

## Family Leave

### Maternity leave for paid parish workers

As a parish employer you may be required to offer Statutory Maternity Leave and Statutory Maternity Pay. These guidance notes detail what needs to be offered and when.

### Key Facts

As a parish employer you may be required to offer Statutory Maternity Leave of 52 weeks which is broken down into:

26 weeks of Ordinary Maternity Leave (OML)

&

26 weeks of Additional Maternity Leave (AML)

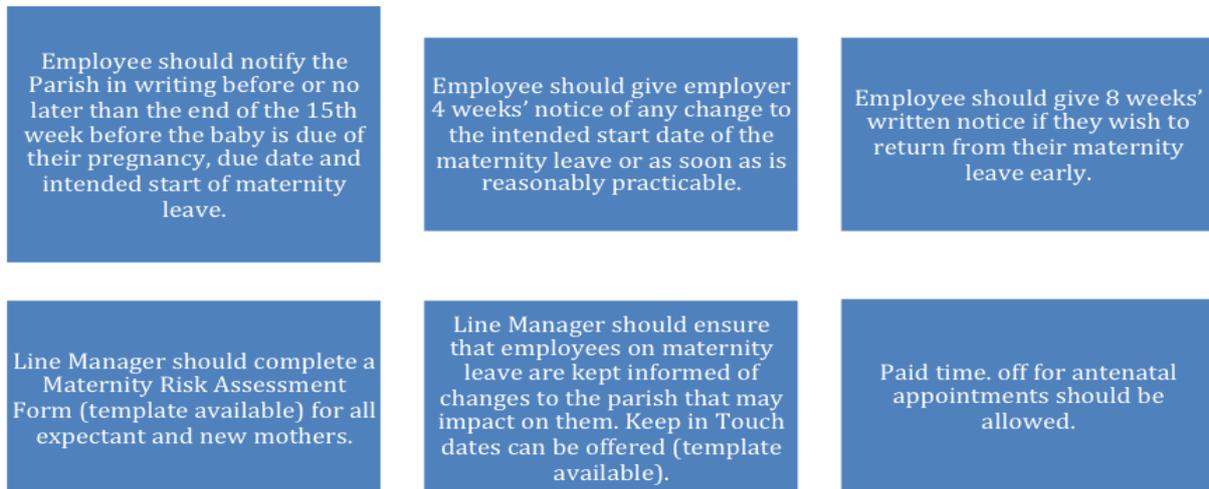
You may also be required to pay Statutory Maternity Pay (SMP) of 39 weeks broken down into:

6 weeks paid at 90% of salary

33 weeks at SMP

In addition to OML, AML and SMP, there is a right to paid time off for antenatal appointments and protected employment rights.

## Overview of Employer and Employee responsibilities



### Eligibility for Maternity Leave and Maternity Pay

To take maternity leave the person that works for you must be an employee (not a worker) and must give notice of leave 15 weeks before their due date. If you are not clear about the status of the person that works for you, please see the Checklist for Determining Employment Status.

To receive Maternity Pay an employee must:

- Have at least 26 weeks' continuous service with the Parish, assessed at the 15<sup>th</sup> week before the week the baby is due.
- Have average weekly earnings in the eight weeks up to and including the qualifying week at or above the lower earnings limit for the payment of National Insurance contributions.
- Provide a MatB1 certificate which the employee can obtain from their midwife.

Current rates of SMP can be found at [www.gov.uk/maternity-pay-leave](http://www.gov.uk/maternity-pay-leave).

### Rights of employee while on and after maternity leave

Whilst on Ordinary Maternity Leave (OML)

- Entitled to return to the same job as she occupied before commencing maternity leave.
- Entitled to same terms and conditions of employment as if she had not been absent.
- Benefits are accrued.

Whilst on Additional Maternity Leave (AML)

- If not reasonably practicable for the employee to return to the same role, a suitable alternative role can be offered.

- Entitled to same terms and conditions of employment as if she had not been absent.
- Benefits are accrued.

#### On return to work

- If she is unable to attend work at the end of her maternity leave due to sickness or injury, the Parish's normal arrangements for sickness absence will apply.
- If the employee wishes to return to work earlier than the expected return date, she must give the Parish at least 8 weeks' notice of her date of early return in writing.

#### FAQs

##### **What are 'keep in touch' days?**

A woman can work for up to 10 agreed 'keeping in touch days' (KIT) during maternity leave without the loss of SMP or Maternity Allowance. The most likely reasons for this are training or any activity undertaken for the purposes of keeping in touch with the workplace. The decision to undertake a KIT day must be made by agreement between the employee and the employer. The parish has no right to demand that any such KIT work is undertaken and the employee has no right to undertake such work. Important points to note include the following:

- A KIT day cannot be taken during the first two weeks after child birth.
- The employee can work for one hour or a whole day. This will still be a KIT day.
- The KIT day will not bring an employee's maternity leave period to an end.
- Once the 10 KIT days have been used up the employee will lose a week's SMP for any week in which she agrees to work. It may also bring maternity leave to an end.

