



Maternity Leave & Pay – Guidelines & Procedures

Summary

This document details the procedures to be followed to ensure that employees receive the benefits to which they are entitled, both statutorily and contractually during pregnancy and maternity leave. It also provides information to help employees and their managers to understand what benefits are available and how to access them. This procedure is part of Greener Ealing Limited's (GEL) Family Friendly Policy.

Scope

The leave and payments outlined in this document apply to all GEL employees except those covered by:

- an alternative agreement with a recognised trade union
- other arrangements as a consequence of joining the Company under the provisions of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

This procedure does not form part of any employee's contract of employment. It may be amended at any time and the company may depart from it depending on the circumstances of any case.

Information for managers and employees

It will benefit both the employee and manager to discuss an employee's pregnancy from an early stage so the manager can support the employee during the pregnancy, and both can prepare for the employee's maternity leave. This document also outlines the steps that the pregnant employee should take which will help their manager support them during pregnancy and return to work.

Managers should always contact the HR department as soon as they are notified of their employee's pregnancy. Managing maternity requirements can be complex. The HR department will support the manager and provide guidance on how to manage each stage of the pregnancy, maternity leave and return to work process.

Notifying of Pregnancy

It is the employees' choice as to when to tell their manager they are pregnant, but GEL encourages employees to do this at an early stage.

The laws which protect employees at work only apply once the employer knows a person is pregnant and GEL will need to ensure that appropriate steps are taken to protect the health and safety of the employee and their baby whilst they are pregnant.

The latest an employee can inform their manager they are pregnant and wish to claim their

maternity entitlements is by the 15th week before the week in which the baby is due, known as the Expected Week of Childbirth (EWC); this would be when a person is around 25 weeks pregnant.

Health and Safety

Once it is known that an employee is pregnant there will be a need to assess the work environment to ensure compliance with legislation which is specific to new and expectant mothers.

A risk assessment will be required in order to remove risks or make alternative arrangements to protect the safety of the employee and their baby in the workplace. For some employees, this may result in transferring them to other duties for the duration of the pregnancy. HSEQ can provide advice on risk assessments.

The employee and manager should be satisfied that the duties of the role will not be harmful to the employee or her baby. If the employee's GP has imposed any medical restrictions, which could affect the way they carry out their job, the employee is required to inform their manager of these.

Time off to attend ante-natal appointments

All pregnant employees are entitled to reasonable paid time off to attend ante-natal appointments and classes which are advised by their midwife or medical practitioner.

The employee must show on request from the second appointment onwards:

- a certificate confirming that she is pregnant provided by a registered medical practitioner, a registered midwife or a registered health visitor; and
- an appointment card or some other document showing that an appointment has been made.

The Children & Families Act 2014 extends the right to take unpaid time off to attend ante-natal appointments to fathers, spouses and partners.

The employee requesting time off to accompany an expectant mother to an antenatal appointment should confirm the following information as part of the request:

- that they have a qualifying relationship with the expectant mother (that they are the father of the child or the woman's spouse or partner);
- that the reason for requesting time off is to attend an ante-natal appointment;
- that the appointment has been made on the advice of a medical practitioner, registered midwife or registered nurse; and the date and time of the appointment

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Length of maternity leave

All pregnant employees have a statutory entitlement to 52 weeks Maternity Leave, regardless of length of service. Statutory Maternity Leave is made up of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave.

Maternity pay

The actual amount of pay an employee will receive whilst on maternity leave will depend on a number of factors.

Some employees may be covered by a Maternity Policy preserved from TUPE arrangements, for example, in which case they should refer to the terms of their contract for the maternity pay provision that will apply.

To be eligible for 39 weeks Statutory Maternity Pay (SMP), an employee must have:

- 26 weeks' continuous employment with GEL by the beginning of the 15th week before the expected date of childbirth.
- Provided 28 days' notice of the date she wishes to start her maternity leave, accompanied by appropriate evidence of her pregnancy.
- Average weekly earnings that are equal to, or greater than, the Lower Earnings Limit for National Insurance Contributions (check www.hmrc.gov.uk for current limit).

Note: The average weekly earnings calculation period is the eight weeks ending with the last pay slip received before the end of the qualifying week - which is the 15th week before the expected date of childbirth. Average weekly earnings are used when calculating any full pay entitlement.

