

Entitlements during Pregnancy and Maternity Leave

Factsheet 3

Congratulations! Having a baby is such an exciting time but it can also be confusing to know what your options and entitlements are at work during pregnancy, maternity and on return to work. We've created this factsheet with you in mind. If you still have any further questions, do email us at EBBSinfo@gmail.com.



Pregnancy during employment

Depending on the type of work that you do, pregnancy can affect your employment in a number of different ways. However here are some key entitlements that apply to all pregnant employees, these are:

- Time off for antenatal appointments- 'Antenatal care' isn't just medical appointments - it can also include antenatal or parenting classes if they've been recommended by a doctor or midwife.
- Health and safety protection- your employer should assess H&S risks to you and your baby (for example the impact of heavy lifting, exposure to toxic substances or long working hours). Where there are risks, the employer should take reasonable steps to remove them.
- Up to 52 weeks maternity leave - employees are entitled to one year's statutory maternity leave (made up of ordinary maternity leave (OML) and additional maternity leave (AML)), regardless of length of service (provided that you are employee).
- Protection from dismissal, detriment or discrimination by reason of pregnancy (or maternity).
- Agency workers will qualify for time off for antenatal appointments (after 12 weeks), and from discrimination, and for SMP. Other non-employees will also qualify for protection from discrimination provided they fall within the scope of the Equality Act 2010.

Maternity Leave Entitlements

During maternity leave, you may be entitled to statutory maternity pay (SMP) and possibly contractual maternity pay. SMP is payable for up to 39 weeks (the 2019/20 rate for SMP is- the first 6 weeks: 90% of the employee's average weekly earnings (AWE) before tax and the remaining 33 weeks: £148.68 or 90% of their AWE (whichever is lower). Entitlement to SMP is dependent on length of service and also upon your normal salary being above a minimum threshold, currently £118 per week. Contractual maternity pay refers to any enhanced maternity pay which an employer may provide over and above their statutory obligations.

Like other non-cash benefits, annual leave entitlement continues to accrue during OML and AML. A recent addition to entitlements is that of shared parental leave which effectively allows parents to share the statutory maternity leave and pay that is available to mothers. Helpful guidance can be found here <https://www.gov.uk/shared-parental-leave-and-pay/overview>

Entitlements during Pregnancy and Maternity Leave

Return to work

If you take only OML, return before the end of OML, or combine maternity leave with a period of shared parental leave where the total leave is 26 weeks or less, you are entitled to return to the same job in which you were employed before your absence.

Similarly, after AML you are generally entitled to return to work to the same job, provided that this is reasonably practicable for your employer. If this is not reasonably practicable, you are entitled to return to another role within the business at a similar level and on the same terms and conditions as if you had not been absent.

That said, genuine redundancy situations do sometimes occur during maternity leave and in this event you would have priority for any suitable alternative employment which exists with your employer. You also continue to benefit from protection against dismissal, detriment or discrimination on the grounds of pregnancy or maternity and this can cover redundancy situations so you may wish to take advice if you find yourself in this situation to ensure that your employer treats you fairly.

Employees with 26 weeks' continuous service are entitled to request flexible working for any reason including on return to work after maternity. Your employer must deal with a request in a reasonable manner and notify the outcome to you within a three-month decision period. Flexible working covers a wide range of practices including part-time hours, compressed hours and job sharing. Guidance on the process to be followed is available here <https://www.gov.uk/flexible-working>

Where to get support

This factsheet is not designed to replace tailored professional advice and is simply to highlight some of the key areas. If you are facing difficulty at work as a result of pregnancy or maternity, or are unsure if you are being treated fairly you may wish to contact your local Citizen's Advice Bureau (be sure to speak to an employment law specialist). Alternatively you may wish to seek professional advice from an employment law solicitor.

We run a private Facebook group where you are welcome to ask questions and will receive online support from the whole community. You can also email our inbox – ebbsinfo@gmail.com.

One of our members Emma Reid is a solicitor with www.ergolaw.co.uk specialising in employment law with experience of issues surrounding pregnancy, maternity and return to work.

If you have any further questions do get in touch or visit our website – www.edinburghbirthandbaby.com

