



MATERNITY LEAVE POLICY

APPROVED BY HHP BOARD:
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hebridean housing
partnership

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INTRODUCTION

- 1.1 Our policy is to comply with both the letter and the spirit of the law on maternity leave and statutory maternity pay. To this end its aim is to inform all pregnant employees of their entitlement to statutory maternity rights and to ensure that those rights are understood by employees who qualify.
- 1.2 There is no distinction between live and still births in the granting of maternity leave.
- 1.3 Where a baby is due or a child is placed for adoption on or after 5 April 2015, subject to eligibility conditions being met, parents may share leave.
- 1.4 We will:
- Ensure that a pregnant employee is not treated unfavourably because of her pregnancy or because of illness suffered as a result of her pregnancy;
 - Ensure a risk assessment is carried out as soon as they have been informed of the employee's pregnancy;
 - Allow the employee paid time off for ante-natal appointments;
 - Organise adequate cover for the pregnant employee until she returns from maternity leave;
 - Continue all contractual terms (other than remuneration) during an employee's maternity leave;
 - Inform the employee of her rights and responsibilities while she is pregnant and on maternity leave;
 - Seriously consider any flexible working requests; and
 - Where the employee's job becomes redundant during maternity leave, offer suitable alternative employment where possible.
- 1.5 Employees must:
- Inform their employer that they are pregnant at least 15 weeks before the expected week of childbirth (EWC);
 - Comply with any health and safety restrictions relating to pregnant employees; and

- Abide by any relevant notice periods relating to informing the employer of maternity leave dates, particularly where there are changes to such dates.

Maternity leave and pay are separate entitlement. Entitlement to maternity pay will depend on length of service and on whether an employee returns to work following her maternity leave.

Eligibility and Qualifying Conditions for Maternity Leave

- 1.6 Statutory maternity leave (SML) consists of a 26-week ordinary maternity leave (OML) period followed immediately after by a 26-week additional maternity leave (AML) period. All pregnant employees, whether working full time or part time, married or single, temporary or permanent, qualify for the full 52-week maternity period.
- 1.7 To qualify for maternity leave there are certain notification requirements that the employees must adhere to detailed in Para 1.8 to 1.11.

Maternity Leave Notification Requirements

- 1.8 In order to activate her statutory rights to take maternity leave and return to work, an employee must inform her employer (in writing) no later than the end of the 15th week before the expected week of childbirth (EWC):
- a) That she is pregnant
 - b) When the EWC is by providing a medical certificate
 - c) The date on which she intends to start her maternity leave(in writing) which must not be earlier than the beginning of the 11th week before the EWC
- 1.9 If it is not reasonably practicable for the employee to give the necessary notice of her intention to take maternity leave (e.g. because of premature birth) she will still qualify for such leave provided that she gives notice as soon as is reasonably practicable to do so.
- 1.10 Employees have the right to change the start date of their maternity leave, provided they notify their employer at least 28 days before the original or new start date, whichever is earlier. If they are unable to comply with these dates, notification must be given as soon as is reasonably practicable.
- 1.11 An employee does not have to inform us that she intends to return to work at the end of her SML period as it is presumed that she intends to take the full leave period.

- 1.12 However, an employee must notify us, in writing, of the date she wants to return to work if she intends to return before the end of the SML period or a date previously specified. The employee must give this notification at least eight weeks before the intended date of return.

Medical Evidence

- 1.13 The employee must provide a medical certificate confirming that she is pregnant and the expected week of childbirth (EWC). Such a certificate, normally supplied by the means of a MAT B1 form, obtainable by the employee from her doctor or midwife (both must be registered), must, in order to be valid, be dated no earlier than the 20th week before the EWC.

Changing the Start Date of Maternity Leave

- 1.14 An employee has the right to change the start date of her maternity leave, provided that she notifies us of the change.
- 1.15 Notification must be given at least
- a) 28 days before the original start date, or
 - b) 28 days before the new start date
- whichever is the earlier.
- 1.16 If the employee is unable to comply with these dates, notification must be given as soon as is reasonably practicable.
- 1.17 The employee must provide this notification in writing; the employee may not specify a date earlier than the beginning of the 11th week before the EWC.

DUTY TO NOTIFY EMPLOYEE WHEN A MATERNITY LEAVE WILL END

- 1.18 Once we have received notification of the start date of an employee's maternity leave, we must, within 28 days of the date on which notice was received, notify the employee in writing, of the date on which her additional maternity leave will end.
- 1.19 The above notification will also apply when an employee notifies us that she has begun her maternity leave early because of a pregnancy-related illness that occurs sometime after the beginning of the fourth week before the EWC, or where it has not been reasonably practicable for the employee to let us know in advance, e.g. because of early birth.

Employee's request to return early from Maternity Leave

- 1.20 If an employee wishes to change the date of her intended return from maternity leave to an earlier date, she should notify her employer at least eight weeks before the earlier return date.
- 1.21 However, if an employee does not give the correct notice, we are entitled to postpone her return until the correct notice is provided (but will not postpone her return beyond the date her full maternity leave entitlement would have come to an end in any case).

