**Maternity Leave and Pay Policy and Procedure**

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# Introduction

## Policy statement

The organisation recognises its responsibility to support its employees in meeting their responsibilities to their families. The purpose of this document is to set out the maternity leave and pay provisions that employees may be entitled to.

The organisation recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the organisation's policy to encourage open discussion with employees to ensure that questions and concerns can be resolved as quickly as possible.

As the maternity provisions are complex, if an employee becomes pregnant, she should clarify the relevant procedures with the practice manager to ensure that they are followed correctly.

The organisation operates [the statutory and/or occupational or company] maternity policy and provisions, relating to maternity pay, maternity leave and time-off for antenatal care.

## Status

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the Equality Act 2010. Consideration has been given to the impact this policy might have in respect to the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment.

## Training and support

The organisation will provide guidance and support to help those to whom it applies understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

# Scope

## Who it applies to

This document applies to employees (not workers) of the organisation, that is, those who are employed under a contract of employment.

## Why and how it applies to them

All pregnant female employees are entitled to maternity leave. However, provisions for maternity pay will differ depending on length of service and other eligibility criteria.

[Salaried GPs may be entitled to different maternity leave and pay provisions depending on their specific terms and conditions of employment – reference should be made to such variations here.]

# Definition of terms

## Compulsory Leave

The period of two weeks immediately after giving birth during which the woman is not permitted to work.

## Statutory Maternity Leave (SML)

The 52 weeks’ leave that a woman may take. (Note: there is no qualifying period for the 52 weeks’ leave but there is a qualifying period for Statutory Maternity Pay.)

## Shared Parental Leave (SPL)

The term for shared maternity and paternity leave available to either parent and/or their partner (see separate policy on Shared Parental Leave).

## Statutory Maternity Pay (SMP)

The money paid to the woman in lieu of normal salary, given she qualifies for it, up to a period of 39 weeks.

## Maternity Pay Period (MPP)

The period of 39 weeks which SMP can be paid up to.

## Expected Week of Childbirth (EWC)

This means the week, starting on a Sunday, during which the woman’s doctor or midwife expects her to give birth.

## Qualifying Week

This means the 15th week before the expected week of childbirth.

# Guidance and requirements for maternity leave and pay

## Maternity leave

All pregnant employees (regardless of length of service) have the right in law to take up to 26 weeks' ordinary maternity leave and up to a further 26 weeks’ additional maternity leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks’ SML. Additional maternity leave follows on immediately from the end of the period of ordinary maternity leave.

All employees who take SML have the right to return to work at any time during either ordinary maternity leave or additional maternity leave (except during the first two weeks from the day of childbirth), subject to them following the correct notification procedures as set out below.

## Occupational or company maternity pay scheme

[Insert details of the organisation’s own maternity pay scheme if you have one]

## Statutory maternity pay

Employees who have been continuously employed by the organisation for at least 26 weeks at the end of their qualifying week, and are still employed during that week, will also qualify for SMP, providing that:

* They are still pregnant 11 weeks before the start of the EWC (or have already given birth)
* They have provided a MAT B1 form stating their EWC
* And their average weekly earnings are not less than the lower earnings limit for national insurance contributions

SMP is payable for up to 39 weeks, with the first six weeks payable at 90% of the employee's average weekly earnings. The remaining 33 weeks are payable at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. It is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Payment of SMP cannot be requested to start prior to the 11th week before the employee's EWC (unless the baby is born earlier than this date, in which case it will start earlier). It can start from any day of the week in accordance with the date the employee starts her maternity leave.

The MPP and maternity leave is triggered automatically if the employee is absent from work wholly or partly because of pregnancy, or pregnancy-related illness, after the beginning of the 4th week before the EWC. If this happens, the MPP will begin the day following the day the employee is first absent from work.

SMP is payable whether or not the employee intends to return to work after her maternity leave.

## Maternity allowance

Employees who are not entitled to SMP [or occupational/company (if applicable)] may be entitled to receive maternity allowance payable directly by the Government. If an employee is not entitled to SMP, the organisation will provide the employee with an SMP1 form, within 7 days of making the decision, to allow her to pursue a claim for maternity allowance.

## Timing of maternity leave

Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's EWC (unless the baby is born earlier than this date, in which case it will start earlier).

Maternity leave will start on whichever date is the earlier of:

* The employee's chosen start date
* The day after the employee gives birth; or
* The day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the EWC

If the employee gives birth before her maternity leave was due to start, she must notify the organisation in writing of the date of the birth as soon as reasonably practicable.

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child.

## Notice requirements

On becoming pregnant, an employee should notify her line manager/practice manager as soon as possible. This is important as there are health and safety considerations for the organisation.

By the end of the qualifying week, or ideally before this, the employee is required to inform the organisation in writing of:

* The fact that she is pregnant
* Her expected week of childbirth
* The date on which she intends to start her maternity leave

The employee is required to give at least 28 days' notice of the date that she wants her SMP to begin. If it is not possible for the employee to give 28 days' notice, for example if the baby arrives early, she should tell the organisation as soon as reasonably practicable.

