Maternity, adoption, paternity, parental and dependant leave guidelines

The guidelines on maternity and adoption leave and pay apply to employees whose child is expected to be born, or who expect to have a child placed with them for adoption, **on or after 5 October 2008** and outline the statutory entitlements and benefits. The guidelines on parental leave and time off to care for dependants apply to all staff.

CONTENTS

1. **Maternity leave and pay**
    - Ante-natal care
    - Statutory maternity leave (SML)
    - Notification of maternity leave
    - Holiday entitlement
    - Early childbirth
    - Stillbirth, miscarriage and neo-natal death
    - Statutory maternity pay (SMP)
    - Salary review
    - Returning to work
    - The right to apply for flexible working
    - Childcare arrangements
    - General information

2. **Adoption leave and pay**
    - Statutory adoption leave (SAL)
    - Notification of adoption leave
    - Holiday entitlement
    - Statutory adoption pay (SAP)
    - Salary review
    - Returning to work

3. **Paternity leave and pay**
    - Eligibility criteria
    - Length of leave
    - Notification of paternity leave
    - Statutory paternity pay (SPP)
    - Adoptive parents

4. **Parental leave**
    - Eligibility
    - Length of leave
    - Notification of parental leave
    - Payment
    - General

5. **Time off to care for dependant(s)**

SAMPLE

Section 1

Maternity leave and pay

SAMPLE

Ante-natal care

During pregnancy you will be allowed a reasonable amount of paid leave for ante-natal care providing you can produce a certificate from a registered medical practitioner, registered midwife or registered health visitor confirming that you are pregnant and an appointment card or some other document showing that an appointment has been made. (This does not apply to your first appointment.) 5

Ante-natal care can include not only medical examinations but also relaxation and parentcraft classes. This entitlement applies regardless of your length of service.

Employees receiving IVF treatment will be entitled to paid time off for ante-natal care only after the fertilised embryo has been implanted.

If you wish to exercise this entitlement you are required to provide the documents mentioned **and** give your line manager reasonable notice (ie at least a week) of each scheduled visit. Where there has been an urgent or unscheduled medical visit, you must provide an acceptable explanation as to why you could not provide advance notice.

Once your pregnancy has been confirmed, your doctor will issue you with a form for you to complete and send to your local Family Health Services Authority. You will then receive a Health Authority Exemption Certificate (Form FP92) entitling you to free prescriptions whilst you are pregnant and throughout the year following your baby's birth. In addition, you are also entitled to free dental treatment throughout this period.

Statutory maternity leave (SML)

All women are entitled to take up to 52 weeks' statutory maternity leave (SML), which may start any time from 11 weeks before the Expected Week of Confinement (EWC). This applies irrespective of your length of service or the number of hours you work.

During the first 26 weeks of your maternity leave ("ordinary maternity leave"), you have the right to benefit from all of your terms and conditions of employment, except remuneration (remuneration is defined as salaries or wages, not other benefits).

The period after this is called your "additional maternity leave period", and during this time you do not have the right to benefit from all your terms and conditions of employment, although your employment contract remains in existence. Your line manager will confirm how this will affect you.

We will assume that you intend to take the full 52 weeks' statutory maternity leave unless you tell us otherwise. If you are not planning to take your full maternity leave you must confirm to us when you are coming back. You can change your mind at a later date by giving the appropriate notice (see below).

The following Government website link includes an automated facility to work out your maternity leave dates and entitlements: http://tiger.direct.gov.uk/cgi-bin/maternity.cgi?

Notification of maternity leave

To take advantage of the right to maternity leave, you must give us proper advance notification as set out below. Failure to do so may result in your entitlement to maternity leave and Statutory Maternity Pay (SMP) being lost.

To exercise your right to statutory maternity leave you must:

- notify your line manager of your intention to take maternity leave, and the date on which you intend this to start. This notification should be in writing, and should be provided before the end of the 15th week before your expected week of confinement.
- provide your line manager with your medical certificate confirming your pregnancy (MatB1 form) as soon as possible. Your midwife or doctor will normally issue the MatB1 form after the 21st week of your pregnancy.

