

MATERNITY/PATERNITY/ADOPTION LEAVE POLICY

MATERNITY LEAVE

For woman whose expected week of childbirth (EWC) begins on or after 6th April 2003.

All pregnant employees are entitled to 26 weeks “**ordinary maternity leave**” (OML).

Woman who have completed 26 weeks continuous service with their employer by the 15th week before their EWC will be able to take **additional maternity leave** (AML).

Additional maternity leave will start immediately after ordinary maternity leave and continue for a further 26 weeks

The total amount of maternity leave which can be taken by those with the requisite qualifying period is 52 weeks.

Ordinary Maternity Leave (OML)

An employee cannot start her OML period prior to the 11th week before the expected week of child birth (EWC), unless the baby is born before the 11th week: and the OML period cannot start later than the date of the birth of the baby.

Sickness Trigger

A woman’s maternity leave will start automatically if she is absent from work for a pregnancy related illness during the four weeks before the start of EWC, regardless of when she has notified the employer of when her maternity leave is to start.

OML will automatically begin when childbirth occurs before the date the employee has notified, or before she has notified a date. The employee must in any event notify her employer as soon as is reasonably practicable of the date of the birth.

While the employee is on OML she will not be paid (she will however receive statutory maternity pay), although she will continue to receive the benefit of all the other terms and conditions of her employment including contractual and non contractual benefits such as i.e. private medical insurance, company car, subsidised loan, and bonuses.

Throughout the period while the employee is on OML she will continue to accrue her statutory and contractual holiday entitlement.

Throughout the period while the employee is on OML she continues to be bound by the implied duties and obligations arising out of her employment, i.e. the implied duty of good faith.

The employee does not have to give her employer notice of her intention to return to work at the end of the 26 week OML period. The presumption is that the employee

intends to return to work in any event. The employee must return to work at the beginning of the 27th week (unless she is opting for entitlement to AML).

If the employee wishes to return to work before the end of the OML period she must give her employer at least 28 days notice of the date on which she intends to return. Failure to provide at least 28 days notice means that her employer can postpone her return to work for such period as to ensure that there is 28 days notice, however such extension cannot increase the OML period beyond 26 weeks.

The employee returning to work following the OML period will return to the same job in which she had been previously employed wherever practical with the same level of seniority, pension right and other rights as had been accrued previously.

The OML period counts towards the employee's period of continuous employment of both statutory and contractual rights.

No employee is permitted to return to work for a two week period following the date of childbirth.

Commencement of OML Period

The pregnant employee is required to notify her employer of her intention to take maternity leave by the 15th week before her EWC, unless this is not reasonably practicable. She should notify her employer of :

1. Her Pregnancy
2. The expected week of child birth (EWC)
3. The date on which she intends to start her OML period. This part of the notice must be in writing if the employer requests it
4. Additionally if the employer requests that the employee provide him with a certificate from a registered medical practitioner or registered midwife stating the EWC then she must do so.

If the employee wishes to change her mind about when she wishes her ordinary maternity leave to commence she must give her employer at least 28 days notice in advance of the changes, unless this is not reasonably practicable in which case she must inform her employer of the changes as soon as is reasonably practicable.

The employer will respond to the employee's notification of her leave plans within 28 days. The employer will write to the employee setting out the date she is expected to return to work if she takes her full entitlement to maternity leave

Additional Maternity Leave (AML)

For an employee who is eligible to take AML the period will run from the day after the final day of OML for a further 26 weeks beginning from the end of the OML.

The employee should inform the employer at the time of giving details for the OML that she intends to take AML.

While the employee is on AML she will not be paid, and she will not receive the benefit of any other terms and conditions of her employment. Therefore if the employee has a company car and had kept it during the OML period the employer can ask her to return it once the AML period begins.