##### **A member of my team is currently on maternity leave and has advised me that she does not want to return to work at the end of her maternity leave. What do I do?**

If the employee decides to leave after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, you may ask the employee to return to work for the remainder of the notice period.

##### **What happens if an employee is on maternity leave during the Annual Pay Review?**

Employees maintain their entitlement to an annual pay review whilst on maternity leave. Any increase will be confirmed in writing during the period of maternity leave and will be effective from the date the employee returns to work.

##### **Why does a Risk Assessment need to be carried out?**

You are legally obliged to carry out a Risk Assessment once you are advised of an employee's pregnancy. This is a requirement under the Management of Health & Safety at Work Regulations. The assessment enables line managers to identify any limitations and therefore any changes that should be adopted e.g. lifting heavy

boxes, sitting for long periods of time and any additional support, such as a coccyx wedge, back support, rest areas, or a new DSE assessment.

### **What happens to an employee's pension contributions when on maternity leave?**

Maternity leave is treated as pensionable service. The pension contribution will be calculated as if the employee were working normally and receiving the normal remuneration payable for doing so. The employee will be required to continue contributing to the scheme. The employee contribution rate will apply to the amount of pay actually received (usually SMP). During a period of unpaid maternity leave, neither the employee nor the employer will be expected to contribute. The employee may, if she chooses, pay contributions during this period but the employer will not have a duty to contribute.

### **How far up to the week of childbirth can an employee work?**

Ordinary maternity leave can start at any time after the beginning of the 11th week before the employee's expected week of childbirth (unless her 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.

### **Is there any limit to the number of times an employee can take maternity leave?**

No. If an employee is pregnant, her entitlement to maternity leave is not affected by how many periods of maternity leave she has had or whether these periods overlap.

### **What happens if, sadly, the baby is still born?**

If the baby is still born after the start of the 24th week of pregnancy, the employee is still entitled to take maternity leave.

## Paternity leave for paid parish workers

As a parish employer you may be required to offer Paternity Leave and Paternity Pay. These guidance notes detail what needs to be offered and when.

### Key Facts

As a parish employer you may be required to offer Ordinary Paternity Leave (OPL) of 2 weeks. You may also be required to offer Additional Paternity Leave (APL) of up to 26 weeks.

You may also be required to pay Statutory Paternity Pay (SPP).

### Overview of Employer and Employee responsibilities

#### Eligibility for Ordinary Paternity Leave (OPL) and Statutory Paternity Pay (SPP)

To take OPL the person that works for you must be an employee (not a worker). If you are not clear about the status of the person that works for you, please see the [Employment Status Indicator](#).

In addition they must:

- Have 26 weeks continuous employment ending with the 15<sup>th</sup> week before the expected week of childbirth
- For adoption, have 26 weeks continuous employment ending with the week in which they are notified of having been matched with a child
- Have, or expect to have, responsibility for the child's upbringing
- Be the biological father of the child and/or the mother's husband or partner (including same sex partner or civil partner)
- One of either one or two parents jointly adopting a child or the partner of someone adopting a child
- Not be receiving Statutory Adoption Leave and Pay
- Be in receipt of average weekly earnings at or above the lower earnings limit for National Insurance contributions.

OPL can be taken in one block of two weeks or two blocks of one week. Unless the employment contract states otherwise, it is paid at the SPP rate. Current rates of SPP can be found at [www.gov.uk/paternity-pay-leave](http://www.gov.uk/paternity-pay-leave).

#### Eligibility for Additional Paternity Leave (APL) and Statutory Paternity Pay (SPP)

To be eligible for APL your employee must meet the following criteria;

- The child's mother or adopter must have been entitled to Statutory Maternity Pay/Leave, Maternity Allowance, Statutory Adoption Leave/Pay and have returned to work and ceased claiming any relevant pay,
- Be employed at the end of the 15<sup>th</sup> week before the start of the week the child is due and still be employed the week before they want to start their leave,
- Have or expect to have main responsibility for the child's upbringing apart from the responsibility of the mother,
- Be the biological father of the child and/or the mother's husband or partner (including same sex partner or civil partner),

- Have or expect to have main responsibility for the child's upbringing apart from the responsibility of the mother.

### Statutory Paternity Pay (SPP) Guidelines

Statutory Paternity Pay should be paid to those that meet the eligibility criteria outlined above. The value of Statutory Paternity Pay changes from year to year, rates can be found on the HMRC website.

An employee can agree to work for up to 10 days during APL (see details below). These are known as 'keep in touch' days. Any work undertaken, including salary paid, is a matter for agreement between employer and employee.

