maternity leave period but before that period would end, the period ends at the time of the dismissal. You may still be entitled to SMP.

Terms and conditions during maternity leave

Your contract of employment will continue throughout your maternity leave with the exception of your remuneration. You should continue to receive all your contractual benefits such as holiday accrual, car allowance, and professional subscriptions.

Holidays will accrue during your maternity leave and normally must be taken in the current holiday year.

You are not normally entitled to participate in any other business during your maternity leave and must continue to observe the relevant terms and conditions of your contract of employment, including, in particular, those relating to confidentiality.

Communication during maternity leave

Your employer must maintain communication with you if you are on maternity leave and your employer should agree with you, before you start your maternity leave, how much contact you wish to have

with your employer whilst you are on maternity leave.

You should keep in touch with your employer during your maternity leave and to respond promptly to all their correspondence, such as any request for confirmation of your baby's birth date and your intentions regarding your return to work.

Additional maternity leave

You are entitled to AML if you are entitled to OML. Additional maternity leave commences on the day after the last day of your ordinary maternity leave period for 26 weeks. The maximum amount of maternity leave you may take is therefore 52 weeks.

Keeping in Touch days

You may work for your employer during your maternity leave for up to ten days without affecting your entitlement to SMP and these are known as keeping in touch or KIT days. Any work done under your contract on any day will count as a whole KIT day.

Therefore if you attend work for one hour for a training session you will have used one of your KIT days. There will be no restrictions on when KIT days can be used for although the maternity leave regulations still prohibit you from working for two weeks after child birth.

As KIT days are worked by agreement an amount can be agreed in excess of SMP rate to reflect any additional work done. It is therefore very important that both you and your employer are clear how contractual payment for KIT days will work and how much you will receive in respect of that week before you work.

Returning to work after maternity leave

If you have not been in touch to notify your return to work date, your employer must write to you 8 weeks before the end of your AML. You should be asked to confirm the date of birth and your return to work date.

If you wish to change your return date to an earlier date you must give your employer at least eight weeks notice. If you wish to change the date of your early return from maternity leave to a later date, you must give at least eight weeks notice ending with the original date of your early return. If not, your employer may postpone your return by up to eight weeks but not beyond the end of AML.

If you return to work at the end of your OML you are entitled to return to the same job on the same terms and conditions. If you return to work at the end of your AML you are entitled to return to the same job on the same terms and conditions or, if this is not reasonably practicable, to another job which is both suitable and appropriate for you to do in the circumstances, and all terms and conditions will be the same, or no less favourable than your previous job.

If you do not wish to return to your full contractual hours, you must discuss the matter with your employer at least eight weeks before your return to work date. Your employer should endeavour to accommodate your request for part-time flexible working subject to business requirements.

If you cannot return to work at the end of your maternity leave due to sickness, your employer's sickness absence policy should apply.

Maternity pay

SMP is paid whether or not you intend to return to work. SMP is payable only when you are absent from work.

You are entitled to a maximum of 39 consecutive weeks' SMP if you have worked for your employer for a continuous period of at least 26 weeks ending with the qualifying week i.e. the week immediately before the 14th week before the EWC and you satisfy the lower earnings limit for National Insurance contributions in the eight weeks up to and including the qualifying week. Your employer should be able to advise you if you are eligible for SMP or not.

You must give us at least 28 days notice of the date from which you expect to be paid SMP.

The first six weeks of SMP are paid at 90% of your average weekly earnings for the period of eight weeks immediately before the 14th week before the EWC (the 'earnings related rate'). The remaining 33 weeks are paid at whichever is the lower of the earnings related rate or the SMP flat rate. Your employer should advise you of the current SMP flat rate, as this increases each year.

Maternity allowance

If you are not entitled to SMP you may be entitled to claim up to 39 weeks Maternity Allowance (MA) from the Benefits Agency based on your recent National Insurance record. You should contact your local Benefits Agency for further details.

If you are not entitled to either SMP or MA, you may be able to claim Income Support from the Benefits Agency. This is based on different NI contribution criteria. Again, you should contact your local Benefits Agency for further details.

Grievance procedure

You must not be unfairly treated on grounds of pregnancy or maternity. Any concerns you may have must be treated seriously and sensitively if you approach your employer. Your employers must not tolerate discrimination or harassment of any staff member concerning pregnancy or maternity issues.

Any grievance with regard to your pregnancy or maternity leave should be made through your employer's grievance procedure.

Health and safety

Your employers have to take reasonably practicable measures to protect your health and safety at work. If you have any concerns about health and safety you must raise these with your employer so that the situation can be resolved immediately.

If you require further information, please contact the Employment Team on **03700 86 86 86**.