

## Human Resources

# Maternity leave policy

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## Introduction

1.1. Line Managers are asked to bring this guidance to the attention of any female member of staff as soon as she has indicated she is pregnant. As soon as a line manager is made aware of a woman's pregnancy they should ensure that a risk assessment is undertaken.

1.2. This policy applies to all employees, including those on a Fixed Term Appointment (FTA) in the following Defra network organisations:

- Animal and Plant Health Agency (APHA)
- Core Defra
- Veterinary Medicines Directorate (VMD).

1.3. This policy applies to all members of the Senior Civil Service (SCS) whether they work in core Defra or any of its Agencies.

## Health and Safety

2.1 The Workplace (Health, Safety and Welfare) Regulations 1992 state that suitable rest facilities should be provided for pregnant women and nursing mothers. They should be near to sanitary facilities and, where necessary, include the facility to lie down. In practice, the department uses its First Aid Rooms for this purpose. Access to the First Aid Room should be arranged with a First Aider in accordance with the First Aid Policy.

Also see: New and Expectant Mothers Risk Assessment RA16, available on the intranet.

2.2 Line managers, or hosts of visiting nursing mothers, should be sympathetic to requests for breaks and somewhere suitable to breast feed/express milk on the occasions when this is necessary.

## What You Must Do

3.1 If you are pregnant, you are asked to give as much notice as possible of:

- the expected date of childbirth
- your intended date of leaving and
- whether or not you intend to return to work.

## A Guide to Entitlements

4.1 If you intend returning to work after the birth of your baby, the following is a brief guide to the level of maternity benefits that you may qualify for, depending on your length of service.

4.2 Maternity leave – pregnant women are entitled to take up to 52 weeks regardless of length of service. This is made up of Ordinary Maternity Leave (26 weeks) and Additional Maternity Leave (a further 26 weeks). There must not be a gap between taking the two sets of leave. A minimum of two weeks' maternity leave must be taken immediately following the birth.

4.3 Maternity pay – is extended from six months (26 weeks) to nine months (39 weeks). For the first 26 weeks the employee will be paid their full salary providing they meet the existing Defra qualifying conditions and the remaining 13 weeks will be paid as Statutory Maternity Pay.

4.4 Keeping in touch – optional keeping in touch days enable a pregnant woman to work up to ten days during the maternity leave period. This has to be agreed by both the employee and their line manager.

4.5 Notice – the notice an employee must give if they are changing the date of return from maternity has been increased from 28 days to eight weeks.

## Timing of Leave

5.1 Departmental maternity leave may start on any day of the working week, subject to the following restrictions:

- unpaid maternity leave cannot start earlier than 14 weeks before the expected date of childbirth
- paid maternity leave may not start earlier than 11 weeks before the expected week of childbirth
- paid maternity leave may not start later than the actual date of childbirth, but if the child is born early the Departmental maternity leave will begin on the same day as the statutory maternity leave.

5.2 The Department will consider whether special leave with or without pay is appropriate for any exceptional circumstances that occur outside these restrictions.

5.3 If you specify that you wish to begin your maternity leave in any of the four weeks before the expected week of childbirth, the following restriction applies: If you are absent with a pregnancy related illness, immediately before your specified date and childbirth occurs during the period of sickness absence, paid maternity leave will be brought forward to whichever is the later of:

- the day after the beginning of the period of sickness absence or
- the day after the first day of sickness absence in the fourth week before the expected week of confinement.

## **Notifying Intention to take Departmental Maternity Leave**

6.1 You must notify the Department of your intention to take Departmental Maternity leave no later than the end of the 15<sup>th</sup> week before the week the baby is due or as soon as reasonably practicable.

## **Right to return to work**

7.1 Women who intend to return to work at the end of their full statutory maternity leave entitlement will not have to give any further notification to their employers.

7.2 Women who want to return to work before the end of their statutory maternity leave period, must give their employers eight weeks' notice of the date they intend to return.

## **Departmental Maternity Leave**

7.3 At the end of Departmental Maternity Leave you are entitled to return to the same job on the same terms and conditions of employment as if you had not been absent, unless a redundancy situation has arisen or your contract is due to expire during your absence.

## **Ordinary Maternity Leave (paid)**

7.4 At the end of ordinary maternity leave you are entitled to return to the same job on the same terms and conditions of employment as if you had not been absent, unless a redundancy situation has arisen or your contract is due to expire during your absence.

## **Additional Maternity Leave (unpaid)**

7.5 At the end of additional maternity leave you are entitled to return to the same job on the same terms and conditions as if you had not been absent unless it is not reasonably practicable for the Department to allow this. In which case you have the right to return to another suitable and appropriate job on terms and conditions that are no less favourable than those which applied if you had not been absent, unless a redundancy situation has arisen or your contract is due to expire during your absence.

