



Pregnancy

Your rights
at work

A UNISON GUIDE

Pregnancy

Your rights at work

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Introduction

This guide explains your statutory rights as a pregnant working woman. UNISON has negotiated agreements at national and local level, which improve on these rights for many members. Please check with your UNISON representative for details of your contractual scheme.

As every pregnancy and baby is different, you will want a lot more specific information on how to best enjoy both. Books are available from your local library that will provide you with a wealth of useful information, or there are trusted websites, see page 9 for details.

If you have been in the same job throughout your pregnancy you may be entitled to Statutory Maternity Pay (SMP). If not, you may still be able to get Maternity Allowance (MA) if you have done some work in the year and a quarter before your baby is due, or Employment and Support Allowance (ESA) based on your National Insurance contributions.

This is not a full statement of the legal position but is a short summary for the benefit of members.

Maternity rights

It is against the law for an employer to discriminate or treat a woman unfavourably because of their pregnancy, or because they have given birth recently, are breastfeeding or on maternity leave. Employees have the right to take reasonable time off for antenatal appointments (including travel time) without loss of pay. This isn't just for medical appointments. It can also include parenting classes if recommended by a doctor or midwife. These rights apply regardless of how long you have worked for your employer, or the number of hours you work each week.

Health and safety at work

If you are pregnant, have recently given birth or are breast feeding, your employer should immediately take into account any risks identified in their workplace risk assessment (which should have considered female employees of childbearing age, including new and expectant mothers). Employers may choose to do a separate risk assessment. Ask your UNISON health and safety representative for advice and information.

To exercise your health and safety rights you must:

- tell your employer in writing that you are pregnant or breast feeding, or that you have given birth in the last six months
- if your employer asks in writing for proof that you are pregnant, show them your MATB1 form (the maternity certificate that your doctor or midwife will give you) or a doctor's letter
- discuss any job-related concerns about your health or the health of your baby with your doctor or midwife. If they advise you that there could be a risk, ask for a letter to show to your employer so that they can take this into account.

All women employees are entitled to 52 weeks maternity leave. This applies regardless of length of service or the number of hours worked each week

Your employer must:

- have taken into account any risks identified in the workplace risk assessment from any processes, working conditions, physical, chemical and biological agents that could jeopardise your health or safety or that of your child while you are pregnant, breast feeding, or have given birth within the previous six months
- if the assessment reveals a risk, do all that is reasonable to remove it or prevent your exposure to it
- give you information on the risk and what action has been taken
- if the risk remains, temporarily alter your working conditions or hours of work, if this is reasonable and if this avoids the risk
- if that is not possible offer you suitable alternative work (on terms and conditions which are not substantially less favourable than your original job)
- if this is not possible, suspend you on full pay (ie give you paid leave) for as long as is necessary to avoid the risk.

NB: if you are suspended your employer may have the right to bump you onto maternity leave from four weeks before the week your baby is due.

You should check with your local UNISON representative to see if the union has been able to negotiate any 'top up' provision with your employer

Maternity leave

All women employees are entitled to 52 weeks maternity leave. This applies regardless of length of service or the number of hours worked each week. Your maternity leave will be divided into 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML) starting on the day after the end of OML. There are different rights to return to work depending on whether you return after OML or AML.

You can start your maternity leave any time from the 11th week before your baby is due (unless you give birth before then), providing you give the correct notice (in writing if they ask for it) in or before the 15th week before your baby is due. This is the latest time you can tell your employer that you are pregnant, although you may chose to tell them earlier to take full advantage of your maternity rights. You must also confirm your expected week of childbirth and the date on which you intend to start your maternity leave before the end of this week. If you want to change the date you start your leave, you must give notice at least 28 days before the new date or the old date, whichever is earliest.

Once you have given notice, your employer must write to you within 28 days and state the date you are expected to return from maternity leave.

While on leave, you can change your return to work date if you give your employer eight weeks' notice.