If you change your mind about the date on which you want to start your leave, you must give us at least 28 days' notice of the new date.

If you are absent from work due to illness unrelated to your pregnancy, you can remain on sick leave right up to the date of the baby's birth, or until the date you have notified us that you wish your maternity leave to commence. However, your ordinary maternity leave period will commence automatically and at once if you are absent from work "wholly or partly because of pregnancy" at any time after the beginning of the fourth week before your EWC.

SAMPLE

Holiday entitlement

Whilst you are on maternity leave you continue to accrue your full contractual holiday during the maternity leave period.

Please consider and discuss with us how best to take your holiday entitlement and plan for the whole period. You may prefer to use your entitlement accrued to date before you go on maternity leave (allowing you to finish earlier without financial penalty), and to carry over the remainder for when you return. Or you may prefer to use up the holiday accrued during your maternity leave period before you return - this gives you a longer break, and is also easier to accommodate in terms of relief cover.

If you have notified us, prior to your maternity leave commencing, that you do not intend to return to work after your leave, any holiday entitlement outstanding will be paid in the relevant pay period in which your maternity leave starts.

Early childbirth

You cannot start your maternity leave earlier than the 11th week before your expected week of childbirth unless you give birth before this date, in which case your maternity leave period will commence automatically and at once.

If you have your baby early, before your notified start date of maternity leave, you are required to notify us of the birth of your child, **no later than 21 days after** the birth, or as soon as is reasonably practical.

Stillbirth, miscarriage and neo-natal death

If your baby is stillborn after the 24th week of pregnancy, you are still entitled to statutory maternity leave, maternity pay (or maternity allowance if you had not met the qualification requirements for SMP) and

benefits. If this happens before the end of the 24th week of pregnancy, this is classified as a miscarriage, in which case you will not be entitled to statutory maternity leave or pay/allowance.

If your child dies after birth, even if this happens within moments of the birth, this is considered to be a neo-natal death and you would be entitled to the maternity leave, pay and benefits which you would have received had the baby survived.

Statutory maternity pay (SMP)

Subject to meeting qualifying conditions based on your length of service and average earnings (see below), you are entitled to receive **Statutory Maternity Pay** (SMP) during the first 39 weeks of your statutory maternity leave, the rules of which are determined by the government and may vary from time to time.

Where applicable, SMP will be paid by us for a maximum of 39 weeks as follows:

- 90 per cent of your "average earnings" for the first six weeks
  and
- the lesser of either 90% of your average earnings or the fixed statutory weekly amount for the remaining 33 weeks.

"Average earnings" are the average weekly earnings which have been paid to you during the eight week period before the end of the 15th week before your baby is due (EWC) although this will be recalculated to take into consideration any pay increases which occur during your period of maternity leave.

Important points to remember:

- SMP is only paid to employees who have been continuously employed by us for at least twenty six weeks as at the 15th week before the baby is due (EWC) **and** whose average weekly earnings in the eight weeks up to and including the 15th week before the EWC have been at least equal to the lower earnings limit for National Insurance contribution purposes.
- SMP payments begin when maternity leave commences, ie any time from 11 weeks before your baby is due, and end when the 39 weeks' maternity pay period has expired, or earlier if you have returned to work.
- No additional SMP is paid for twins or other multiple births.
- If you lose your baby during the 16 weeks before the EWC you will still be entitled to SMP for the period of your leave subject to normal conditions of entitlement.
- SMP can start on any day of the week.
- Maternity pay is treated as earnings and therefore Income Tax and National Insurance are deducted as appropriate.

Having met the qualifying conditions for SMP you **must** give us at least 28 days' notice of the date on which you want your SMP payments to begin.

If you do not meet the qualifying conditions you may be able to claim a **Maternity Allowance** from your local Benefits Agency. Maternity Allowance, like SMP, may be paid for up to 39 weeks.

There is no entitlement to SMP for any period of maternity leave taken in excess of 39 weeks.

Salary review

If a salary review is due during your maternity leave you will be informed of any changes as they become

SAMPLE

applicable.

Benefits

If you receive any non-pay benefits such as life and private health insurance, medical cover or childcare vouchers we will continue to pay these for the full period of maternity leave.

