Maternity leave and pay

This factsheet answers commonly asked questions about maternity leave, maternity pay and returning to work after maternity leave.

Qualifying periods

How do I qualify for maternity leave?
All mothers, no matter how long they have worked for their employer are entitled to 52 weeks’ statutory maternity leave and to return to their job at the end of their maternity leave.

When you find out you are pregnant

When should I tell my employer that I am pregnant?
It is up to you to decide when to tell your employer you are pregnant. As soon as you tell your employer they should undertake a health and safety risk assessment to protect you and your baby. Your employer will also need to know that you are pregnant so that you can be given time off to attend ante-natal appointments and classes (if necessary).

What is the latest date that I can tell my employer that I am pregnant?
You must inform your employer that you are pregnant by 15 weeks prior to your expected week of childbirth. You must provide your employer with the date that your baby is due and when you would like to start your maternity leave.

What information do I need to give my employer?
You should notify your employer in writing that you are pregnant. The letter should state the date that your baby is due and the date that you wish your maternity leave to start. You should also give your employer form ‘MAT B1’ which is the certificate stating your expected week of childbirth issued to you by your midwife. Keep a copy of the form for your records.

What information must my employer give to me?
Your employer must write back to you within 28 days confirming the start and end date of your maternity leave. Your employer must assume that you are going to take your full entitlement to 52 weeks’ maternity leave.

If you start your maternity leave on a different date to that in your notification you should receive a new confirmation of your expected return-to-work date.

What should happen before you start maternity leave

Can I have time off to attend ante-natal classes?
Mothers are entitled to paid time off to attend ante-natal classes, including relaxation classes. It is reasonable for employers to ask staff to arrange their appointments at the start or end of the school day, but if this is not possible then time off must still be given. Part-time teachers who need to attend appointments on days when they normally work must be given time off to attend.

Can my partner have time off to attend ante-natal classes?
Unfortunately, there is currently no statutory right for spouses or partners of expectant mothers to take time
off to attend ante-natal classes. Your spouse or partner should check with their employer to see if they are allowed to attend and if they will be paid.

Maternity leave

How much maternity leave am I entitled to?
Regardless of your length of service with your employer you are entitled to 52 weeks’ maternity leave. Your employer must assume that you wish to take the full 52 weeks’ maternity leave unless you tell them otherwise. You need only give 28 days’ notice of your intention to return to work. ATL advises mothers not to agree an earlier return to work date with their employer until after the baby is born.

When can I start my maternity leave?
It is your decision when you start your maternity leave. The earliest date that you can start your leave is 11 weeks prior to the expected week of childbirth. You can start your maternity leave on any day of the week.

My baby is due in the school holidays; can I delay the start of my maternity leave until the start of the new term?
No. The latest date you can start your maternity leave is the date that your baby is due.

What happens if I am ill during my pregnancy?
If you are ill during your pregnancy then you are entitled to sick leave in the same way as if you were not pregnant. However, if you are ill with a pregnancy-related illness within four weeks of your baby’s due date then this will trigger the start of your maternity leave. If you are ill for a non-pregnancy related reason then your maternity leave will start on the day originally notified to your employer.

Am I entitled to any holiday leave at the end of my maternity leave?
If you are returning to work then you are not entitled to any holiday leave at the end of your maternity leave. Teachers are only entitled to the statutory 28 days’ holiday per year and these must be taken when the school is closed. The leave year for teachers runs from 1 September to 31 August. Any statutory holiday which you have not taken during the previous year will be carried forward and taken during school closures on your return to work.

If you do not return to work after your maternity leave and you have not received your entitlement to statutory holiday then you should be paid for this.

If I do not take all of my maternity leave can some be passed on to my partner?
Additional maternity leave allows mothers to pass on some of their unused maternity leave to their partner. Please see ATL’s additional maternity leave factsheet for more details – available from www.atl.org.uk/factsheets.

Maternity pay

How do I qualify for statutory maternity pay?
To qualify for statutory maternity pay (SMP) you must have been continuously employed with the same employer for 26 weeks by the qualifying week. The qualifying week is the 15th week before your expected week of childbirth.