If an employee is employed on standard GEL terms and conditions and is eligible for SMP to be paid by GEL, they will be eligible to receive enhanced payments for the first 24 weeks of maternity leave to provide the following:

- For the first six weeks of absence – 9/10ths of a week's salary, offset against payments made by way of SMP (or MA and any dependent's allowances)
- For the next eighteen weeks of absence – half pay plus SMP. The combined half pay and SMP (or MA and any dependent's allowances) must not exceed full pay.
- For the next fifteen weeks – fifteen weeks SMP.

For the purposes of GEL's enhanced payments, average weekly earnings are calculated on all earnings incurring National Insurance contributions including overtime payments, shift allowances, bonuses and all other similar payments and is based upon the 8 weeks' pay up to the Qualifying Week which is the 15th week before the expected week of childbirth (EWC).

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The enhanced payment is subject to the employee returning to work for at least 6 calendar months after the period of maternity leave. Any time off, on annual leave or on a career break for example, does not count towards the 6 months. If the employee does not return for 6 months, arrangements will be made to recover 4 weeks' full pay and 2 weeks at 50% of the enhanced element of the pay.

Any changes to the employee's salary as a result of changes to their flexible benefits will also be reflected in their enhanced payments, even if such changes are made after the Qualifying Week.

Non-statutory minimum maternity payments to which the employee may be entitled under her contract of employment are subject to salary reviews and service-related increments if applicable.

If an employee is eligible for SMP but not GEL enhanced payments (e.g. they are on terms and conditions protected by TUPE), they will be paid the better of either their contractual maternity benefit or SMP.

Both statutory and non-statutory maternity payments are subject to the deduction of tax and National Insurance contributions through PAYE.

If an employee does not have sufficient service to qualify for SMP, they may be eligible for Maternity Allowance (MA), which can be claimed from the Department for Work and Pensions (DWP). The HR department will arrange for the appropriate claim form to be provided on receipt of the application for maternity leave.

Starting maternity leave and pay

An employee can choose when maternity leave will begin but it can't be any earlier than the beginning of the 11th week before the date the baby is due.

If an employee continues to work beyond the 11th week but is then absent from work because of pregnancy related illness in the 4 weeks before the baby is due, GEL reserves the right to start maternity leave and pay on the day after the employee last worked. If the illness is certified as unrelated to pregnancy, the absence will be treated under the normal sickness absence arrangements.

Applications for maternity leave and pay

To qualify for maternity leave and pay, an employee will need to submit the following by the beginning of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter):

- Notice in writing to their manager of the date they intend to start maternity leave

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- A medical certificate (MATB1) with the expected date of childbirth (this is issued by a doctor or midwife, usually given around the 20th week of pregnancy).

To change the maternity leave start, date an employee must give their manager 28 days' notice of the change.

What if the baby is born early?

If the baby is born earlier than the date on which maternity leave was due to begin then maternity leave will be brought forward to start on the day after the birth. The employee must contact their manager as soon as reasonably practical to inform them of the earlier than expected birth.

Keeping in touch

Before going on maternity leave, the employee should discuss and agree with their manager, any voluntary arrangements they wish to make for keeping in contact with work during the maternity leave period.

Employees are encouraged to make use of voluntary arrangements to maintain contact during the maternity leave period as they may find it helpful to keep informed of developments at work. It will also help to facilitate their return to work and keep the manager informed of any developments that may affect the intended date of return.

GEL also offers 'Keeping in Touch Days' for employees to do up to 10 days' work during the maternity leave period in order to maintain their knowledge and skills.

'Keeping in Touch Days' may be undertaken at any stage during the maternity leave period, except during the first 2 weeks after the baby is born.

Any work done on any day during the maternity leave period will count as a whole 'Keeping in Touch Day', up to the 10-day maximum.

The days and type of work that an employee undertakes on 'Keeping in Touch Days' is a matter for agreement between them and their manager. The days may be used for any activity which would ordinarily be classed as work under the employee's contract, for which she would be paid, or could be used to attend a conference, undertake a training activity or attend a team meeting.

The employee's remuneration will be based on basic salary only and the minimum time paid for a 'Keeping in Touch Day' will be four hours.

