



## **Maternity Leave**

### **Introduction to maternity rights and benefits**

This policy sets out the rights of employees to statutory maternity leave and pay.

Childhood First recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the Charity's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant they should clarify the relevant procedures with the HR department to ensure that they are followed correctly.

The following definitions are used in this policy:

"Expected week of childbirth" means the week, starting on a Sunday, during which the employee's doctor or midwife expects them to give birth.

"Qualifying week" means the 15th week before the expected week of childbirth.

All pregnant employees (regardless of length of service) have the right in law to take up to 26 weeks' ordinary maternity leave and up to a further 26 weeks' additional maternity leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks' maternity leave. Additional maternity leave follows on immediately from the end of the period of ordinary maternity leave.

All employees who take maternity leave have the right to return to work at any time during either ordinary maternity leave or additional maternity leave (except during the first two weeks from the day of childbirth or four weeks in the case of factory workers), subject to their following the correct notification procedures as set out below.

### **Data Protection**

When managing an employee's maternity leave and pay, the Charity processes personal data collected in accordance with its data protection policy / policy on processing special categories of personal data. Data collected from the point at which an employee informs the Charity that they are pregnant is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their maternity leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Charity's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Charity's disciplinary procedure.

### **How much maternity pay will the employee receive?**

Employees, who have been continuously employed by the Charity for at least 26 weeks up to any day in the qualifying week and are still employed during that week, will also qualify for statutory maternity pay, providing that:

- they are still pregnant 11 weeks before the start of the expected week of childbirth (or have already given birth);
- they have provided a MAT B1 form stating their expected week of childbirth; and
- their average weekly earnings are not less than the lower earnings limit for national insurance contributions.
- Statutory maternity pay is payable for up to 39 weeks, with the first six weeks payable at 90% of the employee's average weekly earnings. The remaining 33 weeks is payable at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. It is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Payment of statutory maternity pay cannot start prior to the 11th week before the employee's expected week of childbirth. It can start from any day of the week in accordance with the date the employee starts their maternity leave.

Statutory maternity pay is payable whether or not the employee intends to return to work after their maternity leave.

Employees who are not entitled to statutory maternity pay may be entitled to receive maternity allowance payable directly by the Government. If an employee is not entitled to statutory maternity pay, the Charity will provide the employee with an SMP1 form to allow them to pursue a claim for maternity allowance.

### **Timing of maternity leave**

Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless their child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If the employee gives birth before their maternity leave was due to start, they must notify the Charity in writing of the date of the birth as soon as reasonably practicable.

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child (four weeks in the case of factory workers).

### **Notice requirements**

On becoming pregnant, an employee should notify their line manager as soon as possible. This is important as there are health and safety considerations for the Charity.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform the Charity in writing of:

- the fact that they are pregnant;
- her expected week of childbirth; and

- the date on which they intend to start their maternity leave.

The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it.

The employee is permitted to bring forward their maternity leave start date, provided that they advise the Charity in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their maternity leave start date, provided that they advise the Charity in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The Charity will formally respond in writing to the employee's notification of their leave plans within 28 days, confirming the date on which they are expected to return to work if they take their full 52-week entitlement to maternity leave.

The employee is required to give at least 28 days' notice of the date that they want their statutory maternity pay to begin. If it is not possible for the employee to give 28 days' notice, for example if the baby arrives early, they should tell the Charity as soon as reasonably practicable.

### **Time off for antenatal care**

Once an employee has advised the Charity that they are pregnant, they will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by their doctor, registered midwife or registered health visitor.

To be entitled to take time off for antenatal care, the employee is required to produce a certificate from their doctor, registered midwife or registered health visitor, stating that they are pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised them to attend, in addition to medical examinations.

The employee should endeavour to give their line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

An individual who has a qualifying relationship with the employee, which includes the employee's husband or civil partner and the father of the expected child, is eligible to take unpaid time off to accompany the employee at up to two antenatal appointments. The individual with the qualifying relationship should ask their employer for more details of the right.