Statutory Maternity Pay

Statutory Maternity Pay (SMP) is paid for 39 weeks by your employer, who then claims most of it back from HM Revenue and Customs (HMRC). You will not have to repay any SMP if you decide not to go back to work.

You must give your employer proof of pregnancy such as your MATB1 form within 21 days before you wish to start your pay – although most women choose to give this form in when giving notice of maternity leave. If your employer believes you are not entitled to SMP, they must give you form SMP1.

Qualifying conditions

You can get SMP if:

- you have worked for the same employer for at least 26 weeks by the end of the 15th week before your expected week of childbirth
- you are still in the same job in the 15th week before your baby is due
- you earn at least £113* a week on average.

If you leave your job or are dismissed after the 15th week before your baby is due, you will still be entitled to SMP.

**2017 threshold is quoted – threshold normally changes each April*

Rate of Statutory Maternity Pay

SMP is 90% of your average weekly earnings for the first six weeks. After that you get a flat rate of £140.98* per week for 33 weeks, or 90% of your average earnings if less.

**2017 rate is quoted – rates normally change each April*

Claiming SMP

To get SMP you must give your employer at least 28 days' notice (in writing if they ask for it) of the date you want your pay to start. SMP usually starts on the same day as your maternity leave. It is paid in the same way as your wages (eg monthly or weekly). Tax and national insurance will be deducted.

Maternity Allowance

Maternity Allowance (MA) is paid by the Jobcentre Plus for 39 weeks. The earliest MA can start is 11 weeks before your baby is due, but you can choose to work until closer to the birth. You may get MA if you do not qualify for SMP from your employer, for example, because you changed jobs during your pregnancy or your earnings are too low.

Qualifying conditions

To get MA you must have:

- been employed or self-employed for at least 26 weeks in the 66 weeks before your baby is due
- have earned at least £30 per week on average in any 13 of these weeks.

You do not need to have worked whole weeks, any week in which you have done some work will count. You should choose the weeks in which you have earned the most. You can add together earnings from more than one job and can also include holiday pay, bonuses, overtime and sick pay.

Benefit rate

Maternity Allowance is £140.98* per week for 39 weeks or 90% of your average earnings if that is less.

There is a lower rate if you have not paid enough Class 2 National Insurance.

**2017 rate is quoted – rates normally change each April*

Claiming MA

You should claim MA from your local Jobcentre Plus by filling in the claim form MA1 when you are around 26 weeks (six months) pregnant. You will also need to send:

- your MATB1 form confirming the date your baby is due
- if you are employed, an SMP1 from your employer explaining why you can't get SMP
- wage slips or other written confirmation of earnings over the 13 weeks you have chosen to be used to calculate your entitlement.

You should also check with your local UNISON representative to see if the union has been able to negotiate any 'top up' provision with your employer.

If you are not entitled to either SMP or MA, you may still be entitled to Employment and Support Allowance (ESA), dependent on your National Insurance contributions in the previous three years. The Jobcentre Plus should advise you.

Keeping in touch days

You can work for up to 10 days (single days or in blocks) without bringing your maternity leave to an end or losing your SMP or MA. You may not work during the two weeks of compulsory maternity leave immediately after the birth (four weeks if working in a factory).

Keeping in Touch (KIT) days are not compulsory – neither you nor your employer can insist on it – but they can be used for work-related activities such as training, conferences and meetings.

The legislation does not dictate how much an employee should be paid for attending work on a KIT day. However, the minimum is the SMP you would be entitled to in any event. UNISON believes that women should be paid their usual daily rate while not on maternity leave, offset against your SMP payment. Other out of pocket expenses such as childcare and travel costs might also be claimed. You should discuss this with your union representative and/or manager.

Returning to work

When you go back to work after Ordinary Maternity Leave (OML), you have the right to return to exactly the same job. When you go back to work after Additional Maternity Leave (AML), you also have the right to return to the same job. But, if your employer can show that it is not reasonably practicable for you to return to the same job, for example because the job no longer exists, you have the right to be offered a suitable alternative job.

