

Maternity rights and benefits information sheets

Our information sheets on maternity rights and benefits for pregnant women and new parents will answer your questions, click on the relevant links below:

Time off for antenatal care

This page contains information on:

1. [Who is entitled to time off for antenatal care?](#)
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March 2022

This information sheet looks at your rights to paid time off for antenatal care.

Who is entitled to time off for antenatal care?

Can I take paid time off for my antenatal appointments?

If you are an employee, you have the right to take reasonable time off for your antenatal appointments, including time needed to travel to your clinic or GP, without loss of pay. The same rights apply to employees regardless of the number of hours you work or length of service. You are entitled to time off for antenatal care within your normal working hours whether you work full-time or part-time, are temporary or permanent or on a fixed term contract or you are an apprentice.

You are usually an employee if the following arrangements exist at your work:

- your employer deducts tax and National Insurance from your pay
- your employer controls the work you do, when and how you do it your employer provides all the equipment for your work.

If you are not sure you should check your contract, if you have one, or get advice.

If you work for an agency or do casual work, you are probably not an employee unless it is stated in your contract or terms and conditions of employment. If you are not sure about your employment status you should get advice.

I am an agency worker, am I entitled to paid time off for antenatal care?

Agency workers who have completed 12 weeks in the same placement have the right to paid time off for antenatal appointments and classes that fall during your normal work hours. If your agency refuses to give you time off or refuses to pay you for time off for your antenatal care see below.

See [Maternity and parental rights for agency workers](#).

Is my partner entitled to time off to accompany me to my antenatal appointments?

Fathers and partners who are employees are entitled to unpaid time off for up to two antenatal appointments (maximum of 6.5 hours per appointment). Some employers offer paid time off so you should check with your employer.

Time off and pay for antenatal care

How much time off am I allowed to take for my antenatal appointments?

You are entitled to 'reasonable' paid time off for your appointments, as well as travelling and waiting time.

You should not be asked to arrange your appointments outside working hours or to make up the time, although you should minimise disruption to your working hours as much as possible. If you work part-time you should try to arrange your appointments on non-working days but if that is not possible, your employer must allow you paid time off.

If you usually work 9 – 5 and you have a morning appointment, you would be expected to return to work afterwards and to work until 5pm. If your appointment is after lunch, you would be expected to work in the morning, starting at your normal time.

My appointment is at 10am and it takes me half an hour to get to the hospital. I usually start work at 9am, do I have to go into work before my appointment?

It will depend on the circumstances, such as how close you live to your workplace and whether you can do any meaningful work in half an hour before you have to leave for your appointment. If your workplace is further away from the hospital than from your home it would probably not be reasonable to expect you to go into work for a short period before your appointment.

The law says that you are entitled to 'reasonable' paid time off to attend your antenatal appointments, including travelling and waiting time. If your employer does not pay you for time off, see below.

What counts as antenatal care?

There is no definition of antenatal care in law. It can include any classes, appointments or scans made on the advice of a registered doctor, midwife or health visitor.

Antenatal care can include classes such as relaxation, parentcraft or smoking cessation classes if these are recommended by your midwife or GP as part of your care. You may need a letter to show your employer from your GP or midwife, saying that these classes are part of your antenatal care.

If you have a high risk pregnancy or a pre-existing health condition that means that you are likely to need more appointments than normal it may help if you can get some information from your GP or midwife to explain why you need extra appointments or classes and the importance of attending your antenatal appointments.

Am I entitled to my normal pay when I take time off for antenatal care?

Yes, you are entitled to be paid as though you were still at work, at your normal hourly rate.

If your weekly hours vary, your employer should work out your average hours using the 12 full weeks before the appointment. If there were any weeks in which you did not work, those weeks should not be used in the calculation and an earlier week should be used.

If your employer refuses to give paid time off for antenatal care you can make a complaint in an employment tribunal for compensation, see below.

How to ask for time off for antenatal care

Do I need to provide proof of appointments?

You do not have to provide proof of your first appointment but you will need to ask your employer for time off. You should agree the time off with your employer for all appointments so that your employer knows when you will be away from work and the reason for your absence.

Apart from the first appointment, your employer can ask you to provide a certificate from your GP or midwife stating that you are pregnant and written proof of the appointment e.g. an appointment card or letter from the hospital.

Your employer cannot insist on waiting for your MATB1 maternity certificate for proof of pregnancy as that is not issued until you are at least 20 weeks' pregnant. Your employer should accept a note from your GP or midwife or other written proof of pregnancy.

I am worried about telling my employer that I am pregnant. Can they dismiss me?

It is entirely up to you to decide when you want to tell your employer and colleagues about your pregnancy. You may want to wait until you have had your first scan and told family and friends. You are not required to tell your employer, or a future employer, that you are pregnant in an interview or while you are on probation. Unfortunately pregnancy discrimination is common and it can be hard to prove that a dismissal, redundancy or other unfavourable treatment is because of your pregnancy so you should think carefully about when is the best time to tell your employer and colleagues.

Legally, you do not have to tell your employer that you are pregnant until the 15th week before your baby is due (which is when you need to give notice to take maternity leave) – although it may be obvious by then anyway.

You will need to tell your employer earlier if you are concerned about health and safety risks at work or to take paid time off for antenatal care. You should also bear in mind that you are only likely to have protection against pregnancy discrimination once you have told your employer that you are pregnant. If you are not feeling well in the early stages of pregnancy and need to take sick leave, you may want to tell your employer about your pregnancy so that any pregnancy-related sick leave is counted separately and not used for redundancy or disciplinary purposes.

It may be difficult to show that any unfair treatment was *because of* pregnancy unless you have told your employer or you have good evidence that your employer suspected or had become aware.

Once you have told your line manager and/or colleagues it is a good idea to follow it up in writing (such as email) so that you have a record of when you told your employer and who you told. You can copy in your HR and others who you think should be made aware of your pregnancy.

What to do if time off or pay for antenatal care is refused

My employer has complained about the amount of time off I am taking for my antenatal appointments.

Time off for antenatal care can be a major cause of resentment amongst colleagues and employers. However, it is important for yours and your baby's health that you see your medical practitioners at regular intervals so that any problems are picked up as early as possible and you are getting the care that you need.

The amount of time off you need is a very individual matter and no two pregnancies are the same. It may help to give your employer as much notice as possible of your appointments, try to minimise disruption as much as you can and talk to your employer about how your work will be covered during your absences.

The law says that employees are entitled to reasonable paid time off for their antenatal care. Your employer cannot ask you to make up the time or to change your working hours. If you work part-time, you are still entitled to time off where your appointments fall during your normal working hours if this is unavoidable. If you do casual work and are an employee you are also entitled to paid time off for antenatal care if you have to attend an appointment when you would normally be at work.

You should do everything possible to minimise disruption to your working day by making appointments at a time that will reduce your absence from work but if you have no control over your appointments you are entitled to take a reasonable amount of time off for your antenatal care and to be paid at your normal hourly rate.

My employer is refusing to pay for antenatal classes?

You are entitled to reasonable paid time off for all antenatal appointments, scans and classes providing they are recommended by a registered medical practitioner as part of your antenatal care. If your employer unreasonably refuses to allow you to take time off for antenatal care or refuses to pay for all or part of your time off you can bring a claim for loss of pay in an employment tribunal under section 57 (section 57ZC for agency workers) of the Employment Rights Act 1996.

You should try to resolve the matter first by speaking to your employer informally as it helps to try to resolve things amicably if possible. If that doesn't resolve it you could write (or email) to your employer setting out your right to be paid for reasonable time off for your antenatal appointments. Many employers are unaware of rights during pregnancy so it may help to provide them with a copy of this information sheet. There is also information available on the Government website at: www.gov.uk/working-when-pregnant-your-rights.

If your employer has not paid you for a reasonable amount of time off for your antenatal appointments and you have been unable to resolve it as above you can make a claim for loss of pay in an employment tribunal. You must contact ACAS (see below) to start Early Conciliation before making a tribunal claim. ACAS may be able to help you resolve it through conciliation with your employer and, if not, you can make an employment tribunal claim.

You must contact ACAS within three months (less one day) from the date of the appointment or series of appointments if you have been refused time off or have not been paid. This means that if your employer does not pay you for a series of appointments, your time limit will end three months (less one day) from the date of the last appointment. If you wait until other problems arise, for example, when you return to work, you may be too late to then raise complaints about how your employer treated you during your pregnancy.

Am I protected against unfair treatment for asking for time off for my antenatal appointments?

The law says that it is pregnancy discrimination to treat a woman unfavourably because of her pregnancy (Equality Act 2010 s.18). To show pregnancy/maternity discrimination you do not have to compare your treatment to how a man might have been treated but you will need to show that you have been dismissed, made redundant or treated unfavourably because of your pregnancy or absence on maternity leave.

All employees, casual workers, agency workers, freelancers and contractors are protected against pregnancy/maternity discrimination law from day one of their employment.

Employees are also protected against detrimental treatment or automatic unfair dismissal because of pregnancy or maternity leave (Employment Rights Act 1996 s99 and Maternity and Parental Leave etc Regulations 1999 reg. 19). This additional protection applies to employees only from day one of their employment.

Examples of unfavourable treatment and detrimental treatment include:

- changes to your role or responsibilities because you are taking time off for antenatal appointments,
- side lining or reducing your normal duties because of pregnancy or because you are taking time off for antenatal care,
- selection for redundancy because of pregnancy or absence on maternity leave,
- dismissal because of pregnancy, pregnancy-related sickness or for taking time off for antenatal care,
- refusal of training or promotion opportunities,
- reduction in pay or hours,
- pressure to resign or to take a demotion because of time off for antenatal care, pregnancy or pregnancy-related sickness.

Case study

A woman was dismissed at the end of her probationary period because of poor attendance and this was caused by her antenatal appointments. The dismissal was for a reason connected with her pregnancy and this was found to be an automatic unfair dismissal under the Employment Rights Act s.99. *Mains v M D Homes*

What should I do if I am treated unfairly?

You should try to talk to your employer informally at first. If possible, you should try to resolve it amicably and to focus on constructive solutions to the problems rather than going over what has gone wrong. If you are finding it hard to speak to your employer you could write them a letter or email. It may help to get information about your rights. If you are in a union you could speak to your local representative or get legal advice from the union. If you are unable to resolve it informally you could write to a senior manager or your HR department and ask them to look into it.

If you are dismissed while you are pregnant or during your maternity leave, your employer must state the reason/s for your dismissal in writing.

There is a time limit of three months (less one day) for starting a claim for unfair dismissal, detrimental treatment or discrimination. You must contact ACAS Early Conciliation within the time limit on 0300 123 11 00 before making a tribunal claim.

Other rights during pregnancy

Health and safety rights

If you are pregnant, have given birth in the last six months or are breastfeeding, your employer must make sure that the kind of work you do and your working conditions will not put your health or your baby's health at risk.

All employers must carry out a workplace risk assessment, including any risks to pregnant women or new mothers, and do all that is reasonable to remove or reduce any risks.

If you want your employer to take action to protect your health and safety you must notify your employer in writing that you are pregnant.

Sickness

You are protected against unfair dismissal and discrimination if you are off sick during pregnancy. Any pregnancy-related sickness absence must be recorded separately and should not be included in your total sickness absence for disciplinary or redundancy purposes.

Maternity pay

If you have been employed by the same employer throughout your pregnancy you are likely to qualify for Statutory Maternity Pay (SMP). You must give your employer notice of when you want to start your maternity leave and pay by the 15th week before your baby is due (this is when you are about 25 weeks pregnant).

If you do not qualify for SMP you can claim Maternity Allowance from the JobCentre Plus: www.gov.uk/government/publications/maternity-allowance-claim-form.

You are entitled to be paid SMP or Maternity Allowance for up to 39 weeks regardless of whether you return to work or if your job comes to an end.

Redundancy

If you are made redundant because you are pregnant or taking maternity leave, you may have a claim for unfair dismissal, automatic unfair dismissal and/or pregnancy/maternity discrimination.

Time off for fathers and partners

Fathers and partners (including same sex partners) have the legal right to take two weeks paternity leave and pay at the birth if they qualify.

Fathers or partners also have the right to take shared parental leave if the mother ends her maternity leave/pay early and both parents meet the qualifying conditions.

Benefits for families

What can I claim if I am expecting a new baby?

All pregnant women and new mothers are entitled to free prescriptions and free NHS dental care.

You need to complete form FW8 to obtain a Maternity Exemption certificate, available from your GP or midwife.

Once your baby is born you can claim Child Benefit. Families in receipt of child benefit will be subject to a high earner child benefit charge if one or more parent earns more than £50,000.

Tax Credits

If you are already claiming Child Tax Credit and/or Working Tax Credit you may be able to claim an additional amount for a new baby or if your income drops or you go onto sick pay or maternity pay. The first £100 per week of SMP and all of Maternity Allowance is ignored as income for tax credits purposes so you may be entitled to more help during your maternity pay period. You should get advice **before** making a new claim for Universal Credit as this will end your tax credits and you may be worse off on Universal Credit. For more information or to report any changes of circumstances, contact the Tax Credit Helpline on 0345 300 3900 or see: www.gov.uk/child-tax-credit/already-claiming.

Universal Credit

You may be able to claim Universal Credit (if you are not receiving Working/Child Tax Credit) if you lose your job, you are on a low income or Statutory Sick Pay (SSP) or during your maternity leave. Statutory Sick Pay and Statutory Maternity Pay are largely disregarded if you are claiming Universal Credit but Maternity Allowance is treated as 'unearned income' and is deducted from Universal Credit.

For more information on Universal Credit, see: www.gov.uk/universal-credit For an online calculator, see www.betteroffcalculator.co.uk You can get help with Universal Credit claims through the free Citizens Advice Help to Claim service: England: [0800 144 8444](tel:08001448444), Wales: [0800 024 1220](tel:08000241220), Scotland: [0800 023 2581](tel:08000232581)

Food vouchers and Sure Start/Best Start Maternity Grant

If you or your partner are receiving Universal Credit, Child Tax Credit, Income Support or income-based Jobseekers Allowance you may be entitled to Healthy Start vouchers and a Sure Start Maternity Grant of £500 for your first child (or if there are no other children aged under 16 in your family) or first multiple birth. Claim on form SF100 (Sure Start), available from Jobcentre Plus offices, from 11 weeks before your baby is due until 6 months after the birth.

If you live in Scotland you may be eligible for Best Start Grants and Best Start Foods: <https://www.mygov.scot/best-start-grant-best-start-foods/>

Housing and council tax

You may also be able to get help from your local council with discretionary housing payments, council tax reduction or local welfare assistance schemes.

This information sheet was written in March 2022. It is very important to get up-to-date advice as law and guidance changes.

This guide is for information purposes only and should not be treated as legal advice. You are strongly advised to get personal legal advice about the individual circumstances of your case.

Where to go for more help

Maternity Action

For information on maternity and parental rights at work and benefits, see: www.maternityaction.org.uk

Maternity Rights Advice Line:

Nationwide (except London) – 0808 802 0029

London (if you live or work in a London borough) – 0808 802 0057

For opening hours see: <https://maternityaction.org.uk/advice-line/>

ACAS

For advice on employment rights or for Early Conciliation if you are thinking of making a tribunal claim

www.acas.org.uk

Helpline: 0300 123 11 00 (offers telephone interpreting service)

Citizens Advice

For information about your rights see: www.citizensadvice.org.uk

You can telephone the national Citizens Advice phone service on 03444 111 444

You can get help with Universal Credit claims through the free national Help to Claim service:

England: 0800 144 8444, Wales: 0800 024 1220, Scotland: 0800 023 2581

For more information on how to find your local Citizens Advice Bureau, see:

<https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/contact-us/>

Civil Legal Advice

If you are eligible for legal aid you can get free legal advice on 0345 345 4 345 (offers translation service). To check your eligibility see www.gov.uk/civil-legal-advice

To search for specialist legal advisers or solicitors in your area see: <https://find-legal-advice.justice.gov.uk/>

Equality Advisory Support Service

Help and advice on discrimination and human rights www.equalityadvisoryservice.com

Help Line: 0808 800 0082 Mon – Fri 9am – 7pm, Sat 10am – 2pm

Textphone: 0808 800 0084

Equalities and Human Rights Commission (EHRC)

For information and advice about discrimination law www.equalityhumanrights.com

For information for employees and employers about pregnancy and maternity rights in the workplace see: www.equalityhumanrights.com/about-us/our-work/key-projects/managing-pregnancy-and-maternity-workplace

GOV.UK

The government's online information service www.gov.uk

Jobcentre Plus

To make new telephone benefit claims or request claim forms, including Maternity Allowance and Sure Start Maternity Grant: 0800 055 6688 Mon – Fri 8am – 6pm

For ESA/JSA/Income Support claims: 0800 169 0310 Mon – Fri 8am – 6pm

For Maternity Allowance claims: 0800 169 0283 Mon – Fri 8am – 6pm

For Sure Start Maternity Grant claims: 0800 169 0140 Mon – Fri 8am – 6pm/For Best Start Grant claims in Scotland: 0800 182 2222

Universal Credit helpline – for new claims and existing online claims: 0800 328 5644. Mon – Fri 8am – 6pm

For help with claiming Universal Credit see: www.gov.uk/universal-credit

HM Revenue & Customs (HMRC)

Tax Credit Helpline: 0345 300 3900 Mon – Fri 8am-8pm, Sat 8am-4pm, Sun 9am -5pm

Child Benefit: 0300 200 3100 Mon – Fri 8am-8pm, Sat 8am- 4pm

For queries about Statutory Maternity Pay, Adoption Pay, Paternity Pay and Shared Parental Pay:

Employees helpline 0300 200 3500

Employers helpline 0300 200 3200

HMRC Statutory Payments Disputes Team

If you cannot resolve a dispute about your SMP, you can ask HMRC for a formal decision on your entitlement. You can also ask HMRC to pay your SMP if your employer has refused to pay, has dismissed you to avoid paying SMP or has gone into liquidation. This includes disputes about Statutory Maternity Pay/Adoption Pay/Paternity Pay/Shared Parental Pay/Parental Bereavement Pay or Statutory Sick Pay

See: <https://www.gov.uk/guidance/statutory-pay-entitlement-how-to-deal-with-disagreements>

Telephone: 0300 322 9422

You can also write to the Statutory Payments Disputes Team at HM Revenue and Customs, PT Operations, Statutory Payments Dispute Team, BX9 1AN.

Insolvency Service Helpline

You can currently only contact the Insolvency Service online.

For what you can claim if your employer goes out of business, see: <https://www.gov.uk/your-rights-if-your-employer-is-insolvent>

Law Centres Network

To find out if there is a Law Centre in your area telephone 020 3637 1330 or

see: www.lawcentres.org.uk/

Turn2us

Online benefits calculator and grant search www.turn2us.org.uk

Resigning from your job during pregnancy and maternity leave

This page contains information on:

1. [Resigning from your job during pregnancy](#)
2. [Maternity pay if you are resigning](#)
3. [Maternity Allowance](#)
4. [Resigning from your job during or after maternity leave](#)

This information sheet explains what you should do if you want to resign from your job during pregnancy, maternity leave or after returning to work.

If you resign late in pregnancy or during your maternity leave you may still be able to receive all of your Statutory Maternity Pay or Maternity Allowance but it is important to check your rights before you hand in your notice.

Resigning from your job during pregnancy

If you want to resign from your job when you are pregnant, you should hand in your notice in the normal way, giving the notice period required by your employer. Your job will end at the end of your notice period and you are entitled to continue to receive your normal pay and benefits during the notice period. When you resign is a choice for you but it may impact whether or not you qualify for maternity pay.

If I resign will I still get SMP?

You will still be entitled to Statutory Maternity Pay if your job ends in or after the end of the 15th week before your baby is due (this is roughly week 26 of your pregnancy) and you meet the other qualifying conditions. However, if your job ends before the end of the 15th week before your baby is due you will not be entitled to Statutory Maternity Pay but you may be entitled to Maternity Allowance instead (even if you are no longer employed). Your rights to maternity pay are explained below.

How to work out the 15th week before the expected week of childbirth

Find the Sunday before the day your baby is due or the due day if that is a Sunday. Count back 15 Sundays from there. This Sunday is the start of the 15th week before the week your baby is due – it is known as the Qualifying Week.

How do I find out how much notice I have to give?

If you have a written contract of employment, your notice period will be stated there. If you do not have a written contract of employment you may have been given a written statement of employment particulars or a letter when you started your job which had details of your rate of pay, notice period etc. Alternatively, you can ask your employer or HR department, if you have one. If there is no agreed notice period at your work the law says that if you have been employed for one month or more you should give at least one week's notice. Wherever possible you should give as much notice as you reasonably can. If you cannot give as much notice as you are expected to, you could try to reach an agreement with your employer about an acceptable period of notice. Employers are entitled to waive their right to a notice period by providing a payment in lieu of notice but only if this is stated in a written contract. If an employer is entitled to make a payment in lieu of notice your employment ends immediately.

You remain employed during your notice period and should continue to accrue your normal benefits such as annual leave. You are also entitled to take sick leave during your notice period, if necessary, or to take some of your annual leave, with the agreement of your employer.

Maternity pay if you are resigning

Can I get SMP if I leave my job?

