

# Pregnancy & Maternity FAQ



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## Contents

Notification .....	2
Pay / Allowances .....	2
Appointments .....	3
Restrictions / Operational Matters .....	3
Duties / Part Time Duties .....	4
Probationer Constables .....	5
Pension .....	6
Sickness .....	6
Annual Leave .....	7
Return to Work .....	7
Breastfeeding .....	8
Court .....	7
Adoption .....	8
Breastfeeding .....	8

## Notification

### **Do I have to notify the Force that I am pregnant?**

To qualify for antenatal leave you must notify the Force as soon as is reasonably practicable. To qualify for statutory maternity pay you must notify the Force no later than 28 days before you intend to go on maternity leave. At the same time you must also advise the expected date of birth and the date you wish to commence your maternity leave. You can change this date later by bringing it forward or putting it back. It is also important that you tell the Force as early as practicable from a health and safety point of view. You will need to be assessed for any risks that your current work poses for you and/or your baby.

### **When should I commence my Maternity Leave?**

This is solely a question for you. Your Force cannot start your maternity leave. You can start it at any time after the 13th week of pregnancy. You have to start it no later than the EWC (estimated week of confinement).

You can bring this forward or put it back, provided you notify the change. For pay purposes it is best to start your maternity leave on a Sunday, because, if you start your maternity leave on a Monday (when most Forces' weeks and duty rosters start) you are deemed to have been available for work on the Sunday and therefore not eligible for state benefits that week.

### **How much Maternity Leave can I take?**

You can take as much as you like during the period, 6 months before the baby is due, to 12 months after the baby is born to a total maximum of 15 months maternity leave. You can take it in more than one period provided that you give 21 days' notice of your intention to return to work on each occasion.

### **Will I be entitled to Parental Leave?**

Yes. Each parent is entitled to periods of leave totalling 13 weeks unpaid leave for each child below the age of 5 (or 18 weeks up to age 18 for parents of a disabled child).

## Pay / Allowances

### **Do I get paid during my maternity leave?**

To qualify for police maternity pay you must have served continuously for 63 weeks, at the beginning of the week your baby is due. If you transferred Forces during this time, any period you served in another Force counts towards the 63 week period. If you qualify for police maternity pay you will receive your full pay for the first 13 weeks.

You will also be entitled to Statutory Maternity Pay (SMP) if you have served continuously for 26 weeks, 15 weeks before the baby is due. If you transferred Forces during this time, any period you served in another Force will not count towards the 26 week period. If you qualify

you will receive 26 weeks SMP, the first 6 weeks at 9/10ths of your average pay, the remaining 20 weeks at the lower rate of SMP (from April 2009: £123.06 per week).

If your period of police maternity pay coincides with SMP one offsets the other. You will receive whichever is the greater.

It is possible to receive 13 weeks full police maternity pay and the full 26 weeks SMP if you start your maternity leave early enough. However all the time you remain at work you remain on full pay, your 13 weeks police maternity pay will not start until you go on maternity leave.

### **Will I lose any of my pay or benefits if I go onto Restricted Duties?**

Your pay and benefits are protected whilst you are pregnant and remain at work. You should not lose any pay or benefits because you were moved from a post which attracted additional remuneration to a restricted duties post as a consequence of your pregnancy.

### **I receive rent/housing (replacement) allowance, what will happen to this whilst I am on maternity leave?**

You will continue to receive your rent/housing (replacement) allowance whilst you are on paid maternity leave. You will not receive this allowance when you move onto unpaid leave. You retain the right to receive the allowance on your return to work. Where your husband/partner is a serving police officer the position is as follows:-

1. where the partner or husband joined after 1st September 1994, the partner or husband will not receive any rent/housing allowance;
2. where the partner or husband is entitled to a flat rate transitional rent or half rate housing allowance, then for the duration of the unpaid maternity leave period, the partner/husband will be entitled to receive, as appropriate, the maximum limit transitional rent allowance or the standard rate housing allowance.

