

Scottish Environment Protection Agency	Business Guidance: BP-HR-094
Maternity Leave and Pay Guidance	Page no: 1 of 6
	Issue No: 02
	Issue date: 21/07/2015
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	Originator: Senior HR Advisor
	Authorised by: Head of HR

## 1. Introduction

This guidance has been written to provide staff members with an overview of SEPA Maternity Leave and Pay provisions, and to reflect how it will operate alongside of Shared Parental and Parental Leave policies.

It is compulsory for every new mother to take at least 2 weeks' Ordinary Maternity Leave immediately following the birth of the child.

## 2. Antenatal Care

- 2.1 All pregnant employees will be allowed to take reasonable time off work without any loss of pay in order to attend antenatal appointments. The employee must produce evidence of the appointment date and time and discuss the request in advance with their line manager.
- 2.2 Antenatal care is not restricted to medical examinations, for example, it could include relaxation classes and parentcraft classes as long as these are advised by a registered medical practitioner, registered midwife or registered health visitor.
- 2.3 Additionally the Paternity Leave procedure makes provision for the father of the baby or the partner of a pregnant woman to have the right to accompany the mother to two of her antenatal appointments allowing for a maximum of 6.5 hours unpaid time off for each appointment.

## 3. Maternity Leave

- 3.1 All female employees are entitled to 52 weeks Maternity Leave, made up of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave regardless of their length of service.
- 3.2 Ordinary Maternity Leave can start anytime from the 11<sup>th</sup> week before the expected week of childbirth (EWC) unless the childbirth takes place prior to this. Maternity Leave can start on any day of the week and must be on a date no later than the date confirmed on the MATB1 form.
  - 3.2.1 If the baby is born before the date that the period of Ordinary Maternity Leave was due to start, Ordinary Maternity Leave will start on the day after the date of birth.
  - 3.2.2 In the event of a miscarriage or stillbirth after 24 weeks of pregnancy, the employee will be entitled to the normal periods of Ordinary and Additional Maternity Leave and to the appropriate payments based on their continuous and reckonable service.

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#### 4. Maternity Pay

- 4.1 The table below outlines employees' entitlements to Maternity Pay according to the length of their continuous service with SEPA.

Qualifying Service	Entitlements
Less than 26 weeks' continuous service by 15 <sup>th</sup> week before expected week of childbirth (EWC)	Up to 52 weeks Maternity Leave which will be unpaid by SEPA.  They may be able to claim 39 weeks' Maternity Allowance which is paid direct by Jobcentre Plus.
26 weeks' continuous service by 15 <sup>th</sup> week before EWC	Up to 52 weeks Maternity Leave of which Statutory Maternity Pay (SMP) will be paid for the first 39 weeks of Maternity Leave.  They will have no entitlement to SEPA enhanced Maternity Pay provisions.
1 year's continuous service by the beginning of the 11 <sup>th</sup> week before EWC	Up to 52 weeks Maternity Leave of which 26 weeks will be paid at an enhanced rate as follows:  6 weeks will be paid @ 90% of earnings; 20 weeks paid @ 60% of earnings; and 13 weeks paid at SMP.

- 4.2 To qualify for SEPA's enhanced maternity pay provisions an employee must have 1 year's continuous service by the beginning of the 11<sup>th</sup> week before EWC and must be returning to work for a period of not less than 3 months at the end of their maternity leave period.
- 4.3 The employee's entitlement to SMP and the amount which is to be paid in terms of SEPA's enhanced maternity pay (i.e. 6 weeks at 90% of pay followed by 20 weeks at 60% pay) is dependent on an employee's average weekly earnings.
- 4.3.1 Average weekly earnings are based on the gross earnings derived from employment including all payments which are treated as earnings for national insurance purposes, paid over the eight weeks up to and including the qualifying week (i.e. the 15<sup>th</sup> week before the week in which the baby is due). This is calculated as follows:

*Add together payments made on the last normal pay day before the end of the qualifying week and other payments made since (but not including) the pay day to fall at least eight weeks earlier than that one. Divide by the number of months in the period, multiply the result by 12 and divide by 52 to produce the weekly average.*

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- 4.3.2 Employees have a personal obligation to ensure that their pay is correct by checking payslips and notifying the Payroll department if there appear to be any discrepancies.
- 4.4 An employee claiming SEPA's enhanced maternity pay provisions will be asked to provide written confirmation of their intention to return to work.
- 4.4.1 In the event of an employee not returning, the employee will normally be required to repay the difference between the enhanced rate and SMP prior to leaving SEPA. It will be at the discretion of the relevant AMT representative and the Head of HR whether the employee is required to repay the difference. Each case will be considered on its merits, based on the reasons for non-return.
- 4.5 Employees will not be entitled to SMP or SEPA's enhanced payment provisions if they haven't:
- provided written notification of the start of their Maternity Leave; and
  - submitted their MATB1 certificate to HR.
- 4.5.1 Additionally they will not be entitled to SMP or SEPA's enhanced payment provisions if they have:
- travelled outside the EU any time during the 39 weeks that SMP is paid;
  - taken into legal custody any time during the 39 weeks that SMP is paid; and
  - commenced work with another employer during the 39 weeks that SMP is paid.

## 5. Notification of the start of planned Maternity Leave

- 5.1 An employee must inform their line manager and HR, in writing, by the 15<sup>th</sup> week before the week the baby is due that:
- they are pregnant and advise the expected date of the baby's birth;
  - the date they intend their maternity leave to start. Unless it is not reasonably practicable, at least 28 days' notice must be given prior to maternity leave and pay starting;
  - whether they intend returning to work and if possible the estimated date of return. This information will assist the line manager in making preparations to cover the post during the period of leave;

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- to be eligible for SEPA's enhanced maternity pay provisions a declaration must be made stating the intention to return to work, on the expiry of maternity leave for a period of not less than 3 months; and
- if appropriate, the number of day's annual leave planned to take prior to the commencement of maternity leave.

