

Adopted: 25<sup>th</sup> April 2017

## **FAMILY FRIENDLY BENEFITS POLICY (including Childcare Vouchers)**

### **Maternity Leave and Maternity Pay**

Pregnant employees and employees who have recently given birth have a variety of rights under current legislation. This area of law is very complex, and the following sections provide only a general guide for employees.

### **Introduction**

In general every employee who is pregnant has the right to Ordinary Maternity Leave of 26 weeks from day one of employment. In addition women who have been continuously employed for 26 weeks at the beginning of the 14<sup>th</sup> week before the expected week of childbirth are entitled to a further 26 weeks' Additional Maternity Leave, providing a total statutory entitlement of 52 weeks' maternity leave.

It should also be noted that women are legally obliged to take a minimum of two weeks' maternity leave after giving birth. A longer minimum period of four weeks applies in respect of women who work in factories. This is called Compulsory Maternity Leave.

### **Ordinary Maternity Leave (OML)**

An employee who qualified for the OML is entitled to receive all her normal contractual benefits (including annual holiday entitlement), excluding pay, while she is absent from work. However the normal holiday procedures apply.

An employee is entitled to return to her original job at the end of the OML period.

### **Additional Maternity Leave (AML)**

An employee who qualifies for AML has the right to a further 26 weeks' leave, which will run directly from the end of her OML period. This additional leave is unpaid.

The employee's contract of employment continues throughout AML. However, the only terms and conditions that automatically remain enforceable for both employee and employer are those relating to the duty of mutual trust and confidence, confidentiality, notice provisions, Charity Disciplinary and Grievance Procedures and any restrictive covenants. The employee continues to accrue statutory minimum annual holiday entitlement during AML. However the normal holiday procedure applies.

The employee is entitled to return to her original job at the end of AML. However, if this is not reasonably practicable, she should be offered a similar job on no less favourable terms and conditions.

## **Notification Procedures for Maternity Leave**

The notification requirements for maternity leave are exactly the same for Ordinary and Additional Maternity Leave. To qualify for maternity leave the employee must comply with the rules and procedures set out below.

1. No later than the end of the 15<sup>th</sup> week before the week the child is due, the employee must give her employer notice of:
  - The fact that she is pregnant
  - Her expected week of childbirth, which must be confirmed with the medical certificate MATB1; and
  - The date on which she intends to start her maternity leave. This must be in writing if requested by the employer (see Appendix 1)
2. Within 28 calendar days of the employee giving notice, the employer must respond in writing to the employee, confirming her full entitlement to maternity leave (both 39 weeks' OML and, if applicable, 26 weeks' AML) and the date when she is expected to return to work.
3. The earliest the employee may start her maternity leave is 11 weeks before the expected week of childbirth. An employee may change her mind about when she wants to start her leave, providing she gives her employer at least 28 calendar days' notice of the change.
4. The employee does not need to give notice of her return to work if she simply returns at the end of her maternity leave period. However, if she wishes to return to work before her full entitlement to maternity leave has ended, she must give her employer a minimum of 8 weeks notice of the date of her earlier return.
5. If the employee fails to give the required 28 calendar days' notice of an earlier return to Work (as para 3. Above), the employer may postpone the employee's return until the end of the 28 calendar days' notice she should have given, or until the end of her maternity leave period, whichever is earlier.

An employee does not lose the right to return to work if she does not follow the correct notification requirements. However, her employer may take appropriate disciplinary action if she fails to return to work at the end of her maternity leave period.

## **Postponing Return to Work**

There are no provisions for extending either Ordinary or AML if the employee is unable to return to work because of ill health at the end of her leave. However, in these circumstances, the employer's normal sick leave procedures will apply.

## **Contact with the employee during Maternity Leave**

The employer may make reasonable contact with the employee during Maternity Leave.

## **Statutory Maternity Pay**

All employees who have been continuously employed for at least 26 weeks ending with the 15<sup>th</sup> week before the expected week of childbirth (the Notification Week), and who satisfy the following conditions, are entitled to receive Statutory Maternity Pay (SMP) from their employer. The employee must:

1. still be pregnant at the 11<sup>th</sup> week before her expected week of childbirth or have had the child by that time;
2. have average weekly earnings equal to or above the Lower Earnings Limit for National Insurance purposes over the eight week period up to and including the Notification Week;
3. give her employer notice that she intends to be absent from work because of her pregnancy at least 15 weeks before the expected week of childbirth; and
4. provide her employer with medical certification of her expected week of childbirth, normally using form MAT B1.

Statutory Maternity Pay is payable for up to 39 weeks. The first six weeks are payable at the higher rate which is 90% of the employee's normal earnings.