You do not have to give any notice if you are returning to work at the end of the full 52 weeks of your maternity leave. If you wish to return to work early, or to change the date of your return to work you must give your employer at least eight weeks' notice of the date you will be returning. If you decide that you no longer

wish to return to work following your maternity leave you should resign as normal and give your employer the notice required by your contract of employment.

If you are not well enough to return to work at the end of your maternity leave then normal contractual arrangements for sickness absence will apply.

Breast feeding and work

There is some legal protection under health and safety and sex discrimination laws for breast feeding mothers at work. You should provide your employer with written notification that you are breastfeeding. All employers have a legal duty to protect the health and safety of a breast feeding mother by providing 'suitable facilities' for her to rest. This should ideally include access to a private room, access to a secure clean fridge for storing milk and time off to express milk or to breastfeed. It is not suitable for new mothers to use toilets for expressing milk. Failure to provide suitable facilities could amount to a health and safety risk. You may be able to temporarily change your hours of work and/or be temporarily given alternative work if your working conditions make it hard or impossible for you to breastfeed or express milk.

Paternity (maternity support) Leave and Pay

The right to time off to care for the child or support the mother following the birth, called Paternity Leave, is available to the mother's husband, spouse or partner, including same sex partners, as well as the biological father. Paternity Leave is two weeks. It must be taken in a block as one week or two weeks in a row, but not as odd days or two separate weeks. It must be taken within 56 days of the child's birth (or if the child is born early it must be taken within 56 days of the due date).

If a baby is stillborn after 24 weeks, or is born alive at any time but then dies, you have the right to take Paternity Leave as usual.

Paternity (maternity support) Leave can be taken by more than one person for the same baby. Parenting rights tend to be based on the assumption that a child will have a maximum of two parents, but the possibility of more (for example, a same sex couple and an involved donor parent) is not ruled out.

Qualifying conditions

You can get paid Paternity Leave if:

- you are an employee
- you have worked for your employer for 26 weeks by the 15th week before the baby is due
- you are still employed by the same employer before the birth
- you earn at least £113* per week on average (for Statutory Paternity Pay)
- you give notice for leave by the 15th week before the baby is due
- you give at least 28 days' notice for Statutory Paternity Pay.

**2017 threshold is quoted – threshold normally changes each April*

Rate of Statutory Paternity Pay

Statutory Paternity Pay (SPP) is paid by employers for up to two weeks at a rate of £140.98* per week or 90% of average earnings if that is less.

NB: Some employers give better paternity pay so always check with your UNISON representative.

**2017 rate is quoted – rates normally change each April*

All employees are entitled to take reasonable (unpaid) time off work to deal with an emergency involving a dependant

Shared Parental Leave

You may be able to get Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if you have had a baby or adopted a child.

The aim is to give parents more flexibility in how to share the care of their child in the first year. It can mean that the mother or adopter could share some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date. Parents can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child. SPL can be split into three separate blocks.

Rate of Statutory Shared Parental Pay

Statutory Shared Parental Pay is paid at £140.98* per week or 90% of your average earnings if that is less.

**2017 rate is quoted – rates normally change each April*

Remember that if you are working you are entitled to paid time off work for antenatal appointments, including travel to your clinic or GP

Parental leave

Parents who have completed a year's service with an employer are entitled to 18 weeks' unpaid parental leave to care for the child up to the age of 18. You must give 21 days' notice before your intended start date. You may choose to take a period of parental leave following maternity leave. Some employers limit parental leave to a maximum of four weeks in any one year. All employees are entitled to take reasonable (unpaid) time off work to deal with an emergency involving a dependant.

Child-friendly working hours

Parents of young children, and carers of adults, have the right to ask their employers for flexible work, and employers must consider the request seriously. This could mean changing or reducing your hours of work, days of work or place of work. Your UNISON branch may have negotiated a workplace policy that improves on the statutory minimum, so check with them. They will also provide advice and guidance on the right.