If the employee is receiving SMP, GEL will continue to pay her SMP for the week in which any 'Keeping in Touch' work is done by the employee.

It is the manager's responsibility to inform the HR department immediately after an employee on maternity leave has taken a 'Keeping in Touch Day' so that payments can be made in the appropriate payroll following the day worked.

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Impact of maternity leave on annual leave

Employees accrue holiday entitlement in full during paid and unpaid maternity leave. They will also be entitled to time off in lieu of any bank holiday entitlement.

As it is not possible for an employee to take annual leave at the same time as maternity leave it is expected that leave accrued before and during maternity will normally be treated as follows:

- Leave accrued prior to the start of maternity leave should be taken before the maternity leave period commences.
- Leave accrued during the maternity period may be taken in part or in full at the end of the maternity period before the employee returns to work (and carried over to the following holiday year if necessary by agreement with her manager), with the balance taken during the remainder of the holiday year in which she returns.
- If the employee is not returning to work, it may be possible to pay for any outstanding annual leave.

Normal arrangements for applying for annual leave will continue to apply.

Pensions

During any period of maternity leave, GEL will:

- Continue to deduct the same percentage of contribution from the employee's maternity pay whilst the employee is on paid maternity leave and/or paid additional maternity leave. Employee pay contributions will be based on actual pay received. Employer contributions continue at the rate prior to the maternity leave;
- Not make any contributions during unpaid maternity leave although the employee on return to work can choose to make up the contributions. If the employee does choose to make them up, GEL will also make up its contributions.
- In the case of Additional Voluntary Contributions (AVCs) employees can choose whether to suspend, reduce, increase or continue AVC payments during their maternity leave.

Benefits

Examples of benefits that will continue to apply during Maternity Leave may include:

Company Car / Car Allowance

The employee will retain this benefit throughout the Maternity Leave Period.

Bonuses

Employees on maternity leave who are eligible for a bonus under a Bonus Scheme or other exceptional payments will continue to be considered for a payment.

Long Service Awards

Employees will be entitled to their full award on their anniversary date where this occurs during the maternity leave period.

Reimbursement of Professional Subscriptions

Reimbursement of a professional subscription will continue where these are usually paid for by GEL.

What happens in the event something goes wrong? Miscarriage and still-birth

In the unfortunate event that something goes wrong with a pregnancy such as miscarriage, before the 25th week of pregnancy, normal sick absence provisions will apply as necessary.

In the unfortunate event that a baby does not survive after being born, the right to 52 weeks of maternity leave and maternity pay (if the employee is eligible) still applies. In any event, managers should take care to handle the situation as sensitively as possible. The manager should advise the HR department who will write to the employee and explain entitlements. The employee can also access the confidential Employee Assistance Programme (EAP) at any time on 0800 028 0199.

Redundancy during Maternity Leave

If a redundancy situation arises at any stage during an employee's maternity leave which means it is not practicable for GEL to continue to employ her under her original contract of employment, she is entitled to be offered (before that contract ends) a suitable alternative vacancy, where one is available.

This includes a vacancy with an associated employer or with a successor to the original employer.

The new contract must take effect immediately on the ending of the original and must be such that terms and conditions of her employment are not substantially less favourable to her than if she had continued to be employed under the original contract.

If the employee accepts the offer of suitable alternative vacancy, she is entitled to a 4-week trial period in which to decide whether the employment is suitable (and this period may be extended beyond 4 weeks by written agreement). If the employee unreasonably refuses such an offer, either before or during the trial period, she may forfeit her right to a redundancy payment.

If an employee on maternity leave is made redundant, her maternity leave period comes to an end. She is entitled to receive from GEL a written statement of the reasons for her dismissal, regardless of whether or not she has requested one, and regardless of her length of service. The employee may also be entitled to a redundancy payment. The employee will also be

entitled to Statutory Maternity Pay of up to 39 weeks once she has qualified for it.

Returning to work

The Maternity (Compulsory Leave) Regulations 1994 prohibit the return to work of an employee within 2 weeks from the date of childbirth.

Unless they have notified their manager otherwise, the date on which an employee is expected to return to work will be the first working day 52 weeks after their maternity leave began.

If an employee intends to return to work earlier, they will need to inform their manager by giving at least 8 weeks' notice in writing. Otherwise GEL may postpone their return until the 8 weeks have elapsed or the end of the 52-week maternity leave period has expired (whichever is sooner).

