



**Maternity Leave & SMP
Paternity Leave & Pay
Parental Leave
Adoptive Parents – Rights to Leave & Pay**

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Voluntary Action Shetland

MATERNITY LEAVE AND STATUTORY MATERNITY PAY **PATERNITY LEAVE AND PAY** **PARENTAL LEAVE** **ADOPTIVE PARENTS – RIGHTS TO LEAVE AND PAY**

MATERNITY LEAVE AND STATUTORY MATERNITY PAY

INTRODUCTION

The occupational maternity scheme will apply to all pregnant employees, regardless of the number of hours worked per week.

This policy and procedure aims to provide the necessary information to assist both employees and their line managers to implement maternity provision in line with the statutory maternity provision as stated by HM Revenue and Customs and the Department for Business Innovation and Skills.

There are four stages involved in the policy and procedure: -

1. Pre - Maternity Leave
2. Notification of Maternity Leave or Resignation
3. Maternity Pay
4. Returning to Work

Maternity Leave forms are available from the Development Officer.

PRE-MATERNITY LEAVE – PREGNANT EMPLOYEES AT WORK

Protection from Risk

Under Health and Safety regulations, VAS must take the necessary measures to avoid exposure of pregnant and breastfeeding employees to identified potential risk by temporarily adjusting working conditions and/or hours.

Medical advice given to individual employees by their Doctor should be taken seriously and prompt action taken.

Right to Time Off for Ante-natal Care

A pregnant employee shall be allowed to take reasonable time off without loss of pay to attend ante-natal care.

Note: Ante-natal care covers any appointments made on the advice of a doctor, midwife or health visitor. This includes relaxation classes or dental appointments in

addition to attending ante-natal clinics. However, the employee should arrange these appointments **out with working hours where possible**.

Protection from Dismissal

It is automatically unfair to dismiss an employee for any reason connected with pregnancy or maternity leave.

NOTIFICATION OF MATERNITY LEAVE OR RESIGNATION

Notification

In order to ensure the health and safety of a pregnant employee, written notification of the pregnancy should be submitted to the Executive Officer as early as possible. This will be treated in the strictest of confidence. In addition, Voluntary Action Shetland requires an employee to inform them of her pregnancy, the Expected Week of Childbirth (EWC) and the date she intends to commence her Ordinary Maternity Leave (OML) by submitting the completed FORM A on or before the 15th week before the EWC, the 15th week before the EWC is known as the Qualifying Week.

NOTIFICATION CRITERIA

Ordinary Maternity Leave (OML)

The earliest date at which an employee can elect to start OML is the beginning of the 11th week before the expected week of childbirth (EWC), unless the birth is premature.

The actual start of OML will be the earliest of one of the following:-

- The intended start date.
- The first day after the beginning of the 4th week before the EWC where the employee is absent from work wholly or partly because of pregnancy.
- The day of childbirth.

In order to qualify, the employee must:

- Notify the Executive Officer of her pregnancy in writing as early as possible and
where possible, no later than the end of the 15th week before the EWC.
- Provide a certificate from a midwife or doctor, usually a MatB1 certificate stating the EWC.
- Give at least 28 days notice of any requirement to change the date she wishes to begin OML. If this proves not to be practical, then she must inform the Executive Officer as soon as possible.

Voluntary Action Shetland will confirm receipt of this information and will provide confirmation of the employee's rights to leave and pay in writing within 28 days.

During OML

Employees are entitled to 26 weeks Ordinary Maternity Leave. During OML, the employee will retain her entitlements to the terms and conditions of employment, which would have applied if she had not been absent, except remuneration.

Annual leave entitlement continues to accrue during maternity leave. In accordance with annual leave policies and procedures you will be entitled to carry forward 5 leave days from one leave year to the next on agreement of the Executive Officer.

For employees who are Essential Car Users, and the car is not in use for work as a result of maternity leave, the lump sum payments shall continue to be paid for the remainder of the month in which the car first went out of use and a further 3 months thereafter. For the following 3 months, the payment shall be at the rate of 50% of the lump sum payment. Thereafter, payment shall cease until the employee returns to work.

Additional Maternity Leave (AML)

Employees are entitled to 26 weeks Additional Maternity Leave following the last day of her OML. Annual leave entitlement continues to accrue during AML. It will be assumed that an employee will take both OML and AML unless they indicate otherwise.