Every employee has the statutory right to request flexible working after 26 weeks' employment service, as long as they have not already made a request in the last 12 months.

Your employer can only refuse your request for specific business reasons set out in the statutory regulations.

You and your baby: know your rights

Before the birth

Week 1 – First day of your last period. Pregnancy is counted from now.

Week 4 – First missed period. You can take a pregnancy test from the first day of a missed period, if you wish. Free pregnancy tests may be available from:

- your GP
- a family planning clinic
- genito-urinary medicine (GUM)/sexual health clinics
- NHS Walk-in Centres
- a Brook Centre or other young people's clinic
- British Pregnancy Advisory Service clinics.

You can also pay to have a test at Marie Stopes clinics.

You can buy a do-it-yourself pregnancy test kit from a chemist. If the test is negative, try again a few days later if your period still hasn't come.

Get advice as early as possible if abortion is being considered.

Weeks 5-7 – when booking for antenatal (pregnancy) care your first step is to see your GP, practice midwife or contact a midwife through a Children's Centre – you have this choice. If you wish to change your GP for your pregnancy you can do this as long as the new GP accepts you on to their list. Direct booking with a midwife can improve information and support for women early in pregnancy.

You are entitled to free prescriptions and dental treatment throughout your pregnancy and for 12 months after you have given birth. Ask your GP or midwife for a form FW8 to apply for a maternity exemption certificate. If you are claiming benefits you may be able to get Health Start vouchers for milk, fruit,

vegetables and vitamins during pregnancy and until your child is 4 years old.

Think about when you want to tell your employer about your pregnancy. Your employer must take into account any risks identified in the health and safety risk assessment to make sure that the work you do will not put you or your baby's health at risk.

Week 8 – You should arrange your booking appointment around the 8th to 12th week of pregnancy, unless you need to see someone earlier, for instance if you have severe pregnancy sickness or concerns about any medication you are taking.

In some areas ultrasound is offered around 11 weeks and you may need information and time to consider this.

The earlier you book, the better. You should allow plenty of time as you will probably see a midwife and a doctor, and may be offered an ultrasound scan. You'll be asked questions about your and your partner's family history, health and work, to see if there are any special risks to you or your baby. Blood and urine tests will be taken to check for any abnormalities or dangers. It is routine in most clinics to offer a pregnant woman an HIV test. You may have a full physical examination as well.

Remember that if you are working you are entitled to paid time off work for antenatal appointments, including time needed to travel to your clinic or GP, without loss of pay. You should let your employer know when you need time off. For appointments after the first one, your employer can ask to see your appointment card and a certificate stating that you are pregnant. Antenatal care includes parentcraft and relaxation classes. You may need a letter to show your employer from your GP or midwife, saying that these classes are part of your antenatal care.

Week 18 – most hospitals offer ultrasound scans to all women at 18-20 weeks to check for certain abnormalities, although they may be offered as early

as 10 weeks. Ultrasound scans use sound waves to create an image of the baby in the womb. Ask for the image on the screen to be explained, if you can't make it out. Some hospitals will provide a copy of the image.

Week 20 – your doctor or midwife can now give you a form MAT B1 confirming your expected date of childbirth. You will need to give this to your employer when giving notification of your intention to stop work, or to the Jobcentre Plus, if you claim Maternity Allowance.

At least 21 days before the Statutory Maternity Pay start date, give your employer proof of the pregnancy.

Week 29 – eleven weeks before the due date is the earliest you can go on maternity leave without losing the right to return, which is about week 29.

Statutory Maternity Pay and Maternity Allowance can start from now. You can claim the Sure Start Maternity Grant of £500 if you or your partner are receiving benefits and have no other children.