## Appointments

### **Am I entitled to time off to attend antenatal appointments?**

Regulations provide protection against being unreasonably refused time off to attend antenatal appointments. You may have to show your appointment card after the first visit. It is not clear whether relaxation classes are included in this but if your Doctor, Mid-wife or health visitor say it is necessary, time should be allowed for you to attend.

## Restrictions / Operational Matters

### **Can I be required to continue operational duties when I become pregnant?**

In many circumstances operational duties will pose particular risks for a pregnant woman. Forces must undertake a risk assessment and discuss the risks with you. You should discuss those risks with your doctor. If there are risks associated with your role the Force may remove those risks from your role or offer you a restricted duties role. If your Force

does not do so or does not undertake a proper risk assessment you should discuss these concerns with your Federation Representative immediately.

### **Can I stay on operational duties if I want to?**

This depends on the risks that have been identified by the risk assessment in your particular circumstances. The Force should not make any knee-jerk” or “blanket” decisions about your duties without doing a risk assessment, discussing it with you, obtaining medical advice and allowing you to discuss the issues with your medical advisors. There should be the opportunity for you to come to an agreement with the Force in the full knowledge of your and their concerns. There may be parts of the job that could be removed that would enable you to continue doing the main duties of the role.

### **Can I be removed from training when I am pregnant?**

This will depend on the nature of the training. If risks have been identified by the risk assessment, but you are keen to continue with the training, the Force should consider whether there are any adjustments that could be made to the training programme which would allow you to continue without having to cease the training altogether. For example, if part of the training involved vigorous role plays, it might be possible for you to continue the training by watching the role plays rather than taking part in them.

## **Duties / Part Time Duties**

### **What duties should I do when I am pregnant?**

The Force is required to undertake a risk assessment on the job you are doing even before you are pregnant. If they identify any risk to you they must tell you (and anyone else you nominate who is acting for you as your representative, such as your doctor or your Federation representative) what the risk is.

When you notify the Force of your pregnancy, your manager or supervisor must conduct continuous risk assessments throughout your pregnancy. You should be given the opportunity to discuss the risk assessment with your managers or supervisors and your medical advisors. If you cannot continue in your present work, the Force must consider altering the work so that the risk is removed or find alternative work for you to do. If your current work attracts certain allowances, you should not lose them if you are transferred to other duties. If they are unable to find another job they must place you on paid leave. This is known as “maternity suspension” – it is not maternity leave until the date arrives when you have notified that you want the maternity leave to commence.

If you wish to continue with particular duties, the Force should not remove you from them without undertaking a proper risk assessment (which may include seeking medical advice). If the Force were to remove you against your wishes based on assumptions that your pregnancy precluded you from continuing to undertake those particular duties and without having undertaken a risk assessment, you may have a claim of sex discrimination.

### **Should I work nights and/or shifts?**

The Management of Health and Safety at Work Regulations 1999 provide that pregnant women should be withdrawn from night work if your doctor certifies that it would endanger your health or that of your child. You should discuss any concerns about your shift pattern with your Doctor, Mid-Wife or Health Visitor. If they certify that you or your baby's health is likely to be affected you should not be expected to work shifts.

### **Am I able to move to part-time duties when I return from Annual Leave?**

You do not have an automatic right to work part time, but you may request part time working or other flexible working patterns at any time during your service. The Force must treat your application seriously and consider whether you can work in your current post on a part time basis or whether there is some other post that you could undertake part time. The Force should provide you with reasonable operational reasons why you cannot work part time. Probationers can also work part time, although their probation period may be extended and particular periods e.g. some periods of training may have to be undertaken on a full time basis. If your application is approved it is best to move to part-time when you return to duty from maternity leave, not before or during your maternity leave because your circumstances may change whilst you are on maternity leave.