You can get SMP if you meet all of the following three qualifying conditions:

- you have been employed by the same employer for at least 26 weeks by end of the 15th week before your expected week of childbirth. This includes agency work, casual and zero hours work. The 15th week before the expected week of childbirth is approximately the

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26th week of pregnancy which means that you need to have started the job before you got pregnant to get SMP.

- you are still employed in the same job in all or part of the 15th week before your expected week of childbirth. You are counted as being employed in that week even if you only work for one day or part of a day that week or you are on sick leave, annual leave or maternity leave. You can still qualify for SMP if you resign or your job comes to an end at any time in or after the 15th week before your baby is due as long as you are employed in all or part of that week.
- you earn at least £123 per week on average (April 2022 – April 2023) before tax in the eight weeks (if you are paid weekly) or two months (if you are paid monthly) up to the last pay day before the end of the 15th week before your baby is due.

If you do not meet the qualifying conditions for SMP or you leave your job before the 15th week before your expected week of childbirth, see if you qualify for Maternity Allowance (below).

Once you have qualified for SMP you are entitled to receive all of it from your employer for 39 weeks even if you resign from your job, you are dismissed/made redundant, your contract ends or you decide not to go back to work after maternity leave. SMP is not repayable. Please note however that if you start working for a new employer during your SMP pay period, your SMP will cease to be payable, see below for more information.

How much is Statutory Maternity Pay and how many weeks is it paid for?

SMP is paid for 39 weeks (the remaining 13 weeks of maternity leave are unpaid).

SMP is paid at two rates: for the first six weeks you get 90% of your average pay. The average is calculated from the pay you actually received in the eight weeks or two months up to the last pay day before the end of the qualifying week. After that you get a flat rate of £156.66 per week (April 2022 – April 2023) for 33 weeks or 90% of your average earnings if you earn less than £156.66. Your employer pays your SMP in the same way as your salary is paid. They deduct any tax and National Insurance contributions.

All employers claim SMP back from HM Revenue and Customs (HMRC), including the higher rate for the first 6 weeks.

SMP is not classed as public funds. You can continue to receive SMP if you go abroad either temporarily or permanently.

When can I get SMP?

The earliest you can start your SMP is 11 weeks before the expected week of childbirth. You can choose when you want to start your maternity leave and pay unless:

- you have a pregnancy-related illness/absence in the last 4 weeks before your expected week of childbirth; or
- your baby is born before you have started your maternity leave; or
- you are unemployed, in which case your SMP will start from 11 weeks before the expected week of childbirth unemployed or from the day after your job ends if that is later.

If you are absent from work because of pregnancy (this could include sickness or a maternity suspension on health and safety grounds) in the last four weeks before your expected week of childbirth, your SMP will start on the day after your first day of absence from work. So, if you call in sick on a Wednesday, your SMP period will start on Thursday.

If you give birth before the start of your maternity leave, your SMP period will start on the day following the actual date of birth and you must let your employer know as soon as possible that you have given birth.

I am not planning to return to work after maternity leave as I want to stay at home and look after my baby, when should I resign?

You may want to wait until after the birth before making a decision about resigning from your job in case your circumstances change or you change your mind about staying at home. In general, it is best to keep your options open until after you have had your baby. You do not have to tell your employer how much maternity leave you are taking as your employer should assume that you are taking the full 52 weeks.

If you decide to resign after having your baby, you will be entitled to continue to receive your Statutory Maternity Pay or Maternity Allowance for the remaining 39 weeks (unless you start a new job) and you will be entitled to your usual contractual benefits such as annual leave, up to the end of your notice period.

How to give notice for maternity leave and pay

To get maternity leave you must give your employer the following information in or before the 15th week before your baby is due (if your employer asks you to, you must put it in writing):

1. that you are pregnant
2. the expected week of childbirth
3. the date on which you intend to start your maternity leave

If you want to change the date you start your maternity leave, you must give your employer notice of the new date at least 28 days before the new date or the old date, whichever is the earliest. If there is a good reason why that is not possible, tell your employer as soon as you reasonably can.

To get SMP you must give your employer at least 28 days' notice of the date you want to start your pay. You can give notice for leave and pay together in the 15th week before your baby is due.

To get SMP you MUST give your employer a copy of your maternity certificate (form MAT B1) stating your expected week of childbirth which your midwife or GP will give you when you are about 20 weeks pregnant.

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.

If you cannot give notice by the 15th week before you are due (for example because you have to go into hospital unexpectedly), you must give notice as soon as you reasonably can.

What can I do if my employer does not pay SMP correctly?

If you think that your employer has made a mistake or you are having difficulties with your employer paying SMP, you should contact your employer, for example, by speaking to your payroll department or HR. Your employer can get help and advice on paying and reclaiming your SMP from the HMRC Employer's Helpline on 0300 200 3200. Your employer can also get advance payments from HMRC if they are unable to pay your SMP.

If you and your employer do not agree, you can ask HMRC Statutory Payments Disputes Team for a formal decision on your entitlement to SMP: 0300 322 9422. If your employer does not pay your SMP or your employer has gone into liquidation, the Statutory Payments Disputes Team will pay your SMP directly.

My employer has told me that my SMP will be paid in a lump sum as I am leaving?

Your employer can continue to pay your SMP through the payroll in the normal way but they can pay SMP in a lump sum if they wish to. You and your employer may pay more National Insurance if they pay your SMP in a lump sum.

SMP is taxable but if you have paid a large amount of tax on a lump sum payment you should contact HMRC to see if you are eligible for a tax refund. You cannot get a refund of National Insurance.

You can contact the Student Loans Company for a refund if your income over the tax year is below the annual threshold for repayment of your student loan. You will need to wait until the end of the tax year to contact them.

If you are claiming benefits, such as housing benefit or Universal Credit, see Benefits below for more information on how a lump sum payment will be treated.

Will I lose SMP if I get a new job?

Before the birth: you can start work for a new employer before the birth and still receive SMP from your old employer.

After the birth: once your baby has been born you cannot get SMP from your old employer if you do any work for a new employer during your SMP period, unless you were employed by the new employer in all or part of the 15th week before your baby was due. You must tell your old employer to stop paying your SMP if you do any work for the new employer after the birth.

If your new job will be self-employment it does not affect your SMP and you are entitled to do self-employed work either before or after the birth and receive SMP from your employer.

For more information on getting SMP if you have more than one job or you change jobs during your SMP period, see the information sheet Changing jobs or more than one job

Maternity Allowance

Can I get Maternity Allowance (MA) if I leave my job?

You can get MA if you are not able to qualify for SMP or you are unemployed or self-employed and you meet the qualifying conditions below.

If you resign from your job **before** the 15th week before the expected week of childbirth, you will not qualify for SMP but you may be able to get Maternity Allowance instead.

To get MA:

- you need to have been employed or self-employed for at least 26 of the 66 weeks before the expected week of childbirth, and
- you need to find 13 weeks (not necessarily in a row) in which you earned over £30 per week on average. You should choose the weeks in which you earned in order to get the maximum rate of MA of £156.66 per week. You can add together earnings from more than one job.

How much is MA?

MA is paid by the Jobcentre Plus for 39 weeks. MA is £156.66 per week (April 2022 – April 2023) for 39 weeks or 90% of your average earnings if that is less.

MA is not classed as public funds. You can continue to claim MA if you go abroad temporarily but you should notify the JobCentre Plus.

When can I get MA?

The earliest you can be paid MA is 11 weeks before your expected week of childbirth. If you are still working after the 11th week before your baby is due you can choose when to start your MA period and you should put the date on your MA claim form.

If you are no longer employed, your MA period will automatically start from 11 weeks before your expected week of childbirth or from the date your job ends if later.

Your MA will start the day after childbirth if you are still working when you have your baby or it will start 4 weeks before your expected week of childbirth if you are off work for a pregnancy-related reason in the last four weeks.

How do I claim MA?

The earliest you can claim MA is 15 weeks before your baby is due. The latest you can apply for MA is three months after the date you stop work as MA can only be backdated for a maximum of three months so you may lose some MA if you apply late.

If you are not sure if you will qualify for MA you should phone the JobCentre Plus claim line on 0800 055 6688 and ask for form MA1 or you can complete it online

here: www.gov.uk/government/publications/maternity-allowance-claim-form

They will work out whether you can get the benefit. If you are not entitled to MA, they should automatically use the same claim form to check whether you can get Employment and Support Allowance (Maternity) instead.

If you are employed, you will need to ask your employer for form SMP1 (explaining why you do not qualify for SMP). Don't delay sending in your MA claim form if you are waiting for your employer to provide an SMP1.

You will also need to send in payslips covering a 13 week or 4 month period. You can pick any 13 weeks/4 months in your 66 week test period, they don't need to be in a row, and you should pick your highest earnings in order to get the maximum MA. If you do not have payslips you can send bank statements or other proof of earnings. Don't delay sending in your claim if you do not have these documents, MA Claims will ask for more evidence if they need it.

Can I start work for a new employer if I am receiving Maternity Allowance?

You can work for up to ten days during your Maternity Allowance period as an employee or in self-employment. This includes work for any employer (an existing one if you have one or a new employer) during your MA period. This is ten days in total, not ten days for each employer. Work for part of a day counts a whole day.

You should report any days of work to the JobCentre Plus. After you have worked for ten days you will be disqualified from receiving Maternity Allowance for a reasonable period depending on how many days you work. For example, if you used to work 5 days a week and you are only working for one day a week during your maternity pay period you should only lose 1/7th of your Maternity Allowance. The JobCentre Plus will make a decision about how much Maternity Allowance you will lose.

Resigning from your job during or after maternity leave

I have decided not to return to work. What should I do and what am I entitled to?

You should resign in the normal way, giving the notice period stated in your contract or agreed with your employer. If you resign during your maternity leave, you do not have to go into work during your notice period, you can remain on maternity leave. But if you resign after the end of your maternity leave, you should work your notice unless you have agreed to take annual leave or you need to take sick leave.

Maternity pay lasts for 39 weeks but maternity leave lasts for 52 weeks (the last 13 weeks is usually unpaid). You are entitled to remain on maternity leave for up to 52 weeks and resign towards the end of your maternity leave period if you decide that you are not able to return to work.

You continue to accrue all your contractual benefits, apart from your normal wages/salary, during maternity leave and you will be entitled to continue to receive any contractual benefits until the date your contract of employment comes to an end i.e. at the end of your notice period.

You continue to accrue annual leave as if you were still at work during maternity leave. Annual leave will continue to accrue up to the end of your notice period and you are entitled to be paid for any annual leave that you have not yet taken. Your employer should pay this, together with any notice pay you may be eligible for, in your final pay slip.

You do not have to repay any Statutory Maternity Pay or Maternity Allowance and you should continue to receive it from your employer/JobCentre Plus for the full 39 weeks even if you resign before the end of the maternity pay period.

What happens if we have booked shared parental leave and one of us resigns?

Shared parental leave allows the mother to transfer any untaken maternity leave and pay (SMP or Maternity Allowance) to her partner to take as shared parental leave/pay. Parents can take the leave separately or together. Once the mother has returned to work or given notice to curtail her maternity leave it cannot be revoked, except in very limited circumstances, so it is best to be sure that you or your partner will be able to take the leave booked.

If the parent who is taking shared parental leave resigns, you remain entitled to the shared parental leave you have booked up to the end of your employment. Any Statutory Shared Parental Pay will be payable for the period booked. You will not be entitled to your shared parental leave if you resign and your notice expires before the period of leave you have booked because you must be employed with the same employer up to the start of your leave.

If the mother has not taken all her maternity leave/pay and has transferred it to her partner, she can resign and it will not affect her partner's entitlement to take shared parental leave/pay.

My employer pays occupational (company) maternity pay, will I have to repay it if I resign?

Firstly, you will be entitled to receive any occupational maternity pay up until the end of your notice period. Secondly, you should check your employment contract or maternity policy to see if you are required to repay your occupational maternity pay if you do not return to work for a reasonable period after maternity leave, this is usually 3 to 6 months.

You can only be asked to repay occupational maternity pay if it was agreed before your leave or is stated in your employer's maternity policy. You can also only be asked to repay any occupational (company) maternity pay over and above the amount of SMP or Maternity Allowance that you were entitled to. **Your employer cannot ask you to pay back any SMP and you do not have to pay back any Maternity Allowance to the Job Centre Plus.** Remember: SMP is paid at 90% of your average earnings for the first six weeks.

If you have to repay any occupational maternity pay, you can ask to repay it in small instalments. If you have returned to work for part of the period required you should only be required to repay part of the maternity pay. For example, if you return to work for two out of the three months required under your policy and you are unable to continue working, it would be reasonable to repay 1/3rd of your occupational maternity pay. However, you will need to check the terms of your maternity policy and speak to your employer.

It may be worth exploring ways of returning to work if you want to avoid having to repay your occupational maternity pay. For example, can you use your accrued annual leave for a phased return to work or return part-time or on a more flexible working arrangement? If your employer has refused a flexible work request without good business reasons and you are not able to return for childcare reasons you may have a claim for indirect sex discrimination.

Once your maternity leave has ended you are 'back at work', therefore returning part-time or taking further leave such as annual leave or sick leave will often count towards your return to work period. Occupational maternity pay is a benefit provided by your employer and you will need to check your contract or maternity policy for your employer's terms and conditions. If there is a dispute about whether your maternity pay is repayable or how much is repayable you should talk to your employer to try to resolve it. Your employer may be willing to waive repayment of your occupational maternity pay as part of an exit settlement if you are not able to return to work after maternity leave.

You can ask to repay any company maternity pay or overpayment in reasonable instalments, taking account of your household income and outgoings. You must be able to cover essential bills and housing costs. You may find it helpful to speak to a debt adviser who can help you negotiate with your employer and agree a reasonable repayment plan. You can get free regulated debt advice from Stepchange – www.stepchange.org/ and Debt Advice Foundation – www.debtadvicefoundation.org/about-us/

If there has been an overpayment of pay or maternity pay during your maternity leave, your employer can recoup it. If you are not returning to work, your employer may deduct any occupational maternity pay that you owe from any outstanding wages or holiday pay. If you do not agree with the amount that has been deducted you should write to your employer. If you are unable to resolve it you can make a claim for unauthorised deduction of wages in an employment tribunal. You must start the claim within three months (less one day) from the date of the deduction or series of deductions and you should speak to ACAS first to start Early Conciliation, see [Where to go for more help](#).

Am I entitled to be paid for any annual leave that is owing to me?

You continue to accrue annual leave as normal during the 52 week maternity leave period. It may be maternity discrimination if your employer refuses to provide your normal paid holiday and benefits because you have been on maternity leave.

You continue to accrue annual leave up until the date that your employment ends i.e. the end of your notice period. If you still have annual leave owing to you when your job comes to an end, your employer must pay you for any annual leave that you have not been able to take.

If you are owed annual leave or any other sums at the end of your employment you should contact your employer, for example, by speaking to your payroll department or HR. If you are unable to resolve it you can make a claim for unauthorised deduction of wages in an employment tribunal. You must start the claim within three months (less one day) and you should speak to ACAS first to start Early Conciliation, see [Where to go for more help](#).

Keeping in touch days

This page contains information on:

1. [Working during maternity, adoption or shared parental leave](#)
2. [Payment for KIT/SPLIT days](#)
3. [Maternity Allowance and KIT days for employed and self-employed women](#)
4. [Protection from unfair treatment, dismissal and loss of pay](#)

April 2022

You are allowed to work up to ten keeping in touch (KIT) days during maternity or adoption leave without bringing your leave or pay to an end.

You are also allowed to work up to 20 shared-parental-in-touch (SPLIT) days without bringing shared parental leave or pay to an end.

For more information on Statutory Maternity Pay and Maternity Allowance, see [Maternity Pay Questions](#).

For more information on adoption leave and pay, see [Adoption leave and pay – rights for parents](#). For more information on shared parental leave and Statutory Shared Parental Pay, see [Shared parental leave and pay](#).

Working during maternity, adoption or shared parental leave

How many KIT/SPLIT days am I entitled to?

You can work for up to ten KIT days without bringing your maternity/adoption leave to an end or losing your Statutory Maternity/Adoption Pay and for up to 20 SPLIT days without ending your

shared parental leave or losing your Statutory Shared Parental Pay. If you have more than one job, your KIT/SPLIT days apply to each job separately.

If both parents are taking shared parental leave (SPL), you can work up to 20 SPLIT days each during your SPL regardless of how much SPL you are taking. If only one parent is taking SPL, that parent can work up to 20 SPLIT days during their SPL.

What type of work can I do on a KIT/SPLIT day?

A KIT/SPLIT day can include any work that you would normally do as part of your contract of employment, including training, conferences, meetings and 'any activity undertaken for the purposes of keeping in touch with the workplace'. You can use a KIT/SPLIT day to keep up to date with what has been happening in your workplace while you have been on leave; to attend a training course or staff meeting; to complete a project or to help you settle back into work gradually at the end of your maternity, adoption or shared parental leave.

Even if you only work for part of a day or a couple of hours it will still use up one of your KIT/SPLIT days.

You will need to agree with your employer what you will be doing and how much you will be paid (see below for payment). In some cases you may need to agree where you will work e.g. in your normal place of work or working from home.

If I contact my employer or take my baby into work will it count as a KIT/SPLIT day?

KIT/SPLIT days should usually include any work you are likely to do under your contract of employment or in the normal course of your work.

The law allows your employer to make reasonable contact during your leave, for example, to discuss your return to work, so a reasonable amount of contact will not generally be counted as work and is separate from KIT/SPLIT days.

If you are visiting colleagues to show them your new baby it is also unlikely to count as a keeping in touch day unless you have agreed it with your employer or arranged to combine your visit with some work or a meeting, for example. However, if your employer is making a large amount of contact and asking you to get involved in work you should speak to your employer and ask them to agree to some KIT/SPLIT days. You also need to check in advance what you will be paid and whether it will be on top of your statutory pay or set off against it (see below).

When can KIT/SPLIT days be worked?

KIT/SPLIT days can be worked at any time during maternity leave or adoption leave (52 weeks) or during a period of shared parental leave. You can work either before or after the birth but you cannot work during the two weeks of compulsory maternity leave immediately after the birth (four weeks for factory workers).

You can work KIT/SPLIT days during your paid leave or unpaid leave. You should agree the rate of pay with your employer and you should be paid in the normal way, at the normal time, see below for more on pay.

KIT/SPLIT days can only be undertaken by agreement on both sides but a policy that specifically excludes KIT/SPLIT days during certain parts of leave (other than the period immediately after the birth) would not comply with the regulations, see below. You are entitled to rely on your statutory (legal) rights and would be entitled to a KIT/SPLIT day if you are required to come to work for a meeting, training or other work-related activities. See below for more information on what to do if you are not paid for a KIT/SPLIT day or you are treated unfavourably for working or refusing to work a KIT/SPLIT day.

KIT/ SPLIT days do not have to be consecutive and any KIT/SPLIT days you work will not extend your leave period.

Does a half day count as a KIT/SPLIT day?

Working for part of a day or even a couple of hours will use up one of your 10 KIT days or 20 SPLIT days. You will usually only be paid for the hours worked and you need to agree what you will be paid with your employer in advance.

A day's work will be the normal hours or shift patterns at your workplace. If you don't want to leave your baby for a full day or you are using KIT/SPLIT days for a phased return to work, you can ask your employer if you can work a shorter day and it will be a matter for agreement between you and your employer.

Do I have to work a KIT/SPLIT day?

No, you cannot be forced to work a KIT/SPLIT day. You may not wish to work during your leave or you may not be able to if there is no childcare available. It may also depend on how much you will be paid for working a KIT/SPLIT day as it may not be worth your while if you need to pay for travel and childcare (see below).

You should not be treated unfairly for refusing to work a KIT/SPLIT day if you are not able to. If you have arranged to work a KIT/SPLIT day but you are unable to because of sickness or childcare difficulties your employer should not penalise you.

Do I have the right to work KIT/SPLIT days?

No, you cannot insist on working KIT/SPLIT days during your leave. They are a matter for agreement between you and your employer and your employer does not have to offer them.

My maternity pay has come to an end now, what happens if I work more than ten KIT days?

Once your 39 week maternity pay period has ended, any KIT days that you work will not affect your SMP or Maternity Allowance. As set out below, you still need to agree the rate of pay for any days worked, whether that is during your paid leave or your unpaid maternity leave period. Once you have completed ten KIT days, you will need to agree with your employer that you can continue on maternity leave until the end of the 52 week period.

Can I use KIT/SPLIT days to work part-time for a period before returning to work?

Yes, you could work part-time e.g. two days a week, by using KIT/SPLIT days before returning to work, if you and your employer agree. Using KIT or SPLIT days to achieve part-time work for a period may help you and your employer see how well it works and it may strengthen your arguments when making a request to work part-time. You must agree the rate of pay for any KIT/SPLIT days, see below.

If you want to work part-time permanently after the end of your leave, you should make a request for flexible work. If possible, apply for flexible work at least three months before your return to work to allow your employer enough time to consider your application.

My employer has asked me to do some work that is different from my normal work – could it affect my right to return to my old job?

If you are going to be doing a large amount of work during your maternity, adoption or shared parental leave and it is different from your normal job you should make sure that you will still have the right to return to your old job. If you are unsure you should ask your employer to confirm in writing that any work done during your leave will not affect your right to return to your old job. You have the right to return to the job you were doing **immediately before the start of your leave** if you take up to six months' maternity or adoption leave or up to six months' leave on aggregate if you are taking shared parental leave (including any maternity, paternity, adoption and shared parental leave).