Normal earnings are calculated based on the eight week period before the qualifying period. However, any pay rises made by the employer up to the end of the employee's Maternity Leave must be taken into account and SMP adjusted accordingly.

The remaining 33 weeks are payable at a standard rate which changes from time to time. Where the employee's earnings are below the standard rate, the employee should be paid at 90% of her average earnings of the previous eight weeks up to and including the Qualifying Week.

Employees who do not qualify for Statutory Maternity Pay should claim Maternity Allowance from their local Social Security or Job Centre Plus office.

### **Pension Contribution during Maternity Leave**

Where the employee has the benefit of contractual pension contributions made by the employers, these must continue to be paid at the full rate up to the end of the period when SMP is payable.

Where the employee is required to make pension contributions, these will be based on the pay she receives during Maternity Leave.

### **Keeping in Touch Days**

Employees on Maternity Leave may do up to 10 days' work for the employer without losing their right to SMP.

Neither the employee nor the employer is under any obligation to agree to Keeping in Touch days.

### **Antenatal Care**

All pregnant employees are entitled to take time off with full pay during working hours to receive antenatal care. The employer may require an employee who wishes to take time off for these purposes to provide medical certification of her pregnancy and an appointment card, except in connection with the first appointment.

### **Pregnancy related Absence**

An employee's maternity leave will automatically start if she is absent from work for a pregnancy related absence during the four weeks before the child is due.

## **Paternity Leave and Paternity Pay**

Eligible employees (see below) are entitled to take up to two weeks' paid Paternity Leave following the birth of their child in order to care for the child or support its mother. During Paternity Leave, most employees will be entitled to Statutory Paternity Pay (SPP), which will be the same as the standard rate of Statutory Maternity Pay (SMP).

## **Eligibility for Paternity Leave and Paternity Pay**

In order to qualify for Paternity Leave and Statutory Paternity Pay the employee must:

- be the biological father of the child or the mother's husband or partner (male or female);
- have or expect to have responsibility for the child's upbringing;
- have worked continuously for the employer for 26 weeks leading into the 15<sup>th</sup> week before the child is due; and
- have average weekly earnings equal to or above the Lower Earnings Limit for National Insurance purposes over the eight week period leading up to and including the Notification Week.

Employees must complete the Paternity Leave form, which is available from either HR or Payroll (see Appendix 2).

## **Taking Paternity Leave**

An employee is permitted to take Paternity Leave in units of either one whole week or two consecutive whole weeks. Leave may start on any day of the week on or following the child's birth and must be completed:

- within 56 calendar days of the actual date of birth of the child; or
- if the child is born early, within the period from the actual date of birth up to 56 calendar days after the expected week of birth.

An employee may change his or her mind about the starting date for Paternity Leave, providing he or she tells the employer at least 28 calendar days in advance of the changed start date where reasonably practicable.

## **Notification Procedures for Paternity Leave**

An employee who wishes to take Paternity Leave must notify the employer by the 15<sup>th</sup> week before the expected week or childbirth, stating:

- the week the child is due;
- whether the employee wishes to take one week or two weeks' leave; and
- when the employee wants the leave to start.

## **Contractual Benefits during Paternity Leave**

An employee on Paternity Leave is entitled to enjoy normal terms and conditions of employment, with the exception of pay. The employee is entitled to return to the same job following Paternity Leave.

## **Paternity Leave and Adoption**

The partner of an individual who adopts, or the other member of a couple who is adopting jointly, may be entitled to Paternity Leave and Paternity Pay.

When a couple adopts, they can choose who will take Adoption Leave and who will take Paternity Leave. Only one period of Adoption Leave and one period of Paternity Leave may be taken between the couple even if each individual works for different employers.

Further details of this entitlement are set out in the section on Adoption Leave and Adoption Pay.

### **Adoption Leave and Adoption Pay**

Employees who adopt a child may be entitled to adoption leave and Statutory Adoption Pay. This right applies to both men and women.

### **Adoption Leave**

Employees will be entitled to 39 weeks' paid Ordinary Adoption Leave and 26 weeks' unpaid Additional Adoption Leave, in order to care for a newly adopted child up to 18 years of age upon meeting the eligibility criteria.

To qualify for adoption leave, an employee must;

- be newly matched with a child for adoption by an approved adoption agency; and
- have worked continuously for the same employer for 26 weeks leading into the week in which the employee is notified of being newly matched with a child by an approved adoption agency for adoption.

Only one period of adoption leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangements.

### **Ordinary Adoption Leave**

An employee is entitled to return to his or her original job at the end of the Ordinary Adoption Leave period.

### **Additional Adoption Leave**

Additional Adoption leave runs directly from the end of the Ordinary Adoption Leave period. This additional leave is unpaid.