How much statutory maternity pay am I entitled to?
Your SMP is paid at 90 per cent of your average weekly earnings for the first six weeks. The next 33 weeks is paid at £138.18 per week (as at April 2014) or 90 per cent of your average weekly earnings, if this is lower.

Your average weekly earnings are based on your earnings for the two months prior to the 15th week before your expected week of childbirth. If you receive a salary increase within this period, your employer must recalculate your maternity pay.

SMP is treated as earnings and you will pay tax, national insurance and pension contributions on it, as appropriate. You will not pay pension contributions unless you are in receipt of at least half pay.

What happens if I do not qualify for statutory maternity pay?
Your employer should provide you with a form ‘SMP1’ stating that you do not qualify for SMP. You may be able to claim maternity allowance from your local office of the Department for Work and Pensions (DWP) or JobCentre Plus, providing you have met the earnings limit in 26 weeks out the 66 weeks prior to your expected week of childbirth. Maternity allowance is not taxable or pensionable.

If you are not eligible for maternity allowance then you may be able to claim incapacity benefit from your local DWP office.
How do I qualify for occupational maternity pay?
Teachers in maintained schools in England and Wales must be employed for one year and 11 weeks by their expected week of childbirth. This employment does not have to be with the same local authority or maintained school.

Teachers teaching at independent schools or academies in England and Wales should check their contract. Some teachers in academies who have TUPE transferred to the academy will have maintained their continuity of service for maternity.

How much occupational maternity pay am I entitled to?
If you are a teacher in the maintained sector and qualify for occupational maternity pay you will be paid as follows:

- Weeks 1–4: 100 per cent of salary (statutory maternity pay is included in this amount)
- Weeks 5–6: 90 per cent of salary (statutory maternity pay is included in this amount)
- Weeks 7–18: 50 per cent of salary plus statutory maternity pay (£138.18 per week as at April 2014)
- Weeks 19–39: statutory maternity pay (£138.18 per week as at April 2014)
- Weeks 40–52: no entitlement to any pay.

Occupational maternity pay is treated as earnings and you will pay tax, national insurance and pension contributions on it, as appropriate. You will not pay pension contributions unless you are in receipt of at least half pay.

Some local authorities in England and Wales offer better provisions than those outlined above. Teachers in Scotland are entitled to the same amount of maternity leave, but they are entitled to 13 weeks at full pay followed by 26 weeks of statutory maternity pay. Teachers in independent schools, FE lecturers and support staff are only entitled to statutory maternity pay but should check their contracts to see if more beneficial arrangements have been agreed.

What happens if I do not qualify for occupational maternity pay?
If you do not qualify for occupational maternity pay you may still be eligible for SMP or maternity allowance.

I am expecting twins; do I receive more maternity pay?
If you have more than one baby at one time then you will be entitled to only one period of maternity leave and pay.

During maternity leave

Can my employer contact me during my maternity leave?
You should agree with your employer about what kind of contact you want during your maternity leave. Your employer should be able to keep you informed of changes in the workplace or job vacancies. Your employer must keep you informed if there are reorganisations or redundancies at your workplace.

Can I undertake any work while on maternity leave?
You can undertake up to 10 days’ work with your employer during your maternity leave. These are known as ‘keeping in touch’ days. They could also be used to attend training days or other continuing professional development (CPD) training, team meetings or conferences.

There is no statutory entitlement to receive pay for attending on a ‘keeping in touch’ day; however, ATL believes you should receive an appropriate daily rate for any work that you undertake. If you are still entitled to receive statutory maternity pay or maternity allowance you will need to agree with your employer whether any statutory maternity pay or maternity allowance is deducted from any payment made.

If you work for more than 10 days, any entitlement to statutory maternity pay or maternity allowance will cease.

I have more than one employer. Do I have to have the same length of maternity leave with each employer?
If you are receiving more than one payment of maternity pay then you can treat each employer separately and return at different times with each employer.
If I undertake work for a new employer can I continue to receive statutory maternity pay?
If you undertake work for an employer other than the one paying your maternity pay during your paid maternity leave, your entitlement to maternity pay will end. If you then finish this employment, your maternity pay will not be reinstated.