On returning to work after OPL and APL the employee is entitled to return to the same job as they occupied before commencing leave.

### Additional Paternity Leave (APL) Guidelines

Employees can start APL anytime from 20 weeks after the child is born or placed for adoption. It must finish no later than 12 months after that date.

The employee must give notice to their parish employer that they wish to take APL at least 8 weeks before the start of the leave. Once the parish has received the request, they must take the leave in a single block and in complete weeks; the minimum period is 2 consecutive weeks and the maximum is 26 weeks.

Once the request has been received, the parish must respond formally in writing within 28 days to confirm start and ends dates of APL.

During APL, the employees are entitled to receive all contractual benefits except for salary.

### Rights of employee while on and after Paternity Leave

#### Whilst on Ordinary Paternity Leave (OPL)

- Entitled to return to the same job as he/she occupied before commencing paternity leave.
- Entitled to same terms and conditions of employment as if he/she had not been absent.
- Benefits are accrued.

#### Whilst on Additional Paternity Leave (APL)

- If not reasonably practicable for the employee to return to the same role, a suitable alternative role can be offered.

#### On return to work

- If the employee wishes to return to work earlier than the expected return date, he/she must give the parish at least eight weeks' notice of his/her date of early return in writing.

## FAQs

### **My employee is expecting a multiple birth, what happens to their Paternity Leave?**

Ordinary Leave remains at two weeks regardless of if there is a multiple birth.

### **How do I know that my employees partner is not still on Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Leave or Pay?**

The child's mother or co-adopter needs to provide a signed declaration stating that:

- They have notified their employer of their intention to return to work
- The date of their intended return to work
- That they were eligible for Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Leave or pay
- The dates that Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Leave or Pay started
- On our request the employee can be asked to produce the name and business address of the Mother or primary adopters employer and a copy of the child's birth or adoption placement.

### **What are KIT days?**

During Additional Paternity Leave an employee can work for up to 10 agreed 'keeping in touch days' (KIT) during paternity leave without the loss of Statutory Paternity Pay (SPP). The most likely reasons for this are training or any activity undertaken for the purposes of keeping in touch with the workplace. The decision to undertake a KIT day must be made by agreement between the employee and the employer. The company has no right to demand that any such KIT work is undertaken and the employee has no right to undertake such work.

Important points to note include the following:

- The employee can work for one hour or a whole day. This will still be a KIT day.
- The KIT day will not bring an employee's paternity leave period to an end.
- Once the 10 KIT days have been used up the employee will lose a week's SPP for any week in which he agrees to work. It may also bring paternity leave to an end.

## Parental leave for paid parish workers

As a parish employer you may be required to offer unpaid Parental Leave. These guidance notes detail what needs to be offered and when.

### Key Facts

As a parish employer you are required to offer eligible employees 18 weeks of unpaid Parental Leave to look after their child. Your employee may request Parental Leave for a variety of reasons from spending more time with their children, to going to school for an event or visiting grandparents.

Parental leave gives your employee the right to take unpaid leave for up to 18 weeks in the period up to a child's fifth birthday (or 18th birthday if the child qualifies for Disability Living Allowance). For an adopted child the right is to take unpaid leave for up to 18 weeks up to the child's 18<sup>th</sup> birthday or fifth anniversary of the child's adoption, whichever happens first.

A parent can take up to four weeks of the 18 weeks in each year. Parental leave is taken in whole weeks e.g. taking one day of parental leave will take one week of the 18 week entitlement. The exception to this is if your employees' child is disabled.

Parental leave is given for each child e.g. an employee with two children can take up to 36 weeks of Parental Leave.

### Overview of Employer and Employee responsibilities

The employee must inform their Parish employer 21 days before they intend to take Parental Leave.

In the notice, the employee should confirm the start and end dates of the intended leave.

The Parish can request that the leave be postponed if there is a significant reason e.g. disruption to a major event.

If requesting a postponement, the Parish must write to explain why, this letter must be sent within seven days and must suggest an alternative date which is within six months of the requested start date.

## Eligibility for Parental Leave

To take Parental Leave the person that works for you must be an employee (not a worker). If you are not clear about the status of the person that works for you, please see the Employment Status Indicator.

Your employee can take Parental Leave if they:

- Have more than one years' employed service with the Parish,
- Have a child who is under five or, in special circumstances, 18,
- Are named on the child's birth or adoption certificate,
- Have or expect to have parental responsibility.

## Rights of employee while on Parental Leave

Whilst on Parental Leave:

- If less than four weeks leave is taken, the parent is entitled to return to the same job and same terms and conditions that they enjoyed before commencing their leave,
- With the exception of pension, benefits are accrued whilst the parent is on leave.

**The advice in this document has been taken from the Diocese of London and this is acknowledged with thanks.**