If you take longer than six months' leave or six months on aggregate if you are taking shared parental leave (including any maternity, paternity, adoption and shared parental leave), you still have the right to return to the same job but if your employer can show it is not reasonably practicable for you to return to your old job, they have the right to offer you a suitable alternative

job. If you are not offered your old job back and you do not think your employer had a good reason you should seek advice, for more information see: Rights during maternity leave and on return to work.

Which regulations cover KIT days?

The Maternity and Parental Leave Regulations 1999, regulation 12A, provide the right to work up to ten KIT days during maternity leave. Maternity leave lasts for up to 52 weeks.

Regulation 12A.—(1) Subject to paragraph (5), an employee may carry out up to 10 days' work for her employer during her statutory maternity leave period without bringing her maternity leave to an end.

(2) For the purposes of this regulation, any work carried out on any day shall constitute a day's work.

(3) Subject to paragraph (4), for the purposes of this regulation, work means any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

(4) Reasonable contact from time to time between an employee and her employer which either party is entitled to make during a maternity leave period (for example to discuss an employee's return to work) shall not bring that period to an end.

(5) Paragraph (1) shall not apply in relation to any work carried out by the employee at any time from childbirth to the end of the period of two weeks which commences with the day on which childbirth occurs.

(6) This regulation does not confer any right on an employer to require that any work be carried out during the statutory maternity leave period, nor any right on an employee to work during the statutory maternity leave period.

(7) Any days' work carried out under this regulation shall not have the effect of extending the total duration of the statutory maternity leave period.

The same provisions apply to shared parental leave in the Shared Parental Leave Regulations 2014, regulation 37.

Payment for KIT/SPLIT days

Am I entitled to my normal pay for KIT/SPLIT days?

Unfortunately the regulations do not state what an employee should be paid for working a KITSPLIT day but employers are expected to pay your normal rate of pay. You are entitled to be paid at least the National Minimum Wage (not including the SMP/SAP or ShPP part of your pay) for any work that you do during leave. You can find more information on the National Minimum Wage here: <https://www.gov.uk/national-minimum-wage-rates>

If you work a KIT/SPLIT day during your maternity, adoption or shared parental pay period you must continue to be paid your weekly Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP), Maternity Allowance or Statutory Shared Parental Pay (ShPP), but any additional pay for a KIT/SPLIT day must be agreed between you and your employer before you do any work. Pay for a KIT/SPLIT day can be offset against the statutory pay (as long as you are still receiving at least the National Minimum Wage) so you will not always receive both. For more on Maternity Allowance see the section below.

If you are paying for childcare and travel costs you should let your employer know in advance so that your employer can take that into consideration. As a matter of good practice your employer should pay your normal wage for working a KIT/SPLIT day even if you work a shorter day as you may have incurred the same expenses in order to get to work.

My employer has asked me to come into work for a KIT day but has said that I won't be paid for it until my maternity leave ends. Is that right?

No, you are entitled to be paid for any KIT or SPLIT days worked in the same way and at the same time as other employees so this will usually be in the payroll following the week or month in which you do some work. Your employer must pay for any KIT/SPLIT days at the time you do the work and cannot delay payment. It is very important to check whether you will be paid for a KIT/SPLIT day on top of your statutory pay or whether it will be offset against it, see next question. If you have not been paid at the correct time, you should speak to your employer, HR or payroll manager as there may have been a misunderstanding.

The law says that you are not entitled to 'remuneration' (salary or wages) during maternity, adoption and shared parental leave because you normally receive maternity, adoption or shared parental pay instead. However, your employer must still pay any sums that are owed to you during your maternity, adoption or shared parental leave, especially if you have worked during your leave. This applies whether you work any KIT/SPLIT days during your SMP/SAP/ShPP period or during unpaid maternity/adoption/shared parental leave.

You must also be paid any holiday pay, commission payments and any other sums owed during your leave period. Many employers pay contractual maternity, adoption or shared parental pay during the leave period so there is no rule that prevents an employer from paying you additional sums during your leave.

Can my employer offset pay for KIT/SPLIT days against SMP/SAP/ShPP?

Yes, your employer is entitled to offset any contractual pay for a KIT/SPLIT day against your SMP/SAP/ShPP but they do not have to. It is very important that you agree with your employer what you will be paid for working a KIT/SPLIT day and whether it will be offset against your SMP/SAP/ShPP or whether you will receive the pay as well as your SMP/SAP/ShPP, see the examples below. You should ask your employer to confirm what you will be paid and when you will be paid in writing. If your employer is going to offset your pay against your SMP/SAP/ShPP payments and you decide that it is not worthwhile to work a KIT/SPLIT day during your leave, you are entitled to refuse to work a KIT/SPLIT days.

When discussing pay for KIT/SPLIT days with your employer, make sure that your employer is aware that they can claim back 92% of the SMP/SAP/ShPP from HM Revenue & Customs. Small employers claim back 103%. Employers can also claim advance funding from HMRC to cover their SMP/SAP/ShPP payments, if needed.

Your employer cannot pay you less than the weekly amount you should receive as SMP/SAP/ShPP and must not pay you less than the National Minimum Wage for the hours worked (not including the SMP/SAP/ShPP payment).

- SMP/SAP is paid for 39 weeks at the rate of 90% of your average wages for the first six weeks and a flat rate of £156.66 (April 2022 to April 2023), or 90% of your average earnings if lower, for the remaining 33 weeks.
- ShPP is paid at the flat rate of £156.66 (April 2022 to April 2023) or 90% of your average earnings if lower.

If your employer needs to work out a daily amount of SMP/SAP or ShPP, they must divide the weekly amount by 1/7th (£156.66 divided by 7 = £22.38 per day).

Example 1 – Pay for KIT/SPLIT day is offset against statutory pay

If an employee earns £70 for working 7 hours, which is offset against the statutory payment of £22.38 for one day, she is paid £47.62 for the KIT day plus £156.66 SMP/SAP/ShPP. She has not been paid the National Minimum Wage for the 7 hours of work as pay for a KIT day cannot include the SMP/SAP/ShPP. [/box]

Example 2 – Pay for KIT/SPLIT days is offset against statutory pay

If an employee earns £100 for working a KIT day, which is offset against her SMP for that day, she will be paid £77.62 (£100 less £22.38 daily rate) for the KIT day, plus £156.66 SMP weekly payment. She has been paid at least the National Minimum Wage for a 7 hour KIT day (not including the SMP paid). If an employee works for three KIT/SPLIT days in the same week and earns £300 for the KIT/SPLIT days, which is offset against her SMP/SAP/ShPP (£156.66 divided by 7, multiplied by 3 = £67.14), she will earn £232.86 (£300 less £67.14), plus £156.66 SMP/SAP/ShPP. She has been paid at least the National Minimum Wage for a 7 hour KIT day (not including the SMP paid).

Example 3 – Pay for KIT/SPLIT days is not offset against SMP/SAP/ShPP

If the employer agrees not to offset any pay against the weekly payment of SMP/SAP/ShPP, an employee who earns £100 for working one KIT/ SPLIT day will receive £256.66 for that week (£100 plus £156.66) and has been paid at least the National Minimum Wage (not including any statutory pay).

Which regulations apply to pay for KIT/SPLIT days?

The Statutory Maternity Pay (General) Regulations 1986 states:

Regulation 9A. In a case where a woman does any work under a contract of service with her employer on any day but for not more than 10 days (whether consecutive or not), during her maternity pay period, statutory maternity pay shall continue to be payable to the employee by the employer.

The Social Security Contributions and Benefits Act 1992, s.166, states:

Section 166(4) Where for any purposes of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory maternity pay, the amount payable by way of statutory maternity pay for any day shall be taken as one seventh of the weekly rate.

The same provisions apply to shared parental pay in the Statutory Shared Parental Pay Regulations 2014, regulation 12 and 40.

What happens if I work for more than ten KIT or 20 SPLIT days?

If you work for more than 20 SPLIT days it will bring your ShPP to an end.

If your employer asks you to work more than ten KIT days during your maternity or adoption leave you should make sure that your employer will not be treating you as having returned to work and that you can still return on the date agreed or the end of your 52 week maternity/adoption leave period.

In order to avoid any dispute, if you are intending to work more than ten KIT, ask your employer to confirm any KIT days in writing, as well as the rate of pay, and that your maternity/adoption leave will continue after the KIT days.

Once you have worked for more than ten KIT days you will lose a week's SMP/SAP for any week in which you do some work, even if it's only for one day. If a week contains, for example, the last of the ten KIT days and another (eleventh) day of work during your maternity/adoption leave, you will lose that week's SMP/SAP. However, you are still entitled to any contractual pay that has been agreed for your KIT days.

If you have more than one job, your KIT days apply to each job separately. You would only lose SMP/SAP in the week in which you worked more than ten KIT days from the employer paying you SMP/SAP.

Example: working more than ten KIT days during maternity/adoption leave

An employee works two KIT days in one week but she has now worked eleven KIT days in total during her maternity/adoption leave. Her employer pays £100 for each KIT day. She will lose SMP/SAP for that week because she has worked more than ten KIT days. However, she will be paid £200 contractual pay for the two KIT days worked that week. If you have used up your ten KIT days

and you are entitled to shared parental leave and pay, you could give notice to end your maternity leave and go onto shared parental leave so that you can take up to 20 SPLIT days.

You need to give at least 8 weeks' notice to take SPL and you should check your entitlement carefully. For more information on shared parental leave and ShPP, see Shared parental leave and pay.

I have two jobs but I only get SMP from my main job, what happens if I do some work for my other employer?

If you have more than one job, your KIT days apply to each job separately. If you are getting SMP from one job, you can work for up to ten KIT days for the employer who is paying you SMP without losing your SMP.

The rules on working during your SMP period if you have more than one job are complex. For more information, see: Rights for parents with more than one job.

If you are changing jobs or starting a new job during your SMP period, see Maternity Pay Questions.

Maternity Allowance and KIT days for employed and self-employed women

Will I lose Maternity Allowance if I work for more than ten KIT days?

Maternity Allowance (MA) is paid by the Department for Work and Pensions (DWP) to women who do not qualify for Statutory Maternity Pay or who are self-employed. MA is paid for 39 weeks at the rate of 90% of your average earnings up to a maximum of £156.66 per week (April 2022 to April 2023).

If you are receiving Maternity Allowance from the DWP you may work for up to ten KIT days without losing Maternity Allowance. The ten KIT days will include any employed or self-employed work you do, including working for different employers.

If you work for more than ten days you can be disqualified from receiving Maternity Allowance for a reasonable period. This will be assessed by DWP in relation to the amount of work you are doing. Your Maternity Allowance should not be automatically stopped. The decision-maker should look at the circumstances of each case, see examples below.

Examples of disqualification by DWP after working more than ten KIT days

Example 1 An employee worked full-time before maternity leave and has completed ten KIT days during her Maternity Allowance period.

She wants to continue working one day a week for the next 8 weeks. She should only be disqualified from receiving MA for a day a week for those 8 weeks. The weekly rate of Maternity Allowance should be divided by 7 to find a daily rate (£156.66 divided by 7 = £22.38). Her Maternity Allowance should continue to be paid at the rate of £134.28 per week (£156.66 less £22.38 = £134.28).

Example 2 An employee worked two days a week before maternity leave and has completed ten KIT days during her Maternity Allowance period.

She wants to continue to work for two days a week over the next five weeks. She is likely to be disqualified from receiving Maternity Allowance for those five weeks as she has completed ten KIT days and returned to the same work pattern as before her maternity leave. Once she stops working, if she has any weeks of her Maternity Allowance period remaining, she can telephone DWP and ask for her Maternity Allowance to be paid again.

The full guidance on disqualification from Maternity Allowance for working more than ten KIT days can be found at section 62596 –62600 in the Department for Work and Pensions' decision-makers guide

here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/563140/dmgch62.pdf

If you are refused Maternity Allowance or you are disqualified unreasonably, you can ask for a Mandatory Reconsideration (a review) within 28 days of the decision, or as soon as possible. When asking for a mandatory reconsideration you should quote the guidance above and ask them to review the decision. If you do not agree with the mandatory reconsideration, you can appeal to a First-tier Tribunal. For more information, see: www.gov.uk/mandatory-reconsideration. If you have been disqualified from receiving Maternity Allowance, your employer should still pay you any contractual pay agreed for working a KIT day.

What counts as 'work' if I am self-employed?

You should count any work that you normally do in the course of your job for the purposes of work during a KIT day. This includes work that you do from your own home. If you are doing small tasks like checking emails or updating your website, it is a good idea to arrange to do as much work as possible in one day rather than spreading it over several days. In that way you won't use up too many KIT days when you are only doing an hour or two of work.

It is also important to keep a record of the days that you worked. If you are unable to provide a record of days worked, DWP will make an estimate.

If you are self-employed, guidance from the DWP says that the following minimal maintenance and admin tasks that will enable you to keep your business going and return to work do *not* count towards the ten KIT days providing you do not receive direct payment for the work:

- Carrying out necessary administration.
- Accepting work which is due to start after your return to work and after your MA ends.
- Carrying out essential maintenance to your website or equipment.
- Responding to correspondence requesting information as long as it does not relate to work to be carried out before your return to work and before your MA ends.
- Keeping essential formal qualifications and licenses up-to-date.
- Keeping skills at an acceptable level. This should not include formal paid-for training.
- Preparing for work arranged before your MA period starts but to be carried out after your return to work and after your MA ends.

You are allowed to work for up to ten days during your Maternity Allowance period without losing Maternity Allowance. Once you have worked for more than ten days you will be disqualified from receiving Maternity Allowance but a decision-maker at DWP will decide what period of disqualification is reasonable depending on the number of days you have worked, see questions above.

Note: if you do not notify the DWP that you intend to return to work early or the DWP decides that you are disqualified from receiving the rest of your Maternity Allowance, you may end up with an overpayment.

If you receive payments during your Maternity Allowance, for example, for goods sold before you started your leave, it does not disqualify you from receiving Maternity Allowance. It is the number of days of work that count.

I returned to work early and stopped receiving Maternity Allowance but now need to take some more time off, can I go back onto Maternity Allowance?

Once your Maternity Allowance period has started, it continues to run in the background for up to 39 weeks even if you return to work (employed and self-employed) for a period and stop receiving it. You are entitled to claim Maternity Allowance for any full week in which you are absent from work during the Maternity Allowance period. For example, if you are off sick within the 39 week pay period you are entitled to claim Maternity Allowance and you should contact telephone Maternity Allowance claims on 0800 169 0283 and ask to go back onto Maternity Allowance.

An **employed** mother who is claiming Maternity Allowance is not entitled to Statutory Shared Parental Pay but can give notice to take shared parental leave. This would allow you to take leave more flexibly than in one block of maternity leave, for example, if you need to return to work for a period. This is a complicated area so it is a good idea to get specialist advice if you want to take SPL and claim Maternity Allowance in this way. For more information, see Shared parental leave and pay.

A **self-employed** mother cannot qualify for shared parental leave or Statutory Shared Parental Pay so you can only claim Maternity Allowance for up to 39 weeks. If you do some work and stop receiving

Maternity Allowance it continues to run in the background and you are entitled to receive it for any week in which you are absent from work. If you need to take more time off and you are still within your 39 week Maternity Allowance period you can telephone Maternity Allowance claims on 0800 169 0283 and ask to go back onto Maternity Allowance.

Protection from unfair treatment, dismissal and loss of pay

Where can I find Government guidance on KIT days to show my employer?

You can find guidance from ACAS on working during maternity and shared parental leave here: <https://www.acas.org.uk/managing-your-employees-maternity-leave-and-pay/planning-maternity-leave>.

You can find guidance on working during the maternity pay period here (bear in mind that this guidance only relates to the 39 week SMP or Maternity Allowance period):

www.gov.uk/government/publications/maternity-benefits-technical-guidance

Sections 3.12 (SMP) and 4.10 (Maternity Allowance)

What can I do if my employer is treating me unfairly for refusing to work during my maternity, adoption or shared parental leave?

Any days of work during maternity, adoption or shared parental leave must be agreed by both parties and neither you nor your employer can insist on working KIT/SPLIT days. They are optional and you should not be treated unfairly for being unable to work any KIT days or for refusing to work during your maternity, adoption or shared parental leave. Similarly, if it was agreed that you would do some work during your leave, for example, to complete a project, you must not be treated unfairly if you are unable to work any pre-arranged KIT/SPLIT days.

You are protected against unfair treatment and dismissal on the grounds of maternity, adoption and shared parental leave. If your employer does treat you unfairly you should talk to your employer informally to start with. You should get advice or talk to your union, if you have one. If you are dismissed or treated unfairly for working a KIT day or refusing to work a KIT day, you can bring a claim in an employment tribunal for detrimental treatment or unfair dismissal. You must contact ACAS, within the time limit, before starting a tribunal claim, see below.

What can I do if I have not been paid properly for working during my maternity, adoption or shared parental leave?

If your SMP/SAP/ShPP was not paid correctly or you were not paid the National Minimum Wage as a result of working a KIT day, you can contact HMRC Statutory Payments Disputes Team on 0300 322 9422 and ask for a formal decision. HMRC will order your employer to pay any SMP/SAP/ShPP owing. If your employer goes into liquidation or does not have enough money to pay your SMP/SAP/ShPP, HMRC will pay your statutory pay directly. If you do not agree with HMRC's decision, you can appeal to a First-tier Tribunal (Tax).

If you were not paid correctly (or at all) for KIT days or were not paid the National Minimum Wage you can make a claim for loss of wages in an employment tribunal. In order to make a claim in an employment tribunal you must contact ACAS within three months, less one day, on 0300 123 11 00. If ACAS are not able to resolve it through Early Conciliation, you can make a claim in a tribunal.

Pregnant during maternity leave (expecting again)

This page contains information on:

1. [Rights to maternity leave for your new pregnancy](#)
2. [Maternity pay](#)
3. [Maternity Allowance](#)
4. [Rights to return to work after two periods of maternity leave](#)
5. [Benefits for families](#)

January 2021

This information sheet explains your rights and benefits if you are on maternity leave and you are pregnant again.

Rights to maternity leave for your new pregnancy

All employees are entitled to 52 weeks maternity leave for each pregnancy. There is no qualifying period for maternity leave and you are still treated as an employee throughout your maternity leave. You can return to work between your periods of leave or you may be able to take two consecutive periods of maternity leave.

If you are employed or were employed until recently you are likely to qualify for some form of maternity pay for your next maternity leave. If your earnings are high enough in approximately weeks 18 to 26 of your pregnancy you can get Statutory Maternity Pay. If you don't qualify for SMP you can claim Maternity Allowance instead, see the section below on maternity pay.

Am I entitled to another period of maternity leave for my next baby?

Yes, you are entitled to a further period of up to 52 weeks' maternity leave for your new pregnancy. It does not matter how many periods of maternity leave you have taken or whether they overlap or not.

When can I take my new maternity leave?

Firstly, work out the date you are due back at work from your current period of maternity leave. You need to think about whether you want to take your full 52 week entitlement, if not, you must give at least eight weeks' notice if you wish to return early.

Secondly, decide when you would like to start your next period of maternity leave. The earliest you can start your next period of maternity leave is the beginning of the 11th week before the week your

baby is due. It is up to you to decide when you wish to start your next maternity leave and you should give your employer notice of the date you wish to start your leave by the 15th week before your baby is due.

If your current maternity leave ends before the 11th week before your next baby is due or before the date you wish to start your next maternity leave you will have to return to work for the time in between unless you take another type of leave, see next question. It is up to you to decide what you wish to do but be sure to follow the correct notice requirements for both periods of maternity leave.

I do not want to have to return to work in between my current and next period of maternity leave. Can I take any other leave?

If your current maternity leave ends before the earliest date you can start your next period of maternity leave there may be other types of leave you can take so that you do not have to return to work in between.

- You could take Parental Leave, providing you give your employer at least 21 days' notice. You are entitled to take 18 weeks Parental Leave, per parent, per child. It should usually be taken in blocks of a week, up to four weeks a year, but your employer may allow you to take more. Parental Leave is usually unpaid, unless your employer offers paid leave, so check whether this affects your next period of maternity pay, see next section. You should also check below on your rights to return to work following consecutive periods of maternity/Parental Leave. See our information sheet Time off for working parents for more information on Parental Leave. Note: Parental Leave is different from shared parental leave.
- You may have accrued some annual leave. You are entitled to at least 28 days paid leave a year (pro-rata if you work part-time), this may include paid Bank Holidays. Annual Leave continues to accrue during maternity leave. You should discuss your annual leave with your employer to be sure that you take as much leave as possible in the year in which it accrues otherwise you may not be able to carry forward all your annual leave or you may return to work with a lot of annual leave still to take.
- If you are not well enough to return to work in between both periods of maternity leave, you are entitled to take sick leave as normal and you should follow your employer's normal sickness reporting procedures. If you receive Statutory Sick Pay (SSP) during sick leave, you should check your maternity pay position carefully as SSP may affect your entitlement to maternity pay for your next baby.

You should discuss your options with your employer and be sure to give the correct notice for each type of leave. Your employer is entitled to turn down a request for annual leave, for example, if too many employees want to take leave at the same time. Your employer can also postpone a period of Parental Leave where the employer can show that the business would be unduly disrupted but your employer should not refuse annual leave or Parental Leave because of your pregnancy or maternity leave. If you are treated unfairly, see Discrimination during pregnancy or Discrimination during maternity leave.