During the AML period the employee continues to be bound by the implied obligation of mutual trust and confidence she has with her employer and all terms and conditions of her employment relating to :

1. Termination of employment
2. Redundancy
3. Disciplinary and Grievance procedures

During the AML period the employee continues to be bound by the implied obligation she owes to her employer in terms of good faith and any terms and conditions of her employment relating to her :

1. Notice of termination of employment
2. Disclosure of confidential information
3. Acceptance of gifts and benefits
4. Non competition

The employee does not have to give any notice to her employer of her intention to return to employment at the end of the AML period.

If the employee intends to return to work before the end of the AML period she must give her employer at least 28 days notice of the date on which she intends to return. If she fails to do so the employer is entitled to postpone her return to work for a period until a date is reached that will ensure that the employer is provided with 28 days notice.

When the employee returns to work at the end of her AML period she will return to the same job for which she was employed before her absence:

1. On no less favourable terms and conditions as to remuneration and those which would have been applicable had she not been absent.

2. With the seniority, pension and similar rights preserved as they would have been if the period of employment prior to the AML were continuous with her employment following the return to work.
3. On no other less favourable terms and conditions would have been applicable had she not been absent after OML.

Therefore for example if the employees of her grade receive a pay rise during her maternity leave she will be entitled to this higher rate of pay on her return. However, the AML period will not count towards service related contractual benefits, but will be counted for the purpose of statutory rights that depend on the length of service.

Should it not be reasonably practical for a reason other than redundancy for the employer to let the employee return to the job in which she was employed before her AML, the employer will allow her to return to another job which is both suitable for her and appropriate for her to do in the circumstances.

Sickness at the end of OML or AML

When an employee is unable to return to work at the end of her maternity leave then the normal contractual arrangements for sickness will apply.

Suspension from work on maternity grounds

If a pregnant employee cannot safely continue with her existing job then the employer will offer her suitable alternative employment on the same terms and conditions if he has such work available before suspending her. If an employee is suspended on maternity ground then she will be paid.

Maternity Pay

An employee who is entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) and whose EWC begins on or after 6th April 2003 will receive SMP or MA for 26 weeks. Employees who are entitled to SMP or MA and whose EWC begins on or after 6th April 2003 but who gives birth prematurely, will still be entitled to receive SMP or MA for 26 weeks.

To qualify so SMP an employee must have worked continuously for at least 26 weeks ending with the qualifying week, ie the fifteenth week before the expected week of childbirth (EWC).

Women with less than the qualifying weeks employment may be entitled to Maternity Allowance payable by the Benefits Agency.

SMP is paid for a maximum of 26 weeks which can start at the beginning of the 11th week before the EWC.

From 6th April 2005 SMP is paid as follows:

1. SMP from the employer will be calculated as 90% of the employees salary for the first 6 weeks and thereafter for a further 20 weeks at £106 per week (or 90% of earnings for full 26 weeks if this is less than £106) or Maternity Allowance from their local job centre/social security office worth £106 for 26 weeks (or 90% of their earning for the full 26 weeks if this is less than £106 per week).

Employees are not entitled to statutory benefits or pay for the AML.

Time off for antenatal care

A pregnant employee who needs to attend antenatal appointments during working hours will not be unreasonably refused time off for this and will be paid for the period of her absence.

PATERNITY LEAVE & PAY

Employee's children who are expected to be born on or after 6th April 2003 will be able to take paternity leave and pay. If children are born earlier than expected they will also be able to take paternity leave and pay.

Eligibility

In order for the employee to be eligible to take paternity leave and pay the following conditions apply in order to qualify for maternity leave. You must:

- a) have or expect to have responsibility for the child's upbringing
- b) be the biological father of the child or the mother's husband or partner
- c) have worked continuously for the employer for 26 weeks leading into the 15th week before the baby is due. The employer may ask the employee to provide a self-certificate as evidence that they meet these eligibility conditions.

Length of Paternity Leave

Eligible employees will be entitled to choose to take either one week or two consecutive weeks paternity leave (but not odd days)

The employee may choose to start their paternity leave

- a) from the date of the child's birth (whether this is earlier or later than expected)
or
- b) from a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected)
or
- c) from a chosen date

Leave can start on any day of the week on or following the child's birth but must be completed:

- a) within 56 days of the actual date of birth of the child or if the child is born early within the period from the actual date of birth up to 56 days after the expected week of birth.