MATERNITY PAY

Employees with less than 26 weeks' continuous service at the 15th week before EWC are not entitled to receive Statutory Maternity Pay (SMP). They may however, be entitled to receive Maternity Allowance. Employees must contact the Benefits Agency to see if they are entitled to Maternity Allowance. Maternity Allowance is payable for 26 weeks (if a woman has worked and paid NI contributions for 26 weeks out of 66 before the EWC). The rate is equal to flat rate SMP.

Employees With More Than 26 Weeks Service

Statutory Maternity Pay (SMP)

To qualify for SMP an employee must meet all of the following conditions: -

- They provide a MAT B1 form stating her expected week of childbirth;
- Employed by VAS continuously for a period of 26 weeks continuing into the 15th week before the EWC;
- An employee must have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions, which applies in the QW;
- They are still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- An employee must have begun their period of Maternity Leave;

- They give proper notification of their pregnancy in accordance with the rules set out above.

SMP is payable for 39 weeks during maternity leave. It is paid as follows: First 6 weeks 90% of average earnings. Next 33 weeks SMP standard rate only (the lesser of £124.88** or 90% of employees' average weekly earnings). ***Standard rate correct as at 19/08/10.**

If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether ordinary maternity leave or additional maternity leave), the higher or standard rate of SMP will be recalculated to take account of the employee's pay rise, regardless of whether SMP has already been paid. This means that the employee's SMP will be recalculated and increased retrospectively, or that she may qualify for SMP if she did not previously. The employee will be paid a lump sum to make up any difference between SMP already paid and the amount payable as a result of the pay rise. Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions. Payment of SMP cannot start prior to the 11th week before the employee's expected week of childbirth. Statutory maternity pay can start from any day of the week in accordance with the date the employee starts her maternity leave. Statutory maternity pay is payable whether or not the employee intends to return to work after her maternity leave. Employees who are not entitled to SMP may be entitled to receive maternity allowance payable by the Government.

OCCUPATIONAL MATERNITY PAY (OMP)

OMP is paid in addition to SMP or Maternity Allowance (MA) to employees who have been employed by VAS continuously for at least 26 weeks before the EWC.

For the first six weeks of absence an employee will be entitled to nine-tenths of a week's pay offset against payments made by way of SMP or MA where eligible.

For employees intending to return to work, for each of the subsequent 12 weeks the employee will be paid half a week's pay without deduction except to the extent to which the combined pay and SMP (or MA and any dependants' allowance if the employee is not eligible for SMP) exceeds full pay. For the subsequent 21 weeks the employee will be entitled to SMP or MA.

For employees not intending to return to work, payments during the subsequent 33 weeks will be the employee's entitlement to SMP or MA.

The employee must commit in writing that she intends to return to work at the end of her maternity leave for a period of not less than three months.

When an employee has received OMP but not returned to work for three months, she would be required to repay part of the OMP element of the maternity pay she will have received. This will be an amount equivalent to 12 weeks of 50% normal average earnings. There is no requirement to repay SMP. An employee may choose not to receive this amount of OMP while on maternity leave and then, should she return to work, this amount would be paid to her at the end of 3 months.

MAINTAINING CONTACT DURING MATERNITY LEAVE

Throughout the pregnancy and maternity leave period, communication and information exchange between VAS and employee are vital. The employee should be kept informed of changing circumstances at work and training being given.

KEEPING IN TOUCH DAYS

Except during the first two weeks after childbirth, an employee can agree to work (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as 'keeping in touch' days. Any work carried out on a day shall constitute a day's work for these purposes. Voluntary Action Shetland has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, is entirely a matter for agreement between Voluntary Action Shetland and the employee. Any keeping in touch days worked do not extend the period of maternity leave. Once the keeping in touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for VAS. Keeping in touch days will be paid at the employee's normal rate of pay on a pro rata basis for number of hours worked. Working one hour or seven hours will constitute a day's work for 'keeping in touch' purposes.

RETURNING TO WORK

On resuming work after ordinary maternity leave, employees are entitled to return to the same job as they occupied before commencing maternity leave on the same terms and conditions of employment as if they had not been absent. However, suitable alternative employment may also be offered where for example a workplace reorganisation has occurred which would have occurred in any case, had the employee not been absent.

On resuming work after additional maternity leave, again employees are entitled to return to the same job as they occupied before commencing maternity leave on the same terms and conditions of employment as if they had not been absent. However, if it is not reasonably practicable for VAS to allow the employee to return to the same job, Voluntary Action Shetland may offer the employee suitable alternative work, on terms and conditions that are no less favorable than would have applied if they had not been absent.