You should always check with the employer paying or who has paid your maternity pay before undertaking work with a different employer.

Returning to work

How much notice do I have to give of my intention to return to work?
If you take the maximum amount of maternity leave (52 weeks), then you do not need to notify your employer of your return to work date. However, if you wish to return before this date then you should give at least four weeks’ notice of your intention to return (teachers not employed in maintained schools may need to give eight weeks’ notice).

Can my employer refuse to accept my return to work date?
Providing you have given the correct notice as above your employer cannot delay your return to work date.

Can I return to work during school holidays?
Yes, you can return to work during school closure periods providing that you have given the correct notice.

Should I be returned to the same job?
Providing you are returning on your previous contract you should be able to return to the same role as when you left to start maternity leave. It is possible that your employer may offer you an alternative role until the start of the next academic year or term. You will need to consider whether you think this is reasonable.

What happens if I decide not to return to work?
If you wish to resign your post while on maternity leave you are still subject to the normal notice provisions. In the maintained sector the resignation dates are:

- two months’ notice to be received by 28 February to leave at 30 April
- three months’ notice to be received by 31 May to leave at 31 August
- two months’ notice to be received by 31 October to leave at 31 December.

If you do not meet these resignation dates you will need your employer’s consent to resign.

In addition, if you do not return to work for 13 weeks you may be required to repay the 12 weeks of maternity pay paid at 50 per cent of salary.

My school is reorganising and there may be redundancies. Am I protected?
If your school or college undergoes any reorganisation while you are on maternity leave, your employer must involve you in the process. If you have been selected for redundancy for a pregnancy- or maternity-related reason, your dismissal will automatically be treated as unfair.

If you are made redundant (for whatever reason) while on maternity leave and there is a suitable vacancy available, your employer is obliged to offer the job to you first.

If you receive notification that you may be at risk of redundancy you should contact ATL for advice.

What happens to my pension when I am on maternity leave?
While you are on paid maternity leave, including periods when you only receive SMP you will be credited with service in the Teachers’ Pension Scheme. You will pay contributions on what you actually earn but the percentage you pay will be based on your normal full-time equivalent salary.

When your maternity pay ends you will no longer be in pensionable service. If you are on unpaid maternity leave you are counted as being in pensionable service for the purposes of the death grant only.

For members of the Teachers’ Pension Scheme prior to January 2007:

If you remain out of pensionable service for more than five years, when you return to teaching you will join the revised pension scheme.

This means that all service credited after you return will have a retirement age of 65 years and you will receive a
pension based on your length of service in the revised scheme and one sixtieth of your pensionable salary.

You may claim any pension based on previous service from age 60, and you will be entitled to a pension based on your length of service and one-eighthieth of your pensionable salary and a tax-year lump sum of three-eightieths of your pensionable salary for each year of service.

For more details of the Teachers' Pension Scheme please refer to ATL's series of pension factsheets available at www.atl.org.uk/pensionfactsheets.

Can I maintain my membership of ATL when on maternity leave?
ATL offers a special membership package for members who are about to go on maternity leave and/or plan to take a break from teaching in order to raise a family. Please contact the membership department on 020 7782 1602 for further details.

I am expecting a second child shortly after returning from maternity leave; am I entitled to any maternity leave or pay?
You are entitled to receive your 52 weeks’ maternity leave. You are entitled to receive statutory maternity pay as detailed above. However, if the period used to calculate your statutory maternity pay falls during the time when you were on unpaid maternity leave you may not receive any statutory maternity pay.

Proving you meet the qualifying periods (including your maternity leave) and conditions above, you are entitled to receive occupational maternity pay at full salary, 90 per cent of salary and 50 per cent of salary. However any statutory maternity pay will depend on the calculation of your statutory maternity pay.

Mothers who have a miscarriage or stillbirth
If you have had a miscarriage prior to the 25th week of pregnancy any absence should be treated as sick leave.

In the event of a stillbirth identified as taking place after 25 weeks of pregnancy, or of neo-natal death, you will be entitled to the same maternity leave and pay as if the pregnancy had reached full term.

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