

Maternity Rights

Every year approximately 400,000 working women give birth and within 9 months of birth over 50% of those women are back at work. In the early 1970's only 9% of women returned to work within that time period so clearly the numbers now returning represents a significant change in the workplace. The main rights for employees are:-

- Maternity Leave
- Shared Parental Leave
- Maternity Pay
- time off for antenatal care
- not to be discriminated against as a result of pregnancy or childbirth

Maternity Leave

Women are entitled to Maternity Leave of a total of 52 weeks, comprised of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave. . This right is applicable from the first day of working.

It is unlawful for a person to work within 2 weeks of the birth of a child (4 weeks if working in a factory). An employer may be criminally liable if work is undertaken during this period.

An employee must give notice to her employer that she intends to take maternity leave and this notice must not be given any later than the end of the 15th week before the week that the child is due.

There is no need to give notice of return as it is assumed that the employee will return to work.

Maternity Leave can start at any time from 11 weeks before the week of the birth due date.

Maternity Pay

To qualify for maternity pay the employee needs to have worked for 26 weeks before reaching the 14th

week before the birth due date. There is also a minimum earnings level.

If a person is entitled, Statutory Maternity Pay covers 39 weeks in total. The first 6 weeks of Maternity Pay are at 90% of normal pay and after that there is a statutory minimum payment of £139.58 (£138.18 before 5th April 2015).

Employers are reimbursed to the tune of either 92% or 100% of the Statutory Maternity Payments made.

If a woman does not qualify for Statutory Maternity Pay, she may be entitled to claim maternity allowance from the Benefits Agency

Ante-natal care

Women are entitled to time off to attend ante-natal appointments. An employee may need to produce a certificate confirming pregnancy.

Returning to work

After childbirth a woman has a right to return to the same job on the same terms and conditions. Many women would prefer to return to work on a part-time basis. There is no legal right to do so. However, employers need to be aware that if they reject a request for part-time work this could be interpreted as indirect sex discrimination and could therefore give rise to a claim.

The right not to be discriminated against

In addition to the rights mentioned above there is a general right to be treated equally. This means for example that a decision to make a woman redundant solely because she is pregnant will be unlawful discrimination and unfair dismissal. Any unfairness at work relating to pregnancy or childbirth is likely to be viewed as sex discrimination.

The above information is not intended to be a complete or definitive statement of the law. For more information or advice please contact our Employment Law team.