

## Maternity Guide for Police Officers



## **The Police Federation of England and Wales**

The Police Federation of England & Wales is the representative body for all constables, sergeants and inspector ranks in the police forces of England and Wales. This booklet sets out what women police officers can expect to happen from when they get pregnant and up to a year after their baby's birth. It is not a full statement of all possible issues, but a short summary for the benefit of Police Federation members in England and Wales.

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## CONGRATULATIONS

Your pregnancy is great news and you will need to make some life changing decisions over the next few months and years as your family grows. There are plenty of people who will be able to offer you advice and support during this time, but you need to be aware that **women police officers do not have exactly the same terms and conditions at work as women employees.**

Police officers are not “employees”; they are “officers of the Crown” and work under the terms set out in Police Regulations and Determinations 2003 (as amended). The provisions which govern pregnancy and maternity in Police Regulations are different from the statutory provisions provided by the government (State benefits) and from those provided to Police Staff.

To ensure that you get the right information about your entitlements, the Police Federation of England and Wales has produced this booklet about what to expect during your pregnancy, your maternity leave and on your return to work. There are also a range of entitlements available to your partner at this time. If your partner is also serving police officer, he or she does not have exactly the same rights at work as other employees.

**This booklet provides general information for women police officers about rights as a working woman police officer.**

Ultimately, it is your force’s responsibility to give you accurate information about your pay and other benefits you will have during your maternity leave. The force is also responsible for the health, safety and welfare of you and your child and they must have completed a formal risk assessment process, taking all known relevant medical advice into account.

Every pregnancy is different, and the way it impacts upon an officer’s work and her workplace will be different. Some women may have no problems and wish to continue working for as long as possible but others may have had earlier problems or be unwell during their pregnancy. Each person should be treated individually and sympathetically.



## PREGNANCY AND MATERNITY LEAVE DISCRIMINATION

Pregnancy and maternity are protected characteristics under the Equality Act 2010. A woman is protected from discrimination from the date she notifies her force of her pregnancy until the end of her maternity leave period, or when she returns to work if that is before the end of her leave period. This is known as “the protected period”.

A person discriminates against a woman if, at a time in a protected period, and on the ground of her pregnancy, she is treated unfavourably; or she is treated unfavourably on the ground that she is exercising or seeking to exercise, or has exercised or sought to exercise a right to maternity leave. There does not need to be a comparator who receives better treatment.



## FERTILITY TREATMENT

Trying to conceive is not a protected characteristic under the Equality Act 2010. However, most forces will have an IVF policy that supports officers, of both sexes, who are undertaking IVF treatment. At the point of implantation, a woman is protected under the pregnancy provisions of the Equality Act 2010. Please do reach out to your force for more on their policy around fertility treatment and support during this time.



## HEALTH & SAFETY

Your force should have a generic risk assessment which sets out the potential risks in the workplace for women officers of childbearing age. You need to consider the implications of this if you are planning to have a baby or think you might be pregnant.

Once you tell the force **in writing** that you are pregnant (or if you have returned to work after having a baby in the last 6 months or if you are breastfeeding), they need to carry out regular specific risk assessments on you. The force must provide you with the risk assessment and you should discuss it and the requirements of your role with your medical advisors. You should feed into the force any medical advice you receive from your medical advisors, so that they can take it into account in subsequent risk assessments.

### **Your risk assessment should be regularly reviewed; for example, each time you have had an antenatal care appointment**

If a significant risk is identified that could cause harm to you or your child and which cannot be controlled, then:

- 1 – Your working conditions or hours must be altered to avoid the risk. If that is not possible:
- 2 – You must be provided with suitable alternative work. If that is not possible:
- 3 – You must be suspended from work for as long as necessary to protect your health and safety and that of your child.

The actions taken to reduce or remove the risks do not have to be done in the above order; the most appropriate measures should be taken at the relevant time. The force should not have a policy of simply moving you to a particular role because you are pregnant; they must have undertaken a suitable risk assessment that includes an assessment of the risks associated with maintaining you in your current role and identify any concerns about a new role.

