

A Guide to Maternity Leave

When an employee announces their pregnancy, your initial response as an employer is likely to be one of congratulations. However, pregnant employees need significantly more help and support than this during their pregnancy and into their maternity leave. Here's our key guidance on maternity-related terminology, aimed at demystifying the support that you can provide as an employer.

Qualifying week

This is the week that falls 15 weeks before due date - this determines length of service for the purposes of calculating an employee's eligibility for maternity pay. (For school and trust employees, eligibility for statutory maternity pay is based on their "current employer continuous service date", and for contractual maternity pay, it is based on their "local government continuous service date".)

An additional qualifying period (known as the "relevant period") is used to determine the average earnings of your employee for the purposes of calculating eligibility for Statutory Maternity Pay and the rate of Contractual Maternity Pay. This is the period of 8 weeks or 2 months before the Qualifying week.

Expected Week of Childbirth (EWC)

This is stated on the MAT B1 form and confirms the date the employee is expected to have the baby (due date).

MAT B1

Also sometimes called a maternity certificate, the MATB1 is Issued by a midwife or doctor after 20 weeks. The form is needed for the employee to claim maternity pay or allowances.

Antenatal care

This is the care employees receive during their pregnancy from health professionals. Pregnant employees are entitled to reasonable paid time off for antenatal care from their first day of employment, regardless of their employment status or the number of hours they work. This includes appointments and classes recommended by a healthcare professional, such as scans, health checks, and relaxation classes. Employers must not ask employees to schedule these appointments outside working hours or to make up the time later. Additionally, partners of pregnant employees are entitled to unpaid leave for up to two antenatal appointments, each up to 6.5 hours.

Risk assessment

You should conduct a thorough analysis of the environment to pinpoint conditions that could potentially harm pregnant employees. Schools must ensure that their general workplace risk assessments include specific considerations for new and expectant mothers, which might arise from long hours, high workload, or physically demanding tasks such as prolonged standing or heavy lifting.

Additionally, particular attention should be paid to risks from exposure to infections or unsafe physical conditions in educational settings, such as unsuitable seating or overcrowded corridors.

Implementing risk mitigation measures is crucial once hazards are identified. If feasible, modifications might include providing more frequent breaks, suitable seating arrangements, or avoiding tasks that involve heavy lifting. Regular consultations with the pregnant employee are essential to ensure that all potential risks are considered and adequately addressed.

Pregnancy-related illnesses

Schools should be proactive in managing the physical symptoms associated with pregnancy, such as nausea, fatigue, and back pain. It is important to provide flexible work arrangements and adequate sick leave to accommodate pregnancy related illnesses. This includes allowing pregnant employees to report sickness in the usual way and ensuring they receive their usual sick pay. Additionally, schools should ensure that pregnancy-related absences are recorded separately from other sickness absences and are not used against employees in performance reviews or promotion considerations.

Pregnancy and maternity protection

It is unlawful to discriminate against employees because of pregnancy, maternity, or related conditions. Employees are protected from unfair treatment, discrimination, or dismissal during pregnancy and maternity leave. This includes entitlement to the same terms and conditions during leave, and protection in redundancy situations where pregnant employees should be offered suitable alternative employment if available. Employers are required to carry out risk assessments and make necessary adjustments to protect the health and safety of pregnant employees.

Maternity leave

A period that an individual takes off from work for the birth or adoption of a child.

Statutory Maternity Leave is 52 weeks and is comprised of:

- Ordinary Maternity Leave (OML) - first 26 weeks.
- Additional Maternity Leave (AML) - last 26 weeks.

An employee does not have to take 52 weeks, but they must take 2 weeks' leave after the baby is born.

The earliest an employee can start their leave is 11 weeks before the EWC, but leave will also start:

- The day after the birth if the baby is early.
- Automatically if the employee is off work for a pregnancy-related illness in the 4 weeks before the week (Sunday to Saturday) that their baby is due.

Your employee's employment rights are protected while they are on Statutory Maternity Leave. This includes their right to pay rises, to accrue holiday, and to return to work. They may also be eligible to get Shared Parental Leave and Pay.

Statutory Maternity Pay (SMP)

A legal minimum payment that employers pay to employees who are on maternity leave.

SMP is paid for up to 39 weeks:

- For the first 6 weeks, eligible employees receive 90% of their average weekly earnings
- For the next 33 weeks, eligible employees receive £184.03* or 90% of their average weekly earnings (whichever is lower).

