

Maternity, Adoption and Parental Leave Policy

PAVS' policy and procedural documents have been developed to meet the specific needs of the Association and are periodically reviewed in line with any changes in the law or statutory provision. They are provided as an example for information purposes only.

Other Information Sheets in this series:

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PS2– Absence Policy





PEMBROKESHIRE ASSOCIATION OF VOLUNTARY SERVICES

MATERNITY, ADOPTION & PARENTAL LEAVE POLICY

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PEMBROKESHIRE ASSOCIATION OF VOLUNTARY SERVICES

MATERNITY, ADOPTION & PARENTAL LEAVE POLICY

Pembrokeshire Association of Voluntary Services complies with the legal requirement for Maternity, Adoption and Parental Leave rights. The Association wishes to provide a supportive environment in which staff members are able to balance parenting responsibilities with their working life. The following arrangements have been agreed with Trustees and incorporate recent new legislation introduced within The Employment Act 2002 and The Maternity & Parental Leave (Amendment) Regulations 2002.

MATERNITY

1. Antenatal Care

All pregnant employees, regardless of their length of service with PAVS, are entitled to reasonable time off for antenatal care appointments made on the advice of a doctor, midwife or health visitor. Such appointments can also include relaxation and parentcraft classes, not only medical examinations. The pregnant employee is entitled to be paid her full rate of pay for this time off.

Except in the case of a first appointment to obtain a certificate, the employee must be prepared to show on request from her employer, a certificate from a doctor, midwife or health visitor confirming that she is pregnant and also an appointment card or some other document showing that an appointment has been made.

2. Eligibility for Maternity Leave

All pregnant employees regardless of their length of service with PAVS, the number of hours worked or type of contract, are legally entitled to a period of 26 weeks ordinary maternity leave, provided that certain notification requirements are met.

Ordinary Maternity Leave - To take ordinary maternity leave the pregnant employee must inform PAVS no later than the end of the 15th week before the week her baby is due, of the following:

- that she is pregnant
- the expected week of childbirth - by means of a medical certificate if the employer requests it
- the date she intends to start her leave (in writing if the employer requests it).

Ordinary Maternity Leave can start no earlier than the beginning of the 11th week before the expected week of childbirth. A woman has the right to work right up to the day of birth if she wishes. However, if she is absent from work because of a pregnancy related reason in the four weeks before the expected week of childbirth, her maternity leave will start automatically from the first date of absence.

PAVS will notify the employee of the end date of her leave within 28 days of receiving her notification.

Additional Maternity Leave - All pregnant employees who have 26 weeks continuous service with PAVS by the beginning of the 14th week before the expected week of childbirth, have the right to an additional period of maternity leave. This additional period of leave begins at the end of ordinary maternity leave, for 26 weeks totalling 52 weeks maternity leave.

3. Health & Safety

Employers are required to protect the health and safety of all employees. Advice on relevant health and safety issues can be obtained from your line manager and through the Department of Trade & Industry's website pages on Maternity Leave at www.dti.gov.uk/er/maternity.htm

4. Maternity Benefits

During **ordinary maternity** leave, the employee is entitled to benefit from the normal terms and conditions of her employment (for example, the use of a company car or mobile phone if part of the contractual agreement), except remuneration.

During **additional maternity** leave, the employee has no statutory entitlement to benefit from her normal terms and conditions of employment, however, contractual benefits and obligations such as contractual redundancy rights and notice, remain in force.

5. Ordinary Maternity Leave & Statutory Maternity Pay

Employees, both full and part-time, who are pregnant or have just given birth, are entitled to a maximum of 26 weeks statutory maternity pay (SMP).

Statutory maternity pay (SMP) starts on a Sunday, is paid to the employee by the employer and consists of

- Six weeks paid at 90% of the employee's average weekly earnings;
- Twenty weeks paid at the SMP standard rate (currently £100 per week), or 90% of the employee's average weekly earnings if lower;

If an employee decides not to return to work after her maternity leave, she does not have to pay back her SMP. SMP is only payable when an employee is absent from work. If an employee does any work for her employer in any particular week she is disqualified from receiving SMP for that week. She can give notice for SMP at the same time as for Maternity Leave.

To qualify for SMP only, an employee must give at least 28 days' notice of the date she expects her SMP to start as well as medical evidence of her pregnancy. (She can change her leave dates if she gives 28 days notice).

When a pregnant employee is absent from work due to sickness they are entitled to Statutory Sick Pay only. However, a woman in receipt of SMP or Maternity Allowance is disqualified from receiving SSP - even if she resumes work in that 26 week period. She must revert to SMP or Maternity Allowance.

6. Annual Leave

Pregnant employees should endeavour to take all their annual leave entitlement prior to commencing the maternity leave period.

Annual leave will continue to be accrued during the paid maternity leave period at the normal rate. During any unpaid maternity leave period, an employee will only accrue annual leave at the rate required to meet the requirements of the Working Time Regulations 1998, i.e. ensuring that an employee receives a minimum of 20 days paid leave per annum.

All such accrued annual leave must be used within 6 months of the employee's return to work.