### **What happens if I have negotiated and it has been agreed that I will return from maternity leave as a part-timer, but on that day, I am sick?**

You do not have an automatic right to work part time, but you may request part time working or other flexible working patterns at any time during your service. The Force must treat your application seriously and consider whether you can work in your current post on a part time basis or whether there is some other post that you could undertake part time. The Force should provide you with reasonable operational reasons why you cannot work part time. Probationers can also work part time, although their probation period may be extended and particular periods e.g. some periods of training may have to be undertaken on a full time basis. If your application is approved it is best to move to part-time when you return to duty from maternity leave, not before or during your maternity leave because your circumstances may change whilst you are on maternity leave.

### **I am on an AWR and due to a shift change, I will be increasing my hours. Is it correct that my maternity pay is calculated as an average pay between the 17<sup>th</sup> – 25<sup>th</sup> week of pregnancy?**

Yes. Because the notice of intention to take Maternity Leave is no more than 15 weeks before the expected due date, HR work back from that date (e.g. 40 weeks full term minus 15 weeks' notice is 25 weeks).

## Probationer Constables

### **I am a probationer. Am I entitled to take maternity leave and what will happen to my probation?**

You are entitled to the same maternity leave as any other policewoman. You will be entitled to SMP but whether you are entitled to SMP or to police paid maternity leave will depend upon how much service you have when the baby is due.

To qualify for police maternity pay you must have served continuously for 63 weeks, at the beginning of the week your baby is due. If you transferred Forces during this time, any period you served in another Force counts towards the 63 week period. If you qualify for police maternity pay you will receive your full pay for the first 13 weeks. You will also be entitled to Statutory Maternity Pay (SMP) if you have served continuously for 26 weeks, 15 weeks before the baby is due. If you transferred Forces during this time, any period you served in another Force does not count towards the 26 week period. You will receive 26 weeks SMP, the first 6 weeks at 9/10ths of your average pay, the remaining 20 weeks at the lower rate of SMP.

If you do not have sufficient service to qualify for police maternity pay or SMP, you may be entitled to receive maternity leave allowance. This is paid direct by the Benefits Agency for 18 weeks at the same rate as the lower rate of SMP (£123.06 per week from April 2009). As regards the period of your probation, this will depend on the period you have already served when you go on maternity leave. The Force is able to extend probation if it is not satisfied that you have the required skills to be confirmed in post. If you have just a few weeks left of your probation, and you have been doing well in your assessments, your Force may well confirm you in post. If you have not served for very long, the Force is likely to extend your probation for a period corresponding to at least the time you have been absent.

Officers who have 40 weeks service at the EWC are entitled to reckonable service for any maternity leave taken in the 26 weeks prior to the birth and up to a maximum of 29 weeks after the birth.

## Pension

### **If I take unpaid maternity leave, what happens about my pension?**

You will continue to pay pension contributions during your paid maternity leave, which includes SMP. If you take unpaid leave, you will have to either extend your service or buy back the pension contribution for your unpaid leave if you want to enjoy a full pension. Regulations allow you to re-pay your unpaid pension contributions upon your return provided that you repay the unpaid contributions within 6 months of your return or that you elect to do so and repay unpaid contributions within 6 months of leaving service (unless the Inland Revenue restrictions on pension contributions prevents you from doing so in which case you will be allowed up to 30 months to repay your contributions). For any unpaid leave you wish to buy back, your contribution will be assessed at 11% of the pay you were on immediately before you went onto no pay; for most women this will be SMP at the lower rate (£123.06 per week from April 2009), see Home Office Circular 9/00 at Appendix 8). You should contact your pension department if you wish to avail yourself of this facility.

## Sickness

### **What happens if I become sick during my maternity leave?**

During maternity leave itself, you are not entitled to take sick leave. You can however give notice that you wish to come back from maternity leave and then immediately commence a period of sick leave. You must give at least 21 days notice of this. This could be of benefit to you if you are on unpaid maternity leave and you are entitled to either full pay or half sick pay. You may take more than one period of maternity leave after the birth of your baby, as long as it is within your 15 month maternity leave period.