Pension contributions will however be paid for the period of paid maternity leave only (up to 39 weeks), but will be based on the full pensionable pay you would receive if working; your contributions will be based on the actual pay you receive during the maternity leave period.

Returning to work

During your statutory maternity leave:

You can come into work for a few days without losing your right to maternity leave or a week's statutory maternity pay. Such days are known as "keeping in touch" (KIT) days.

The maximum number of KIT days is ten, irrespective of the length of your maternity leave. KIT days may be taken at any time during your maternity leave period, excluding the first two compulsory maternity leave weeks, and they may be taken singly or in blocks. The KIT days will not extend your maternity leave period, but allow you to do some work during your maternity leave period.

You are not obliged to undertake KIT days, and neither are we obliged to offer them. But if both we and you feel it would be in our interests for you to do so, you will need to discuss with your line manager what work will actually be done on these days, and what payment will be made to you. The minimum that you will be paid is the SMP rate to which you are entitled.

Once you have exhausted your KIT days, a whole week of SMP will then be forfeited for each week in which you work, even if only for a day. Any SMP lost in this way will be lost at the lower rate first.

Following your maternity leave:

You cannot return to work within two weeks of the birth of your baby (four weeks if you work in a factory). This period is called compulsory maternity leave, and is prescribed by statute.

You are not legally required to give us advance notice if you intend to return to work immediately after your maternity leave. Nevertheless, in order to assist planning, we would ask you to keep in touch with us and if your intentions change, to let us know as soon as possible.

If you are intending to return to work early, the statutory procedures require you to give us at least 56 days' (eight weeks') notice: if you fail to do this we may postpone your return until either the expiry of 56 days, or the end of your maternity leave period, whichever is sooner.

At the end of your ordinary maternity leave, you have the right to return to the same job and the same terms and conditions, as if you had not been on maternity leave. After your additional maternity leave period, you will be entitled to return to the job in which you were employed before your absence or, if this is not reasonably practical, to another job which is suitable to you and appropriate to your circumstances. You will be entitled to return on terms and conditions not less favourable than those that would have applied to you had you not been on maternity leave. You do however have the right to request flexible working - see

SAMPLE

below.

If illness prevents your return to work at the end of your maternity leave, your situation will be treated in line with our standard procedures relating to managing sickness and absence.

If you decide not to return to work at the end of your maternity leave, you should give us contractual notice of this.

Please also see the sections on parental leave and time off for dependants, which may apply to you following your return to work.

The right to apply for flexible working

If, following ordinary or additional maternity leave, you decide that you would like to return to work on different working arrangements to those you had before your maternity leave you may make a flexible working request.

Whilst there is no automatic acceptance of any such application, as we will need to consider the impact on the business, we will give serious consideration to a request. If this is something you would like to consider please contact your manager at least six weeks before your intended return to work. This will enable your working arrangements to be confirmed to you as far in advance of your return to work as possible, in order to assist you with your childcare arrangements. Every effort will be made to accommodate your wishes but this may not always be possible.

SAMPLE

Childcare arrangements

If you are considering returning to work, we would strongly suggest that you start researching the different childcare options when you first become pregnant. Many childcare professionals are booked up well in advance and if you are not able to finalise your arrangements well ahead you may find that your chosen provider will not be able to look after your child. In any case, it is advisable to finalise your childcare arrangements well in advance of your return to work.

Organisations that may be able to help you in your research include your Social Services Health Visitor and your local Social Services office who can provide you with a list of nurseries and registered child minders in your area. Additionally, you may wish to contact the National Childminding Association.

Many nurseries and childminders allow "practice sessions" for your baby before you return to work. You may find it useful to take advantage of these to ensure any initial problems are overcome. This will allow you and your baby time to adjust to the new arrangements and settle in.

General information

Your length of service will be regarded as continuous for both statutory and contractual purposes during your maternity leave. The paid period of leave counts towards pensionable service; the unpaid period does not.

Most women work normally throughout their pregnancy. However, if you experience any health problems related to the pregnancy please discuss with your manager any suggestions you may have regarding any reasonable adjustments which would make working during your pregnancy easier for you.