If your working conditions or hours are altered, or if you are moved to another job or suspended from work because of health and safety concerns, you are entitled to your basic pay and any allowances designed to meet a particular expense (e.g. dog handler's allowance, London and South East allowance, London Weighting), but not to any allowances which relate to the performance of specific tasks in particular circumstances, where you do not actually perform those tasks because of your pregnancy (e.g. overtime, unsocial hours payment). Regulation 36 of Police Regulations enables a chief officer to remove payments of allowances designed to cover expenditure after 28 days in circumstances where, owing to absence on sick or maternity leave, the expenditure is no longer being incurred.

Forces should not be risk averse. Many women can and do work productively throughout their pregnancy. The Health and Safety legislation does not require that all risks are removed, just that they are reduced to an acceptable level. For example, a pregnant officer may still work nights or shifts, unless the risk assessment has concluded otherwise or a doctor or midwife has provided a medical certificate stating she should not work nights.

In the final analysis, the force is responsible for the health, safety and welfare of you and your child, but it must have gone through a formal risk assessment process with you and taken all known relevant medical advice into account. In some circumstances, failure to undertake a risk assessment may be a breach of health and safety law and unlawful sex discrimination under the Equality Act.



## SICKNESS ABSENCE

The risk assessment process should pick up any evidence of whether your pregnancy is having an adverse impact on your ability to perform your role, and your work should be adjusted accordingly. Signing you off sick from work may not be in your best interests, and in some circumstances could adversely affect your maternity benefits and/or your sick pay when you return to work.

If you are not well enough to return to work at the end of your maternity leave, then the provisions of Regulation 28 relating to sickness absence will apply. The protected period under the Equality Act ends at the end of maternity leave period, or when you return to work if that is before the end of your leave period.



## REST FOR PREGNANT AND BREASTFEEDING MOTHERS

Pregnant workers and breastfeeding mothers are entitled to more frequent rest breaks, and this should be considered as part of your risk assessment. Your force must provide you with a suitable area where you can rest. This should:

- include somewhere to lie down if necessary
- be hygienic and private so you can express milk if necessary (toilets are not a suitable place)
- include suitable facilities to store breast milk.

There is no requirement for a woman to finish breastfeeding at any point and forces should support breastfeeding officers for as long as the officer wishes to continue doing so. The force may facilitate additional rest periods for you to attend to your baby or may provide you with suitable private lockable facilities to express and store milk at work.



## MATERNITY LEAVE

- Women officers are entitled to police maternity leave under Police Regulations and Determinations.
- Women officers are **not** entitled to statutory maternity leave.

Police maternity leave can be taken for a period of up to 15 months in an 18 month period, from 6 months before the expected date of birth until 12 months after the expected date of birth. It must end 15 months after it started, or 12 months after the expected date of birth (whichever is the sooner). It can be taken in one or more blocks, before or after childbirth, providing the notification requirements are met.

Police maternity leave starts on the day you notify the force that you want it to start and no later than the expected date of birth. It will end on the date you give that you intend to return to work (giving at least 21 days' notice) and no later than the last day of the maternity period (up to a maximum of 12 months after the expected date of birth). If your circumstances change and you wish to alter the dates of your police maternity leave, you can do this at any time during your maternity leave as long as you give 21 days notice.

The start and finish of police maternity leave is not subject to exigencies of duty; the force cannot change the date a police officer starts their leave or the date she returns to work.

A force cannot start a police officer's police maternity leave (or therefore her police maternity pay) if she has her baby early or if she is off sick with a pregnancy related condition in the 4 weeks before her baby is due.



## MATERNITY PAY

- Women officers are entitled to police maternity pay (if they meet the eligibility rules set out below).
- Women officers are also entitled to statutory maternity pay (if they meet the eligibility rules set out below).
- If the woman officer does not have the qualifying service for either police maternity pay or statutory maternity pay she may be eligible for Maternity Allowance or another benefit paid by the Benefits Agency

Maternity pay is payable based on the week an officer is expected to give birth – the Expected Week of Childbirth (EWC),

If they meet the separate eligibility requirements, police officers receive BOTH Police Maternity Pay (26 weeks full pay) and Statutory Maternity Pay (39 weeks pay – 6 weeks at 90% of full pay, plus 33 weeks at the lower rate of SMP).