Week 30 – going to antenatal classes can help to prepare you (and your family) for birth. They are sometimes called parentcraft classes. There will probably be a choice of classes in your area - run by the NHS in the maternity unit or health centre by midwives and health visitors, or independently by the local branch of the National Childbirth Trust (NCT). It is often necessary to book your classes early in the pregnancy as they tend to be popular.

Topics covered by classes include: health in pregnancy, what happens during labour and birth and coping techniques, caring for your baby (including feeding), and your feelings.

Week 35-36 – if you are off work in the last four weeks before your expected week of childbirth with a pregnancy related illness or health and safety suspension your employer can trigger your maternity leave.

After the birth

First 24 hours after birth – your healthcare professional will develop a written postnatal care plan describing how you will progress through the next six to eight weeks.

Your baby will usually be given an NHS number whilst still in hospital.

Week 1 – you can claim tax credits if you have a baby or get more money if you are already getting tax credits. Tell the Tax Credit Office within one month of the birth. If you qualify for tax credits you may also be able to claim the Sure Start Maternity Grant of £500, within three months of the birth. You can get an application form, or more information, by phoning Sure Start Maternity Grant Helpline on 0345 603 6967.

Week 6-8 – in England, Wales and Northern Ireland you must register the birth at your local registry office within 42 days of the birth date. In Scotland you must register within 21 days. The registrar will give you a birth certificate.

Claim Child Benefit as soon as baby is registered and you have the birth certificate. You may have been given a claim pack inside the Bounty Pack which most new mothers are given in hospital.

You can also get a claim form from gov.uk/child-benefit

You should have a post-natal check to see if everything is getting back to normal. Baby should also be checked by a doctor.

Week 27 – you will now be back at work if returning at the end of Ordinary Maternity Leave (OML).

Tell your employer in writing if you are breast feeding, and your employer must consider any health and safety risks and take action.

Remember to give eight weeks notice if you want to go back to work before the end of Additional Maternity Leave (AML).

Week 49 – if you wish to take Parental Leave at the end of AML, this is the latest that you must send your employer 21 days' notice, if you started maternity leave at the birth.

Week 52 – this is the last week of maternity leave if you started maternity leave at the birth. If you want to return to work sooner then you must give eight weeks' notice, in writing, of your return date. You do not have to give any notice if you are returning at the end of 52 weeks maternity leave.

More information and reading

UNISON

unison.org.uk/get-help

unison.org.uk/knowledge

including a maternity rights factsheet

Telephone: 0800 0 857 857

Speak to your UNISON representative for details of the maternity and parental pay and leave scheme in your workplace. Branches can get further advice from their regional women's or equalities officer.

Organisations active in the field of pregnancy and childbirth

Maternity Action

Advice line: 0808 802 0029

maternityaction.org.uk

Charity committed to ending inequality and improving the health and well-being of pregnant women, partners and young children.

Working Families

Parents and carers helpline: 0300 012 0312

advice@workingfamilies.org.uk

workingfamilies.org.uk

The UK's leading work-life balance organisation helping working parents and carers and their employers find a better balance between responsibilities at home and work.

Gingerbread

Single parent helpline: 0808 802 0925

gingerbread.org.uk

Charity working with single parent families. Supporting, advising and campaigning with single mums and dads to help them meet their family's needs.

The National Childbirth Trust

Telephone helpline: 0300 3300 770

nct.org.uk

Charity providing information and support in pregnancy, birth and early parenthood, with over 300 branches and groups all over the country. Provides ante-natal classes, support with breast feeding, and help and support after the baby is born.

Family and Childcare Trust

familyandchildcaretrust.org.uk

This charity aims to make the UK a better place for families through research, campaigning and information provision and working with government, employers and parents to reduce pressures on family life.

Health and Safety Executive

hse.gov.uk/mothers

Useful information on what employers must consider if they have any new or expectant mothers in the workplace.

Pregnancy

Your rights at work

explains your statutory rights as a working woman and outlines some of the issues where UNISON has been negotiating on behalf of its members.

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