SMP is paid in the same way as your employee's wages (for example monthly or weekly). Tax and National Insurance will be deducted.

To be eligible for SMP, your employee will need to:

- Earn at least £123 a week* on average.
- Have worked for you for 26 weeks when at the point they reach the Qualifying week.

(*correct at April 2024)

Contractual Maternity Pay

The amount of Contractual Maternity Pay an employee receives will be determined by their length of service, but those with sufficient may be eligible as follows:

Support staff:

- Six weeks at 90% of average earnings, followed by 12 weeks half pay & lower rate SMP, followed by 21 weeks lower rate SMP only. Remainder unpaid.

Teaching staff:

- Four weeks at full pay, two weeks at 90% of average earnings, followed by 12 weeks half pay & lower rate SMP, followed by 21 weeks lower rate SMP only. Remainder unpaid.

You should be aware that more generous locally agreed arrangements may be in place, so check your School or Trust for specific contractual entitlements.

Maternity Allowance (MA)

Maternity Allowance is payment your employee can get when they take time off to have a baby. MA is a social security benefit they can receive if they don't qualify for statutory maternity pay. MA might apply if your employee cannot get Statutory Maternity Pay (SMP):

- Due to length of service
- Due to not earning the average minimum.

Eligible employees can receive Maternity Allowance for up to 39 weeks:

- Eligible employees can apply for Maternity Allowance as soon as they've been pregnant for 26 weeks
- Payments can start any time between the 11th week before the baby is due and the day after the baby is born
- Maternity Allowance is currently £184.03* per week or 90% of your employee's average gross weekly earnings (before tax), whichever is the smaller amount.

To claim, your employee will need a Maternity Allowance (MA1) claim form. Employees should be aware that any money from MA that they receive may affect receipt of other benefits.

Keeping In Touch (KIT) days

KIT days allow employees on maternity or adoption leave to work up to 10 days during their leave period. These days are intended to enable employees to stay connected (if they wish) with their workplace and ease the transition back to work. Employees can choose whether to work KIT days. They will need to agree with you, as the employer, how many days to work (up to a maximum of 10 days), and what type of work will be undertaken on those days. Even if an employee only works for part of a day, this is counted as an entire KIT day. Pay for KIT days should be agreed upon with the employer in advance. Taking KIT days does not end maternity or adoption leave provided that no more than 10 days are taken.

Who is responsible and for what?

Employee Responsibilities:	<p>Your employee must notify you of their pregnancy (Burgundy Book provisions stipulate 14 weeks and Green Book provisions stipulate as soon as reasonably practical or at least 28 days before absence begins). In practice, employees may wish to notify you of their pregnancy sooner, to enable you to support them during the pregnancy and plan for the absence.</p> <p>Your employee will need to provide you with their MAT B1 form.</p> <p>Your employee must also tell you when they wish to start maternity leave. It cannot start earlier than 11 weeks before the due date. (Burgundy Book provisions stipulate that this needs to be provided at least 21 days before the requested start date and Green Book stipulates as soon as reasonably practical or at least 28 days before absence begins.)</p>
Employer Responsibilities:	<p>Once notified of the above, you must respond to the employee within 28 days.</p> <p>You should confirm their entitlement to 52 weeks of maternity leave and their expected return to work date (this can be changed by the employee. Under statutory regulations 8 weeks' notice of that needs to be provided. Green and Burgundy Books terms and conditions require 21 days' notice of return to work).</p> <p>You should confirm maternity pay arrangements and repayment periods if relevant. Under Burgundy and Green Book terms and conditions, employees are required to return for a minimum of 13 weeks, or equivalent if returning part-time, to retain their right to contractual maternity half pay.</p> <p>Once notified of pregnancy, you need to complete a pregnancy risk assessment. This will also need to be completed when the employee returns and is breastfeeding.</p> <p>You should also make the employee aware of the 10 KIT days that are available to them, but which will need to be agreed with you.</p> <p>EPM payroll customers should provide us with a copy of the valid MAT B1 form (or matching certificate in the case of adoption) and a completed options form (a form indicating how they would like any relevant pay to be made based on their intentions around a return to work and their eligibility for statutory and contractual maternity pay based on service) in advance of the maternity leave commencing so that pay can be calculated and adjusted appropriately.</p>

We have all this information and more on our customer hub. As an EPM customer, check out our Summary of Maternity Leave and Pay for All Categories of Employees document which can be found with a raft of associated family-friendly guidance in the Employee Relations section of our Guidance and Advice.