We will take all reasonable practicable measures to prevent the risk of damage to the health or safety of all

expectant and breast feeding mothers. A separate risk assessment will be undertaken following your notification to us of your pregnancy. However, it is your responsibility not to put either your own health and safety, or that of your baby, at risk. This is especially relevant with regards to lifting, carrying, or working from a height. Pregnancy increases the risk of manual handling injury. This can be caused by hormonal changes affecting your ligaments, making them more susceptible to injury. Particular care should be taken to avoid lifting generally, but particularly during the three months prior to the birth and the three months following your return to work after childbirth. If lifting is part of your job (for example boxes of files/documents) you may wish to discuss alternative arrangements with your manager.

Always consult with your line manager before attempting any form of work which might put your health or that of your baby, at risk. Following your return to work, if you are breastfeeding, please notify us of this so that steps can be taken to facilitate this.

You will not be dismissed for being pregnant or for any other reason connected with your pregnancy. However, we can take action which may result in dismissal for other reasons unrelated to pregnancy, such as redundancy or misconduct.

If you become pregnant again during maternity leave, you have the right to further ordinary and additional maternity leave.

Any employee having a child through surrogacy will not normally be eligible for Statutory Maternity or Adoption Leave. However he/she will be eligible for unpaid parental leave once he/she has attained a parental order.

Maternity rights and obligations are complex and this guide aims to provide you with a summary of the significant aspects. It should not be regarded as a complete or authoritative statement of the law. If you have any further questions you would like to ask, you should contact your line manager.

SAMPLE

Section 2

Adoption leave and pay

SAMPLE

Statutory adoption leave (SAL)

You may be entitled to statutory adoption leave if you meet the following criteria. Statutory adoption leave may be taken by employees of either sex, but to qualify you must:

- be the child's adopter
- have at least 26 weeks' continuous employment by the end of the week in which you are notified of having been matched with the child
- have notified the adoption agency that you agree that the child should be placed with you, and on the date of placement.

Only one person may take adoption leave in respect of a child at any time - if you are adopting a child jointly, one may take adoption leave and the other may take paternity leave (see below).

Adoption leave may begin on the actual date on which the child is placed with you, or it may start on a predetermined date which falls within the period from 14 days before the child is placed until the date of placement.

As for maternity leave, the statutory adoption leave period lasts for 52 weeks. We will assume that you intend to take the full 52 weeks' leave unless you tell us otherwise.

During the first 26 weeks of your adoption leave ("ordinary adoption leave"), you have the right to benefit from all of your terms and conditions of employment, except remuneration (remuneration is defined as salaries or wages, not other benefits).

The period after this is called your "additional adoption leave period", and during this time you do not have the right to benefit from all your terms and conditions of employment, although your employment contract remains in existence. Your line manager will confirm how this will affect you.

Notification of adoption leave

You must give your line manager notice of your intention to take adoption leave, specifying the date of placement and the date you wish to commence your leave. This notice must be given within seven days of the date on which you are notified of having been matched with the child. You are also requested to provide documentary evidence which shows the name and address of the adoption agency, the name and date of birth of the child, and date of notification of matching and the expected date of placement. (You may vary the start date of your leave at a later date by giving us at least 28 days' notice).

The rules on adoption leave are similar to those for maternity leave so you may wish to refer back to the previous sections on this.

Holiday entitlement

Whilst you are on adoption leave you continue to accrue full contractual holiday during the adoption leave period.

Please consider and discuss with us how best to take your holiday entitlement and plan for the whole period. You may prefer to use your entitlement accrued to date before you go on adoption leave (allowing you to finish earlier without financial penalty), and to be allowed a carry over in respect of the remainder when you return. Or you may prefer to use up the holiday accrued during your adoption leave period before you return - this gives you a longer break, and is also easier to accommodate in terms of relief cover.

If you have notified us, prior to your adoption leave commencing, that you do not intend to return to work after your leave, any holiday entitlement outstanding will be paid in the relevant pay period in which your adoption leave starts.