7.6 Paid maternity leave is granted on the assumption that you intend to return to work. On return, you will be expected to complete at least one calendar month's effective service (i.e. service without any unpaid absence), assuming you work the same number of hours as before, and that a contract exists to enable you to do so. If you return and work a different number of hours than before, the period of effective service will depend on the number of hours worked. You will be expected to work an equivalent number of hours to the number you would previously have worked in a calendar month. If this requirement is not satisfied, the Department will ask you to repay any salary or wages paid for the period of maternity leave (less any Statutory Maternity Pay to which you are entitled).

7.7 Accrued annual leave can be used to cover this one month requirement.

7.8 The Department may waive repayment if it considers there are good reasons why you do not return, or where it believes a genuine intention to return cannot be achieved because of exceptional circumstances. The Department may also waive repayment if you provide medical evidence that your inability to return within the time limit is because your child requires constant attention at home. Medical evidence should be provided no later than three weeks before the time limit expires.

7.9 A woman who is required to repay salary received during her period of maternity leave will be eligible for a refund of the National Insurance contributions she has paid in respect of the pay received for this period.

## **Childbirth**

8.1 Childbirth for the purposes of these maternity leave rules, is defined as the birth of a living child or the birth of a child whether living or not, after 24 weeks of pregnancy. In the event of a stillbirth after this time, the normal maternity leave provisions will apply.

## **Ante Natal Care**

9.1 You will be allowed time off with pay to attend an antenatal clinic (either at hospital or with your general practitioner/health visitor). Except for your first appointment (when you may not have an appointment card), you may be asked to show your line manager your appointment card as proof that you will be attending the clinic.

## **Relaxation classes/Parenthood/Baby Care/Parent-Craft Classes**

10.1 You should, wherever possible, attend these classes in your own time. If they are only held during the day, time off with pay may be allowed if you give evidence of enrolment and details of future appointments.

## **No Intention to Return to Work after the Birth**

11.1 If you do not intend to return to work in the Civil Service after the birth of your baby, you will not qualify for paid Departmental maternity leave, but you may be entitled to Statutory Maternity Pay.

11.2 If you do not intend to return to work, you may stop work at any time. However, in order to qualify for Statutory Maternity Pay, you must work until the beginning of the 14<sup>th</sup> week before the expected week of childbirth. Because Statutory Maternity Pay cannot start until the 11<sup>th</sup> week before the expected week of childbirth, the time between the 14<sup>th</sup> and 12<sup>th</sup> weeks (inclusive) will be without pay.

11.3 If you are intending to give up work, your line manager should notify SSCL by completing the "Notification of leaving organisation" form on SOP to let them know you wish to resign.

You should give the following information:

- the date your baby is due (This should be included within the Service Request)
- the date of your intended last day of service and
- the date of your last day in the office, if you intend to take annual leave before your last day of service.

11.4 You should enclose the following documents with the copy of your resignation letter, so that your maternity application can be dealt with correctly:

- your certificate of expected childbirth (Form MAT B1 obtained from your doctor or midwife), if you have received it. If not, it should be scanned and sent to SSCL as soon as it is issued and
- your annual leave slip, so your final allowance can be worked out. This applies whether or not you intend taking annual leave as mentioned above.

11.5 If your plans are uncertain or you are unable to provide this information, you should do so at least 15 weeks' notice if possible, and certainly not less than 28 calendar days notice, of your expected week of childbirth, so that the necessary pay action can be arranged.

## **Eligibility for Departmental Maternity Leave**

12.1 You will be eligible for Departmental maternity leave and pay if:

- You have completed one year's service (not necessarily a single continuous period of employment) within Defra or another Civil Service body by the expected week of childbirth.
- Are able to meet the condition of returning to work.
- Are able to complete one calendar month's service on return.

12.2 All pregnant employees are entitled to take up to one year (52 weeks) maternity leave and may qualify for Statutory Maternity Pay.

12.3 If you are employed on a different type of contract other than permanent, short term or fixed term please contact SSCL to discuss what your maternity pay and leave entitlements might be.

## **Applications**

13.1 Applications for maternity leave must be made by the employee on the "Maternity Adoption Leave" form showing the date that you wish to start your maternity leave only, and should be submitted to SSCL as early as possible. Your application should be made

by the end of the 15<sup>th</sup> week before the week your baby is due or as soon as is reasonably practical, and in all cases must be made no later than 28 days before you intend to start your maternity leave (unless the baby is born early, in which case special provisions apply).