RETURNING TO WORK

Notification of Return

The employee will have been formally advised in writing of the date on which she is expected to return to work if she takes her full 52 week entitlement to maternity leave. The employee is expected to return on this date, unless she notifies otherwise. If she is unable to attend work at the end of her maternity leave due to sickness or injury, the normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorized absence.

While the employee is under no obligation to do so, it would assist if she confirms as soon as convenient during her maternity leave that she will be returning to work as

expected. If the employee wishes to return to work earlier than the expected return date, she must give at least eight weeks' notice of her date of early return, preferably in writing. If she fails to do so, VAS may postpone her return to such a date as will give the eight weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, VAS may require the employee to return to work for the remainder of the notice period.

PENSION CONTRIBUTIONS

Unpaid Maternity Leave

If an employee receives SMP during maternity leave, pension contributions will be taken from the pay received. If the employee takes any period of unpaid maternity leave then she can decide whether to make additional contributions upon her return to work as if she had received maternity pay. She must tell Voluntary Action Shetland whether or not she wishes to make the extra contributions. This must be done within 30 days of the date she returns to work or the date she tells Voluntary Action Shetland that she intends to leave.

These additional contributions can be made by either paying the full amount in one lump sum or by installments over a period of time, which must be no greater than the period of unpaid leave. If contributions **are not** made for the unpaid period, it will **not** count as membership VAS Pension Scheme.

COMPLICATIONS OF PREGNANCY OR BIRTH

Still birth

If the employee's child is stillborn on or before the 24th week of pregnancy, she will not meet the qualifying conditions for maternity leave or pay. SSP or Sickness Allowance may be payable instead of maternity pay. Any communication with the employee must be handled with sympathetic consideration for the circumstances. If a stillbirth occurs after the 25th week, the employee will be entitled to Statutory Maternity Pay and Leave.

Resignation due to pregnancy

If an employee chooses to resign due to pregnancy they should inform the Executive Officer in writing giving the date of their expected resignation.

Statutory maternity pay may be payable if the qualifying conditions are met. It is not contingent upon the employee returning to work

Employee Action Check List

- **Complete maternity leave form and submit to Executive Officer as soon as possible**

- **Submit MATB1 form as soon as practicable**
- **Notify the Executive Officer in writing of actual date of childbirth**
- **Notify the Executive Officer in writing of date of intention of return to work at least 21 days prior to return**

PATERNITY LEAVE AND PAY

INTRODUCTION

The Government is committed to helping working parents, and new rights to parental leave and pay entitles all eligible employees to parental leave and pay.

This policy and procedure document aims to provide the necessary information to assist both employees and their line managers to implement parental leave and pay provision in line with the new employment legislation that came into effect on 6 April 2003.

There are four stages involved in the policy and procedure: -

1. Eligibility
2. Length of Paternity Leave
3. Statutory Paternity Pay
4. Request for Paternity Leave

ELIGIBILITY

Employees will need to satisfy the following conditions in order to qualify for paternity leave: -

- Have or expected to have responsibility for the child's upbringing
- Be the biological father of the child or the mother's husband or partner
- Have worked continuously for VAS for 26 weeks leading into the 15th week before the baby is due.

LENGTH OF PATERNITY LEAVE

Eligible employees will be entitled to choose to take either one week or two consecutive weeks paternity leave. (not odd days)

They can choose to start their leave:

- From the date of the child's birth, or
- From a chosen number of days or weeks after the date of the child's birth, or
- From a chosen date

Leave can start on any day of the week on or following the child's birth but must be completed:

- Within 56 days of the actual date of birth of the child, or
- If the child is born early, within the period from the actual date of birth up to 56 days after the expected week of birth.

- Only one period of leave will be available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

STATUTORY PATERNITY PAY

Employees who are eligible for paternity pay will be paid for either one or two consecutive weeks as the employee has chosen.

Statutory Paternity Pay is paid at the same rate as Statutory Maternity Pay.

Employees who have average weekly earnings below the Lower Earnings Limit for National Insurance purposes will not qualify for SPP.

REQUEST FOR PATERNITY LEAVE

Employees must inform the Executive Officer of their intention to take paternity leave.

They must inform VAS of the week the baby is due, whether they wish to take one or two weeks leave and when they want their leave to start.

Employees will be able to change their mind about the date in which they want their leave to start providing they inform VAS at least 28 days in advance (unless this is not reasonably practicable).