Maternity pay

How much is maternity pay?

SMP is paid for 39 weeks. You get 90% of your average earnings for the first six weeks. You then get a flat rate of £151.97 per week (from April 2021-April 2022) for 33 weeks or 90% of your average earnings if you earn less than £151.97.

If you do not qualify for SMP you may be able to claim Maternity Allowance (MA) from the Jobcentre Plus.

MA is paid for 39 weeks at the flat rate of £151.97 or 90% of your average earnings if you earn less.

Can I get Statutory Maternity Pay for my next baby?

You will qualify for Statutory Maternity Pay (SMP) if:

- you have been employed by the same employer for at least 26 weeks by the end of the 15th week before your baby is due, and
- you are still employed in the same job in all or part of the 15th week before your expected week of childbirth. You are still counted as being employed if you work full-time or part-time or if you are absent on maternity leave, annual leave, sick leave or you are registered as an agency worker and no work was available, and
- you actually receive at least £120 (before tax) per week (April 2021 – April 2022) in earnings, *on average* in the eight weeks (if you are paid weekly) or two months (if you are paid monthly) up to the last pay day before the end of the 15th week before your baby is due.

Do I need to be back at work after the end of my previous maternity leave in order to qualify for maternity pay for my next baby?

You do not have to return to work between periods of maternity leave (see section on maternity leave above) but your maternity pay may be affected if you are not receiving normal earnings in the calculation period for maternity pay for your next baby – see next question.

Are my earnings high enough to qualify for Statutory Maternity Pay for my next baby?

You will qualify for SMP for your next baby if your earnings are at least £120 per week (April 2021 – April 2022) on average during the calculation period. The calculation period for SMP is the eight weeks (if you are paid weekly) or two months (if you are paid monthly) before the end of the 15th week before your expected week of childbirth.

How to find the 15th week before the your expected week of childbirth

Find the Sunday immediately before the day your baby is due and count back 15 weeks. If your baby is due on a Sunday, count back 15 weeks from your due date.

If you are paid weekly, your SMP will be based on your average earnings in the 15th week before your expected week of childbirth and the previous seven weeks. If you are paid monthly, you find the last monthly pay day immediately before the end of the 15th week before your expected week of childbirth and the one before that.

Example 1 – how to work out your calculation period

Expected week of childbirth: 29 August – 4 September 2021

15th week before: 16 – 22 May 2021

Calculation period:

If paid weekly: Week of 16 – 22 May 2021 and previous seven weeks

If paid monthly on the 28th of each month: 28th March and 28th April's earnings

Example 2 – how to work out your calculation period

Expected week of childbirth: 6 – 12 February 2022

15th week before: 24 – 30 October 2021

Calculation period:

If paid weekly: Week of 24 – 30 October 2021 and previous seven weeks

If paid monthly on 30th of each month: 30th September and 30th October's earnings

What counts as earnings?

'Earnings' includes sick pay, holiday pay and any bonuses or commission that form part of your normal wages or salary. 'Earnings' does not include Maternity Allowance. If you are receiving furlough pay during your calculation period, your employer must use your normal earnings, not your reduced furlough pay to calculate SMP.

If you are receiving SMP (for your current maternity leave) during the calculation period for your next period of SMP, SMP counts as 'earnings' for calculating your average earnings for your next maternity leave. Therefore, if you are receiving SMP of more than £120 per week during your calculation period you will qualify for SMP the second time around.

If your average earnings during the calculation period are lower than £120 per week (April 2021-April 2022), you will not qualify for SMP from your employer but you are likely to be able to claim Maternity Allowance, see below.

I am on unpaid leave during most of the calculation period so I don't think I will get any maternity pay?

If the calculation period falls during all or part of the last 13 weeks of your unpaid maternity leave or your average earnings are below £120 per week (April 2021 – April 2022) you will not qualify for SMP. If you do not qualify for SMP, your employer must give you form SMP1 explaining why you do not qualify and you can apply for Maternity Allowance, see below.

How do I find out if I will get SMP for my next baby?

For help with working out whether you qualify for SMP for your next baby you can try the online calculator, see: www.gov.uk/pay-leave-for-parents

You must tell your employer about your next pregnancy/maternity leave by the 15th week before your baby is due. You must give your employer notice of the date that you want to start your next maternity leave and your MATB1 maternity certificate and ask your employer to calculate whether you qualify for SMP.

Your employer can get help from the HMRC Employers Helpline on 0300 200 3200 if they are not sure. Make sure your employer knows they can claim reimbursement for the SMP they pay you and they can get advance payment if they need it: <https://www.gov.uk/recover-statutory-payments>

What can I do if my employer refuses to pay SMP or cannot pay it?

If your employer refuses to pay SMP, pays the wrong amount or goes into liquidation, you can contact the HMRC Statutory Payments Disputes Team on 0300 322 9422, see Where to go for more help. They will make a formal decision on your entitlement and order your employer to pay it. If your employer does not pay your SMP or has gone into liquidation, HMRC will pay it directly.

If you are not entitled to SMP, you can claim Maternity Allowance instead.

Maternity Allowance

Can I claim Maternity Allowance for my next baby?

If you cannot get SMP, you may be able to claim Maternity Allowance. You can get Maternity Allowance if:

- you have been employed for at least 26 weeks (not necessarily in a row) in the 66 weeks before your expected week of childbirth (this can include periods on maternity leave as you are still employed during maternity leave), and

- you need to find 13 weeks (not necessarily in a row) in which you earned over £30 per week on average.

You should send in payslips for the 13 weeks in which you earned the most in order to get the maximum Maternity Allowance of £151.97 per week (April 2021 – April 2022).

If you are self-employed, you do not need to provide proof of earnings. For more information on claiming Maternity Allowance if you are self-employed see this.

As the test period is 66 weeks before the week your next baby is due you may be able to use earnings from before your current maternity leave or weeks in which you were receiving Statutory Maternity Pay.

Earnings includes holiday pay, sick pay, Statutory Maternity Pay, Statutory Sick Pay and any other payments that form part of your salary or wages. You can add together earnings from more than one job. Unfortunately you cannot include previous periods of Maternity Allowance as earnings.

Employed and self-employed work counts for Maternity Allowance. This includes full or part-time work. You can still apply for Maternity Allowance if you are currently unemployed as long as you completed at least 26 weeks of employment in your test period.

You continue to be 'employed' by your employer during maternity leave so you can count previous periods of maternity leave when calculating your entitlement to a further period of maternity leave and pay.

How do I work out the 66 week test period?

A table of dates for working out the 66 week test period can be found at the end of the MA1 claim form for claiming Maternity Allowance which is available online here: <https://www.gov.uk/government/publications/maternity-allowance-claim-form>

Example 1 – 66 week test period

Expected week of childbirth: 29 August – 4 September 2021

Start of 66 week test period: 24 May 2020

Example 2 – 66 week test period

Expected week of childbirth: 6 – 12 February 2022

Start of 66 week test period: 1 November 2020

How do I claim Maternity Allowance?

If you are still employed you should ask your employer to work out if you can get SMP first. If you do not meet the qualifying conditions your employer must give you form SMP1. If your employer does not give you form SMP1 you should contact the HMRC Employees Helpline but do not delay applying for MA while you are waiting for it.

You can apply for Maternity Allowance once you are at least 25 weeks pregnant.

You can apply for Maternity Allowance at your local JobCentre Plus or phone the JobCentre Plus claim line on 0800 055 6688 and ask for form MA1. You can also find the form online here: <https://www.gov.uk/government/publications/maternity-allowance-claim-form>

For more information on claiming Maternity Allowance, see Maternity Pay Questions.

My Maternity Allowance has been refused as I was on maternity leave and not working for 26 weeks during the 66 week test period. Is that correct?

No, it is not correct. You do not need to have *worked* for 26 weeks but you need to show that you were *employed* for at least 26 weeks in the 66 weeks before your baby is due. You can count weeks

on maternity leave (whether paid or unpaid) in order to meet the employment condition for claiming Maternity Allowance for your next baby.

You are considered to be employed if you have a contract of employment (it does not need to be in writing), including a zero hours' contract, or you are registered with an agency. You are still employed during weeks of sick leave, annual leave, furlough or maternity and parental leave. If you are refused Maternity Allowance because you were on maternity leave in your 66 week test period you can telephone MA Claims on 0800 169 0283 and ask for a mandatory reconsideration (review) within 28 days or as soon as you are able to and refer them to the section from the Maternity Benefits decision-makers guide below.

DWP Decision-makers Guide to Maternity Allowance

Employment condition

62516 The employment condition is that the claimant has been engaged in employment as an employed or S/E earner for at least 26 weeks in the 66 weeks immediately before the EWC. This 66 week period is known as the test period. A week means a whole week or any part of a week. For employed earners, this is satisfied as long as a contract of employment exists or a contract to provide services.

62517 A woman who is on statutory maternity leave is in gainful employment, so that DMG 62516 is satisfied, even if that maternity leave is unpaid. This is because the woman continues to have contractual rights other than pay pertaining to her employment such as membership of any pension scheme she belongs to during unpaid leave and can accrue paid holidays. However, a woman who is on unpaid leave for another reason (for example a career break) is not engaged in employment.

My employer pays occupational maternity pay. Can I get it for my next pregnancy?

If your employer pays occupational maternity pay (over and above the SMP amount), you will need to check the terms of your contract or maternity policy to see if you qualify. Your employer cannot refuse to pay SMP if you qualify for it for your next baby, however, it is up to your employer to decide on the terms and conditions for qualifying for any additional occupational maternity pay that they provide.

Rights to return to work after two periods of maternity leave

Do I have the right to return to my job after a second period of maternity leave?

Your rights on return to work will depend on how much leave you take and whether you take all your leave consecutively (immediately after each other) or with gaps in between. The table below sets out your rights to return after consecutive periods of leave. You will be counted as having returned to work in between periods of leave if you returned to work after your leave came to an end or you gave notice to end it early. You will also be counted as having returned to work if you were on annual leave or sick leave. It does not matter how long you returned to work, even if you return to work for one day it will count as a break in your leave.

If you take any shared parental leave (SPL) you will have to add up the total number of weeks of maternity leave and shared parental leave in order to work out your rights on return to work from a period of shared parental leave. For more information on shared parental leave, see the information sheet Shared parental leave and pay.

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Pregnant Pickle

People, Prejudice & Pregnancy

<p>Right to return to the same job</p>	<p>Ordinary Maternity Leave (OML) (maternity leave of 26 weeks or less)</p> <p>Parental Leave of four weeks or less</p> <p>OML plus Parental Leave of four weeks or less (or Parental Leave of four weeks or less followed by OML)</p> <p>SPL where your total leave adds up to 26 weeks or less on aggregate (you have to include any periods of SPL and maternity leave taken in respect of this baby).</p>
<p>Right to return to the same job or, where it is not reasonably practicable, to a suitable alternative job</p>	<p>OML plus Additional Maternity Leave (AML) (maternity leave of more than 26 weeks)</p> <p>Parental Leave of four weeks or more</p> <p>OML plus Parental Leave of four weeks or more</p> <p>OML/AML followed immediately by a second period of OML or Parental Leave of any length</p> <p>OML/AML followed immediately by OML/AML</p> <p>SPL where your total leave adds up to more than 26 weeks on aggregate (including any periods of SPL and maternity leave taken in respect of this baby)</p>

You should note that if you take OML and AML for your first pregnancy, immediately followed by a second period of OML, you do not have the right to return to exactly the same job as you normally would following OML. If the second period of OML is immediately after a previous period of AML, your rights on return are the same as when you are returning from AML. If you return to work for a day or more in between the first AML and second OML you will have the right to return to exactly the same job.

If you return to the same job, you are entitled to receive the same terms and conditions that applied immediately before your leave began. If you are offered a suitable alternative job, you are entitled to be offered similar terms and conditions that are not substantially less favourable than your terms and conditions in your previous job. Throughout OML/ AML and Parental Leave your seniority, pension and other service-related rights should remain as they would have been if you had not been absent from work.

If you are not allowed to return to the same job or you are not offered a suitable alternative job on similar terms and conditions, you may have a claim for unfair dismissal, detriment and/or maternity discrimination. For more information, see [Dealing with problems at work](#).

What should I do if I decide not to return to work?

You should resign in the normal way, giving your employer as much notice as possible and at least the notice required by your contract. You do not have to return to work for your notice period. You are still entitled to receive your SMP or Maternity Allowance for up to 39 weeks, even if your job has ended, and you do not have to repay any SMP/MA if you decide not to go back to work. For more information, see Resigning from your job during pregnancy and maternity leave.

Can I reduce my hours if I return to work after a second period of maternity leave?

The laws gives all employees the right to ask for flexible work. You can make a request at any time, providing you have been employed for at least 26 weeks. You can only make one request a year. You should make your request about three to four months before you wish the change to take place. Information and application forms can be found on the government website <https://www.gov.uk/flexible-working>.

Any change to your hours of work will normally be permanent, unless you and your employer specifically agree to a temporary change. If you want to reduce your hours for a few months to ease your return to work, you must make sure that this is agreed with your employer from the outset. You need to think carefully about what type of flexible work you want (e.g. part-time or working from home) and how it would fit in with your job. Your employer must seriously consider your request and can only refuse for certain business-related reasons e.g. where it would have a detrimental effect on customers or on performance. Your employer should consider how you can do your current job more flexibly. If your employer refuses your request you can appeal and you should seek advice from one of the organisations listed below. See the information sheet *Child friendly working hours* for more information.

Benefits for families

Are there any benefits I can claim?

Once your baby is born you can claim Child Benefit. Families in receipt of Child Benefit will be subject to a high earner child benefit charge if one or more parent earns over £50,000.

If you are already claiming Child Tax Credit and/or Working Tax Credit you may be able to claim an additional amount for a new baby. The first £100 per week of SMP and all of Maternity Allowance is ignored as income for tax credits purposes so you may be entitled to more help during your maternity pay period. You should get advice **before** making a new claim for Universal Credit as you cannot go back onto tax credits and you may be worse off on Universal Credit. For more information contact the Tax Credit Helpline on 0345 300 3900 or see:

www.gov.uk/child-tax-credit/already-claiming

You may be able to claim Universal Credit if you are on a low income or you have a new baby and you are not receiving Child or Working Tax Credit. SMP is treated as earnings and is partially disregarded under Universal Credit rules but all of Maternity Allowance is treated as unearned income and is deducted from a Universal Credit award. For more information on Universal Credit, see: www.gov.uk/universal-credit

You can get help with Universal Credit claims through the free national Help to Claim service:

England: 0800 144 8444, Wales: 0800 024 1220, Scotland: 0800 023 2581

For an online benefits calculator, see www.betteroffcalculator.co.uk

If you or your partner are receiving Income Support, income-based Jobseekers Allowance, Universal Credit or Child Tax Credit you may be entitled to a Sure Start Maternity Grant (England/Wales/NI) or Best Start Grant (Scotland).

For more information on benefits for families, see: *Money for Parents and Babies*.

Time off for working parents

This page contains information on:

1. [Paternity leave for fathers and partners \(including same sex partners\)](#)
2. [Statutory Paternity Pay](#)
3. [Parental Leave](#)
4. [Time Off For Dependants](#)

March 2022

Before reading this information, please check your employment status. Some of the rights outlined in this information sheet apply to **employees**. If you are not an employee, for example, you are self-employed or doing casual or agency work, your rights may be different. If you are unsure about your employment status, seek advice.

Paternity leave for fathers and partners (including same sex partners)

What is paternity leave?

Paternity leave is up to two weeks' paid leave from work following the birth of a baby. You can take one week or two weeks in a row but not odd days or two separate weeks.

Paternity leave must be taken within 56 days of the birth. If the baby is born before the expected week, paternity leave can be taken any time from the actual date of birth up to 56 days from the date the baby would have been DUE.

You cannot take longer for a multiple birth but you can take parental leave if you are entitled to it (see below).

Who can take paternity leave?

You can take paternity leave if:

- you are an employee.
- you have been employed by the same employer for 26 weeks by the 15th week before the baby is due or, if the baby is born before then, you would have been employed by 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 are the father or the mother's husband or partner (including same sex partners and civil partners).
- you are responsible for the child and are taking time off to care for the child or support the mother.

Apprentices are employees and are entitled to the same parental rights as other employees.

If you are not an employee, you are not entitled to paternity leave but you can still qualify for Statutory Paternity Pay if you meet the normal conditions, see below, and you want to stop work for up to two weeks at the birth of your baby.

What notice do I have to give to take paternity leave?

To take paternity leave you must give your employer the following information by the 15th week before the baby is due. If your employer asks for it, the notice must be in writing:

- When the baby is expected to be born (or date of birth if already born)
- Whether you want to take one or two weeks leave
- When you want your leave to start (see next question)
- If you want to change the start of your leave, you must tell your employer at least 28 days in advance, or as soon as reasonably practicable.

To get Statutory Paternity Pay (SPP) while you are on leave, you must give your employer 28 days' notice. You can give notice for both leave and pay in the 15th week if you wish.

If your baby is born prematurely, you should give notice, as above, as soon as reasonably practicable and tell your employer the date your baby was born.

If your baby is stillborn after the end of the 24th week of pregnancy you are still entitled to paternity leave and Statutory Paternity Pay (if you meet the qualifying conditions) and you should give your employer notice as above.

When does paternity leave start?

Paternity leave can start on any day of the week. You can choose to start your leave on:

- the day the baby is born, or
- a fixed number of days/weeks after the birth, or
- a fixed date after the day the baby is due

Remember, your leave must be completed by 56 days from the birth (or 56 days from the due date if your baby is premature).

If you choose to start your leave on the day the baby is born and you are at work that day, your leave will start the following day. If you choose a fixed day and your baby has not been born yet you must give notice as soon as possible that you wish to take paternity leave from the day the baby is born or from a new date. You cannot have paternity leave and pay before the birth.

What are my rights during paternity leave?

During your paternity leave you are entitled to all your normal contractual terms and conditions apart from your basic wages or salary. Benefits such as share schemes, a company car or mobile phone (unless provided for business use only) continue during paternity leave. You continue to accrue your normal holiday entitlement. Your employer must continue to pay your pension contributions based on your normal salary but any contributions you pay should be based on the paternity pay you actually receive. You are still regarded as continuing in employment during paternity leave so your length of service is continuous.

You have the right to return to exactly the same job on the same terms and conditions after paternity leave.

You are protected against unfair treatment or automatic unfair dismissal for reasons relating to paternity leave from day one of your employment.

I want to be present when my baby is born, but have just started a new job. What should I do?

If you are not entitled to paternity leave (see above), you could:

- take annual leave. Check with your employer about how much notice you need to give.
- take emergency time off for dependants (TOFD). See below for TOFD.

I would like more time off than two weeks when my baby is born; is there any extra leave I can take?

You can only take up to two weeks paternity leave but you could extend your time at home by:

- taking annual leave or
- taking unpaid parental leave (if you qualify) at the birth or immediately after your paternity
See the section below on parental leave. You must give 21 days' notice of the date your baby is due and tell your employer how much parental leave you would like to take. Your employer cannot postpone parental leave if you give notice to take it when your baby is born.

If you qualify for paternity leave and Statutory Paternity Pay (see below), you will also qualify for shared parental leave and pay if the mother does not take all of her maternity leave or pay and you both meet the qualifying conditions. You can take shared parental leave up to a year from the birth.

Statutory Paternity Pay

What is Statutory Paternity Pay (SPP)?

SPP is paid by employers for up to two weeks. SPP is paid at £156.66 per week (April 2022 – April 2023) or 90% of your average earnings if that is lower.

Employers claim the SPP back from HMRC. You do not have to repay it if you do not go back to work for your employer.

Some employers offer additional paternity pay, so always check your contract or ask.

Can I get Statutory Paternity Pay?

You can get SPP if your employer pays your wages, usually through PAYE, and deducts tax and NI (or would do if you earned enough) and you meet the following conditions:

- you are the baby's father or the husband/partner of the mother and you are responsible for the baby's upbringing.
- you have been employed by your employer for 26 weeks by the 15th week before the baby is due or, if the baby is born before then, you would have been employed by 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 the weekly lower earnings limit (£123 per week April 2022 – April 2023) on average, before tax, in the eight weeks (if paid weekly) or two months (if paid monthly) before the 15th week before your baby is born.

You do not have to be an employee to get SPP. Agency, casual, freelance workers and workers on zero hours contracts can also get SPP if you meet the conditions above and your employer pays your wages and deducts tax and NI. The employer pays SPP in the same way as wages and claims it back from HM Revenue & Customs. You will need to agree the time off with your employer/agency while you stop work to receive SPP.

SPP is not classed as public funds and will not affect future immigration applications.

How do I claim Statutory Paternity Pay?

To get Statutory Paternity Pay, you must give your employer notice of the date you want payment to start at least 28 days before or as soon as reasonably practicable.

To give notice you could ask your employer for form SC3 or give your employer a signed letter stating that:

- you want to receive one or two weeks' SPP
- you are the baby's father or the husband/ partner of the mother
- you are responsible for the baby's upbringing
- you are taking time off to be with your child or the mother.

Form SC3 is also available on www.hmrc.gov.uk/forms/sc3.pdf.

SPP can start on any day of the week, for example, from Tuesday to Monday but you cannot get a week's SPP if you do any work between those days – even for an odd day.