13.2 To apply for maternity leave complete the “Maternity Adoption Leave” form and send it to your line manager to approve and submit to SSCL. To do this:

- log into SOP > go to “iSupport Employee User” > choose “Solutions” from the drop down menu at the top of the page > search using the form name Maternity Adoption Leave.
- send the completed form to your line manager along with your MAT B1.
- Your line manager should then submit the form to SSCL via a Service Request. They should go to iSupport > "Create Service Request". Follow the guidance in the Maternity Adoption Leave form.

13.3 The application should include:

- written notice of your pregnancy and of your expected week of childbirth
- your certificate of expected childbirth (Form MAT B1 obtained from your doctor or midwife). If it has not been issued by the time you make your application for maternity leave, you should send it to SSCL as soon as it is available using a Service Request in SOP.
- the date you intend to begin your maternity leave
- the date of your last day in the office, if you intend to take annual leave before your maternity leave begins

13.4 Your maternity leave will normally begin on the date you have specified unless you are absent due to a pregnancy related illness in the four weeks before your expected date of childbirth or childbirth occurs before the date you intended to begin your maternity leave.

## **HR Service Provider Responsibilities**

14.1 SSCL will:

- advise you of any pay entitlement that you may have during the maternity leave period
- send you a "statement of intention and undertaking to repay payment" to sign (see Annex A). This should be signed and returned to SSCL within 10 days.
- arrange for the payment of Statutory and/or Departmental Maternity Pay if you are entitled to it and



- if you are not entitled to Statutory Maternity Pay, return your certificate of expected childbirth to you, and send you a form SMP 1 which you will need to claim Maternity Allowance from the Department of Work and Pensions.

## **Resignation**

15.1 If you resign but later wish to return to work because of a radical change in circumstances, you may not have a right to do so, but will be allowed to if at all possible. If you return in these circumstances within the 26 weeks' unpaid maternity leave period which follows directly from the 26 weeks' paid maternity leave period your resignation will be cancelled if at all possible and your absence will be dealt with in accordance with the Departmental maternity leave arrangements described earlier.

## **Maternity Allowance**

16.1 If you are not entitled to Statutory Maternity Pay, you may be eligible for Maternity Allowance for up to 39 weeks', provided you are not working, which you will have to claim direct from the Benefits Agency of the Department of Work and Pensions. If you qualify for Departmental maternity pay at the same time as being in receipt of maternity allowance, an amount equal to the maternity allowance must be deducted from your salary.

16.2 The current rates of maternity allowance need to be obtained from the Benefits Agency.

## **Sick Absence before Maternity Leave**

17.1 If you are absent from work due to illness, you will normally be able to choose whether to begin your maternity leave period on the notified date, or to continue the sick absence. If, however, your illness is pregnancy related, the statutory maternity leave period will begin automatically on the day after the first day's absence following the beginning of the 4th week before the expected week of childbirth, even if this is before the date you have notified. If the sick absence is not pregnancy related, it will end as soon as childbirth occurs or maternity leave begins.

## **Sick Absence during or Following Pregnancy**

18.1 A woman cannot be paid departmental sick pay throughout any of her 26-week period of entitlement to either departmental maternity pay or statutory maternity pay.

18.2 A woman cannot be paid departmental sick pay during her period of unpaid maternity leave. There may, however, be an entitlement to statutory sick pay (SSP). If you are sick during a period of unpaid maternity leave, you should submit evidence of incapacity to HR through your normal route so that any eligibility can be determined.

18.3 Except during the period of paid or unpaid maternity leave, normal provisions for paid sick absence apply if you are unfit for work during or following your pregnancy, and there is a reasonable prospect of your recovery and return to duty.

18.4 If you have provided at least eight weeks' notice of your intention to return to work on a specific date, certified sick absence may be allowed from this date. You will not, however, be permitted to bring forward your date of intended return in order to qualify for paid sick absence from an earlier date.

18.5 Paid sick absence following childbirth will end the maternity leave arrangements. You will have no further entitlement to any unpaid maternity leave once the period of sick absence has ended and you must return to work. Further special leave (career break) may be allowed only at the discretion of the Department.

## **Performance**

19.1 Before going on maternity leave, it is useful to ask for feedback and review your progress against your goals and your development plan with your manager. You can discuss any learning and development goals you have and how these can be planned for as part of your return and how best to use your keep in touch days to support these.

19.2 When you return from maternity leave, use the guidance on getting to know each other again after long term absence on the People Performance Hub to support your conversations with your manager. Use the conversations template to set new goals with your manager. Talk to your manager about any development goals you have and how best to prioritise your wellbeing and help you to feel included at this time.

