

A Pocket Guide for Managers

Pregnancy, maternity leave
and a successful return to work

A pocket guide developed by Working Families

Working Families is the UK's leading work-life organisation.
We provide Practical evidence-based support to employees and the
organisations for which they work.

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A Pocket Guide for Managers: Pregnancy, maternity leave and a successful return to work

Written by Liz Morris with Susanne Jacobs

Foreword

Working Families is the UK's leading work-life balance organisation. We are dedicated to building a future where individuals, families and organisations can thrive. We do this by:

- Providing training and strategic consultancy to employers to develop high performance through employee engagement and wellbeing
- Conducting ground-breaking research to provide evidence for policy makers and employers to improve organisational performance and work-life balance
- Providing working parents and carers with free legal and in-work benefits advice and information, and help with negotiating flexible working arrangements

- Campaigning for everyone to have the opportunity to find the balance they need between work and family life

With over 30 years of expertise in the field of work-life balance and flexible working, plus the support of employers and opinion formers, we can make a positive difference to organisations and to the lives of families.

This pocket guide represents a small part of what we do. We hope that you will find it useful, as many others have, to help develop a thriving and productive work environment.



Sarah Jackson, OBE
CEO Working Families



Working Families

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Supporting policy makers, employers and families

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1. Introduction

Women make up nearly half of the workforce in the UK.

The transition from childless employee to working parent is a significant change both for men and for women, as well as their employer. More than 80% of employees will become working parents.

For a working woman, the transition to working parent starts as soon as she knows that she is pregnant and starts to think of herself as a mother. If you have a solid professional relationship with your employee, she will probably inform you of her pregnancy at around 3 months. This gives you between 4 and 6 months to prepare for a smooth transition through maternity leave and return to work.

The evidence shows that the sooner you start to prepare for this transition the easier it will be. This booklet provides a step-by-step guide to help you create an effective plan for you, your employee and the wider organisation.

The business case

Around the world the evidence shows that the desire of women, including mothers, to work and to be recognised for doing a good job is at least the same, often higher, than that of men.

There are many proven benefits to enabling women to work effectively at all levels in an organisation, including:

- Better financial performance
- Increased innovation
- Greater customer understanding

In order to achieve these benefits you will need to help your employees make a smooth transition into working parenthood. Retaining your employee after maternity leave also enables you to maximise the return on the investment you have made in her through recruitment and individual development.

Effective planning now will build motivation and commitment. It will also help to avoid the stress caused by a difficult return to work, stress which affects the individual and her colleagues.

2. My employee is pregnant – what next?

Usually an employee will tell you orally that she is pregnant at around 3 months into the pregnancy.

However, your employee does not need to tell you of her pregnancy unless she wants to take Maternity Leave and claim Maternity Pay. The final date to submit written notice of an intention to take Maternity Leave is by the end of the 15th week before the Expected Week of Childbirth (EWC), unless this is not practicable. Maternity Leave can start up to 11 weeks before EWC.

A claim for Maternity Pay requires notice of 28 days before the start date of Maternity Pay. Practically notice for Maternity Pay and Maternity Leave are usually provided together.

Maintaining a trusting professional relationship with your employees will help them approach pregnancy and maternity in a way that provides the maximum notice and time to prepare.

As soon as your employee tells you that she is pregnant:

- Offer your congratulations.
- Ask if there are any recommendations from her health professional regarding work.
- Set up a date for an initial meeting to confirm key dates and develop an action plan.
- Direct your employee to the companion guide to this booklet “A pocket guide for employees: pregnancy, maternity leave and a successful return to work”. This will help her to plan effectively both at work and at home. A downloadable copy of the guides can be found on the Working Families website www.workingfamilies.org.uk.
- Direct your employee to your organisation’s maternity policy if you know where it is, or commit to help her find this policy.
- Respect your employee’s desire for confidentiality, particularly where the pregnancy is at an early stage. Suggest that you work together to plan how to tell others at work. Pregnancy and maternity leave will also be a transition for colleagues and clients. They may have concerns about this may affect their own work.

Take time now to prepare for the initial planning meeting.

Check list of things to consider before the initial planning meeting with your employee:

- ☐ Employment rights and obligations, including Health and Safety.
- ☐ Your organisation's policies relating to maternity, parents and work-life-fit.
- ☐ Your views and values and how these may affect the way in which you manage your employee.
- ☐ Options for cover during maternity leave
- ☐ Potential stakeholders impacted by this maternity leave and/or influential in a successful transition.
- ☐ How to keep in touch during maternity leave.
- ☐ Options for returning to work, including how to identify flexible working options if required.
- ☐ Key dates (at the end of this guide there is a useful table showing key dates).