Only one period of leave will be available to employees irrespective of whether one or more child is born as a result of the same pregnancy.

Statutory Paternity Pay

The employee will be entitled to statutory paternity pay for either one or two consecutive weeks as the employee has chosen. The rate of statutory paternity pay will be the same as the standard rate of statutory maternity pay, from April 2003 this will be £106 per week or 90% of average weekly earnings if this is less than £106.

Notice of intention take Paternity Leave

Employees are required to inform their employers of their intention to take Paternity Leave by the 15th week before the baby is expected, unless this is not reasonably practicable.

Employees will need to inform employers in writing:

- a) the week the baby is due
- b) whether they wish to take one or two weeks leave and
- c) when they want their leave to start.

Employees who wish to change their mind about the date on which they want their leave to start must give the employer at least 28 days notice in advance (unless this is not reasonably practical). Employees will have to tell the employer the date they expect any payment of SPP to start at least 28 days in advance, unless this is not reasonable practical

Health Certificate

Employees will have to give their employer a completed self-certificate as evidence of their entitlement to SPP.

Contractual Benefits

Employees will be entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary throughout their paternity leave.

Return to work after Paternity Leave

Employees will be entitled to return to the same job following Paternity Leave.

ADOPTION LEAVE

Both paid adoption leave and paid paternity leave will be available to employees where an approved adoption agency notifies the adopter of a match with a child on or before 6th April 2003. This will also be available where an approved adoption agency notifies the adopter of a match with the child before 6th April 2003 but the child is placed on or after 6th April 2003.

Adoption Leave & Pay Eligibility

In order to qualify for adoption leave an employee must:

1. be newly matched with a child for adoption by an approved adoption agency
and
2. have worked continuously for the employer for 26 weeks leading into the week in which they are notified of being matched with a child for adoption (this is not available in circumstances where a child is not newly matched for adoption, for example where a step-parent is adopting a partner's children).

Length of Adoption Leave

Adopters will be entitled to up to 26 weeks Ordinary Adoption Leave followed immediately by up to 26 weeks Additional Adoption Leave, a total of 52 weeks leave.

Adopters can choose to start the date of their leave:

- a) from the date of the child's placement (whether this is earlier or later than expected
or
- b) from a fixed date which can be up to 14 days before the expected date of placement.

Leave can start on any day of the week.

Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If the child's placement ends during the adoption leave period the adopter will be able to continue adoption leave for up to 8 weeks after the end of the placement.

Statutory Adoption Pay

Statutory Adoption Pay will be paid by employers for up to 26 weeks. The rate of Statutory Adoption Pay will be the same as the standard rate of Statutory Maternity Pay. From April 2005 this will be paid at £106 per week or 90% of average weekly earnings if this is less than £106.

Notice of intention to take Adoption Leave

Adopters will be required to inform their employers of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practical. They must tell the employer:

- a) when the child is expected to be placed with them and
- b) when they want their leave to commence

Adopters will be able to change their mind about the date on which they want their leave to start provided they tell the employers at least 28 days unless this is not reasonably practicable. They will have to tell the employer the date they expect any payment of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

The employer will write to the employees setting out the date they expect the employee to return to work if the full entitlement to adoption leave is taken

Employees will provide documentary evidence ie. a matching certificate from the Adoption Agency as evidence of their entitlement to SAP.

Contractual Benefits

Employees are entitled to the benefit of their normal terms and conditions of employment except for terms relating to wages or salary throughout the 26 week ordinary adoption leave period.

During additional adoption leave the employment contract continues and some contractual benefits and obligations remain in force.

Return to work after Adoption Leave

Adopters who intend to return to work at the end of their full adoption leave entitlement do not have to give any further notification to their employers. However if an adopter wishes to return to work before the end of the adoption leave they must give the employer 28 days notice in writing of the date they intend to return.

Paternity Leave & Pay (Adoption)

The employee will be entitled to the same rights to paternity leave and pay following the placement of a child for adoption.