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Maternity Policy

Introduction

This document sets out the provision for maternity leave and pay, and associated procedures. The document sets out a woman's statutory entitlements to maternity leave and pay. Should the statutory entitlements be amended, the regulations currently in force will be applied.

Scope

This document is applicable to all staff on permanent or fixed-term appointments.

Notification

It is the responsibility of the employee to advise the Pre-School Manager or Chairperson as soon as possible after confirmation, that she is pregnant, in order that arrangements can be made to ensure that her work will have no adverse effect on either her, her unborn child or baby. (Refer to Statutory notification requirements in section 5). As soon as is reasonably practicable after the Pre-School Manager or Chairperson is aware of an employee's pregnancy they must advise the Committee so that the necessary action can be taken.

Health and Safety

A risk assessment must be completed on all pregnant workers, workers who have recently given birth and workers who are breast feeding. Managers (or designated persons) should use the 'New and Expectant Mothers' Risk Assessment'.

The Pre-school must ensure that the work will not involve a risk (as far as is reasonably practicable) to the health and safety of a new or expectant mother or her baby from any processes or working condition, or physical, biological or chemical agents. These include shocks, vibrations, noise, mental and physical fatigue, exposure to chemical agents and extremes of cold and heat. Every effort should be made to reach agreement between the Pre-school Manager and employee on the outcome of the risk assessment. Should a significant risk be identified, then the manager should try to remove the hazard and prevent exposure to the risk, such as providing aids to help with manual handling duties. Should the risk still be thought to be significant then the Pre-school Manager must contact the Committee Chair to discuss a range of options available, including:

- Temporarily adjust the employee's working conditions and/or hours of work
- Offer her suitable alternative work if any is available, such as administration or clerical work, on terms and conditions no less favourable than her normal ones
- As a last resort, she should remain absent from work for as long as necessary to protect her safety and that of her child ensuring a letter is issued to explain why.

Statutory Maternity Leave

Any woman, regardless of length of service or hours of work, is entitled to a minimum of 26 weeks 'ordinary maternity leave'. A woman with at least 26 weeks continuous service by the 15th week before their expected week of childbirth (EWC) will be entitled to take 'additional maternity leave' immediately after ordinary leave of up to a further 26 weeks (bringing the total leave allowance up to 52 weeks).

The employee must notify the Pre-School committee of her intention to take maternity leave by the 15th week before her EWC (or as soon as is reasonably practicable). She must tell us:

- that she is pregnant
- the expected week of childbirth
- provide in writing when she wishes to start her maternity leave (refer to points below)
The notified date of the start of maternity leave may be amended provided the Pre-School is given at least 8 weeks notice of the change (or as soon as is reasonably practicable).

BCPS will then write to you within 28 days confirming the start and end dates.

The earliest that leave can be taken is 11 weeks before the EWC, unless the baby is born early. Employees do not have to take 52 weeks but must take at least 2 weeks after the birth. Leave will start automatically if the employee is off work for a pregnancy-related illness in the 4 weeks before the week (Sunday to Saturday) that your baby is due.

You qualify for Statutory Maternity Leave if you're an employee not a 'worker' and you give your employer the correct notice. It does not matter how long you've been employed by BCPS, how many hours you work or how much you get paid.

You cannot get Statutory Maternity Leave if you have a child through surrogacy - you may receive Statutory Adoption Leave and Pay instead.

Proof you're pregnant

The employee needs to provide BCPS with proof of the pregnancy to qualify for SMP; but you do not need it for maternity leave. Within 21 days of your SMP start date (or as soon as possible if the baby is born early) the employee must provide BCPS with either:

- a letter from your doctor or midwife
- your MATB1 certificate - doctors and midwives will give you this no more than 20 weeks before the due date

You will not receive SMP if you do not give your employer proof that the baby is due.

Statutory Maternity Pay (SMP)

To qualify for SMP you must earn on average at least £118 a week, give the correct notice, give proof you're pregnant and have worked for your employer continuously for at least 26 weeks continuing into the 'qualifying week' (the 15th week before the expected week of childbirth). You cannot receive SMP if you go into police custody during your maternity pay period. It will not restart when you're discharged.

SMP for eligible employees will be paid for 39 weeks, as follows:

the first 6 weeks: 90% of average weekly earnings (AWE) before tax

the remaining 33 weeks: £151.20 or 90% of their AWE (whichever is lower)

Tax and National Insurance will need to be deducted.

AWE is calculated based on your average earnings over a period of at least 8 weeks up to, and including, the last pay day before the end of the 'qualifying week'. This period is called the 'relevant period'.

Extra leave or pay

If the baby is born early, leave will start the day after the birth of the baby. The employee must give you the child's birth certificate or a document signed by a doctor or midwife that confirms the actual date of birth. BCPS will then write to confirm the new end date for their maternity leave.

For very premature births where the child is born 15 weeks or more before the due date, SMP will be calculated using the HMRC calculator.

Employees still qualify for leave or pay if the baby is stillborn after the start of the 24th week of pregnancy or the baby dies after being born.

Employment rights

An employee's employment rights (like the right to pay, holidays and returning to a job) are protected during maternity leave. SMP will be paid if BCPS stops trading.

Keeping in touch days

Employees can work up to 10 days during their maternity, adoption or additional paternity leave. These days are called 'keeping in touch days'. Keeping in touch days are optional - both the employee and employer need to agree to them.

The type of work and pay employees get should be agreed before they come into work. The employee's right to maternity, adoption or additional paternity leave and pay isn't affected by taking keeping in touch days.

Terms and conditions protection

Staff employment terms and conditions are protected and employees are entitled to any pay rises and improvements in terms and conditions given during the leave.

Pension contributions will stop if a period of leave is unpaid, unless your contract says otherwise.

Employees continue to build up holiday entitlement and can take any holiday they've accrued before or after the leave.

Returning to work

Employees have the right to return to their job if they take:

- Paternity Leave
- only 26 weeks of Maternity or Adoption Leave
- only 26 weeks of Shared Parental Leave (between both parents)
- 4 weeks or less of unpaid Parental Leave

At the end of maternity leave, the employee will usually return to their original job but there are some factors to take into account.

If an employee takes maternity leave for six months or less, they have the right to return to their job on the same terms and conditions as before they left, if the job still exists.

If an employee takes maternity leave for more than six months, they still have the right to return to their old job - however, if it is not reasonably practicable to do so, they can be offered a similar job where terms and conditions must be as good.

If an employee wants to return to work before taking their full maternity entitlement, they should inform their employer of their intentions at least eight weeks before the date they intend to return.

If an employee wants to amend their hours or duties on their return from maternity leave, they have the right to make a flexible working request

Redundancy

Employees have the same redundancy rights as their colleagues while on maternity, adoption, paternity or parental leave.

Employees have the right to be offered any suitable alternative job if they're selected for redundancy (even if other colleagues are more suitable for the role) while on maternity, adoption or paternity leave.

An employee can only be made redundant if the employer can clearly justify doing it - for example a part of the business closes and everyone in that section is made redundant.

Paid Time Off for Antenatal Care

Employers must give pregnant employees time off for antenatal care and pay their normal rate for this time off. 'Antenatal care' is not just medical appointments - it can also include antenatal or parenting classes if they've been recommended by a doctor or midwife.

Links to Legal Framework :

<https://www.gov.uk/government/publications/maternity-benefits-technical-guidance/maternity-benefits-technical-guidance>

<https://www.gov.uk/employers-maternity-pay-leave/eligibility-and-proof-of-pregnancy>

<https://www.acas.org.uk/index.aspx?articleid=1753#returntowork>