If you work for more than one employer, you can qualify for SPP from each employer, if you meet the qualifying conditions in each job. You can work for one employer (B) and receive SPP from your other employer (A) as long as employer B employed you in the 15th week before the baby is due. If you work for an employer who did not employ you in the 15th week before your baby was due, you are not entitled to SPP from employer A.

What can I do if my employer refuses to pay SPP?

If your employer does not pay your SPP or goes into liquidation you can claim it directly from the HMRC Statutory Payment Disputes Team on 0300 322 9422. If you are dismissed or made redundant 'solely or mainly' to avoid payment of SPP you can ask the Statutory Payments Disputes Team for a formal decision and they will order your employer to pay your SPP. See Where to go for more help below.

I do not qualify for SPP. Can I claim anything else?

If you do not qualify for SPP, for example, if your earnings are too low, your employer must give you form SPP1 explaining why you cannot get it. You cannot claim SPP if you are self-employed. You may be able to claim Universal Credit during your paternity leave (depending on your family income and circumstances). See benefits for families below.

Can I get sick pay if I am not well enough to work during paternity leave?

If you are entitled to contractual sick pay you should speak to your employer and follow your employer's normal sickness procedures. Once you are well, you must return to work, you cannot go back onto paternity leave.

If you do not have a contractual right to sick pay, you cannot be paid SPP for any week in which you are entitled to Statutory Sick Pay. If you are receiving Statutory Sick Pay before the start of paternity leave, your employer should continue to pay Statutory Sick Pay. If you call in sick during paternity leave and you meet the qualifying conditions for Statutory Sick Pay, you should not be paid SPP but should receive Statutory Sick Pay instead. Payments of SPP count as earnings for calculating average earnings for Statutory Sick Pay purposes. Statutory Sick Pay is £99.35 per week (April 2022 – April 2023).

Parental Leave

What is parental leave?

Parental leave is designed to give parents more time with their young children. It entitles you to take 18 weeks' leave per parent per child, usually unpaid, up to your child's 18th birthday.

Many of the details of parental leave are not hard and fast rules and can be negotiated in a workforce agreement or collective agreement. If there is no agreement at your workplace you can rely on the default scheme which is set out in this section.

What is a collective agreement?

If there is a union or staff association at your workplace, a collective agreement will be negotiated by the representatives and will probably cover other matters as well as the details about parental leave.

What is a workforce agreement?

If there is no union at your place of work, you can negotiate a workforce agreement between the staff and the employer, which can have much more detailed rules about how parental leave should work. It cannot take away your basic right to 13 weeks' leave, but it could contain very different

rules about how and when parental leave is taken, a system tailored to suit your particular workplace. You can agree anything that improves upon the legal minimum, but your employer cannot take your legal minimum rights away. For example, you might be able to negotiate:

- that you can take more than four weeks per year or less than blocks of one week;
- that parental leave should be paid at a certain rate;
- that it should not always be necessary to give as much as 21 days' notice for parental leave (for example, if you were only going to be on leave for two days).

What is the default scheme?

If there is no collective or workforce agreement in place, then you will be entitled to the default scheme. The default scheme kicks in when there are no other rules in place agreed by a collective or workforce agreement and is the legal minimum that you are entitled to. Under the default scheme:

- parental leave is unpaid;
- you can only take four weeks per year per child;
- you can only take it in blocks of a week or more (unless your child is disabled when you can take it blocks of one day or more);
- you must always give 21 days' notice if you want to take parental leave

Who can take parental leave?

You can take parental leave for your child as long as;

- you are an employee
- you have been employed by the same employer for at least a year
- you take the leave before your child's 18th birthday

Both parents can take up to 18 weeks' parental leave for **each** child.

Anyone who has, or expects to have, parental responsibility for a child can take parental leave for that child – see the next question.

Who has parental responsibility for a child?

The birth mother automatically has parental responsibility for the child and so does the father, if you are married to the mother or your name appears on the birth certificate. Otherwise you can apply for a parental responsibility order.

For more information, see Government guidance here: www.gov.uk/parental-rights-responsibilities.

How do I take parental leave?

In order to take parental leave, you must give your employer 21 days' notice, in writing, of the date you want to start your leave and how much leave you want to take. You should provide proof of your entitlement to parental leave to your employer (for example, baby's birth certificate, certificate showing your baby's due date or proof of adoption).

Is there a limit to how much leave I can take at a time?

You can usually only take parental leave in blocks of a week or more up to four weeks per child in any one year. You can take blocks of parental leave in a row i.e. two weeks together, up to a maximum of four weeks a year. If your child is disabled, you can take parental leave in blocks of a day or more up to four weeks per child per year. However, you and your employer could agree for you to take more than this or your workplace may have a collective or workforce agreement which allows you to take more leave at one time.

Each year begins from the date you first became entitled to parental leave for the child in question. So, it will normally be a year from your child's birthday.

Will I be paid while I am on parental leave?

Parental leave is usually unpaid, unless your employer offers to pay some of it.

You may be able to claim Universal Credit during unpaid parental leave (depending on your family income and circumstances). See benefits for families below.

Are my employment rights affected while I am on parental leave?

During parental leave you will continue to be an employee, but it is likely that you won't receive any of your usual contractual benefits (e.g. company car) unless your employer offers it. The only rights that will continue automatically will be:

- the notice period in your contract of employment (or, if there is none, the legal minimum) will still apply (if either you or your employer wish to terminate your employment)
- you will be entitled to redundancy pay, if you qualify
- disciplinary and grievance procedures will apply
- if your contract has a section which states that you must not work for any other company, this will still apply

It might be possible to negotiate with your employer for other rights in your contract to continue. Your period of parental leave will count as continuous service with your employer.

You are still entitled to your statutory rights (i.e. rights that apply by law to all employees in this country) whilst you are on parental leave. For example, all workers and employees have a legal right to at least 28 days' paid holiday per year and this continues to accrue as normal during maternity, paternity, parental or adoption leave.

Your employer must not dismiss or treat you unfairly because you are taking parental leave, such as, failing to consider you for opportunities such as training or promotion.

What happens when I return to work after parental leave?

You do not need to give any notice of your return, you simply come back to work at the end of your agreed period of leave.

If you have taken parental leave of four weeks or less, you have the right to return to exactly the same job you were doing before you left. If you have taken parental leave of more than four weeks, your employer must allow you to return to a similar job if it is not reasonably practicable for you to return to your old job, see the table below. This new job must have the same terms and conditions as your old job and involve the same type of work.

Can I take parental leave at the end of ordinary maternity leave or paternity leave?

Yes, as long as you follow the notice procedures for taking parental leave. If you take parental leave after ordinary maternity leave or paternity leave, you will be entitled to return to your old job.

However, if you take parental leave of more than four weeks, the rules are different, see the table below. If your employer can show that it is not possible to give you your old job back, they can offer you a suitable alternative job with the same terms and conditions and the same type of work.

Could I take parental leave at the end of additional maternity leave?

Yes, as long as you follow the notice procedures for taking parental leave. At the end of additional maternity leave, you have the right to return to the same job as you were doing before your maternity leave but, if your employer can show that it is not reasonably practicable to give you your old job back, they can offer you a suitable alternative job with the same terms and conditions and the same type of work.

<p>Right to return to the same job</p>	<p>Ordinary Maternity Leave (OML) – the first 26 weeks</p> <p>Parental Leave of four weeks of less</p> <p>OML plus Parental Leave of four weeks or less (or Parental Leave of four weeks or less followed by OML)</p> <p>Shared parental leave (SPL) where your total leave adds up to 26 weeks or less on aggregate (you have to include any periods of SPL and maternity leave taken in respect of this baby).</p>
<p>Right to return to the same job or, where it is not reasonably practicable, to a suitable alternative job</p>	<p>OML plus Additional Maternity Leave (AML) – more than 26 weeks of maternity leave</p> <p>Parental Leave of four weeks or more</p> <p>OML plus Parental Leave of four weeks or more</p> <p>OML/AML followed immediately by a second period of OML or Parental Leave of any length</p> <p>OML/AML followed immediately by OML/ AML</p> <p>Shared parental leave (SPL) where your total leave adds up to more than 26 weeks on aggregate (including any periods of SPL and maternity leave taken in respect of this baby)</p>

You will be counted as having returned to work in between periods of leave if you returned to work after your leave came to an end or you gave notice to end it early. You will also be counted as having returned to work if you were on annual leave or sick leave. It does not matter how long you returned to work, even if you return to work for one day it will count as a break in your leave.

If you return to the same job, you are entitled to receive the same terms and conditions that applied immediately before your leave began. If you are offered a suitable alternative job, you are entitled to be offered similar terms and conditions that are not substantially less favourable than your terms and conditions in your previous job. Throughout OML/ AML and Parental Leave your seniority, pension and other service-related rights should remain as they would have been if you had not been absent from work.

If you are not allowed to return to the same job or you are not offered a suitable alternative job on similar terms and conditions, you may have a claim for unfair dismissal, detriment and/or discrimination.

Can my employer refuse my request to take parental leave?

If you are a father who wants to take time off for the birth of your baby, or if you are adopting a child and want parental leave at the time of placement, your leave cannot be refused or postponed. At all other times your employer cannot REFUSE your request to take parental leave but your employer is allowed to POSTPONE your parental leave once, for up to six months, if they can show

that the business would be unduly disrupted by your absence on leave. Your employer cannot postpone parental leave for any other reason.

If your employer does want to postpone your leave they must tell you this in writing within seven days of your request. You must also be given the reasons why the leave has to be postponed and a date within 6 months when you are allowed to take the leave.

What can I do if my employer will not let me take parental leave?

You should talk to your employer informally and give them some information on your rights. If necessary you could write to your employer. If you cannot resolve it you may be able to make a claim in an employment tribunal and you should seek advice as soon as possible. You must make a claim within three months (less one day) of the act you are complaining about. You must contact ACAS Early Conciliation within the time limit on 0300 123 11 00 before making a tribunal claim.

I tried to book parental leave for my child's Christmas holidays, but my employer refused. My mother was going to care for him, but now she is sick. What can I do?

Your employer is allowed to postpone your parental leave once, for up to six months, if it would disrupt the business, for example, if it will be particularly busy at that time.

If there is an emergency and you have no one available to care for your child, you can take time off for dependants whilst the emergency lasts – see the next section.

My daughter is sick. Can I phone my employer and ask to take parental leave today?

You cannot take parental leave without giving 21 days' notice, unless you and your employer have agreed to this in a collective or workforce agreement. However, you can take time off for dependants without giving notice if there is an emergency, until you have made alternative arrangements.

I am expecting twins. What will I be entitled to?

Both parents will be entitled to 18 weeks' parental leave for each child, to be taken before their 18th birthday. Parents are entitled to a separate amount of parental leave for each child in a multiple birth.

What counts as a week?

A week of parental leave means your normal working week. If your working week varies, then it is calculated by dividing a year's worth of work periods by 52 to make an average week.

What am I entitled to if I work part-time?

You are still entitled to 18 weeks' parental leave. This will be based on your normal working week, so if you usually work two days per week you will get 18 weeks at this rate (a total of 36 days' leave). You are entitled to time off for dependants in the same way as a full-time employee.

What if I change my job?

You will have to work for your new employer for a year in order to qualify for parental leave, unless your new employer has a more generous policy. You can carry over parental leave that you have not taken from one employer to the next and your new employer is allowed to ask you and your old employer about how much parental leave you have taken so far. However, neither you nor your old employer has a duty to pass on this information.

Could I use my parental leave to work part time four days a week for a year?

You can usually only take parental leave in blocks of a week or more (unless your child is disabled).

However, you and your employer are allowed to change this rule in a collective or workforce agreement or you could ask your employer if you could take parental leave more flexibly.

What happens if I am treated unfairly because I want to take parental leave?

Your employer must not dismiss you or treat you unfairly because you are taking parental leave. You should try to resolve it amicably wherever possible by talking to your employer informally. If necessary you could write to your employer. If you are unable to resolve it you may be able to make a claim in an employment tribunal and you should get advice as soon as possible.

If you are dismissed, made redundant or treated unfairly for taking parental leave you can make a claim within three months, less one day. You are protected against discrimination and unfair treatment for reasons relating to parental leave from day one of your employment.

You must contact ACAS Early Conciliation within the time limit on 0300 123 11 00 before making a tribunal claim.

Time Off For Dependants

What is time off for dependants (TOFD)?

This is the right to take reasonable amounts of unpaid leave from work in order to deal with emergencies involving others who rely on you.

You must be an employee to be able to take TOFD. It doesn't matter how long you have been in your current job or how many hours a week you work.

Who is classed as a 'dependant'?

Your husband, wife, parent, or child whether or not they live with you. You can also take it for someone who lives with you, such as your partner. You cannot take it for other people who live with you but are not part of your family, such as an employee, tenant, lodger or boarder. You may also be able to take it for others who depend on you for assistance, such as a neighbour who has no other person who can support them.

When can I take time off for dependants?

You can take the time off in the following circumstances:

- If a dependant falls ill, gives birth or is injured and needs your assistance.
- If you need to make arrangements for the care of a dependant who is ill or injured.
- If there is a sudden disruption of arrangements for the care of a dependant.
- If there is an unexpected incident at school involving your child (when the school has responsibility for your child).
- If your dependant dies.

How much time off can I have?

There is no legal definition of how much time off is reasonable, so it will depend on the particular circumstances. However it has to be necessary for you to take the time off, it can't just be something that you would prefer to do. The time off will have to be reasonable for the circumstances. For example, if your child has chicken pox you can take time off to deal with this crisis and to make arrangements for childcare but you probably could not take TOFD to cover a long period of sick leave, since this would no longer be an emergency.

Will I be paid while I am off?

Employers do not have to pay you for any time you take off to look after your family or other dependants.

However, some employers provide paid emergency time off or family leave; check your contract or ask your HR department if you are not sure what your employer offers. If paid family leave is offered, they can't take away this contractual right without your agreement.

How do I take time off for dependants?

As time off for dependants is time off for unforeseen circumstances you do not need to give notice in advance. But, you **MUST** tell your employer as soon as possible of the reason for your absence and how long you expect it to last. You must return to work as soon as you can and you do not have to provide proof to your employer as to the reason for the time off.

What can I do if I am treated unfairly because I took time off for a dependant?

Your employer must not treat you unfairly because you are taking time off. You should try to resolve it amicably wherever possible by talking to your employer informally. If necessary you could write to your employer. If you are unable to resolve it you may be able to make a claim in an employment tribunal and you should get advice as soon as possible.

If you are dismissed or treated unfairly for taking time off you can make a claim in an Employment Tribunal. You need to be employed for two years to bring a claim for unfair dismissal, but you are protected against discrimination, automatic unfair dismissal and unfair treatment for reasons relating to time off for family reasons from day one of your employment.

You must start a tribunal claim within three months, less one day, from the date of the act or series of acts you are complaining about. **You must contact ACAS Early Conciliation within the time limit on 0300 123 11 00 before making a tribunal claim.**

Premature births – rights to maternity leave and pay

This page contains information on:

1. [How to give notice for leave and pay if your baby is born early](#)
2. [Benefits for families](#)
3. [Organisations offering support for parents of premature babies](#)

March 2022

A premature birth is considered to be a birth before the 37th week of pregnancy. This information sheet outlines your rights to maternity leave and pay and other types of parental leave, including how to give notice for leave and pay if your baby is born early and other types of leave you may be able to take.

How to give notice for leave and pay if your baby is born early

Do I have to give notice if my maternity leave started when my baby was born?

Yes, you still need to notify your employer to tell them that your baby has been born early and that you are now on maternity leave. See the next question for what you need to tell your employer in your notice for maternity leave and pay.

The law says that you are only entitled to maternity leave and pay if you have given notice to your employer so it is very important that you tell your employer as soon as you reasonably can. Your employer cannot refuse to give you leave and pay but your maternity pay will only start once you have given notice.

What do I have to tell my employer when I give notice for maternity leave and pay?

To get maternity leave you must normally give your employer the following information in or before the 15th week before your baby is due (if your employer asks you to, you must put it in writing):

1. that you are pregnant
2. the expected week of childbirth
3. the date on which you intend to start your maternity leave (which cannot be before the 11th week before your expected week of childbirth unless your baby is born earlier).

If you are not able to give notice by the 15th week before your baby is due, you should give notice as soon as reasonably practicable.

If you have already given your employer notice as above and your baby is born before the date you planned to start your maternity leave, you must contact your employer and tell them the date your baby was born and that your maternity leave and pay must start from the day following the birth (not the day you had planned). You should do this as soon as reasonably possible.

If your baby is born before the 15th week before the expected week of childbirth you must contact your employer and tell them the date your baby was born and that your maternity leave and pay must start the day following the birth.

To get SMP/Maternity Allowance you MUST give your employer/Jobcentre Plus a copy of your maternity certificate (form MAT B1) stating your expected week of childbirth which your midwife or GP can provide. If you have not already given your employer your MATB1 maternity certificate you must give it to your employer within three weeks of your maternity pay starting or up to 13 weeks from the start if there is a good reason for the delay.

If your baby is born before the 15th week before the expected week of childbirth or before the date you had planned to start your maternity leave, your employer/ Jobcentre Plus can ask for evidence of the week of childbirth in order to pay SMP/Maternity Allowance.

This could be a certificate from the hospital or from your GP or midwife. If you provide a copy of your baby's birth certificate an employer is only allowed to keep a record of the date of birth and is not allowed to keep a copy of the birth certificate.

You must put your notice for maternity leave and pay in writing (as above) if your employer asks you to.

Your employer cannot ask for any other documentation.

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 (52 weeks from the birth).

Shared parental leave

Can I take shared parental leave (SPL) and pay?

You and/or your partner can take shared parental leave and pay if you both qualify and the mother intends to return to work early or reduce her maternity leave and pay period. You can take leave together or separately, at any time up to a year from the birth. For example, the mother can reduce her maternity leave by four weeks so that her partner can take four weeks' shared parental leave. He can take leave immediately after his paternity leave or when you return to work.

Shared parental leave can only be taken within 52 weeks of the birth of your baby. It does not give you any extra leave but it does give you a bit more flexibility. Shared parental leave allows the mother to take leave more flexibly than in one block of maternity leave or it allows the mother to give some of her leave to her partner.

Our baby has been born very early. Can we change the dates of my partner's shared parental leave?

Yes, you can change the dates of SPL by giving at least eight weeks' notice. If you or your partner have booked shared parental leave within the eight weeks following the expected week of childbirth and your baby is born at any time before the week your baby was due, you or your partner (whoever was booked to take the leave) can change the date of the shared parental leave. If the shared parental leave was booked for two weeks after the expected week of childbirth, it can only be changed to two weeks after the date of birth. If you or your partner are unable to give the employer eight weeks' notice of the change in date, notice should be given as soon as reasonably possible after the date of birth.

Can I still take shared parental leave if I gave a notice of intention to take SPL but I had not yet given notice to book SPL before my baby was born prematurely?

Yes, you can still take SPL by giving at least eight weeks' notice to book SPL. If your baby is born at least eight weeks before the expected week of childbirth and you want to take your SPL within eight weeks of the birth you can still take it as long as you give notice as soon as reasonably practicable after the birth.

Our baby was born before we were able to give notice of intention to take SPL, can we still share some leave?

Yes, you can still take SPL by giving at least eight weeks' notice. If your baby is born more than eight weeks before the expected week of childbirth and either of you want to take SPL within eight weeks of the birth, you or your partner can take shared parental leave as long as you give the correct notices as soon as reasonably practicable after the birth.

Other types of leave

Do I have any rights to take a longer period of leave?

Unfortunately maternity leave and pay cannot be extended if your baby is born prematurely but you could look at some of the other options below for taking more time off work such as sick leave, annual leave, unpaid leave or Parental Leave.

Sick leave

If you are not well enough to return to work after maternity leave you are entitled to take sick leave. You should follow your employer's normal sickness reporting procedures.

If your employer provides contractual sick pay you are entitled to it in the usual way. If you are normally paid Statutory Sick Pay (SSP) you may not qualify if you are returning to work after a period of unpaid leave. Your period of sickness must also begin after the end of your maternity leave in order to qualify for SSP.

Annual leave

You can ask your employer if you can take annual leave immediately after your maternity leave. Your normal holiday entitlement continues to accrue during maternity leave so you may have some holiday owing to you.

All employees are entitled to at least 28 days paid annual leave (pro rata for part time staff). This can include paid Bank Holidays (you can check your contract or ask your employer). Annual leave should be agreed with your employer in the normal way and you should not be treated less favourably because you have been away on maternity leave.

Unpaid leave

You can ask your employer if they will agree to a further period of unpaid leave. Your employer does not have to agree to it. If your employer does agree to further unpaid leave ask your employer to confirm the agreement in writing including the period of leave agreed and confirmation that you will have the right to return to the same job.

Parental leave

If you and your partner have worked for your employer for at least a year you are both entitled to Parental leave. You are entitled to take up to 18 weeks Parental leave, per parent, per child, up until your child's 18th birthday. The right to Parental leave comes from EU law and is different from the right to share leave under shared parental leave.

Parental leave can normally only be taken in blocks of a week, up to four weeks a year but your employer may be more flexible. You must give at least 21 days' notice to take Parental leave. Parental leave is usually unpaid unless your employer offers paid leave. If you are taking Parental leave of more than four weeks in a row you still have the right to return to the same job but your employer can offer a suitable alternative job if there is a good business reason why you cannot return to your old job.