If an employee wishes to change a previously notified return to work date, they must notify their manager, in writing, the earlier of:

- 8 weeks before for the original planned return date.
- 8 weeks before the new return date.

Maternity leave - Shared Parental Leave

An employee can propose to return to work early without using her full 52-week entitlement to maternity leave by giving proper notification of an early return in accordance with the shared parental leave policy rules set out below. An employee can share up to 50 weeks' shared parental leave between the parents. The amount of shared parental leave that the parents can take between them is 52 weeks, minus the amount of maternity leave taken by the mother.

To be entitled to take shared parental leave and pay, employees will need to meet minimum eligibility requirements, including a duration of employment test for both leave and pay and a minimum earnings requirement for shared parental pay (as per maternity leave).

Shared Parental Pay

To be eligible for 39 weeks Shared Parental Pay (ShPP), an employee must have:

- 26 weeks' continuous employment with GEL by the beginning of the 15th week before the expected date of childbirth.
- Average weekly earnings that are equal to, or greater than, the Lower Earnings Limit for National Insurance Contributions (check www.hmrc.gov.uk for current limit).
- Provided 8 weeks' notice of the dates that Shared Parental pay applies, accompanied by appropriate evidence of pregnancy/birth.

If an employee intends to return to work earlier than planned, they will need to inform their

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manager by giving at least 8 weeks' notice in writing as per maternity pay guidelines, otherwise GEL may postpone their return until the 8 weeks have elapsed, or the end of the 52-week maternity leave period has expired (whichever is sooner). Leave arrangements that have been notified can only be changed by means of a notice to vary the agreed leave. An employee can give notice to end a period of leave earlier than previously notified, by providing 8 weeks' notice of the change and by submitting a variation notice. The employee may submit a maximum of three variation notices.

Shared parental leave is paid up to 37 weeks at flat rate statutory maternity pay (SMP) (check www.hmrc.gov.uk for current rates). Unlike SMP, where the mother is entitled to receive an enhanced rate of 90% actual pay for the first six weeks, shared parental pay will all be paid at the flat rate.

Taking parental leave after maternity leave

Eligible employees can take up to 18 weeks' parental leave in relation to a child before his or her 18th birthday.

Parental leave is unpaid. Entitlement to parental leave will not be affected by whether or not employees decide to take shared parental leave.

Parental leave of up to 4 weeks can be taken at the end maternity leave without affecting the right to return to work.

If an employee takes more than 4 weeks they will be able to return to the same job unless this is not reasonably practicable, in which case they must be offered alternative work that is suitable to them and with terms and conditions as if they hadn't been absent.

To qualify for parental leave, the employee must have completed one years' continuous employment with GEL. Further details can be found in Parental Leave – Guidelines & Procedures.

Flexible Working

Employees have a right to request flexible working, and flexible working requests will be considered in a sympathetic and supportive way. Managers should try and accommodate all requests taking into account the role undertaken and the operational requirements of the business. However, neither the legislation nor GEL's Flexible Working Policy give individuals the right for their flexible working request to be approved and there may be legitimate business reasons when a request cannot be accommodated.

For more information please refer to the Flexible Working Policy.

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Employees who do not wish to return to work after maternity leave

An employee who does not wish to return to work after her maternity leave must give her manager notice of her resignation as early as possible, but no later than that required by her contract of employment. As long as she specifies the date on which she wishes to terminate the contract (this could be the first day she was due back at work after maternity leave) this will not, of itself, mean that she is no longer entitled to statutory maternity leave or pay for the rest of the maternity leave period.

If an employee does not return to work arrangements will be made to recover 4 weeks full pay and 2 weeks half pay of the enhanced payments which she has received. Unused accrued holiday entitlement will be paid in the employee’s final pay. Similarly, if the employee has taken more holiday than the amount accrued at the date of leaving, GEL reserves the right to make a deduction from final salary.

Managers should contact the HR department for guidance on employee maternity leave.

Revision Status

| Revision | Date | Amendment | Content Owner | Mandated By |
|-------------|--------|-----------|---------------|---------------|
| First Issue | Feb 21 | | Bill Gilmour | Kevin O’Leary |