

MANAGING YOUR EMPLOYEES

Guide 3.3: Maternity, Paternity and other Family Leave

There are certain legal rights to time away from work that apply when people have families.

Maternity Leave

Should a member of your staff become pregnant, they may qualify for Statutory Maternity Leave. To qualify, they need to:

- Be an employee – not a worker (see guide 2.2 ‘Employing Your New Starter – Creating a Contract of Employment’)
- Have told you they are pregnant at least 15 weeks before they are due to give birth
- Have told you at least 15 weeks before they are due to give birth when they want their maternity leave to start.

After they’ve told you, you must then write to them within 28 days confirming the start and end dates of their Statutory Maternity Leave.

A pregnant employee who meets the criteria above can take up to 52 weeks of maternity leave, although many choose to return to work sooner. They must take leave for the first two weeks after childbirth.

Maternity Pay (April 2023 figures)

If your employee qualifies for Statutory Maternity Leave, you may have to pay them Statutory Maternity Pay (SMP). To qualify they need to:

- Have been working for you continuously for at least 26 weeks at the 15th week before they are due to give birth
- Earn at least £123 a week on average in the 8 weeks leading up to the 15th week before they are due to give birth
- Give you their MATB1 form – this comes from a Doctor or midwife and confirms when they are due.

If your employee qualifies, you will need to pay them as follows:

- For the first 6 weeks - 90% of their average weekly earnings.
- For the next 33 weeks – either £172.48 a week OR 90% of their average weekly earnings, whichever is LOWER.
- For the next 13 weeks – nothing, SMP is only paid for 39 weeks.

Some employers decide they want to pay more than the statutory minimum. This is called 'Enhanced Maternity Pay'. If you want to do this, you can decide how much extra you wish to pay and for how long.

If your employee does not qualify for SMP, they may be able to get Maternity Allowance. They can claim this themselves from the Department for Work and Pensions, but you need to give them a form confirming they are not eligible for SMP. You can download this form from:

<https://www.gov.uk/government/publications/statutory-maternity-pay-employee-not-entitled-form-for-employers>

Paternity Leave

Maybe your member of staff has a partner who is pregnant? Your member of staff may be entitled to Statutory Paternity Leave. To qualify, they need to:

- Be an employer – not a worker (see guide 2.2 'Employing Your New Starter – Creating a Contract of Employment')
- Have been working for you continuously for at least 26 weeks at the 15th week before their partner is due to give birth
- Be the child's father, OR be married to OR be the civil partner OR partner of the person who is pregnant.

Remember, gender reassignment, marriage, civil partnership, pregnancy, maternity, sex and sexual orientation are all 'Protected Characteristics'. It is against the law to discriminate against an employee on any of these aspects.

If your member of staff qualifies, they can choose to take either one or two weeks Paternity Leave. They must take the leave all in one go. They can take it from the day their baby is born up to 8 weeks later.

Paternity Pay (April 2023 figures)

An employee who qualifies for Statutory Paternity Leave is likely to be entitled to Statutory Paternity Pay. To qualify, they need to:

- Fulfil the criteria for Statutory Paternity Leave AND
- Earn at least £123 a week on average in the 8 weeks leading up to the 15th week before their partner is due to give birth
- If your employee qualifies for Statutory Paternity Pay, for the weeks they are on Paternity Leave you need to pay them whichever is LOWEST:
 - £172.48 a week
 - 90% of their average weekly earnings.
- You can choose to pay them more than this if you want to. This would be 'Enhanced Paternity Pay'.

Other Family Leave

Employees who are parents might also be entitled to:

Adoption Leave

This has the same rights and criteria as Maternity Leave.

Shared Parental Leave

This is when two parents share their entitlement to maternity or adoption leave.

Ordinary Parental Leave

Parents have the right to unpaid time off work to look after their children. They can take up to 4 weeks off per child per year.

Dependant Leave

This is so employees can help a dependant in an emergency.

An employee's dependants can include:

- Their husband, wife, civil partner or partner
- Their child
- Their parent
- A person who lives in their household (not tenants, lodgers or employees)
- A person who relies on them, such as an elderly neighbour.

If you have any queries on how any of these work in practice, speak to Colden HR.

For HR support, please contact Colden HR on [0121 284 0852](tel:01212840852) or email enquiries@coldenhr.co.uk and quote your NCASS membership number.