What happens to my annual leave if I have been on maternity leave and sick leave for a long time?

You continue to accrue annual leave during sick leave and maternity leave. This means that you continue to build up your normal holiday entitlement as if you were still at work. Under the Working Time Regulations all workers are entitled to 28 days statutory annual leave (pro rata for part time staff). If you get more than 28 days holiday a year, the extra leave is contractual leave which is provided by your employer.

If you have been away from work for a long time because of sick leave and/or maternity leave, you may have accrued a large amount of leave. You will need to discuss with your employer when you can take this leave. You can take annual leave during **sick leave**, so you could ask to receive some paid holiday during your sick leave. You are entitled to carry forward 20 days annual leave if you cannot take it because of sick leave.

Can I ask to return to work on reduced hours?

Yes, you can make an application for flexible work if you would like to return to work part-time or you want to ask for changes to your hours, days or place of work. Your employer must consider your application reasonably and give you a decision within three months. They can only refuse for a good business reason. This usually results in a permanent change to your contract. If you only want a temporary reduction in hours you should talk to your employer about a phased return to work e.g. part-time for the first six months.

Paternity leave

What happens to my partner's paternity leave if our baby has been born early?

Fathers and partners (including same sex partners) can start their paternity leave on the day the child is born or take paternity leave up to 56 days from the birth. If your baby is premature, paternity leave can be taken up to 56 days **from the due date**. Paternity leave can be one or two weeks and must be completed within the 56 day period.

If your partner has already given notice of when s/he wants to start paternity leave and your baby is born early, your partner must contact their employer as soon as reasonably possible and tell them that your baby has been born. Your partner can vary the date s/ he wants to start paternity leave by

giving their employer at least 28 days' notice. If it's not possible to give 28 days' notice, s/he should give notice as soon as reasonably possible.

If your partner has not yet given notice and your baby is born early, s/he must contact their employer as soon as possible and give notice of when they want to take paternity leave.

If your partner has chosen to start paternity leave on the day your baby is born and s/he is at work on that date, paternity leave will start the following day.

Fathers and partners are also required to give their employer notice of the date the child was born. All notices, as above, must be in writing if the employer asks for it and should be given within 28 days of the birth.

My baby was born before the 15th week before the expected week of childbirth, can my partner still get paternity leave?

Your partner is still entitled to paternity leave and pay if s/he would have been employed for 26 weeks by the 15th week before the expected week of childbirth and his or her average weekly earnings are at least £123 per week (April 2022 – April 2023) in the eight weeks up to the week before the week your baby was born.

Benefits for families

Are there any benefits I can claim?

Once your baby is born you can claim Child Benefit. Families in receipt of Child Benefit will be subject to a high earner child benefit charge if one or more parent earns over £50,000.

If you are already claiming Child Tax Credit and/or Working Tax Credit you may be able to claim an additional amount for a new baby. The first £100 per week of SMP and all of Maternity Allowance is ignored as income for tax credits purposes so you may be entitled to more help during your maternity pay period. You should get advice **before** making a new claim for Universal Credit as you cannot go back onto tax credits and you may be worse off on Universal Credit. For more information contact the Tax Credit Helpline on 0345 300 3900 or see: www.gov.uk/child-tax-credit/already-claiming

You may be able to claim Universal Credit if you are on a low income or you have a new baby and you are not receiving Child or Working Tax Credit. SMP is treated as earnings and is partially disregarded under Universal Credit rules but all of Maternity Allowance is treated as unearned income and is deducted from a Universal Credit award. You can get further advice from Maternity Action, see Where to go for more help below. For more information on Universal Credit, see: www.gov.uk/universal-credit

For an online benefits calculator, see www.betteroffcalculator.co.uk

If you or your partner are receiving Income Support, income-based Jobseekers Allowance, Universal Credit or Child Tax Credit you may be entitled to a Sure Start Maternity Grant of £500 for your first child (or if there are no other children aged under 16 in your family) or first multiple birth. Claim on form SF100 (Sure Start), available from Jobcentre Plus offices, from 11 weeks before the baby is due until 6 months after the birth. If you live in Scotland you may be eligible for Best Start Grants and Best Start Foods: <https://www.mygov.scot/best-start-grant-best-start-foods/>

You may also be able to get help from your local council with discretionary housing payments, council tax reduction or local welfare assistance schemes.

For more information on benefits, see [Money for Parents and Babies](#).

This information sheet was produced in March 2022. It is very important to get up-to-date advice as law and guidance changes.

This guide is for information purposes only and should not be treated as legal advice. You are strongly advised to get personal legal advice about the individual circumstances of your case.

Organisations offering support for parents of premature babies

Best Beginnings

Information and support for parents whose baby is premature or sick.

www.bestbeginnings.org.uk/small-wonders

BLISS

Charity providing support and information for premature births.

www.bliss.org.uk Help Line: 0808 801 0322

Tommy's

Research into miscarriage, stillbirth and premature birth, and provide pregnancy health information to parents.

www.tommys.org

Miscarriage, stillbirth and neonatal death – rights to time off and pay

This page contains information on:

1. [Miscarriage](#)
2. [Stillbirth](#)
3. [Neonatal death](#)
4. [Maternity leave and pay following a stillbirth or neonatal death](#)
5. [Maternity Allowance \(MA\)](#)
6. [How to give notice for leave and pay following a stillbirth or death of your baby](#)
7. [Other rights to time off work](#)
8. [Parental Bereavement Leave and Pay](#)
9. [Paternity leave for fathers and partners](#)
10. [Benefits for families](#)
11. [Specialist support organisations](#)

March 2022

This information sheet outlines rights to time off and pay if you have suffered a miscarriage, stillbirth or loss of your baby shortly after birth.

Miscarriage

If your baby is stillborn before the end of the 24th week of pregnancy it is treated as a miscarriage. Unfortunately you cannot qualify for maternity leave or pay if you have a miscarriage.

If you need time off work following the loss of your baby you can ask your employer if they provide compassionate leave or you could ask to take annual leave or agree a period of unpaid leave.

What if I am not well enough to work following a miscarriage?

You are entitled to take sick leave if you are not well enough to work and you should follow your employer's sickness reporting procedures. If you need time off sick as a result of your miscarriage this should be treated as pregnancy-related sickness, however, it is a good idea to talk to your GP as it is up to your GP to certify whether your absence is pregnancy-related.

There is no time limit on sickness absence following a miscarriage. If your GP has certified your sickness absence as pregnancy-related, this applies for as long as your sick leave lasts.

Your employer must count any sick leave related to your pregnancy or miscarriage separately and must not use it against you, for example, for disciplinary or redundancy purposes.

You do not have to tell your employer about your miscarriage if you do not want to but any sick leave will not be protected as pregnancy-related.

Am I entitled to sick pay?

You are entitled to any sick pay that you would normally qualify for when off sick. Check your contract to see if you are entitled to contractual sick pay. If not, you can get Statutory Sick Pay (SSP) if you meet the qualifying conditions.

SSP is £99.35 per week (April 2022 – April 2023). SSP is paid by your employer once you have been off for four or more days in a row, including non-working days. You do not receive SSP for the first three waiting days.

To qualify for SSP you need to earn at least £123 a week (April 2022 – April 2023) on average in the eight weeks before your first day of absence from work. SSP is payable for up to 28 weeks.

If you are not entitled to SSP your employer should give you form SSP1. You may be able to claim new style Employment Support Allowance instead (if you have paid sufficient national insurance contributions in the past) and/or you may be able to claim Universal Credit.

You may also be able to get Universal Credit if you are on a low income or receiving SSP or new-style ESA. See Benefits below for how to claim.

My employer says that I can only count two weeks of sick leave as pregnancy-related following a miscarriage. Is that right?

It is up to your GP or medical practitioner to decide whether your sickness is related to your pregnancy or miscarriage and sick leave can be certified as pregnancy or miscarriage-related for as long as necessary.

The Equality Act 2010, section 18, provides protection against discrimination on the grounds of pregnancy or pregnancy-related sickness for a protected period of two weeks from the end of a pregnancy for women who are not entitled to maternity leave. During this period you are protected against discrimination, dismissal, redundancy or unfair treatment related to your pregnancy, miscarriage or related sick leave.

After the two week protected period you may have a claim for direct and/or indirect sex discrimination (rather than pregnancy discrimination) under the Equality Act 2010, sections 13 & 19, if you are dismissed, made redundant, disciplined or treated unfairly because of your pregnancy, miscarriage or related sick leave. You will need to consider what evidence you have to show that the unfair treatment or dismissal was related to your miscarriage or subsequent sick leave and it is important to get specialist advice as soon as possible as these can be difficult claims to bring if you have a lengthy period of sickness absence.

If you are an employee you may also have claims for unfair dismissal (if you have two years' service), detrimental treatment (which can include a range of unfair treatment) or automatic unfair dismissal on the grounds of pregnancy (including a miscarriage or related sickness absence). This protection is not limited to a specific period and applies to treatment related to pregnancy or pregnancy/miscarriage-related sickness, regardless of how long you are off sick.

You do not need to be employed for two years to bring a claim for discrimination, automatic unfair dismissal or detrimental treatment as you are protected from day one of your employment. You must contact ACAS within three months (less one day) from the date of the act or series of acts you are complaining about if you want to start a claim in an employment tribunal.

Stillbirth

The date of your baby's stillbirth will be stated on the certificate of stillbirth issued by the registrar or a certificate of registration of stillbirth issued by your midwife or doctor. If your baby was delivered after the end of the 24th week of pregnancy you are entitled to maternity leave and any maternity pay that you qualify for.

Your partner will also be entitled to paternity leave and pay if s/he meets the normal qualifying conditions, see the section below.

You may also qualify for parental bereavement leave/pay, see below.

How to work out the end of the 24th week of pregnancy

This is calculated as being in or after the 16th week before the week your baby was due. To work this out find the Sunday immediately before your baby's **due date** or use the due date if that was a Sunday and count back 16 weeks. That is the start of the 16th week from which you can qualify for maternity leave and pay following a stillbirth.

Key maternity rights following a stillbirth

Employees have the right to 52 weeks maternity leave, with the right to return to the same job. Statutory Maternity Pay (SMP) and Maternity Allowance (MA) are paid for 39 weeks to women who meet the qualifying conditions.

SMP and MA are **not** classed as public funds.

Agency workers, casuals and zero hours workers are not entitled to maternity *leave*, unless it is stated in your contract, but you can still get maternity *pay* under the normal rules, see below.

You are protected against unfair treatment, discrimination and unfair dismissal because of pregnancy, childbirth and absence on maternity leave.

My baby was stillborn after the end of the 24th week of pregnancy. When does my maternity leave and pay start?

If your baby is stillborn and you have not yet started your maternity leave, your maternity leave will start on the day after your baby was stillborn.

For more information on how to give notice to your employer for maternity leave and pay, see the section below on Notice.

I had already started my maternity leave before my baby was stillborn. What happens to my maternity leave and pay?

You are still entitled to your maternity leave and pay and it is up to you to decide how long you want to stay on leave. You are entitled to 52 weeks' leave and 39 weeks' maternity pay. If you do not want to stay off work for the full 52 weeks you can give 8 weeks' notice to return to work early.

Neonatal death

If your baby died within the first 28 days of life this is considered to be a neonatal death. If your baby was born alive, at any time during your pregnancy, but did not survive, you are entitled to maternity

leave, and any maternity pay that you qualify for. You may also qualify for parental bereavement leave/pay, see below.

My baby was born before my maternity leave had started but died shortly after the birth. When does my maternity leave and pay start?

Your maternity leave and any maternity pay that you qualify for will start on the day after your baby was born. It is up to you to decide how long you want to stay on leave. You are entitled to 52 weeks' leave and 39 weeks' maternity pay (if you qualify). If you do not want to stay off work for the full 52 weeks you can give 8 weeks' notice to return to work early.

I had started my maternity leave before giving birth but my baby died shortly after the birth. What happens to my maternity leave and pay?

If you had already started your maternity leave and pay, you are entitled to stay on leave and receive your maternity pay. It is up to you to decide how long you want to stay on leave. You are entitled to 52 weeks' leave and 39 weeks' maternity pay. If you do not want to stay off work for the full 52 weeks you can give 8 weeks' notice to return to work early.

Maternity leave and pay following a stillbirth or neonatal death

Statutory Maternity Pay (SMP)

Can I still get maternity pay if my baby is stillborn?

You are entitled to SMP or Maternity Allowance (see next section), if you meet the qualifying conditions, if your baby is stillborn after the end of the 24th week of pregnancy. This is based on the date you delivered your baby, see above for working out the 24th week of pregnancy.

If your baby is born alive at any time during your pregnancy but does not survive, you are also entitled to SMP or Maternity Allowance if you meet the qualifying conditions

Can I get SMP?

You can get SMP if you are an employee or worker, such as a casual or agency worker and your employer pays you through PAYE and deducts any tax or National Insurance and you meet the qualifying conditions below.

You can get SMP if your baby was stillborn (delivered after the end of the 24th week of pregnancy) or your baby was born alive and did not survive, and:

- you have been employed by the same employer for at least 26 weeks by the end of the 15th week before your expected week of childbirth. If your baby was born prematurely but did not survive or your baby was stillborn before the 15th week before your expected week of childbirth you can still qualify for SMP if you would have continued to have been employed up to the 15th week before the EWC.
- you are still employed in the same job in all or part of the 15th week before your expected week of childbirth. You are still counted as being employed if you work full-time or part-time or if you are absent on annual leave, sick leave or furlough or you are an agency worker and no work was available that week.
- you actually receive at least £123 (before tax) per week (April 2022 – April 2023) in earnings, *on average* in the eight weeks (if you are paid weekly) or two months (if you are paid monthly) up to the last pay day before the end of the 15th week before your baby is due. If your baby was born prematurely but did not survive or your baby was stillborn before the 15th week before your expected week of childbirth, your employer must use your average earnings for the previous eight weeks.

How to work out the 15th week before the expected week of childbirth Find the Sunday before the day your baby is due or the due day if that is a Sunday. Count back 15 Sundays from there. This Sunday is the start of the 15th week before the week your baby is due – it is known as the Qualifying Week.

What is Statutory Maternity Pay?

SMP is paid for 39 weeks. SMP is paid at two rates: for the first six weeks you get 90% of your average pay.

The average is calculated from the pay you actually received in the eight weeks or two months up to the last pay day before the end of the qualifying week.

After the first six weeks SMP is paid at the flat rate of £156.66 per week (April 2022 – April 2023) for 33 weeks or 90% of your average earnings if that is less.

Your employer pays your SMP in the same way as your salary is paid. They deduct any tax and National Insurance contributions. Your employer can claim most or all of your SMP back from HM Revenue and Customs (HMRC).

You can get SMP even if you do not plan to go back to work. You do not have to pay SMP back if you do not return to work.

SMP is not classed as public funds. If you are subject to immigration control, see the Maternity Action information sheets on immigration status: <https://maternityaction.org.uk/women-from-abroad/>

When will my SMP start?

If your baby was stillborn, or your baby died after birth, and you have not yet started your maternity leave and pay, your SMP period will start on the following day. You must still give your employer notice that you are now on maternity leave and wish to receive your maternity pay, see Notice below.

I don't think I will qualify for SMP?

If you are not sure if you are entitled to SMP, you should ask give your employer your notice for maternity leave and/or pay and ask your employer to work out whether you qualify. If you do not qualify for SMP your employer must give you form SMP1 to explain why and you should claim Maternity Allowance instead.

If your employer is not sure how to work out your SMP or how to claim it back, they can ring the HM Revenue & Customs Employers' Helpline on 0300 200 3200 for advice.

You may also be eligible for other benefits, see Benefits below.

What earnings are used in the calculation for SMP?

Your average weekly earnings for SMP will be based on all your earnings that are subject to National Insurance contributions. Therefore, your earnings can include overtime, commission, bonuses or other sums paid during the SMP calculation period on which National Insurance contributions are paid.

In some cases you may benefit from an increase in earnings which will increase the amount of SMP you receive or sometimes your SMP can be reduced if your earnings are lower than normal during the SMP calculation period. Unfortunately the rules on calculating SMP are very rigid and your employer will not have any discretion if your earnings are lower than normal or you were receiving Statutory Sick Pay in the SMP calculation period.

Pregnant Pickle

People, Prejudice & Pregnancy

If you are concerned that your employer has not calculated your average earnings correctly you can ask your employer to check with the HMRC Employer's Helpline 0300 200 3200. They can get information on how to calculate and reclaim your SMP.

If your employer refuses to pay your SMP, calculates it incorrectly or goes into liquidation, you can telephone the HMRC Statutory Payments Disputes Team on 0300 322 9422 and ask for a formal decision. HMRC will order your employer to pay your SMP and if it is not paid, HMRC will pay your SMP directly.

My employer says I do not qualify for SMP because I was off sick during my pregnancy. What can I do?

If you received Statutory Sick Pay (SSP) during all of the weeks used to calculate your average earnings for SMP you will not have earned enough to qualify for SMP and you should claim Maternity Allowance instead. Your employer should give you form SMP1 explaining why you did not qualify for SMP.

If you received SSP during part of the period used to calculate your average earnings, your SMP may be reduced. For more information, see: [Sickness during pregnancy and maternity leave](#)

If your income is reduced you may be able to claim other benefits, see below.

Can an agency worker get SMP?

Agency workers, casual and zero hours workers can claim SMP if you are paid through PAYE with tax and National Insurance deducted at source and you meet the normal qualifying conditions.

You will be treated as having 26 weeks continuous employment even if you were unable to work because of sickness, annual leave, pregnancy or there was no work available in any particular week. There are special rules on continuous service for temporary and seasonal workers which may allow you to count weeks when you were not working.

If you are refused SMP because of breaks in your employment record your employer should give you form SMP1. You can ask your employer to check your entitlement to SMP with the HMRC Employer's Helpline and if you disagree you can telephone the HMRC Statutory Payments Disputes Team on 0300 322 9422 and ask for a formal decision. If you cannot get SMP, you may qualify for Maternity Allowance instead.

What can I do if my employer does not pay SMP correctly?

If your employer has refused to pay your SMP, is paying it incorrectly or has gone into liquidation and is unable to pay it you can contact HMRC Statutory Payments Disputes Team on 0300 322 9422 and ask them to make a formal decision on your entitlement to SMP. If HMRC order your employer to pay your SMP and your employer does not pay it, HMRC will pay your SMP directly.

Maternity Allowance (MA)

Can I get MA?

You can claim MA if your baby was stillborn (delivered after the end of the 24th week of pregnancy) or your baby was born alive and did not survive. You can apply for MA if you do not qualify for SMP, for example, if you changed jobs, your earnings are too low or you are currently unemployed.

To get MA:

- you need to have been employed or self-employed for at least 26 of the 66 weeks before the expected week of childbirth, and

- you can find 13 weeks (not necessarily in a row) in which you earned over £30 per week on average. You should choose the weeks in which you earned the most. You can add together earnings from more than one job. If you are self-employed, see below.

You can also claim a lower rate of MA if you are the spouse or civil partner of a self-employed person and you help in their business.

What is MA?

MA is paid by the Jobcentre Plus for 39 weeks. MA is £156.66 per week (April 2022 – April 2023) for 39 weeks or 90% of your average earnings if that is less.

If you are claiming MA as the spouse or civil partner of a self-employed person, it is payable for 14 weeks at the rate of £27 per week.

MA is not classed as public funds. If you are subject to immigration control, see the Maternity Action information sheets on immigration status: <https://maternityaction.org.uk/women-from-abroad/>

When will MA start?

If your baby was stillborn, or your baby died after birth, and you have not yet started your maternity leave and pay, your MA period will start on the following day. You must give your employer notice to take maternity leave and you must contact the Jobcentre Plus to ask them to start paying your MA, see Notice below.

How do I claim MA?

The earliest you can make a claim for MA is 15 weeks before your baby is due. If you have not yet applied you should make a claim as soon as possible. MA can only be backdated for a maximum of three months so you may lose some MA if you apply late.

If you are not sure if you will qualify for MA you should ask your local Jobcentre Plus for form MA1 and make a claim or phone the JobCentre Plus claim line on 0800 055 6688. They will work out whether you can get the benefit.

You can also find the MA1 claim form online

here: <https://www.gov.uk/government/publications/maternity-allowance-claim-form>

If you are not entitled to MA, they should automatically use the same claim form to check whether you can get Employment and Support Allowance instead (see section below).

What can I do if MA is refused?

You can ask the decision-maker to look at your claim again. You have 28 days to ask for a mandatory reconsideration (review) and you should get advice, see Where to do for more help below. If you are still not happy you can ask to appeal.

Is there anything I can get if I don't qualify for SMP or MA?

You may be able to get Employment Support Allowance (ESA-Maternity) on maternity grounds if you do not qualify for SMP or MA but have done some work in the last three years but not recently. You do not need to do a Work Capability Assessment as you will need to provide your MATB1 maternity certificate.

ESA-Maternity can be paid from six weeks before your baby is due until two weeks after your baby is born. The rate of ESA varies according to your circumstances. ESA is £77.00 per week if you are over 25 or a single parent over 18.

You can get ESA-Maternity if:

- you have paid or been credited with enough National Insurance contributions during the last three tax years that do not overlap the current calendar year.

You will need to claim MA first and if you do not qualify for MA the Jobcentre Plus must look at your contribution record to see if you can get ESA on maternity grounds. You do not need to make a separate application.