RELATIONSHIP WITH ADDITIONAL PATERNITY LEAVE

- 1.22 The right to APL has been available to parents of babies due on or after 3 April 2011. APL must be taken within a "window" that starts 20 weeks after and ends 12 months after the child's date of birth and is dependent on the employee's spouse, civil partner or partner having returned to work from their statutory maternity leave.
- 1.23 Where a baby is due or a child is placed for adoption on or after 5 April 2015 additional paternal leave will replace APL.

THE TIMING OF MATERNITY LEAVE

.When Maternity Leave Can Begin

- 1.24 Statutory leave can be started in one of three ways:
- On the date the employee notified us she intends to begin her leave
 - Four weeks before the EWC where she is absent from work due to a pregnancy-related illness
 - On the day after childbirth

Giving Statutory Notice of the Start of Maternity Leave

- 1.25 Subject to some restrictions, a pregnant employee has the freedom to choose when to start maternity leave and when to return to work.
- 1.26 The earliest date on which maternity leave can begin is the beginning of the 11th week before the week in which the baby is due. However there is no obligation on the employee to commence maternity leave at this point. If she is in good health, she may elect to continue working right up to when the baby is born. Any pressure extended on an employee to commence maternity leave earlier than she wishes would amount to unlawful sexual discrimination.

Automatic Triggering of Maternity Leave

- 1.27 There are two circumstances where maternity leave may start earlier than planned.
- Where the employee is absent with a pregnancy-related illness in the four-week period leading up to childbirth.
 - Where the employee gives birth earlier than planned

When Maternity Leave Ends

- 1.28 An employee with the right to take statutory maternity leave may simply resume work after the 52 weeks (or any earlier date previously notified) without any obligation to give notice.
- 1.29 If an employee wishes to return to work earlier, the employee must provide eight weeks' written notice. An employee is prohibited from returning to work within two weeks of childbirth.
- 1.30 As long as the appropriate notice is given, we will respect the employee's freedom of choice as to when she wishes to return from maternity leave.

Compulsory Maternity Leave

- 1.31 It is unlawful to allow an employee to return to work within two weeks of childbirth. This is the compulsory maternity leave period in the Employment Rights Act (ERA) 1996 s.72. The word "childbirth" means the birth of a child whether living or dead after 24 week pregnancy. The rule also covers sending work to an employee at home or while she is in hospital.

PREGNANCY RELATED ILLNESS

- 1.32 If a pregnant employee is off sick on account of a pregnancy-related illness during the four-week run up to the expected week of childbirth (EWC), we may lawfully insist that the maternity leave period begins straight away.
- 1.33 If an employee's maternity leave is triggered by HHP under these circumstances, the maternity leave period begins automatically on the day after the first day of the employee's absence from work.
- 1.34 An employee will not be entitled to maternity leave if she does not notify HHP as soon as reasonably practicable that she is absent from work because of a pregnancy-related illness. The employee must also notify the employer of the date on which her absence on such grounds began. She must confirm this in writing.

- 1.35 Any sick leave taken as a result of a pregnancy-related illness before the start of the fourth week before the EWC (and before statutory maternity leave has begun) will be treated as sick leave in the usual way, with statutory sick pay or occupational sick pay being paid to the employee.

EMPLOYMENT RIGHTS DURING MATERNITY LEAVE

Terms and Conditions During OML and AML

- 1.36 During ordinary maternity leave (OML) and (AML) an employee has the statutory right to continue to benefit from all her terms and conditions of employment with the exception of those in relation to remuneration. The employee will receive statutory maternity pay (SMP) instead of her normal salary for the first 39 weeks of leave.
- 1.37 The levels for Statutory Pay Rates are reviewed every October and employees will be paid in line with these.
- 1.38 The employee will have the right to continue to receive contractual benefits during OML and AML.
- 1.39 An employee resuming work after OML and AML is entitled to benefit from any general improvements to the rate of pay (or other terms and conditions) that she would have received had she been at work. This may also lead to a re-calculation of her SMP entitlements.

Annual Leave

- 1.40 Annual leave will accrue during the period OML and AML period. Bank Holidays which take the total leave for the year over 28 days (statutory minimum) do not accrue.
- 1.41 Any annual leave accrued before maternity leave starts should be taken during that leave year.
- 1.42 Any annual leave that will accrue whilst on maternity leave during the annual leave year in which maternity leave begins should be taken
- Immediately on return from maternity leave, thereby effectively extending the employee's actual physical return to work (i.e. it is carried forward to the next annual leave year but must be taken immediately on return or it is lost)
- 1.43 Where it is agreed that an employee will return to work on the basis of reduced contractual hours of work, the employee's new reduced hours should not normally take effect until any leave accrued under the previous contractual hours has been taken.

Contact during Maternity Leave

- 1.44 HHP and the employee are entitled to make reasonable contact with each other while the employee is on maternity leave. For example, HHP may contact the employee to discuss whether or not her planned date of return has changed or is likely to do so, or to discuss any flexible working arrangement that would make her return to work easier.