The employee's contract of employment continues throughout Additional Adoption Leave. However, the only terms and conditions that automatically remain enforceable for both employee and employer are those relating to the duty of mutual trust and confidence, confidentiality, notice provisions, Charity Disciplinary and Grievance Procedures and any restrictive covenants. The employee's right to the statutory minimum annual holiday entitlement continues to accrue during Additional Adoption Leave.

The employee is entitled to return to his or her original job at the end of Additional Adoption Leave. However, if this is not reasonably practicable, the employee should be offered a similar job on no less favourable terms and conditions.

### **Notification Procedures for Adoption Leave**

To qualify for adoption leave, an employee must give the employer the matching certificate from the adoption agency as evidence of entitlement to adoption leave. The employee must also comply with the following rules and procedures;

1. Within seven calendar days of being matched for a child, the employee must give his or her employer notice of:

- The date the placement is expected to take place; and
  - The date on which the employee intends to start adoption leave. This must be in writing if requested by the employer.
2. Within 28 calendar days of the employee giving notice, the employer must respond in writing to the employee confirming his or her full entitlement to adoption leave (both 39 weeks' Ordinary Adoption Leave and if applicable, 26 weeks' Additional Adoption Leave) and the date when the employee is expected to return to work.
  3. An employee who is adopting may choose to start adoption leave;
    - From the date of the child's placement; or
    - From a fixed date which can be up to 14 calendar days before the expected date of the placement.

An employee will be able to change his or her mind about the start date of adoption leave, providing the employee tells his or her employer at least 28 calendar days in advance.

4. The employee does not need to give notice of a return to work if he or she simply returns at the end of the adoption leave period. However, if the employee wishes to return to work before the full entitlement to adoption leave has ended, the employee must give his or her employer a minimum of 28 calendar days' notice of the earlier return date.
5. If the employee fails to give the required 28 calendar days' notice of an earlier return to work, the employer may postpone the return until the end of the 28 calendar days' notice the employee should have given, or until the end of the adoption leave period, whichever is earlier.
6. An employee does not lose the right to return to work if he or she does not follow the correct notification requirements. However, the employer may take appropriate disciplinary action if the employee fails to return to work at the end of his or her adoption leave period.

### **Statutory Adoption Pay**

Statutory Adoption Pay is payable at the same rate as Statutory Maternity Pay. To qualify for Statutory Adoption Pay, the employee must;

- Have been continuously employed for at least 26 weeks by the date he or she is informed by the adoption agency that the employee has been matched with a child;
- Have average weekly earnings equal to or above the lower earnings limit for National Insurance Purposes over the eight week period leading up to the date the employee is matched with a child;
- Give the employer the required minimum notice that he or she intends to be absent from work because of adoption; and
- Provide the employer with a matching certificate from the adoption agency as evidence of entitlement to Statutory Adoption Pay.

Statutory Adoption Pay is payable for up to 39 weeks at a standard rate which changes from time to time. Where the employee's earnings are below the standard rate, the

employee should be paid at 90% of his or her average earnings of the previous eight weeks up to and including the date the child is matched.

Employees who do not qualify for Statutory Adoption Pay may be able to claim financial support from their local Social Security or Job Centre Plus office.

### **Placement Ends**

If the child's placement ends during the adoption leave period, the employee will be able to continue adoption leave for up to eight weeks after the end of the placement.

### **Holiday Accrual**

During Ordinary Adoption Leave and Ordinary Maternity Leave, an employee is entitled to all normal contractual benefits (including annual holiday entitlement) excluding pay, whilst absent. However the annual holiday year runs from April until March and any annual holiday not taken may result in the employee losing this entitlement.

### **Paternity Leave and Adoption**

The partner of an individual who adopts, or the other member of a couple adopting jointly, may be entitled to Paternity Leave and Paternity Pay.

When a couple adopts, they can choose who will take Adoption Leave and who will take Paternity Leave. However, the same employee may not choose to take both entitlements.

A qualifying employee may take either one whole week's or two consecutive whole weeks' paid Paternity Leave to care for a newly adopted child or to support his or her partner on adoption.

In cases of adoption, an employee must have worked continuously for the employer for at least 26 weeks leading into the week in which the adopter is notified of being matched with a child.

The employee may decide to start Paternity Leave either from the date of the child's placement, from a chosen number of days or weeks after the date of the child's placement or from another chosen date.

In all cases Paternity Leave must be completed within 56 calendar days of the child's placement.

### **Parental Leave**

After one year's service, employees are entitled to a maximum of 13 weeks' unpaid Parental Leave for each of their children under five years old.

Parents of disabled children are entitled to a total of 18 weeks' parental leave, which can be taken at any point until the child's 18<sup>th</sup> birthday. Where an employee adopts a child under the age of 18, he or she is entitled to Parental Leave during the five years after the adoption, or until the child's 18<sup>th</sup> birthday, whichever is earlier.