A police officer can elect the start of her police maternity pay and her Statutory Maternity Pay (SMP), within certain parameters, in order to maximise the pay she receives and/or the length of time she receives her maternity pay.

Police maternity pay starts on the same day an officer's police maternity leave starts. A force cannot alter the start of an officer's police maternity leave, or therefore, her police maternity pay.

SMP is payable from the 11th week before a woman's EWC but does not start automatically at the 11th week before the EWC. It must start if she is off 4 weeks before her EWC, but between those two dates (11th and 4th week before her EWC). If an officer is off on police maternity leave, she can elect the date on which her SMP starts.

**Police Maternity Pay** is paid to all women officers who:

- have 63 weeks continuous service as a police officer (in any Force) before their expected week of childbirth (EWC) and
- remain pregnant or have given birth 15 weeks before the expected week of childbirth (EWC).

All officers who satisfy the eligibility criteria above are entitled to receive 26 weeks paid maternity leave, paid at their normal rate of pay. Alternatively, officers can take the last five weeks of their police maternity pay over 10 weeks, thus extending their police paid period by an additional 5 weeks; i.e. 21 weeks at full pay followed by 10 weeks at half pay plus half the value of lower rate SMP, making 31 weeks on police maternity pay.

A police officer must return to work for a month following her maternity leave. If she does not the force could reclaim her police maternity pay (26 weeks full pay). She may be able to take this period as annual leave. An officer on a career break remains eligible for police maternity pay if she becomes pregnant. She is entitled to suspend her career break and restart in due course, subject to a new agreement. (It is unlikely that she will be eligible for SMP as that is dependent on the payment of National Insurance contributions for a period during her pregnancy – see below).

**Statutory Maternity Pay (SMP)** is paid to all women officers who:

- have 26 weeks continuous service as a police officer in their force at the qualifying week (15 weeks before the expected week of childbirth (EWC)),
- are pregnant at the 11th week before the expected week of childbirth (EWC) or have already given birth,
- have earned the lower earnings limit for the payment of National Insurance contributions for 8 weeks up to and including the qualifying week,
- have given at least 28 days' notice to her Chief Officer that she intends to stop work and does in fact stop work, and
- have produced medical evidence of pregnancy, (usually on Form MAT B1)

SMP is a State benefit payable for 39 weeks paid under certain statutory rules. It is paid by the force who claim it back from the government.

The first 6 weeks of SMP are paid at the “higher rate”, which is 90% of the woman’s average pay received during the period 8 weeks before the qualifying week. This is followed by 33 weeks at the “lower rate”. The lower rate is around £150 a week and changes each year in April.

- SMP can be paid from the 11th week before the EWC.
- If a woman officer starts her police maternity leave after the 11th week before the EWC, she can delay the payment of SMP until the 4th week before her EWC.
- If a baby is born prematurely, the officer’s SMP will start the day after the baby is born (but not her police maternity leave and pay).
- If an officer is absent for a pregnancy-related reason (such as pregnancy related sickness absence or police maternity leave) after the beginning of the 4th week before the EWC, her SMP will start automatically. If the officer has notified that she wishes her police maternity leave to start after this point, her SMP (but not her police maternity leave or pay), will start. Police Maternity Leave and Pay will start on the date the woman notified the force that her police maternity leave was to start.
- It follows that in certain circumstances a police officer will be able to start her police maternity pay before her statutory maternity pay, and vice versa. However, in the weeks where a woman is eligible for both SMP and police maternity pay only the higher payment is received.
- If an officer returns to work (other than for a KIT day) before she has exhausted her SMP, her SMP is brought to an end and will not restart if she then returns to maternity leave.

### **Police Maternity Pay Calculator**

To assist you to work out what your pay will look like, depending on how much leave you choose to take, the Police Federation of England and Wales has created a Police Maternity Pay Calculator.

You can find it at [www.polfed.org/maternity](http://www.polfed.org/maternity)



## KEEPING IN TOUCH (KIT) DAYS

An officer is able to return to work for 10 “Keeping in Touch” (KIT) days during her police maternity leave period without losing her entitlement to SMP. KIT days are voluntary and both the officer and the force/line manager have to agree when they are taken and what work will be undertaken. The work may be normal day to day activity to assist the return to work process, undertaking a training activity or attending a team meeting for example. KIT days do not normally involve working from home such as checking emails. If, however, your work can be performed at home it may be possible for you to undertake a KIT day from home.