In order to get SMP the employee must also provide proof that they are pregnant by way of a MAT B1 form, which is a certificate from a doctor or midwife confirming the EWC. The form must have either the doctor's name and address or the midwife's name and registration number on it.

The employee is permitted to bring forward her maternity leave start date, provided that she advises the organisation in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises the organisation in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The organisation will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the start date and date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

The organisation will formally respond in writing to the employee’s notification of her SMP plans within 28 days, confirming how much SMP she will receive and the start and end payment dates. Of course, if practicable, these responses will be dealt with under one combined communication.

## Time off for antenatal care

Once an employee has advised the organisation that she is pregnant, she will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

If an employee has not advised the organisation that she is pregnant yet and we do not know it is an antenatal appointment, the organisation will treat the time off as any other medical appointment, for example to go to the doctor or dentist.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations.

The employee should endeavour to give the organisation as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

## Health and safety for pregnant women

The organisation has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment at regular intervals to assess the workplace risks to women who are pregnant, have recently given birth or who are breastfeeding where the work is of a kind that could involve a risk of harm or danger to her health and safety, or the health and safety of her baby.

## Sickness absence during pregnancy

If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory [or contractual] sick pay in the same manner as she would during any other sickness absence, provided that she has not yet begun ordinary maternity leave.

If, however, the employee is absent from work wholly or partly because of pregnancy, or pregnancy-related illness, after the beginning of the 4th week before the EWC, her MPP and maternity leave is triggered automatically. The MPP will begin the day following the day the employee is first absent from work. In such instances, the employee must notify the organisation in writing as soon as reasonably practicable.

## Rights during maternity leave

During ordinary maternity leave and additional maternity leave, all terms and conditions of the employee's contract except normal pay will continue. Salary/wages will be replaced by SMP [or occupational/company], if the employee is eligible for it.

This means that, while sums payable by way of salary/wages will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue and pension contributions will continue to be paid [(unless the employee chooses to opt out / The employee will remain in the life assurance and private medical insurance schemes)].

Employees are encouraged to take any outstanding holiday due to them before the commencement of maternity leave and further accrued holiday in the year it is accrued where possible.

## Contact during maternity leave

The organisation encourages employees to keep in touch with the organisation during maternity leave and reserves the right to maintain reasonable contact with employees during maternity leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work, or to update them on developments at work during their absence.

## Keeping in touch (KIT) days

Employees can agree to work for the organisation (or to attend training) for up to ten days during their maternity leave without that work bringing their maternity leave to an end and without loss of a week's SMP. These are known as "keeping-in-touch" days.

There is no obligation on an employer to offer KIT days, or for an employee to agree to them – they are optional but can be very helpful for both parties. Any work carried out on a day (or part of a day) shall constitute a day's work for these purposes and be deducted as full days from the ten KIT days.

If an employee works more than ten KIT days then their maternity leave and pay will automatically come to an end.

## Returning to work after maternity leave

The employee may return to work at any time during ordinary maternity leave or additional maternity leave, apart from the first two weeks, if she gives the appropriate notification. Alternatively, the employee may take her full period of SML entitlement and return to work at the end of this period.

The organisation will assume that the employee will take all 52 weeks of the SML entitlement unless we are notified to the contrary.

If the employee wishes to return before the full period of maternity leave has elapsed, she must give at least eight weeks' notice in writing to the organisation of the date on which she intends to return.

The employee has the right to resume working in the same job if returning to work from ordinary maternity leave. If the employee returns to work after a period of additional maternity leave, she is entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

If the employee wants to amend their hours or duties on their return from maternity leave, they have the right to make a flexible working request (see separate policy on Flexible Working).

Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the maternity leave period.

If the employee decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to the organisation as soon as possible and in accordance with the terms of her contract of employment.

## Becoming pregnant whilst on maternity leave

If an employee becomes pregnant again whilst on maternity leave, she will be entitled to another 52-week period of statutory maternity leave without having to return to work for a particular period (depending on when the second baby is due and whether or not the employee takes a further period of another kind of leave after the first maternity leave).

Depending on when the second baby is due and whether or not the employee takes a further period of another kind of leave after the first maternity leave, this could mean the employee returns to work only for a short period of time before starting their second period of maternity leave, or they might not have to return to work at all.

The employee will not necessarily be entitled to SMP [or occupational/company (if applicable)] during the second period of maternity leave. This is because to qualify for SMP the employee’s average weekly earnings during the eight weeks up to and including the qualifying week must not be less than the lower earnings limit for national insurance contributions. If the employee does not return to work (or does not return for very long) between maternity leave periods they may not earn enough to qualify for SMP for the second period of maternity leave.

Employees who do not qualify may be entitled to receive maternity allowance payable directly by the Government.

All the same rights apply as during the first pregnancy including the rules on giving notice and starting leave as laid out in this policy.

## Shared parental leave

An employee may curtail part of her SML to enable her partner to take Shared Parental Leave (SPL). Please note that the compulsory leave element cannot be shared. However, the remaining maternity leave can be shared between the mother and her partner thereby reducing the amount of leave the mother can take.

Please see the Shared Parental Leave policy for eligibility criteria and guidance.