A maximum of four weeks' Parental Leave may be taken in any one year.

Parental Leave may only be taken in blocks of one complete week or more except in the case of parents of children with a disability who may take Parental Leave one day at a time.

An employee is required to give the employer a minimum of 21 calendar days' notice in writing of his or her request to take Parental Leave.

Employers have the right to postpone Parental Leave for up to six months if the business would be unacceptably disrupted by the employee's absence. However, Parental Leave requested to take place immediately after the birth of a child may not be postponed provided that the employee has given 13 weeks' notice of his or her intention to take Parental Leave at this time.

### **Time off for Dependants**

Employees are entitled to take reasonable unpaid time off to deal with sudden or unexpected problems with a dependant. A dependant is a partner, child or parent who lives with the employee as part of his or her family or any other person who reasonably relies on the employee for assistance.

Reasonable time off will be granted in the following circumstances:

- For the birth, sickness, injury or death of a dependant;
- To make arrangements for the care of a sick or injured dependant or to make arrangements to deal with an unexpected disruption to care arrangements; and
- To deal with an unexpected incident involving the employee's child during school hours.

The right is only to deal with emergencies and to put care arrangements in place. This means that in the case of a dependant's illness, for example, the employee is not entitled to time off for the duration of the dependant's illness.

Employees are required to inform the employer as soon as practicable of their absence, the reason for it and how long they expect to be away from work.

There is no minimum service period for an employee to qualify for this right.

## **CHILDCARE VOUCHERS**

AUKCAP is committed to supporting staff to return to work following the birth or adoption of children

The organisation will, on application, offer employees the opportunity to undertake a salary sacrifice and receive the amount sacrificed as childcare vouchers up to a maximum of £50 per week.

### **Salary sacrifice**

This enables an employee to give up the right to receive part of the cash pay (cash in this context includes salary paid into a bank account) due under his or her contract of employment. Usually the sacrifice is made in return for a non cash benefit.

A cash sacrifice that is considered to be effective by the Inspector of Taxes will not be subject to income tax or National Insurance. Employees should consider carefully the effect or potential effect that a reduction in their pay may have on:

- Their future right to the original (higher) cash salary
- Any pension scheme being contributed to
- Entitlement to working Tax Credit or Child Tax Credit
- Entitlement to State Pension or other benefits such as Statutory Maternity Pay

A salary sacrifice involves an amendment to a contract of employment. This amendment will be reviewed every 12 months or sooner in the event of unexpected life changes. Unexpected life changes would include death of a child or partner, separation, divorce and marriage.

Employees are strongly recommended to take independent advice regarding salary sacrifice.

Where an agreement has been reached with an employee, AUKCAP will seek to come to an arrangement with the employee's childcare provider. The provider must be approved. AUKCAP will not be responsible if the childcare provider is unable to agree to such an arrangement.

### **Further information**

Employees who are considering applying for a salary sacrifice should contact the Department of Work and Pensions ([www.thepensionsservice.gov.uk](http://www.thepensionsservice.gov.uk)). Further information is available from [www.hmrc.gov.uk/specialist/salary\\_sacrifice.pdf](http://www.hmrc.gov.uk/specialist/salary_sacrifice.pdf)  
And [www.daycaretrust.org.uk](http://www.daycaretrust.org.uk)

An employee considering a request should discuss this with their line manager.

This policy will be reviewed every 12 months

**APPENDIX 1 - Family Friendly Benefits Policy**

**Request for Maternity Leave**

Your leave date:

The baby is due on:

If the baby has been born, please enter the  
Actual date of birth and also give the date  
The baby was due in the box

I want to be away from work for 39 weeks /    weeks (please delete)

I have arranged with my manager to have Keeping in Touch days on the following dates:

.....  
.....  
.....

**Your declaration**

Surname .....

First name(s) .....

National Insurance Number .....

Signature .....

Line Managers Signature .....

Date .....

**APPENDIX 2 - Family Friendly Benefits Policy**

**Request for Paternity Pay / Leave**

The dates you wish your Paternity Leave to start

The baby is due on

If the baby has been born, please enter the actual date of birth and also give the date the baby was due in the box

The date you will be returning to work

**Your declaration**

Surname .....

First name(s) .....

National Insurance Number .....

You must be able to tick both boxes below to be entitled to Paternity Pay and Paternity Leave.

I declare that

- I am
  - The baby's biological father or
  - Married to the mother, or
  - Living with the mother in an enduring family relationship but am not an immediate relative

- I have responsibility for the child's upbringing

Signature .....

Line Managers Signature .....

Date .....