Statutory adoption pay (SAP)

You will be paid the lesser of either 90% of your normal weekly earnings or the fixed weekly rate during the first 39 weeks' adoption leave. There is no entitlement to SAP in respect of any leave in excess of the 39 weeks.

Statutory adoption pay can start on any day of the week.

If you receive any non-pay benefits such as life and private health insurance, medical cover or childcare vouchers we will continue to pay these for the full period of adoption leave.

Pension contributions will however be paid for the period of paid adoption leave only (up to 39 weeks), but will be based on the full pensionable pay you would receive if working; your contributions will be based on the actual pay you receive during the adoption leave period.

Salary review

If a salary review is due during your adoption leave you will be informed of any changes as they become applicable.

Returning to work:

During your statutory adoption leave:

You may carry out up to ten days' work during your statutory adoption leave period without losing your right to adoption leave or a week's statutory pay. These ten days are known as "keeping in touch" (or "KIT") days, can be taken at any time during the adoption leave period, and may be taken singly or in blocks.

You are not obliged to undertake KIT days, and neither are we obliged to offer them. But if both we and you feel it would be in our interests for you to do so, you will need to agree with us what work will actually be done on these days, and what payment will be made to you. The minimum that you will be paid is the SAP rate to which you are entitled.

Once you have exhausted your KIT days, a whole week of SAP will then be forfeited for each week in which you work, even if only for a day.

Following your statutory adoption leave:

If you intend to return to work at the end of the 52 weeks' adoption leave, you need do nothing further. Nevertheless, in order to assist planning, we would ask you to keep in touch with us and if your intentions change, to let us know as soon as possible.

SAMPLE

If however, you wish to return to work earlier than the end of your statutory adoption leave period, the statutory procedures require you to give us at least 56 days' (eight weeks') notice of the date on which you intend to return. Failure to give the minimum notice may mean that we postpone your return until either 56 days' (eight weeks') notice has been given, or until the end of your adoption leave period, whichever is sooner.

See also the information in the maternity section relating to the right to apply for flexible working and childcare arrangements which also apply to you.

SAMPLE

Section 3

Paternity leave and pay

SAMPLE

Eligibility criteria

Subject to meeting the following eligibility criteria, employees who meet the following criteria are entitled to take two weeks' paid paternity leave. In order to qualify you must:

- have been continuously employed for at least 26 weeks, ending with the week immediately preceding the 14th week before the expected week of the child's birth
- be either the father of the child, or be married to, or the partner of, the child's mother,
- have (or expect to have) responsibility for the upbringing of the child.

Length of leave

Leave can be taken either as one single week's leave or two consecutive weeks' leave, and must be taken any time up to eight weeks after the date of birth. You cannot take odd days off work, but the week can start on any day, for example Tuesday - Monday inclusive.

Notification of paternity leave

You must give notice, in writing, of your intention to take paternity leave, specifying:

- the expected week of the birth
- the length of the leave you have chosen to take
- the date on which you wish the leave to begin. You may choose either to specify that the leave will begin on the date on which the child is born, or on a specified number of days after the child is born, or on a predetermined date.

This notice must be given during or before the 15th week before the week the baby is due, unless this is not reasonably practicable, in which case as soon as it is reasonably practicable.

If you wish to change the date, you may do so provided that you give at least 28 days' notice of this change.

Statutory paternity pay (SPP)

Paternity leave will be paid at the lesser of either 90% of your average weekly earnings, or the standard fixed weekly rate.

Adoptive parents

Despite the title, an employee of either sex who meets the following criteria, may also take paternity leave. The employee must:

- have been continuously employed for at least 26 weeks by the week in which the child's adopter is notified of having been matched with the child
- be married to, or the partner of, the child's adopter or

- have, or expect to have, the main responsibility (apart from the responsibility of the adopter) for the upbringing of the child.

If you are adopting jointly, one partner may take adoption leave and the other may take paternity leave (subject to meeting the eligibility criteria).

The leave can be taken as one single week's leave or two consecutive weeks' leave, and may only be taken during the eight week period starting with the day on which the child is placed with you.