Work done on a KIT day should help make the return to work from maternity leave easier. They allow both the officer to maintain contact with her line manager and her colleagues, and to be part of any activities taking place during her absence. They can be used to discuss and agree a request to reduce your hours or a flexible working plan with your manager prior to your return to work.

Any work undertaken on one tour of duty by police officers whilst on police maternity leave counts as one KIT day, even where the hours worked total more or less than the full duration of the shift in question. Once those days have been used up, the woman will lose any further entitlement to SMP.

Payment for a KIT day is at normal daily rate in accordance with Police Regulations and Determinations and is pensionable.

- If the officer is receiving Maternity Pay and works a KIT day, the period of paid police maternity pay will be extended because police maternity leave can be taken in more than one period - effectively the police maternity leave is temporarily suspended for a day
- If the officer is still receiving Statutory Maternity Pay (SMP) this will not impact on or interrupt any SMP payments being made, but there will be no extension of the SMP paid period. Officers will receive pay for the hours worked on a KIT day plus their SMP for the week in which the KIT day(s) occur.
- If the officer is on unpaid leave the KIT day is payable and officers will receive pay for the hours worked.





## RECALL TO DUTY

Police officers may be recalled to duty at any time following the compulsory maternity leave period (the first two weeks after the baby's birth). This should be for exceptional reasons, such as court attendance or a disciplinary hearing. It should be noted that a recall to duty from maternity leave is different from a voluntary return to work on a KIT day. A recall to duty will not normally count as a KIT day (although it may be preferable for the woman to take the odd day as a KIT day). It must be remembered that once the entitlement to 10 KIT days is used up, an officer will lose her continuing entitlement to SMP if she engages in further work.

Officers who are recalled to duty should be credited with time off in lieu (TOIL) to be taken when they return to work in order to preserve their continued entitlement to SMP. The TOIL should not be "bought out" by the force unless and until the hours are not taken within 3 months of the woman's return to work.



## ANNUAL LEAVE

Annual Leave entitlement will accrue during maternity leave for a period of up to 52 weeks.

An officer who is to take maternity leave has two rights to leave: one to maternity leave and another to the annual leave provided by Police Regulations and Determinations and/or the Working Time Regulations for the annual leave year in question. She must be able to take both types of leave. In most cases, this will not cause significant issues as the annual leave can be accommodated within the leave year(s) in question. However, there may be occasions when a woman will not be able to take her annual leave before her maternity leave starts. This may be due to the fact that her maternity leave will start close to the beginning of the annual leave year, or it may be that an officer had planned to start her maternity leave later in the leave year, but either she has been on sick leave or the baby has been born prematurely and she has therefore not been able to take her annual leave.

Officers can take annual leave before, during (i.e. if there is a break in between two periods of maternity leave) or after maternity leave. However, she should be aware that if she returns to work on annual leave/full pay when she is in receipt of SMP, she will lose her entitlement to SMP thereafter when she returns to maternity leave. Annual leave during maternity leave will not extend an officer's maternity period.

Police officers can carry up to five days annual leave from one year to the next, or more in exceptional circumstances, subject to the Chief Officer's discretion. However, if a woman is unable to take all of her annual leave in the leave year because she is on maternity leave she should be allowed to carry it over into the appropriate leave year when she returns to work.

### Reckonable Service

Police officers can reckon a period of up to 52 weeks for pay and leave purposes when on maternity leave.

### Pensionable Service

Any period of paid maternity leave (either Maternity Pay or Statutory Maternity Pay) counts towards pensionable service. You can buy-back a period of unpaid maternity leave at the rate of your last pay; this will usually be SMP at the lower rate.

### Police Federation Subscriptions

Police Federation subscriptions should continue to be paid throughout your paid maternity leave period. No payments are required to be made during any unpaid maternity leave; however you may need to arrange for your member benefit payments to be made (e.g. insurance). Please contact your local branch board office for further information.

**Your local branch board will also be able to help you if you have any queries about your or your partner's entitlements during your pregnancy, maternity leave and/or return to work.**