## **Pay Award**

20.1 You will be eligible for a pay award as long as you meet the eligibility criteria. For information about the impact on the current pay award see the eligibility guidance in the Pay, Pensions and Benefits intranet pages.

## **Pay Allowances**

21.1 Payment of ongoing allowances such as Private Office Allowance and skills allowances (including Specialist Pay Leads) will continue during maternity leave for as long as the employee remains on departmental maternity pay. If an employee is in receipt of TARA when their maternity starts, it will continue to be paid until it reaches the agreed end date. Temporary allowances and payments, such as on-call or overtime, should not be claimed.

## **Pay Deductions**

22.1 Voluntary deductions from pay will be suspended during periods of unpaid leave. If you have an arrangement for voluntary deductions e.g. charitable contributions, to be

taken from your pay, you will need to make alternative arrangements if you wish to continue the contributions during a period of unpaid leave.

22.2 Compulsory deductions will cease if your earnings fall below the protected earnings rate. This is the minimum rate of pay from which deductions can be made and is specified by HMRC or, in the case of attachment of earnings orders, the court responsible. It is your responsibility to contact any parties to whom regular deductions are sent and to make alternative arrangements where necessary.

## **Advances of Pay**

23.1 If you have an advance of salary, you must continue with your repayments during a period of unpaid leave. It is your responsibility to make suitable repayment arrangements with the SSCL in respect of an advance of salary for house purchase or advance of salary for the purchase of a season ticket/bicycle.

## **Outstanding Imprest (Advance)**

24.1 If you have an outstanding imprest (advance), you should contact the responsible unit to arrange repayment before starting a period of unpaid leave.

## **Annual Leave**

25.1 All references to taking annual leave are subject to the normal rules regarding the taking of annual leave – as set out in the Annual Leave Policy, available on the intranet. Those rules require you to obtain the authority of your line manager before taking leave.

25.2. If you are leaving work and do not intend to return, you will be entitled to either the amount of annual leave accrued between the start of your leave year and your last day of service, or the start of your leave year and the last day of statutory maternity leave, whichever is sooner. You will also be entitled to any annual leave eligible for carryover from a previous leave year.

25.3. If your contract continues you will accrue annual leave during the 26 weeks of Ordinary Maternity Leave (OML) and the 26 weeks of Additional Maternity Leave (AML).

25.4. If you work full-time you will also be entitled to take an extra day of ordinary and additional maternity leave in lieu of any bank, public or privilege holiday which occurs during the period of your OML and AML. If you work part-time you will have this leave entitlement pro-rated according to the number of hours you work and the duration of your maternity leave.

25.5 Any accrued leave, in excess of the ten day maximum carryover, must be taken within the leave year that it accrues either:

- at the beginning of your maternity leave

- at the end of your maternity leave
- to work reduced hours on your return to work (without loss of pay) or
- through a combination of these arrangements.

25.6 Any arrangements for taking leave must be agreed in advance with your Line Manager.

25.7 In exceptional circumstances, leave in excess of the ten day maximum may be carried over to the next leave year. This will happen if you were prevented from taking the leave because your maternity leave started earlier than expected (for example because of a maternity related illness or premature birth).

## **Pensions**

26.1 The 26 week ordinary maternity leave period will count for pension purposes where you would have been contracted to work had you not been absent on maternity leave.

26.2 If you resign whilst on maternity leave your reckonable service for pension purposes will end on the last day of the 26 week statutory ordinary maternity leave period or your last day of service, whichever is sooner.

## **Protection from Detrimental Treatment**

27.1 You have a right not to suffer unfair treatment at work for reasons relating to pregnancy, childbirth or taking maternity leave. If you experience unfair treatment at work for these reasons, you may regardless of your length of service, seek redress through the Grievance Procedure, Equal Opportunities Complaints Procedures or an Employment Tribunal.

27.2 If you believe you have been subjected to unfair treatment on grounds of pregnancy or maternity you may also have redress under the Equality Act 2010.

## **Glossary of Terms Used**

28.1 Statutory Maternity Leave – By law you must take two weeks off work following the birth of your baby. But you can have up to 52 weeks' leave.

28.2 Ordinary Maternity Leave – The first 26 weeks of the maternity period.

28.3 Additional Maternity Leave – Weeks 27 to 52 of the maternity period.

28.4 Statutory Maternity Pay – A basic payment paid by government to staff on maternity leave (payment is subject to certain criteria).

28.5 Occupational/Departmental Maternity Pay – Any additional pay paid by your employer (payment is dependent on eligibility).