You may also be eligible for other benefits, see Benefits below.

What can I claim if I am self-employed?

You can claim Maternity Allowance following a stillbirth or the death of your baby if you meet the normal conditions. You do not need to prove your earnings when claiming MA as the JobCentre Plus will check your National Insurance contributions record.

A self-employed woman is treated as having the following earnings regardless of the amount you actually earn unless you do some employed work as well:

- If you pay at least 13 weeks' class 2 National Insurance contributions in your 66 week test period, you will be entitled to MA of £156.66 a week (April 2022 – April 2023).
- If you have not paid at least 13 weeks Class 2 National Insurance contributions in your 66 week test period, you will be treated as earning £30 a week (the MA threshold) and you will be entitled to MA of £27 per week (90% of your deemed average earnings).

You can pay Class 2 NICs voluntarily if you are self-employed, in order to qualify for the full rate of Maternity Allowance: <https://www.gov.uk/voluntary-national-insurance-contributions>

You may also be eligible for other benefits, see Benefits below.

How to give notice for leave and pay following a stillbirth or death of your baby

How do I give notice for maternity leave and pay?

To get maternity leave you must normally give your employer the following information in or before the 15th week before your baby is due (if your employer asks you to, you must put it in writing):

1. that you are pregnant
2. the expected week of childbirth (this is the date on your MATB1 maternity certificate)
3. the date you would like to start your maternity leave.

If you are not able to give notice by the 15th week before your baby is due, you should give notice as soon as reasonably possible.

If you have already given your employer notice as above and your baby was stillborn before the date you planned to start your maternity leave or your baby was born before the start of your maternity leave and did not survive, you must contact your employer and tell them the date of birth or stillbirth (the date of delivery) and that your maternity leave and pay must start the following day. You should do this as soon as reasonably possible.

If your baby was born before the 15th week before the expected week of childbirth and did not survive or your baby was stillborn before the 15th week before the expected week of childbirth, you must contact your employer and tell them the date of birth or stillbirth and that your maternity leave and pay must start the following day. You should do this as soon as reasonably possible.

To get SMP/Maternity Allowance you MUST give your employer/Jobcentre Plus a copy of your maternity certificate (form MAT B1) stating your expected week of childbirth which your midwife or GP can provide. If you have not already given your employer your MATB1 maternity certificate you must give it to your employer within three weeks of your maternity pay starting or up to 13 weeks from the start if there is a good reason for the delay.

If your baby was stillborn before the 15th week before the expected week of childbirth or before the date you had planned to start your maternity leave, in order to receive SMP/Maternity Allowance

you must provide your employer/Jobcentre Plus with a stillbirth certificate issued by the registrar or a notification of registration of a stillbirth issued by the attending midwife or doctor.

If you gave birth and your baby did not survive before the 15th week before the expected week of childbirth or before the date you had planned to start your maternity leave, you must provide your employer/ Jobcentre Plus with evidence of the week of childbirth in order to receive SMP/Maternity Allowance. This could be a certificate from the hospital or from your GP or midwife. If you provide a copy of your baby's birth certificate an employer is only allowed to keep a record of the date of birth and is not allowed to keep a copy of the birth certificate.

You do not have to provide any other documents other than those listed above.

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.

I am not sure about how to tell my employer and colleagues about the loss of my baby?

Some of the organisations listed below can provide support and information on telling your employer and colleagues about the loss of your baby.

The stillbirth and neonatal death charity, Sands, has information on returning to work after the death of your baby and information that you can give to your employer if that would be helpful: <https://www.sands.org.uk/support/bereavement-support/sands-returning-work>

Other rights to time off work

What can I do if I need more time off work?

Maternity leave lasts for 52 weeks and maternity pay lasts for 39 weeks. If you are not ready to return to work afterwards there are other options for taking more time off work.

Sick leave

If you are not well enough to return to work after maternity leave you are entitled to take sick leave. You should follow your employer's normal sickness reporting procedures.

If your employer provides contractual sick pay you are entitled to it in the usual way. If you are normally paid Statutory Sick Pay you may not qualify if you are returning to work after a period of unpaid leave. Your period of sickness must also begin after the end of your maternity leave in order to qualify for SSP.

Annual leave

You can ask your employer if you can take annual leave immediately after your maternity leave. Your normal holiday entitlement continues to accrue during maternity leave so you may have some holiday owing to you.

All employees are entitled to at least 28 days paid annual leave. This can include paid Bank Holidays (you can check your contract or ask your employer). Annual leave should be agreed with your employer in the normal way and you should not be treated less favourably because you have been away on maternity leave.

Unpaid leave

You can ask your employer if they will agree to a further period of unpaid leave. Your employer does not have to agree to it. If your employer does agree to further unpaid leave ask your employer to confirm the agreement in writing including the period of leave agreed and confirmation that you will have the right to return to the same job.

Shared parental leave

Shared parental leave allows parents to share the mother's maternity leave if the mother returns to work early or cuts short her leave/pay to transfer to her partner. It does not provide any extra leave. Parents are not entitled to book shared parental leave following the death of their child.

If you have given notice before the birth of your baby to take shared parental leave and your baby is stillborn or dies after the birth, you are entitled to take the leave that you have already been booked. If you want to cancel any shared parental leave that has already been booked, you should give at least eight weeks' notice. If you want to make changes such as reducing the amount of shared parental leave booked or vary blocks of leave into a single period of shared parental leave, a bereaved parent is entitled to give one notice of variation, subject to eight weeks' notice.

What happens to my annual leave if I have been on maternity leave and sick leave for a long time?

You continue to accrue annual leave during sick leave and maternity leave. This means that you continue to build up your normal holiday entitlement as if you were still at work. Under the Working Time Regulations all workers are entitled to 28 days statutory annual leave. If you get more than 28 days holiday a year, the extra leave is contractual leave which is provided by your employer.

If you have been away from work for a long time because of sick leave and/or maternity leave, you may have accrued a large amount of leave. You will need to discuss with your employer when you can take this leave. You can take annual leave during **sick leave**, so you could ask to receive some paid holiday during your sick leave. You are entitled to carry forward 20 days annual leave if you cannot take it because of sick leave.

Can I ask to return to work on reduced hours?

Yes, all employees can make an application for flexible work if you would like to return to work part-time or you want to ask for changes to your hours, days or place of work. Your employer must consider your application reasonably and give you a decision within three months. They can only refuse for a good business reason. This usually results in a permanent change to your contract. If you only want a temporary reduction in hours you should talk to your employer about a phased return to work e.g. part-time for the first six months.

Parental Bereavement Leave and Pay

What is parental bereavement leave?

You can take two weeks parental bereavement leave following a stillbirth or the death of a child under 18 if you are an employee and you give the correct notice. This is a day one right. You can take the leave at any time from the date of the stillbirth or death up to 56 weeks.

What is statutory parental bereavement pay?

You are entitled to statutory parental bereavement pay of £156.66 per week (April 2022 – April 2023) for up to two weeks if you are an employee, agency or zero hours worker and:

- you have been continuously employed for at least 26 weeks by the week immediately before your baby's stillbirth or death, and
- you earn at least £123 per week (before tax) (April 2022 – April 2023) in the eight weeks (if you are paid weekly) or two months (if you are paid monthly) before the week in which your baby was stillborn or died. If you were on furlough during that period your employer must use your normal earnings, not your furlough pay.

You can take statutory parental bereavement leave/pay in addition to any maternity or paternity leave/pay you qualify for and you may qualify for it even if you do not qualify for Statutory Maternity Pay or Statutory Paternity Pay.

How do I give notice for statutory parental bereavement leave and pay?

If you want to take your leave immediately or up to 8 weeks from your baby's stillbirth or death you must tell your employer before you would normally start work in the week in which you wish to take leave. If you want to take your leave from 9 to 56 weeks after your baby's stillbirth or death you must tell your employer at least a week before you wish to take leave.

You must tell your employer by phone, email or other message, the date of your baby's stillbirth or death, the date you want to start your leave and whether you wish to take one or two weeks' leave. You can take each week separately. You do not need to provide proof of the stillbirth or death but you must complete a declaration. You can find a declaration here: <https://www.gov.uk/parental-bereavement-pay-leave/how-to-claim>

What can I do if my employer does not pay Statutory Parental Bereavement Pay (SPBP) correctly?

If your employer has refused to pay your SPBP, is paying it incorrectly or has gone into liquidation and is unable to pay it you can contact HMRC Statutory Payments Disputes Team on 0300 322 9422 and ask them to make a formal decision on your entitlement to SPBP. If HMRC order your employer to pay your SPBP and your employer does not pay it, HMRC will pay your SPBP directly.

Paternity leave for fathers and partners

Can my partner take paternity leave?

Fathers and partners (including same sex partners) are entitled to paternity leave and pay if you meet the normal qualifying conditions if your baby is stillborn or your baby dies after the birth. If your baby was born very prematurely and did not survive or your baby was stillborn you can still qualify for paternity leave and pay if you would have been employed for 26 weeks by the 15th week before the expected week of childbirth and your average weekly earnings are at least £123 per week (April 2022 – April 2023) in the eight weeks up to the week before the week of birth or stillbirth. Notice of paternity leave and pay must be given by the 15th week before the expected week of childbirth or as soon as reasonably possible. You can vary the date you want to start paternity leave by giving your employer at least 28 days' notice. If it's not possible to give 28 days' notice, you should give notice as soon as reasonably possible.

If you have not yet given notice and your baby is stillborn or your baby was born early and did not survive, you must contact your employer as soon as possible and give notice of when you want to take paternity leave. If you want to start paternity leave and pay immediately, it will start on the day following the date of birth or stillbirth.

You can start paternity leave at any time from your baby's birth or stillbirth up to 56 days afterwards. If your baby is born prematurely and does not survive or your baby is stillborn before the expected week of childbirth, paternity leave can be taken up to 56 days **from the due date**. Paternity leave can be one or two weeks and must be completed within the 56 day period.

You must give your employer notice of the date of your baby's birth or stillbirth (the date of delivery). Notice for paternity leave and pay should be given in writing, if the employer asks for it, and should be given within 28 days of the date of your baby's birth or stillbirth.

Benefits for families

Can we claim any help with funeral costs?

You may be able to claim help with funeral expenses if your baby was stillborn or your baby died after the birth and you or your partner are receiving a qualifying benefit:

- Income support
- Income-based jobseekers allowance
- Income-based employment and support allowance
- Housing benefit
- A disability element of Working Tax Credit
- Child Tax Credit
- Universal credit

Funeral Expenses Payment – England and Wales. You can claim by phoning the Bereavement Helpline on 0800 731 0469. <https://www.gov.uk/funeral-payments>

Funeral Payment – Northern Ireland. Telephone – 0800 085

2463 <https://www.nidirect.gov.uk/articles/funeral-expenses-payments>

Funeral Support Payment – Scotland. Telephone – 0800 182 2222. <https://www.mygov.scot/funeral-support-payment/if-the-person-who-died-was-17-or-under/>

You must claim within six months of the funeral even if you are waiting to receive a qualifying benefit. If you are waiting for a decision on a qualifying benefit, make sure you apply for the funeral payment on time and contact them when you get a decision on the qualifying benefit.

Can I claim Child Benefit/Child Tax Credit if my baby died shortly after the birth?

If your baby did not survive, you can claim Child Benefit and Child Tax Credit (if you are already receiving tax credits for another child) for up to eight weeks from their death as long as you meet the eligibility conditions at the time of the birth. You will need to provide the birth certificate and date of death. You do not need to provide any other documentation.

See www.gov.uk/child-benefit-child-parent-dies to make a claim for Child Benefit; claims can be backdated for up to 3 months.

To claim Child Tax Credit, contact the tax credits helpline on 0345 300 3900; claims can be backdated for up to one month.

Are there any benefits I can claim while I'm on a low income?

You may be able to claim Universal Credit if you are on a low income, taking unpaid leave or to top up your Statutory Sick Pay or maternity pay. Statutory Maternity Pay. Universal Credit is means-tested and depends on your total household income, number of dependents and housing costs. If you are already claiming Child or Working Tax Credit, you should get advice **before** making a claim for Universal Credit as this will end your tax credits claim and you may be worse off on Universal Credit.

For more information on Universal Credit, see: www.gov.uk/universal-credit You can also get advice from the Citizens Advice free Universal Credit Help to Claim service: England: [0800 144 8444](tel:08001448444), Wales: [0800 024 1220](tel:08000241220), Scotland: [0800 023 2581](tel:08000232581).

For an online benefits calculator, see www.betteroffcalculator.co.uk

Can I claim a maternity grant if my baby was stillborn or died soon after the birth?

If you or your partner are receiving Income Support, income-based Jobseekers Allowance, Child Tax Credit, Working Tax Credit with a disability element or Universal Credit you may be entitled to a Sure Start Maternity Grant or Best Start Grant Scotland.

Claims must be made within 6 months of your baby's birth or stillbirth. The Sure Start Maternity Grant is £500. You can only claim if there are no other children under 16 in your household. The Best Start Grant Scotland is £600 for your first baby and £300 for subsequent children.

Sure Start Maternity Grant – England and Wales. Telephone 0800 169 0140 to request a form or see: <https://www.gov.uk/sure-start-maternity-grant/how-to-claim>

Sure Start Maternity Grant – Northern Ireland, see: <https://www.nidirect.gov.uk/articles/sure-start-maternity-grant>

Best Start Grant – Scotland. Telephone – 0800 182 2222. <https://www.mygov.scot/best-start-grant-best-start-foods/>

This information sheet was produced in March 2022. It is very important to get up-to-date advice as law and guidance changes.

This guide is for information purposes only and should not be treated as legal advice. You are strongly advised to get personal legal advice about the individual circumstances of your case.

Specialist support organisations

Miscarriage Association

Advice Line 01924 200799

<https://www.miscarriageassociation.org.uk/>

SANDS

Advice and support on stillbirth and neonatal death

Helpline 0808 164 3332

<https://www.sands.org.uk/>

Tommy's

Research and information for parents who have suffered miscarriage, stillbirth or premature birth. www.tommys.org

Changing jobs or more than one job

This page contains information on:

1. [Changing jobs or starting a new job](#)
2. [Maternity leave](#)
3. [Statutory Maternity Pay](#)
4. [Maternity Allowance](#)
5. [Paternity leave and pay](#)
6. [Shared parental leave](#)
7. [Other rights for parents](#)
8. [Benefits for parents](#)

March 2022

This information sheet sets out your maternity and parental rights if you are changing jobs during pregnancy or leave or if you have more than one job. It includes maternity and parental rights for employees, agency workers, casual workers and those in self-employment.

Changing jobs or starting a new job

Am I entitled to maternity leave if I change jobs during pregnancy?

Maternity leave is a day one right for employees. You are entitled to maternity leave if you start a new job and you are already pregnant. You will need to give your new employer notice that you want to take maternity leave by the 15th week before your baby is due or as soon as you reasonably can, see Maternity Leave below.

Employees can take up to 52 weeks' maternity leave. If you do not want to take all your leave you may be able to transfer any untaken leave (and any untaken pay if you qualify for it) to your partner to take as shared parental leave. See Shared Parental Leave below.

Note: you must give at least 8 weeks' notice to return to work early if you do not want to take your full 52 weeks of maternity leave.

Am I entitled to maternity pay if I change jobs during pregnancy?

If you are changing jobs during pregnancy, you may be able to get Statutory Maternity Pay (SMP) providing you meet the normal qualifying conditions. In order to qualify for SMP you will need to be employed by the same employer for the first 26 weeks of your pregnancy and still be employed by that employer in all or part of the 15th week before your expected week of childbirth.

If you are made redundant, you leave your job or a fixed term contract comes to an end at any time **in or after** the 15th week (the qualifying week) before your baby is due, you can still get SMP from the employer who employed you in the qualifying week (if you meet all the qualifying conditions) even if you are leaving their employment. For more on SMP see section below.

If you lose your job or you are changing jobs **before** the 15th week before your expected week of childbirth, you will not be able to get SMP from either your old employer or your new employer but you may be able to claim Maternity Allowance, see section below.

Can I work for a new employer if I am receiving SMP from my old employer?

Before the birth: you can start work for a new employer and still receive SMP from your old employer before the birth (regardless of whether you were employed by the new employer in the 15th week before baby was due).

After the birth: once your baby has been born you cannot continue to get SMP from your old employer if you do some work for a new employer, unless you were employed by the new employer in the 15th week before your baby was due.

If you do some paid work after the birth for a new employer who did not employ you in the 15th week before your baby was due, you must tell your old employer to stop paying your SMP. If you were paid your SMP in a lump sum, you must return any overpayment to your old employer. If you go on maternity leave with your new employer then you can continue to get SMP from your old employer.

Once your SMP period has ended (with your old employer), you can work for your new employer or work up to ten keeping-in-touch days during the remainder of your unpaid maternity leave with your new employer.

You can find Government guidance on working during your SMP period here if you need to show it to your employer:

3.12 Working in your Maternity Pay Period

If you are getting SMP from one employer and, before your baby is born, you do some work for another employer, your SMP is not affected.

Your SMP will stop if after the baby is born, but before the end of the Maternity Pay Period, you work for an employer who did not employ you in the qualifying week. It is your responsibility to tell the employer paying you SMP about your new job. You must do this as soon as possible, and make sure you return any SMP payment you get that covers the week you started work and any part of the period after you resumed work.

If you do any work in a self-employed capacity during your MPP, then such work will not affect your SMP.

You can find this guidance online, see **section**

3.12: <https://www.gov.uk/government/publications/maternity-benefits-technical-guidance/maternity-benefits-technical-guidance>

When do I have to tell a new employer about my pregnancy?

It is entirely up to you to decide when you want to tell your employer and colleagues about your pregnancy. You may want to wait until you have had your first scan and told family and friends for instance. You are not required to tell your employer, or a future employer, that you are pregnant in an interview or while you are on probation. Unfortunately pregnancy discrimination is common and it can be hard to prove that a dismissal, redundancy or other unfavourable treatment is because of your pregnancy so you should think carefully about when is the best time to tell your employer and colleagues.

Legally, you do not have to tell your employer that you are pregnant until the 15th week before your baby is due (which is when you need to give notice to take maternity leave) – although it may be obvious by then anyway.

You will need to tell your employer earlier if you are concerned about health and safety risks at work or to take paid time off for antenatal care. You should also bear in mind that you are only likely to have protection against pregnancy discrimination once you have told your employer that you are pregnant. If you are not feeling well in the early stages of pregnancy and need to take sick leave, you may want to tell your employer about your pregnancy so that any pregnancy-related sick leave is counted separately and not used for redundancy or disciplinary purposes.

It may be difficult to show that any unfair treatment was *because of* pregnancy unless you have told your employer or you have good evidence that your employer suspected or had become aware. Once you have told your line manager and/or colleagues it is a good idea to follow it up in writing (such as email) so that you have a record of when you told your employer and who you told. You can copy in your HR and others who you think should be made aware of your pregnancy.

Maternity leave

Am I entitled to maternity leave in each job if I have more than one job?

You are entitled to maternity leave in each job if you are an employee. Maternity leave gives you the right to return to the same job on the same terms and conditions.

You are usually an employee if the following arrangements exist at your work:

- your employer deducts tax and National Insurance from your pay
- your employer controls the work you do, when and how you do it
- your employer provides all the equipment for your work and
- your employer is obliged to offer you work and you are obliged to accept

If you work for an agency or you do casual work or have a zero hours contract, you may not be an employee, but you should check your contract, if you have one, or get advice if you are not sure about your employment status.

Agency and casual workers who are not classed as employees are not entitled to maternity leave (unless stated in your contract) but you can still get Statutory Maternity Pay from your agency/employer, if you meet the qualifying conditions, or you can claim Maternity Allowance. See below for more on maternity pay.

As workers are not entitled to maternity leave, you can let your agency/employer know when you intend to stop work to have your baby and contact them when you are available for work again.

When can I start my maternity leave if I have two jobs?

All pregnant employees are entitled to 52 weeks' maternity leave. If you are employed in two jobs you can take your leave separately in each job and you can start and finish your maternity leave at different times if you wish. The earliest you can start your maternity leave is 11 weeks before your expected week of childbirth.

It is entirely up to you to decide when you want to take your maternity leave in each job. You can work right up until the date the baby is born, unless:

- you have a pregnancy-related illness or absence in the last four weeks of your pregnancy, or
- your baby is born before the day you were planning to start your

If this is the case, your maternity leave will start on the day after the first day of absence for a pregnancy-related illness or the day after the birth.

Case study

Mary works for 30 hours a week in a Leisure Centre. She has a second job where she works 5 hours a week on Saturdays. She is an employee and is entitled to maternity leave for each job. For her main

job at the Leisure Centre, she decides to start her maternity leave 6 weeks before her baby is due and gives notice accordingly. She wants to continue working up until her baby is due for her Saturday job which she can do unless she is off sick with a pregnancy-related illness or gives birth early.

How do I give notice for maternity leave and pay?

To get maternity leave you must give your employer the following information in or before the 15th week before your baby is due (if your employer asks you to, you must put it in writing):

1. that you are pregnant
2. the expected week of childbirth
3. the date on which you intend to start your maternity leave

If you want to change the date you start your maternity leave, you must give your employer notice of the new date at least 28 days before the new date or the old date, whichever is the earliest. If there is a good reason why that is not possible, tell your employer as soon as you reasonably can. To get SMP you must give your employer 28 days' notice of the date you want to start your pay. You must give your employer your MAT B1 maternity certificate, stating your expected week of childbirth, which your midwife or GP will give you when you are about 20 weeks pregnant. This is normally given to you at your 20 week scan.

