

Direct Payments Factsheet

Statutory Maternity Pay

Introduction

As an employer, there may be occasions when you have to pay statutory maternity pay (SMP) to your PA if they become pregnant. You will also need to allow your PA their right to take statutory maternity leave.

As soon as you have been made aware that your PA is pregnant, you should **contact the KDC Payroll Service** for advice and information about your responsibilities. Ring Joanne or Sandra on **0151 949 5442** and they will talk you through the process.

Frequently asked questions

Here are the answers to some common questions asked, which you may find helpful.

Is my PA entitled to SMP?

Your PA will be entitled to SMP if they meet all of these qualifying conditions:

- they earn on average at least £111.00 per week, and
- they have worked for you continuously for at least 26 weeks up to the 'qualifying week' - the 15th week before the expected week of childbirth
- they give you the correct notice, and
- they give you proof that they are pregnant, in the form of a MATB1 form from their GP, midwife or other health professional.

For how long is SMP paid?

SMP is paid for a period of up to 39 weeks.

This usually starts from the date the PA goes off on their maternity leave.

The earliest they can start their maternity leave is normally 11 weeks before the expected week of childbirth.

How much is SMP?

The weekly rate paid for SMP is calculated as follows:

- 90% of the employee's average weekly earnings (before tax) for the first 6 weeks, followed by:
- £138.18 **or** 90% of the average weekly earnings (whichever is lower) for the following 33 weeks

SMP is paid in the same way as wages are normally paid e.g. every 4 weeks. SMP is subject to deductions for tax and National Insurance contributions.

The KDC Payroll Service will process the SMP and produce a pay slip for you to send to your employee along with payment for net amount of pay due in the usual way.

How can I afford to pay SMP as well as wages to the PA who is covering for the maternity leave?

You will not get an increase in the amount of Direct Payments you receive from the Council. Instead, because you are classed as a 'small employer' you will be entitled to receive a full rebate of SMP directly from HM Customs and Revenue (HMRC).

As part of the payroll service, KDC will apply for this reimbursement from HMRC. You must provide the MATB1 form to KDC for this purpose.

HMRC will raise a payment to cover all the SMP due for the full 39 weeks and send a cheque to you. This is usually dispatched within 10 working days of the date when KDC notifies HMRC. You should pay the cheque into your Direct Payments bank account to cover payments due to the PA who is on maternity leave.

This means that there will be enough money in your Direct Payments bank account to pay someone to provide cover the PA on maternity leave.

What happens if my PA is not eligible for SMP?

The KDC Payroll Service will check your PA's entitlement to SMP. If they are not entitled KDC will return their MATB1 form to them along with a form SMP1 which explains why they are not entitled. This will be done within 7 days.

What do I do about maternity leave?

Your employee has a statutory entitlement to take up to 52 weeks maternity leave and they must tell you about what length of time they wish to take as maternity leave and agree a date for it to start.

They do not have to take 52 weeks but they must take at least two weeks' leave after their baby is born.

The earliest they can start their maternity leave is normally 11 weeks before the expected week of childbirth.

Leave will also start:

- the day after the birth if the baby is early

- automatically if they are off work for a pregnancy-related illness in the 4 weeks before the week (Sunday to Saturday) the baby is due

What does my PA need to tell me?

Your PA must tell you about the pregnancy at least 15 weeks before the beginning of the week their baby is due. If this isn't possible, for example, because they didn't know they were pregnant, they should tell you as soon as possible.

At the same time, they should tell you when they want to start their maternity leave as well as their expected date of returning to work.

Your PA must give you at least 8 weeks' notice if they want to change their return to work date.

What about time off for hospital appointments?

Pregnant employees have legal rights - including paid time off for antenatal care, maternity leave and maternity pay.

Your PA has 4 key rights:

- paid time off for antenatal care
- maternity leave
- maternity pay
- protection against unfair treatment, discrimination or dismissal

'Antenatal care' isn't just medical appointments - it can also include antenatal or parenting classes if they've been recommended by a doctor or midwife.

As an employer, you cannot change a pregnant employee's contract terms and conditions without agreement - if you do you will be in breach of contract.

It is illegal any employer to refuse to give a pregnant employees time off for antenatal care or refuse to pay their normal rate for this time off, but expectant fathers do not have a legal right to time off to accompany their partners.

Note: A PA cannot take time off for antenatal appointments until they have told you about the pregnancy.

What if my PA is ill during the pregnancy?

If your PA is off work for a pregnancy-related illness in the 4 weeks before the baby is due, maternity leave and Statutory Maternity Pay will start automatically - it doesn't matter what has been previously agreed.

If they are off work during the period prior to the 4 weeks before the baby is due then normal statutory sick pay (SSP) rules apply. There is a separate FACT Sheet about SSP. You can find this by visiting our website at

<http://www.kdc.org.uk/kdc-fact-sheets/>

Health and safety for pregnant employees

When your PA tells you that they are pregnant, you have a duty as an employer to assess the risks to the woman and her baby.

Risks could be caused by:

- heavy lifting or carrying
- standing or sitting for long periods without adequate breaks
- exposure to toxic substances
- long working hours

Where there are risks, you should take reasonable steps to remove them, for example by offering the PA different work or changing their hours.

If you cannot remove any risks, for example by offering suitable alternative work, your PA should be suspended on full pay.

You can get help and advice on this from KDC. Simply speak to any member of the Direct Payments or Payroll service by ringing 0151 480 8873.

Remember, if you are unsure, have any queries or need additional support; please contact the Direct Payments Team here at KDC.

Telephone: 0151 480 8873

Email: andy.gilbert@kdc.org.uk

You can find this Factsheet along with others covering a variety of topics by visiting us at <http://www.kdc.org.uk/kdc-fact-sheets/>