### **What happens if I am sick because of something that happened as a result of my pregnancy and I cannot return to work?**

When you are on maternity leave – either paid or unpaid – you are protected from any less favourable treatment on the grounds of pregnancy. So, if you have an illness as a result of your pregnancy (e.g. post natal depression) you will be protected until you return to work or the last day of your maternity leave period (whichever comes first). Following the ECJ case of McKenna, the protection does not extend to pregnancy related sickness absence being disregarded for sick pay purposes. Pregnancy related sickness should not however be taken into account for the purposes of the Police (Performance) Regulations 2008.

## Annual Leave

### **What happens to my annual leave when I am on maternity leave?**

Many pregnant or returning mothers like to add periods of annual leave to either end of their maternity leave. You are entitled, with permission, to carry forward 5 annual leave days from one leave year to another. In exceptional circumstances, you can carry forward more at the discretion of the Chief Officer.

Your annual leave accrues whilst you are on maternity leave.

## Court

### **Do I have to attend Court whilst I am on maternity leave?**

Unless a Doctor certifies that you are not fit enough to attend you must attend. If you are required to attend when you are on police paid maternity leave, your police paid maternity leave will be extended by the period that you were required to attend, but this will not extend your 26 weeks SMP period. However, if you are in receipt of Statutory Maternity Pay, you will lose the SMP for the whole of any week and your statutory maternity leave period will not be extended. You will be paid for the days that you are required to attend court whilst on maternity leave.

## Return to Work

### **What happens when I want to return to work?**

You must give 21 days notice in writing of your intention to return to work, unless you are returning on the last day of the maternity period. Your force should undertake a risk assessment of the role they are expecting you to undertake when you return in the same way as they were required to undertake a risk assessment when you were pregnant.

## Breastfeeding

### **Are there any special arrangements if I am still breastfeeding when I return to work?**

The protections of the Management of Health and Safety at Work Regulations 1999 extend to breast-feeding workers. (Also, the UK Government is a signatory to a declaration that supports breastfeeding and seeks to encourage the development of facilities to allow for breastfeeding or expressing milk.) A risk assessment must be carried out to identify whether there are any particular risks for you as a breast-feeding mother from the workplace or from the role it is proposed that you perform. Before you return to work you should discuss this with your force. If you wish to continue to breast-feed after you return to work, you should expect to be provided with hygienic, private (i.e. screened and lockable) facilities and appropriate storage facilities for expressed milk.

## Adoption

### **I am considering adopting a child, will I be entitled to paid leave?**

All officers are entitled to 5 days police paid adoption leave, adopters who have completed 26 weeks service by the end of the week that they are notified that they have been placed with a child, are eligible for up to a further 26 weeks Statutory Adoption Leave paid at Statutory Adoption Pay rate (SAP). SAP is equivalent to the lower rate Statutory Maternity Pay (£123.06 per week from April 2009) followed immediately by up to 26 weeks statutory additional adoption leave which is unpaid. All police officers who have at least one year continuous service by the week in which an approved match is made are entitled to full pay for the first 13 weeks adoption leave, then up to 13 weeks statutory adoption pay, followed by 26 weeks unpaid adoption leave.

## Breastfeeding

### **Should I be required to return to operational duties when I am breast-feeding?**

This depends on the risks that have been identified by the risk assessment in your particular circumstances. Again, the Force should not make any “knee-jerk” or blanket” decisions about your duties without doing a risk assessment, discussing it with you, obtaining medical advice and allowing you to discuss the issues with your medical advisors. There are different potential risks for a breast-feeding mother (and her child) in comparison with a pregnant woman and the risk assessment should reflect this. The possible risks could include an increased risk of exposure to dangerous chemicals or other noxious substances, a possible



inability to express milk at regular intervals in a safe and hygienic environment and the practical difficulties associated with wearing a protective vest and increased fatigue and stress.

**What facilities should the Force provide if I am still breast-feeding when I return to work?**

You should have access to a private and hygienic room in which to rest and express milk. Separate cool facilities should be available for you to store breast milk securely.

**How long can I breast-feed after I return to work?**

This is entirely a matter for you. The exact legal position is unclear, but you should not suffer less favourable or discriminatory treatment because of your desire to breast-feed.