### **Health and safety**

The Charity has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding where the work is of a kind that could involve a risk of harm or danger to their health and safety or the health and safety of their baby and the risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace. If applicable, the Charity will provide the employee with information as to any risks identified in the risk assessment.

If the risk assessment reveals that the employee would be exposed to health hazards in carrying out their normal job duties, the Charity will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible for the Charity to alter the employee's working conditions to remove the risks to their health and there is no suitable alternative work available to offer them on a temporary basis, the Charity may suspend them from work on maternity grounds until such time as there are no longer any risks to their health. This may be for the remainder of their pregnancy until the commencement of their maternity leave. If an employee is suspended in these circumstances, their employment will continue during the period of the suspension and it does not in any way affect their statutory or contractual employment and maternity rights. The employee will be entitled to their normal salary and contractual benefits during the period of their suspension, unless they have unreasonably refused an offer of suitable alternative employment.

### **Sickness absence**

If an employee is absent from work during pregnancy owing to sickness, they will receive their normal statutory sick pay in the same manner as they would during any other sickness absence provided that they have not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before their expected week of childbirth, their maternity leave will start automatically.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, they must notify the Charity in writing of this as soon as reasonably practicable.

### **Rights during maternity leave**

During ordinary maternity leave and additional maternity leave, the terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory maternity pay if the employee is eligible for it. This means that, while sums payable by way of salary will cease, other benefits such as holiday entitlement will remain in place.

The Charity's pension contributions will continue based on the employee's normal pay during ordinary maternity leave and paid additional maternity leave. However, the Charity's pension contributions will cease during any periods of unpaid additional maternity leave. The employee will remain in the life assurance and private medical insurance schemes.

Employees are encouraged to take any outstanding holiday due to them before the commencement of maternity leave. Employees are reminded that holiday must be taken in the year that it is earned.

### **Contact during maternity leave**

The Charity reserves the right to maintain reasonable contact with employees during maternity leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

## **Keeping-in-touch days**

Employees can agree to work for the Charity (or to attend training) for up to 10 days during their maternity leave without that work bringing their maternity leave to an end and without loss of a week's statutory maternity pay. These are known as "keeping-in-touch" days. Any work carried out on a day shall constitute a day's work for these purposes.

The Charity has no right to require employees to carry out any work and employees have no right to undertake any work during their maternity leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and the Charity.

## **Returning to work after maternity leave**

The employee may return to work at any time during ordinary maternity leave or additional maternity leave, provided that they give the appropriate notification. Alternatively, the employee may take their full period of maternity leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of maternity leave has elapsed, they must give at least eight weeks' notice in writing to the Charity of the date on which they intend to return.

The employee has the right to resume working in the same job if returning to work from ordinary maternity leave. If the employee returns to work after a period of additional maternity leave, they are entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the maternity leave period.

If the employee decides during maternity leave that they do not wish to return to work, they should give written notice of resignation to the Charity as soon as possible and in accordance with the terms of their contract of employment.

## **Transfer of maternity leave**

### *Shared parental leave*

Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date.

Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Charity is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs the Charity's agreement).

To be able to take shared parental leave, an employee and their partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the mother curtailing their maternity leave.

Employees can refer to the Charity's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the mother's maternity leave can be curtailed. The Charity's policy on shared parental leave sets out the notice periods with which employees must comply and what evidence they must provide to the Charity.

The mother and the partner should ensure that they are each liaising with their own employer when making requests for shared parental leave.

### **Key Legislation**

- Data Protection Act 2018
- Maternity and Parental Leave etc Regulations 1999 (SI 1999/3312)
- Shared Parental Leave Regulations 2014 (SI 2014/3050)
- Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014 (SI 2014/3052)
- General Data Protection Regulation (2016/679 EU)

*Revised July 2020*