5.2 A Maternity Certificate (called Form MatB1) will be issued by a Doctor or midwife around 14 weeks before the baby is due. The MatB1 form will state the EWC. This certificate must be submitted to HR at least 28 days before the start of Maternity Leave or as soon as is reasonably practicable.

## 6.0 Notification of Return to Work

6.1 It will be assumed that staff members will return to work on the first working day after the expiry of the 52 weeks Maternity Leave.

6.2 If employees wish to return to work before the end of their Ordinary Maternity Leave or Additional Maternity Leave they must give their line manager and HR at least 8 weeks' notice of their return date. Failure to do so may result in SEPA postponing the return to work date.

6.3 If employees wish to change their return date from that previously notified they must give 8 weeks' notice of the revised date. Failure to do so may result in SEPA postponing their return to work.

6.4 If an employee is absent from work due to sickness at the end of their Additional Maternity Leave period (or on the date that they advised that their maternity leave was ending) they will be deemed to have returned to work and will be subject to SEPA's procedures for absence due to sickness or injury.

6.5 If an employee wishes to reduce their hours of work or change their normal work pattern on return from maternity leave, even for a temporary period, they should make a request to their line manager, under SEPA's Flexible Working Procedure, at the earliest opportunity.

## 7. Keeping in Touch days

7.1 Before an individual undertakes any KIT days these should be mutually agreed between the line manager and employee.

7.1.2 Employees are under no obligation to undertake any work during their maternity leave period, and SEPA is under no obligation to offer them any work during this period.

7.1.3 Any work undertaken, regardless of the duration will count as a whole KIT day used so if you attend work for a one hour team meeting this will be classed as

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one full day. On a KIT day you will be paid for the number of hours that you work.

## 8. Employee rights

8.1 During a period of maternity leave individuals will be entitled to the same terms and conditions that would have applied had they not taken the leave, with the exception of pay. All maternity leave will be:

- pensionable;
- count as reckonable service including for purposes of incremental pay; and
- included within any probationary period.

8.2 If the employee returns to work after a period of maternity leave which was 26 weeks or less, then they are entitled to return to the same job that they left with terms and conditions no less favourable than would have applied had they not been on leave.

8.2.1 If the employee returns from a period of maternity leave which was greater than 26 weeks SEPA will try to facilitate their return to the same role. If it is not practicable for the employee to return to their substantive post they will be offered a suitable alternative position.

8.2.2 If it is decided to carry out a restructure of the employees department during their maternity leave, they will continue to be employed in their substantive role and will be fully consulted regarding any changes to their substantive post. The fact that the employee is absent from their post will not be used as a selection criteria for potential displacement or redundancy.

8.2.3 If, following consultation, the employee has no role to return to within their function; SEPA will consult with the employee with a view to redeploying them to an alternative position which constitutes as suitable alternative employment.

8.3 Whilst on maternity leave the employee will continue to accrue annual leave and public holiday entitlement. The line manager may ask them to take some or all of their outstanding leave prior to commencing maternity leave, equally they might request that the employee uses some or all of the annual leave accrued prior to them returning to work.

8.3.1 Normally, employees are allowed to carry over a maximum of 5 days into the next leave year and these days, if not taken, will expire by 31<sup>st</sup> March. However, to ensure that employees do not lose any of their annual leave or public holiday entitlement, SEPA will allow employees on maternity leave to carry forward the annual leave and public holidays that they have accrued during their maternity leave into the next leave year. It is expected that this leave will be taken immediately at the end of the maternity leave period. If an

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employee wishes to use this leave at a later time within the leave year they must seek approval from their line manager.

- 8.4 An employee's pension rights during the first 39 weeks of maternity leave (i.e. the part that is paid) will be protected and they will continue to accrue benefits under the Local Government Pension Scheme and SEPA will continue to pay employer's contributions.
- 8.4.1 During any period of unpaid maternity leave i.e. the final 13 weeks, an employee will not accrue benefits under the Local Government Pension Scheme. However, they will be given the option to "top up" their contributions on their return.
- 8.5 Work equipment which is available for personal use, such as mobile phones can be retained for personal use during maternity. The employee will continue as normal, to meet the associated costs of such personal use.

## 9. Employee Assistance Programme

- 9.1 SEPA recognises that sometimes it can be difficult to balance the pressures of work with the needs of your home life. The Employee Assistance Programme (EAP) is a confidential Life Management and Personal Support service which can help you deal with both everyday situations and more serious problems, it is available 24 hours per day, 365 days per year.
- 9.2 Employees can contact the EAP by either calling them on 0800 358 4858 or by accessing their Online Resources (vClub) at [validium.com](http://validium.com). If you contact the EAP by telephone you may be asked to give your name however, it is entirely up to you, although you will need to advise them that you work for SEPA. If however you contact them via their internet site you will need a user name and password: User name is: SEPA and Password: wellbeing.

## 10. Procedure Review

- 10.1 HR will monitor the effectiveness of the Maternity Policy.
- 10.2 This policy will be subject to review and update as appropriate to ensure ongoing legislative compliance and continues to meet organisational and employee needs.
- 10.3 The outcome of any policy review will be reported to the Joint Negotiation and Consultation Committee (JNCC) and any suggested amendments to the policy will be subject to consultation with Unison.

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