You can give notice for leave and pay together in the 15th week before your baby is due. If you need to give your MAT B1 to more than one employer, you should ask your employer to take a copy so that you can show the original MAT B1 to your other employer.

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.

If you cannot give notice by the 15th week before you are due (for example because you have to go into hospital unexpectedly), you must give notice as soon as you reasonably can.

What if I am self-employed in one of my jobs?

If you are self-employed, you are not classed as an employee and you are not entitled to maternity leave. It will be up to you to decide when you stop work and how much time you take off when you have your baby.

You will usually be classed as self-employed if you run your own business, pay your own tax and National Insurance and can decide how and when you work. If you are not sure about your employment status you should get advice.

If you are employed in one job and qualify for Statutory Maternity Pay, you can do self-employed work before and after the birth without it affecting your SMP, see below.

If you do not qualify for SMP from any other job, you can claim Maternity Allowance if you are self-employed, see below.

Statutory Maternity Pay

Am I entitled to Statutory Maternity Pay if I change jobs or have more than one employer?

You can get Statutory Maternity Pay (SMP) from each job if your employer pays your wages, usually through PAYE, and deducts tax and NI (or would do if you earned enough) and you meet the following conditions:

Pregnant Pickle

People, Prejudice & Pregnancy

- you have been employed (full-time or part-time) by the same employer for at least 26 weeks by the end of the 15th week before the expected week of childbirth (which is week 26 of your pregnancy), and
- you are still employed in the same job in the 15th week before your baby is due – even if it's only for one day or part of a day in that week – this includes sick leave or annual leave, and
- you earn at least £123 per week (April 2022 – April 2023) on average in the eight weeks (if you are paid weekly) or two months (if you are paid monthly) up to the last pay day before the end of the 15th week before your baby is due.

How to work out the 15th week before your baby is due?

Find the Sunday before your baby is due (or the due date if it is a Sunday) and count back 15 Sundays from there. That is the start of the 15th week before your expected week of childbirth. You should use the due date on the MAT B1 certificate which your midwife or GP will give you when you are about 20 weeks pregnant.

To get SMP you must give notice to your employer stating when you want to start your maternity leave/ pay and give them your MATB1 maternity certificate (see Maternity Leave above). If you are not entitled to SMP, for example, your earnings are too low, your employer must give you form SMP1 to explain why. You may be able to claim Maternity Allowance instead, see below. If your employer is not sure how to work out your SMP or how to claim it back, they can ring the HMRC Employers' Helpline on 0300 300 3200 for advice.

If your employer goes into liquidation or refuses to pay your SMP, you can claim it from HMRC Statutory Payments Disputes Team on 0300 322 9422.

If you do agency, casual or freelance work, you can get SMP if your employer/agency deducts tax and NI from your wages, usually through PAYE, and you meet the normal conditions above for SMP. You will need to agree the time off with your employer/agency while you stop work to receive SMP. If you do not qualify for SMP you may be able to get Maternity Allowance instead.

How much is SMP?

SMP is paid at two rates: for the first six weeks you get 90% of your average pay. After that you are paid £156.66 per week, or 90% of your average earnings if that is lower, for 33 weeks. The average is calculated from the pay you actually received in the eight weeks or two months up to the last pay day before the end of the qualifying week.

Do I still get SMP if my job ends after the 15th week before my baby is due?

Yes, you can still get SMP as long as you are employed in all or part of the 15th week before your baby is due and you meet the normal qualifying conditions for SMP stated above. Once you have qualified for SMP, you are entitled to receive it for the full 39 weeks. This is true even if you are made redundant, you leave your job or a fixed term contract comes to an end in or after the 15th week before your baby is due or during your maternity leave. You can also get SMP from your employer even if you do not intend to return to that job at the end of your maternity leave.

Can I get SMP from more than one employer?

Yes, if you have two or more employers, you can claim SMP from each of them providing you satisfy the qualifying conditions for each job, see above. The same applies if one or both of your jobs is agency work, casual work, 'Bank' nursing or supply teaching.

You need to give notice to each employer (or agency) by the 15th week before your baby is due, stating the date you want to start your maternity leave and asking them to work out if you can get SMP. Each employer will need to see your original MATB1 maternity certificate. You can ask one employer to take a photocopy of your MATB1 maternity certificate so that you can show it to your other employer/s.

If you qualify for SMP from two or more employers, you can take your maternity leave and SMP at different times for each job, for example, if you want to work closer to the birth in one job or go back to work earlier.

You can also work for up to ten keeping in touch (KIT) days for one or more of your employers, if you wish to, and keep your SMP. Your KIT days apply to each job separately. Once you have worked for more than ten KIT days for one employer, you cannot get SMP for any week in which you continue to work. SMP in your other job is not affected.

Can I work for another employer if I am receiving SMP from one employer?

Before the birth: you can work for employer (B) and still receive SMP from another employer (A) before the birth. This applies regardless of whether you were employed by employer B in the 15th week before your baby is due.

After the birth: once your baby has been born you cannot continue to get SMP from employer A if you do paid work for employer B, ***unless you were employed by employer B in the 15th week before your baby was due.*** If you were not employed by employer B in the 15th week before your expected week of childbirth and you do any paid work for employer B after the birth, you must tell employer A the date you will be starting work. If you were on maternity leave with employer B then you must tell employer A the date you will be going back if this is within the statutory maternity pay period. Your SMP will stop from that date. If you were paid your SMP in a lump sum, you must return any overpayment to employer A. Once your SMP period has ended (with employer A), you can work for employer B or work up to ten keeping-in-touch days during the rest of your unpaid maternity leave with employer B.

If you were employed by employer B in the 15th week before your expected week of childbirth, you can do paid work for employer B before and after the birth whilst getting SMP from employer A. You cannot work for any employer for two weeks (or four weeks if you are a factory worker) immediately after the birth for health and safety reasons.

If you work for an employer who is not liable to pay Class 1 National Insurance contributions, such as voluntary work or self-employment, you can still get SMP from employer A both before and after the birth. You can also start self-employment after the birth and continue to receive SMP from employer A.

3.12 Working in your Maternity Pay Period

If you are getting SMP from one employer and, **before your baby is born**, you do some work for another employer, your SMP is not affected.

Your SMP will stop if **after the baby is born**, but before the end of the Maternity Pay Period, you work for an employer who did not employ you in the qualifying week. It is your responsibility to tell the employer paying you SMP about your new job. You must do this as soon as possible, and make

sure you return any SMP payment you get that covers the week you started work and any part of the period after you resumed work.

If you do any work in a self-employed capacity during your MPP, then such work will not affect your SMP.

You can find this guidance online here. See section 3.12:

www.gov.uk/government/publications/maternity-benefits-technical-guidance/maternity-benefits-technical-guidance

I have two jobs but only get SMP from one job. What happens if I work during my SMP period?

If you are getting SMP from one job – employer A, you can work for up to ten KIT days for employer A who is paying you SMP without losing your SMP.

If you were employed in both jobs in the 15th week before your baby is due and you do some work for employer B (who is not paying you SMP), it will not affect your SMP and you can work for employer B either before or after the birth. You can take your maternity leave and SMP at different times for each job, for example, if you want to work closer to the birth in one job or go back to work earlier.

If you were not employed by employer B in the 15th week before your baby is due and you do some work for employer B (who is not paying you SMP), you can work for employer B **before the birth** and keep your SMP but if you do paid work for employer B **after the birth** your SMP from employer A must stop.

If you qualify for SMP from one employer but do not meet the qualifying conditions for SMP for the other employer, you cannot claim Maternity Allowance as you will be getting SMP from your main job.

These rules apply if one or both of your jobs is agency work, casual work, ‘Bank’ nursing or supply teaching.

I get SMP from my main job and also work for an agency. Can I continue to do some shifts through the agency during my SMP period?

The same rules apply as for the questions above and it depends whether you were registered with the agency in the 15th week before your baby is due and have evidence that you already did some work for the agency.

If you were registered with the agency in the 15th week before your baby was due, you are entitled to take on agency work both before and after the birth and it will not affect your SMP from your main job.

If you were **not** registered with the agency in the 15th week before your baby was due and taking on work, you can accept agency work **before** your baby’s birth and get SMP but **after** the birth your SMP will stop once you take on paid agency work. You will need to notify your employer to stop paying SMP once you start agency work as it will be regarded as a new job.

The same rules apply if you do casual work, ‘Bank’ nursing or you are a supply teacher. You will be regarded as employed in the 15th week before you baby is due if you have a contract with the employer/Bank/agency or you have evidence that you did some work for the employer/Bank/agency up to the 15th week before your baby is due, e.g. payslips or letter/emails confirming your employment, and you have evidence that you continued to accept work after the qualifying week or

you intended to carry on working for the employer/Bank/agency after the birth. If you are not sure, you can get advice from the HM Revenue & Customs Employees Helpline on 0300 200 3500. These rules apply to all types of agency work, such as 'bank' nursing or supply teaching.

Can I do self-employed work if I am receiving SMP from my employed job?

Providing you are registered as self-employed and you pay your own tax and Class 2 national insurance contributions, any self-employed work (that is not subject to Class 1 National Insurance contributions) does not affect any SMP that you receive from another job. This means that you can do self-employed work before or after the birth and you can start self-employment after the birth without losing your SMP.

Maternity Allowance

Can I get Maternity Allowance?

If you do not qualify for SMP you may be able to claim Maternity Allowance (MA), for example, if you started a new job when you were already pregnant, your earnings are too low to qualify for SMP or you are self-employed.

You can claim MA if:

- you have been employed and/or self-employed for at least 26 of the 66 weeks before the expected week of childbirth, and
- you can find 13 weeks (not necessarily in a row) in which you earned over £30 per week on average.

You should choose the weeks in which you earned the most. You can add together earnings from more than job. If you do not have payslips you can send bank statements or other proof of earnings and DWP will ask if they need more evidence.

Both employed and self-employed work counts for Maternity Allowance.

You can also claim a lower rate of MA for 14 weeks if you are the spouse or civil partner of a self-employed person and you help in their business.

How much is MA?

MA is paid by the Jobcentre Plus for 39 weeks. Maternity Allowance is paid at £156.66 per week, or 90% of your average pay if that is lower, for 39 weeks.

How do I claim MA?

You should claim MA from your local JobCentre Plus on form MA1 or phone the JobCentre Plus claim line on 0800 055 6688. You can also find the claim form online

here: www.gov.uk/government/publications/maternity-allowance-claim-form

You can claim MA once you have reached the 15th week before your baby is due. The earliest MA can start is 11 weeks before your baby is due and the latest it can start is from the birth of your baby. A claim for MA can only be backdated for up to three months so do not delay sending your application or you could lose some or all of your MA. You will need to send your MATB1 maternity certificate with the application form.

Can I claim MA twice if I have two jobs but do not qualify for SMP?

No, you can only make one claim for Maternity Allowance. However, you can add your earnings together from more than one job in order to calculate your average earnings. You should choose the 13 weeks in which you earned the most from both jobs.

I can get only SMP for one of my jobs. Can I claim MA for my second job in which I am self-employed?

No, if you are getting SMP from an employer, you cannot claim Maternity Allowance in respect of any other jobs.

I am receiving MA, can I work for another employer?

MA is paid by the JobCentre Plus. You are allowed to work for up to ten days during your MA period. The ten days of work will include any employed or self-employed work you do during your MA period, regardless of how many employers you work for. You must report any days of work to the JobCentre Plus.

After you have done ten days of work during your MA period you can be disqualified from MA for any week in which you do further work. However, the disqualification should be reasonable depending on how many days you will be working. For more information on working during your MA period, see Keeping in touch during leave

If you are self-employed, see: Maternity and parental rights for self-employed parents

Paternity leave and pay

Can I take paternity leave? You can take paternity leave if:

- you are an employee.
- you have been employed by the same employer for 26 weeks by the 15th week before the baby is due or, if the baby is born before then, you would 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 are the biological father or the mother's husband or partner (including same sex partners).
- you are responsible for the child and are taking time off to care for the child or support the mother.

When can I start paternity leave if I have more than one job?

Paternity leave is up to two weeks' paid leave from work following the birth of a baby. You can take one week or two weeks in a row but not odd days or two separate weeks.

You can take your entitlement separately for each job so, for example, you can start your paternity leave at different times if you wish. It is entirely up to you to decide when you want to take your paternity leave.

Paternity leave must be taken within 56 days of the birth. If the baby is born before the expected week, paternity leave can be taken any time from the actual date of birth up to 56 days from the date the baby would have been due.

Can I get Statutory Paternity Pay (SPP)?

You can get SPP if your employer pays your wages, usually through PAYE, and deducts tax and NI (or would do if you earned enough) and you meet the following conditions:

- you are the baby's father or the husband/partner of the mother and you are responsible for the baby's upbringing.

- you have been employed by the same employer for 26 weeks by the 15th week before the baby is due or, if the baby is born before then, you would 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 the weekly lower earnings limit on average (before tax) (currently £123) in the eight weeks (if paid weekly) or two months (if paid monthly) before the 15th week before your baby is born.

SPP is paid by your employer for up to two weeks. SPP is paid at £156.66 per week (April 2022 – April 2023) or 90% of your average earnings if that is lower. Employers can claim SPP back from HMRC.

You do not have to repay it if you do not go back to work for your employer.

Some employers offer contractual paternity pay to their employees, so always check your contract or ask.

What notice do I have to give to take paternity leave?

To take paternity leave you must give your employer the following information by the 15th week before the baby is due. To get Statutory Paternity Pay, you must give your employer notice of the date you want payment to start at least 28 days before or as soon as reasonably practicable. You can give notice for leave and pay together in the 15th weeks before the baby is due.

To give notice you could ask your employer for form SC3 or give your employer a signed letter stating that:

- you want to receive one or two weeks' SPP
- you are the baby's father or the husband/ partner of the mother
- you are responsible for the baby's upbringing
- you are taking time off to be with your child or the mother

SPP can start on any day of the week, for example, from Tuesday to Monday but you cannot get a week's SPP if you do any work for the employer who is paying you SPP.

Can I get SPP from more than one employer?

Yes, if you work for more than one employer, you can qualify for SPP from each employer if you meet the normal qualifying conditions for each job and you give the correct notice to each employer.

Can I do any work while I am receiving SPP?

You cannot work for the employer who is paying you SPP during the SPP period. You can work for one employer and receive SPP from the other as long as the employer you do some work for employed you in the 15th week before the baby is due. You cannot get SPP from one employer if you start work for a new employer during your paternity pay period.

If you work for an employer who is not liable to pay Class 1 National Insurance contributions, such as voluntary work or self-employment, you can still get SPP from your other employer.

Can I get SPP if I do agency, casual or freelance work?

If you do agency, casual or freelance work, you may not be regarded as an 'employee' so you will not qualify for paternity LEAVE (unless stated in your contract), however, you can get SPP if your employer deducts tax and NI from your wages, usually through PAYE, and you meet the normal qualifying conditions for SPP (see above). You will need to agree the time off with your employer/agency while you stop work to receive SPP.

Can I get SPP if I am self-employed?

No, you cannot get SPP if you run your own business and pay your own tax and NI. You may be able to claim Universal Credit if you take time off when your baby is born. Universal Credit will depend on your household income, housing costs and number of dependants. See Benefits below.

Shared parental leave

What is shared parental leave?

Shared parental leave allows mothers to end maternity leave/pay early so that one or both parents can take leave in a more flexible way during the baby's first year. The mother can transfer a maximum of 50 weeks' shared parental leave and 37 weeks' Statutory Shared Parental Pay (ShPP) depending on how much maternity leave and pay she intends to take.

Both parents must meet the qualifying conditions, even if only one parent is going to take it, for example, the mother stays on maternity leave/pay and the father/partner takes shared parental leave/pay. You should check your employer's shared parental leave policies to see if they offer any enhanced shared parental pay before giving notice to take leave. You can take leave separately or together.

How much shared parental leave can I take if I have more than one job?

If you meet the qualifying conditions, you can take shared parental leave and pay, providing you are still employed in the job up to the start of shared parental leave and you give the correct notice. If the mother has two jobs and qualifies for maternity leave in each job she can create shared parental leave for herself and/or her partner providing she gives notice to reduce her maternity leave period to both employers at the same time. The maximum shared parental leave you can create if you have two jobs is calculated by deducting the longest period of maternity leave you have taken (even if it is with different employers).

Example:

Clara goes back to work after 26 weeks for Employer A and after 20 weeks for Employer B. She has up to 26 weeks Shared Parental Leave to share between her and her partner:
52 weeks minus 26 weeks (not 20 weeks) = 26 weeks shared parental leave.

Can I get ShPP from my main job and continue working in my part-time job?

If you have two jobs and you were employed by both employers during the qualifying week (15th week before the baby was due) you can take shared parental leave/pay from your main job and continue working in your other job if you wish to.

Example 1:

Ann qualifies for maternity leave with two employers and was employed in both jobs in the 15th week before the baby was due. She qualifies for SMP from Employer A but does not qualify for SMP from Employer B because her wages are too low. This means that Ann qualifies for SPL and ShPP from Employer A but not from Employer B.

Ann can continue to work for Employer B while she takes SPL from Employer A. Working for Employer B does not affect her entitlement to ShPP from Employer A. However, you need to bear in mind that you can only take SPL for the purpose of caring for your child so if you are doing other work you would need to show that you are still caring for your child during the period of leave from employer A.

Example 2:

Betty qualifies for maternity leave with two employers but she was not employed by Employer B (for whom she does a small amount of evening work) in the 15th week before the baby was due. Betty can take SPL and ShPP from Employer A but if she does any work for Employer B after the birth, her entitlement to ShPP from Employer A will stop on the last day of the week before she started to work for Employer B.

Can I get ShPP and continue to do some self-employed work?

You can get SPL/ShPP from one employer (A) and do self-employed work or work for an employer (B) who is not liable to pay Class 1 NICs. However, you need to bear in mind that you can only take SPL for the purpose of caring for your child so if you are doing other work you would need to show that you are still caring for your child during the period of leave from employer A.

Other rights for parents

All employees who have been employed for at least 26 weeks have the right to ask for flexible work if you want to change your days, hours or place of work. You must make a written application and your employer must consider it reasonably. Your employer can refuse if they have good business reasons.

Employees are entitled to take up to 18 weeks' unpaid Parental Leave (this is different from the new right to shared parental leave), per parent, per child, up to the child's 18th birthday, after you have been in your job for a year.

Employees can also take time off in an emergency if you need urgent time off to care for a dependant.

Benefits for parents

Are there any benefits I can claim?

Once your baby is born you can claim Child Benefit. Families in receipt of child benefit will be subject to a high earner child benefit charge if one or more parent earns more than £50,000.

Tax Credits

If you are already claiming Child Tax Credit and/or Working Tax Credit you may be able to claim an additional amount for a new baby or if your income drops or you are on sick pay or maternity pay. The first £100 per week of SMP and all of Maternity Allowance is ignored as income for tax credits purposes so you may be entitled to more help during your maternity pay period. You can remain on Child Tax Credit if you stop work. You should get advice **before** making a new claim for Universal Credit as this will end your tax credits and you may be worse off on Universal Credit. For more information or to report any changes of circumstances, contact the Tax Credit Helpline on 0345 300 3900 or see: www.gov.uk/child-tax-credit/already-claiming

Universal Credit

You may be able to claim Universal Credit (if you are not receiving Working/Child Tax Credit) if you lose your job, you are on a low income or Statutory Sick Pay (SSP) or during your maternity leave. Statutory Sick Pay and Statutory Maternity Pay are largely disregarded if you are claiming Universal Credit but Maternity Allowance is treated as 'unearned income' and is deducted from Universal Credit. You are not required to look for work if you are the main carer of a child under three or you have an illness or disability that affects how much you can work.

For more information on Universal Credit, see: www.gov.uk/universal-credit

For an online calculator, see www.betteroffcalculator.co.uk

You can get advice on Universal Credit claims through the free Citizens Advice Help to Claim service: England: [0800 144 8444](tel:08001448444), Wales: [0800 024 1220](tel:08000241220), Scotland: [0800 023 2581](tel:08000232581), Northern Ireland: Advice NI 0800 915 4604.

Food vouchers and Sure Start/Best Start Maternity Grant

If you or your partner are receiving Universal Credit, Child Tax Credit, Income Support or income-based Jobseekers Allowance you may be entitled to Healthy Start vouchers and a Sure Start Maternity Grant of £500 for your first child (or if there are no other children aged under 16 in your family) or first multiple birth. Claim on form SF100 (Sure Start), available from your local Jobcentre Plus or online [here](#), from 11 weeks before your baby is due until 6 months after the birth.

If you live in Scotland you may be eligible for Best Start Grants and Best Start Foods, see: www.mygov.scot/best-start-grant-best-start-foods/

Housing and council tax

You may also be able to get help from your local council with discretionary housing payments, council tax reduction or local welfare assistance schemes.

This information sheet was written in March 2022. It is very important to get up-to-date advice as law and guidance changes.

This guide is for information purposes only and should not be treated as legal advice. You are strongly advised to get personal legal advice about the individual circumstances of your case.