7. Pension Entitlement

During periods of paid maternity leave, the employer's contribution to the employee's pension will be calculated as if the employee were working normally and receiving the normal remuneration payable

for doing so. The employee's own contribution will be based upon the maternity pay that the employee receives.

During unpaid maternity leave, deductions for pensions obviously cannot be made. Therefore, after returning to work for 3 months, the employee will have the option to recover pensionable service by repaying their contributions. The employee may spread such repayments over a 12 month period.

8. After the Birth

The employee should notify their line manager when the baby is born so that plans can be made for the employee's return to work.

Premature Birth

If the baby is born prematurely, the pregnant employee may not have reached the 11th week before the expected week of childbirth. However, in such circumstances, Maternity Leave would commence on the date of the birth.

Still Birth

If a pregnant employee unfortunately suffers a still birth, she may still be entitled to maternity pay and leave if this occurs after 24 weeks of pregnancy; otherwise sick pay may be payable.

Late Birth

If the baby is born after the expected week of childbirth, and the maternity pay has started, the payment is unaffected.

If the employee chooses to work up until the expected week of childbirth, and the baby is born late, maternity pay starts on the Sunday following the birth (or on the Sunday if the baby is born that day).

Compulsory Maternity Leave

Pembrokeshire Association of Voluntary Services is legally prohibited from allowing an employee to return to work within two weeks of the birth of their baby.

Returning To Work After Ordinary Maternity Leave

An employee must give their line manager at least 4 weeks notice of their wish to make an *early* return to work.

An employee is not legally obliged to give their line manager notice of their intention to return to work immediately after the end of their maternity leave. However, as a matter of courtesy it is obviously important that notice is given.

Returning To Work After Additional Maternity Leave

An employee must give their line manager at least 4 weeks notice of their wish to make an *early* return to work.

Pembrokeshire Association of Voluntary Services will write to the employee no earlier than the 22nd week of maternity leave and seek written confirmation of the date of the baby's birth and whether the employee intends to return to work.

The employee must reply to this letter within 4 weeks - failure to do so could seriously compromise the employee's employment rights.

Parental Leave

An employee can apply to take unpaid parental leave immediately after a period of maternity leave,

provided that:

- they have at least one years' continuous service with Pembrokeshire Association of Voluntary Services by the time they wish to take the leave;
- and, have given either 21 days' notice before the leave is required or before the expected week of childbirth, where parental leave is required immediately after the birth of the child.

Further details are contained in PAVS' Adoption & Parental Leave Policy document.

Not Returning To Work

If the employee decides not to return to work, they must give the period of notice stipulated in their contract of employment.

Returning To The Same Job

There is a legal right for an employee to return to the same post on the same terms and conditions as if they had not been away from work on a period of maternity leave. The exact application of this right will depend on what form of maternity leave was taken, and in some circumstances it may only be reasonably practicable to be offered a similar job.

Returning To Work On Reduced Hours

If an employee wishes to return to work on reduced hours following a period of maternity leave, they should inform their line manager as soon as possible. Line managers should discuss the feasibility of the request with the Director, or in the case of the Director, with the Chair of Trustees.

The Department of Trade & Industry's guidance notes on The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 state that "currently there is no legal right for a worker to be able to change his or her hours of work ... case law means that employers need to think carefully whether there is a good business reason for refusing such a request".

ADOPTION & PARENTAL LEAVE

1. Eligibility

Adoption and Parental leave applies to both parents. An employee may qualify for Adoption & Parental Leave if they:

- have been continuously employed for a year or more; and
- are the parent (named on the birth certificate) of a child born on or after 15 December 1999 who is under five years old: or
- have adopted, on or after 15 December 1999, a child under the age of 18 (the right lasts for five years from the date on which the child is placed for adoption; or until the child's 18th birthday, whichever is the sooner); or
- have acquired formal parental responsibility for a child born on or after 15 December 1999 who is under five years old. For example, a step parent will have to apply to the court to acquire formal parental responsibility if they wish to take parental leave in respect of their spouse's children.

An employee is entitled to a total of 13 weeks unpaid leave in respect of each child. Where an employee takes parental leave of four weeks or less they are entitled to return to the job in which they were employed before the absence.

2. How Adoption & Parental Leave may be taken

- leave may be taken in blocks of one week upwards (this minimum period does not apply in relation to a child with disabilities).

- the employee must give at least 21 days notice of taking leave.
- the employer can postpone leave for up to six months, for example, for business reasons.
- employees may not take more than four weeks' leave in respect of any individual child during a particular leave year.
- outstanding parental leave can be carried over to a new employer, but a further 1 year qualifying period of service is needed before there is any entitlement to the leave.

3. Terms and Conditions of Maternity, Adoption & Parental Leave

An employee is entitled to the benefit of his or her employer's implied obligation to them of trust and confidence. The employee is also entitled to terms and conditions of employment relating to notice, compensation in the event of redundancy and disciplinary and grievance procedures.

The employee is bound by his or her obligation of good faith, terms and conditions relating to notice, the acceptance of gifts and other benefits and any express obligation to her employer prohibiting the disclosure of confidential information or the employee's participation in any other business.

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