You must give written notice of your intention to take leave, specifying

- the date on which the adopter was notified of having been matched with the child
- the expected placement date
- the date on which you wish your leave to start. You may choose to begin the leave on either the date the child is placed, or a set number of days after the placement date, or give a predetermined date.

This notice must be given no more than seven days after the adopter has been notified of having been matched with the child. You may vary the chosen date, but must give at least 28 days' notice of this.

SAMPLE

Section 4

Parental leave

SAMPLE

Eligibility

Subject to the completion of one year's continuous service, you have the right to parental leave if you:

- are the named parent on the birth certificate of a child who is under five years old, **or**
- have adopted a child. This entitlement lasts for five years from the date on which the child is placed for adoption or until the child's 18th birthday whichever is the sooner, **or**
- have acquired formal parental responsibility for a child who is under five years old (not including foster parents). In such instances you may be required to provide evidence of a formal nature, eg a court order to demonstrate your parental responsibilities, before parental leave is granted, **or**
- have a disabled child under the age of 18. A disabled child is one for whom disability living allowance is awarded.

Length of leave

Key aspects of your entitlements are as follows:

- You may take a maximum of 13 weeks' leave for each child (18 weeks for a disabled child), but no more than four weeks for any one child in any year.
- The entitlement is individual, which means that both parents have an individual entitlement, but this cannot be transferred between parents.
- Should you have a disabled child, there will be no time restriction upon taking your leave entitlement. In such instances leave can be taken up to the child's 18th birthday.
- Whilst you are on leave you will continue in employment, and you will benefit from all your terms and conditions of employment, except remuneration (remuneration is defined as salaries or wages, not other benefits).
- At the end of your parental leave, you have the right to return to the same job on the same terms and conditions. If for any reason this is no longer available, you will be offered suitable alternative employment.

Notification of parental leave

To take advantage of the right to parental leave, and thereafter the right to return to work, you must give us proper advance notification. Failure to do so may result in the start of your parental leave being delayed, and your initial absence from work being unauthorised. Furthermore your return to work may also be delayed.

You must notify your line manager, **in writing,** of the date on which you wish your parental leave to commence and finish. This must be given no later than **21 days before** you intend to start taking parental leave, or as soon as is reasonably practical eg instances of early childbirth. You should also state whether you have been the recipient of any parental leave whilst in any previous employment.

As the end of your parental leave approaches you must confirm to your line manager your intention to return, and the return date, no later than **14 days before** you intend to return to work.

Payment

Parental leave is unpaid.

If you have notified us, prior to your parental leave commencing, that you do not intend to return to work after your leave, any holiday entitlement outstanding will be paid in the relevant pay period in which your parental leave starts.

General

As highlighted above, you are required to inform us of any parental leave entitlement you may have received from a previous employer(s). Please be aware that we may approach your previous employer(s) to confirm that your declaration relating to any amount of parental leave you may have previously received is accurate.

Parental leave rights and obligations are complex and this section aims to provide you with a summary of the significant aspects. It should not be regarded as a complete or authoritative statement of the law. If you have any further questions you would like to ask, you should contact your line manager.

SAMPLE

Section 5

Time off to care for dependant(s)

You are able to take reasonable time off work in order to take action which may be necessary to care for dependants as follows:

- to provide assistance when a dependant falls ill, gives birth or is injured or assaulted
- to make arrangements for the provision of care for a dependant who is ill or injured
- due to the death of a dependant
- because of unexpected disruption or termination of arrangements for the care of a dependant
- to deal with an unexpected incident which involves your child during school time.

A dependant is an employee's wife, husband, civil partner, child, parent, or someone who lives in the same household as the employee or who reasonably relies on him/her for care in the event of illness or injury but who is not his or her employee, tenant, lodger or boarder.

The entitlement is to unpaid time off. Legislation does not define how much time off will be "reasonable". However, we expect that in most cases the amount of leave will be one or two days at the most but this will depend on individual circumstances.

In all instances where you request to take time off to care for a dependant, you must immediately (if this is not possible, then as soon as is reasonably practical) tell your line manager of the reason for the absence and the likely duration of the absence. Failure to provide this information may result in your manager being unable to authorise your request for time away from work to care for a dependant.

SAMPLE