Employees will have to complete a Paternity Leave request form (obtainable from the Development Officer)

Employee Action Check List

- **Complete paternity leave form and submit to Executive Officer as soon as possible**
- **Notify the Executive Officer in writing of actual date of childbirth**
- **Notify the Executive Officer in writing of date they expect SPP to start**

PARENTAL LEAVE

INTRODUCTION

The right to parental leave entitles employees who have completed one year's qualifying service to take a period of **unpaid leave** to care for each child born or adopted on or after 15 December 1994. The right applies to mothers and fathers and to a person who has obtained formal parental responsibility for a child under the Children Act or its Scottish equivalent. Parents are able to start taking parental leave as soon as the child is born or placed for adoption, or as soon as they have completed the required one year's qualifying service with their employer, whichever is later.

Changes to the right were introduced on 10 January 2002, which benefit parents of disabled children and parents of children aged under 5 on 15 December 1999 (the date the right was first introduced).

Subject to the qualifying period being met the parental entitlement is as follows: -

- 13 weeks' parental leave for each child; **2 weeks being paid paternity if taken and the remaining 11 unpaid**; 18 weeks for each child entitled to a disability living allowance;
- Parents of disabled children born on or after 15 December 1994 are able to use their leave over a longer period, up until the child's 18th birthday;
- The employee remains employed while on parental leave; some terms, such as contractual notice and redundancy terms, still apply;
- **The child in question is under the age of five;**

At the end of parental leave an employee is guaranteed the right to return to the same job as before, or, if that is not practicable, a similar job which has the same or better status, terms and conditions as the old job; where the leave taken is for a period of 4 weeks or less, the employee is entitled to go back to the same job.

PROCEDURES FOR APPLYING FOR PARENTAL LEAVE

Employees must give notice in writing of parental leave, this notice must be given twenty one days prior to commencement of parental leave.

The maximum amount of parental leave to be taken in one year is 4 weeks for each child.

Parental leave would be postponed for up to six months should the business of Voluntary Action Shetland be unable to cope with the employee's absence at the time of request.

Parental leave must be taken in blocks or multiples of one week, with the exception of a parent of a disabled child can take leave a day at a time.

Employee Action Checklist

- **Discuss needs with Executive Officer**
- **Request parental leave in writing**
- **Stipulate the time requested**

ADOPTION LEAVE AND PAY

INTRODUCTION

The Government is committed to helping working parents and new rights for adoptive parents to leave and pay, entitles all eligible employees to adoptive leave and pay.

This policy and procedure document aims to provide the necessary information to assist both employees and their line managers to implement adoptive leave and pay provision in line with the new employment legislation that came into effect on 6 April 2003.

There are four stages involved in the policy and procedure: -

1. Eligibility
2. Length of Adoption Leave
3. Statutory Adoption Pay
4. Request for Adoption Leave

ELIGIBILITY

Employees will need to satisfy the following conditions in order to qualify for adoptive leave: -

- Individuals who adopt
- One member of a couple where a couple adopt jointly (the couple may choose which partner takes adoption leave)
- Be *newly matched with a child for adoption by an approved adoption agency
- Have worked continuously for VAS for 26 weeks leading into the week in which they are notified of being matched with a child for adoption

*Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partners children.

LENGTH OF ADOPTION LEAVE

Length of Service	Ordinary Adoption Leave	Additional Adoption Leave
Employees who have been continuously employed by VAS for at least 26 weeks continuing into the week in which they are notified of being matched with a child for adoption	26 weeks ordinary adoption leave	26 weeks additional adoption leave

They can choose to start their leave:

- From the date of the child's placement (whether this is earlier or later than expected), or
- From a fixed date which can be up to 14 days before the expected date of placement

- Leave can start on any day of the week
- Only one period of leave will be available to employees irrespective of whether more than one child is born as the result of the same pregnancy

STATUTORY ADOPTION PAY

Employees who are eligible for adoption pay will be paid for up to 39 weeks.

Statutory Adoption Pay is paid at the same rate as Statutory Maternity Pay.

Employees who have average weekly earnings below the Lower Earnings Limit for National Insurance purposes will not qualify for SPP.

REQUEST FOR ADOPTION LEAVE

Employees must inform the Executive Officer of their intention to take adoption leave.

Employees must inform us of the date when the child is expected to be placed with them.

Employees must produce a matching certificate from their adoption agency as evidence of entitlement to SAP.

Employees will be able to change their mind about the date in which their leave is to start providing they inform us at least 28 days in advance (unless this is not reasonable practicable)

Employees will have to complete an Adoption Leave request form (obtainable from the Development Officer)

Employee Action Checklist

- **Discuss needs with Executive Officer**
- **Request in writing for Adoption leave**
- **Stipulate the time requested**