Kit Days

- 1.45 Any employee may work for HHP during her maternity leave period for up to 10 days (known as "keeping-in-touch" KIT days) without bringing her maternity leave to an end. The purpose of these KIT days is to allow the employee to keep up to date with work changes, undergo training or simply undertake normal work.
- 1.46 There will be no loss of SMP for working KIT days and they will not extend maternity leave or bring it to an end.
- 1.47 An employee cannot undertake work on a KIT Day until at least two weeks after the birth of the child. Otherwise, the timing of KIT days is a matter for HHP and the employee to decide.
- 1.48 The work that an employee undertakes on a KIT Day will be work she is entitled to perform under her contract of employment (including training) or any activity carried out for the purpose of keeping in touch with the workplace.
- 1.49 A KIT Day will be counted as one KIT Day regardless of the length of time the employee has worked on that day. Payment for KIT days will be paid at normal contractual rates for the actual hours worked and will be made when the employee returns to work.
- 1.50 The total duration of the statutory maternity leave period will remain at 52 weeks regardless of whether or not the woman has worked on a KIT Day.

RIGHT TO RETURN AFTER MATERNITY LEAVE

The Right to Resume Work after OML

- 1.51 An employee who returns to work after OML is entitled to return to the job in which she was employed before her absence with her seniority and pension rights as they would have been had she not been absent (and on the same terms and conditions).
- 1.52 If an employee returns to work after two or more consecutive periods of statutory leave, including OML and AML, or OML and parental leave lasting more than four weeks and it is not reasonably practicable for the employer to permit her to return to

that job, she will be offered another job that is more suitable and appropriate for her on no less favourable terms and conditions.

The Right to Return to Work after AML

- 1.53 An employee who returns to work at the end of (or during) AML has the right to return to a job under the same contract of employment and on terms and conditions no less favourable to her. An employee returning to work from maternity leave will benefit from any improvement in working conditions that she would have been entitled to had she not been absent.
- 1.54 If it is not practicable for the employer to allow the employee to return to the same job because of redundancy, she will be offered a suitable alternative vacancy (before the end of her employment under the existing contract).

Right to Delay Deciding whether to Return to Work

- 1.55 An employee entitled to additional maternity leave is under no obligation to decide at the commencement of maternity leave whether she will in fact be returning to work. Provided she meets all the statutory notification provisions in Maternity Leave Notification Requirements (Par 1.6 to 1.10), she will retain her right to return, but is free to change her mind later if she so wishes.
- 1.56 An employee may resign at any time during her maternity leave in accordance with the provisions of her contract or under statutory notice provisions. Resignations must be provided in writing.

Continuity of Service

- 1.57 All period of maternity leave will be counted as continuous service for the purpose of calculating an employee's statutory rights that are dependent on length of service e.g. entitlement to a statutory redundancy payment or pension rights.
- 1.58 Continuity is also preserved for as long as the contract of employment continues to exist, whether or not the employee returns to work at the end of the maternity leave period.
- 1.59 The Protection from Redundancy (Pregnancy and Family Leave) Act 2023 extends redundancy protection to cover pregnancy and for 18 months after the birth or placement of a child.

MONITORING AND REVIEW OF POLICY

1.60 This Policy will be reviewed every three years in line with the Policy Review Schedule.

INTERPRETATIONS & ABBREVIATIONS

The following interpretation and abbreviations are used in this policy:

WORD	INTERPRETATION
<i>HHP or Partnership</i>	Hebridean Housing Partnership
<i>Board</i>	Means the Board of the Hebridean Housing Partnership
<i>Board Members</i>	All Members of the Board including co-opted Members
<i>Leave</i>	Leave is taken to mean both annual and public holiday entitlement subject to the statutory minimum
<i>Personnel Section</i>	Chief Executive's Personal Assistant
<i>APL</i>	Additional Paternity Leave
<i>EWC</i>	Expected Week of Childbirth
<i>OPP</i>	Occupational Paternity Pay
<i>SPP</i>	Statutory Paternity Pay
<i>Week's Pay</i>	For employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Partnership to the employee under the current contract of employment for working their normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned
<i>Parent</i>	Includes biological and adoptive parents, as well as those who have acquired responsibility for a child, e.g. legal guardian or the new partner of a parent, provided they meet all the other eligibility criteria

Childbirth	For the purposes of this policy childbirth means the live birth of a child or a still birth
ShPP	Where a mother or adopter returns to work before the end of the maternity or adoption pay period, Shared Parental Pay (ShPP) may be paid for the remainder of the period to a maximum of 37 weeks.
SPL	Shared Parental Leave
<i>Relevant Week</i>	- For new-borns: the 15th week before the expected week of the child's birth - For adoptions from within the UK: the week in which the adoptive parents are told they have been matched with the child For adoptions from overseas: the week in which the adopter received official notification or the week at the end of which the employee has been continuously employed for at least 26 weeks, whichever is the later
All references to the masculine gender in this policy shall read as equally applicable to the feminine gender	

If there is a conflict between this Policy and any statutory provision or regulation, the latter shall prevail.