3. Basic Rights and Obligations

This chapter includes an overview of:

- Health and Safety
- Time off for antenatal appointments
- Maternity Leave and Pay
- Paternity Leave and Pay
- Additional Paternity Leave and Pay
- Keeping in touch
- Non discrimination
- Parental Leave
- Flexible Working
- Breastfeeding
- Emergency time off for a dependant

Usually your employee will tell you orally that she is pregnant at around 3 months. However, there is no obligation for your employee to tell you that she is pregnant unless she wishes to take Maternity Leave and claim Maternity Pay.

Health and Safety

Your workplace should already have a general risk assessment. The general risk assessment needs to make sure that the work environment is a safe place for pregnant women and new mothers. The general risk assessment also needs to identify any risks to women who could become pregnant in the future.

Your obligation is to ensure that all employees are aware of the need to notify you in writing of any specific risks that need to be assessed and made safe if they are pregnant, breastfeeding or working within 6 months of giving birth.

Once you are notified in writing that there is a potential risk, you must carry out a specific risk assessment. It is good practice to work **with** your employee to carry out a risk assessment as soon as they tell you orally of their pregnancy.

The specific risk assessment should include factors you already know about from the general risk assessment, e.g. handling certain chemicals, as well as anything raised by the employee or their doctor or midwife.

If you identify risks, you must take the following steps to remove these risks:

1. Temporarily alter the employee's working conditions or hours of work. If this is not reasonable or would not avoid the risk, then:
2. Offer the employee suitable alternative work (at the same rate of pay) if available. If this is not feasible, then:
3. Suspend the employee on full pay for as long as is necessary to protect her health and safety and that of her child.

These steps need to be done without loss to pay or other work related benefits.

After the initial risk assessment and adjustment to working practices it is good practice to work **with** your employee to ensure that the changes are in actual fact removing the risks identified.

You may need to carry out further risk assessments during the pregnancy depending on how your employee's pregnancy progresses or how the nature of work being done may change. Special rules apply for pregnant night workers.

TIP: You can find more information about Health and Safety for pregnant women at www.hse.gov.uk/mothers/

Time off for antenatal appointments

Pregnant employees are entitled to “reasonable” paid time off for antenatal care. This includes time spent travelling to the appointment and waiting to be seen.

Antenatal care can include scans and meetings with the midwife, as well as, relaxation and parent craft classes. The appointment for care must relate to her pregnancy and have been made on the advice of a GP, nurse or midwife.

No proof is required for a first appointment. For subsequent appointments you can require your employee to provide proof of pregnancy and the appointment. You cannot unreasonably refuse paid time off for antenatal care or require her to “make-up” the time spent at appointments.

TIP: If you also employ the partner or your pregnant employee, if possible make it easy for them to attend antenatal appointments. They do not have the right in law yet, but, this helps the transition for both parents, reducing stress and helping to maintain performance at work for both parents.

Maternity Leave

Full-time or part-time employees are entitled to 52 weeks Maternity Leave regardless of length of service. Maternity Leave has two parts:

- The first 26 weeks, known as Ordinary Maternity Leave.
- The second 26 weeks called Additional Maternity Leave.

Maternity Leave and Maternity Pay can start anytime from 11 weeks before the Expected Week of Childbirth (EWC). An employee can work right up until the birth if she wishes.

Your employee needs to provide written confirmation of her intention to take maternity leave by the end of the 15th week before the Expected Week of Childbirth (EWC). This is generally via a MAT B1 certificate which is available from week 20 of pregnancy from her GP or midwife.

There is a two week period of Compulsory Maternity Leave immediately after the birth (or four weeks if working in a factory).

A contract of employment continues during Maternity Leave. This means that things like holiday entitlement continue to accrue over the Maternity Leave period. It is good practice to discuss holiday intentions well before Maternity Leave starts and to ensure that you both understand how holidays are treated. A common concern for managers and expectant employees is if, and how, holiday days can be carried over from one holiday year to another.

If your employee is off work with a pregnancy-related absence during the last four weeks of her pregnancy you can begin her Maternity Leave early. This is the only circumstance that you can alter the start date of Maternity Leave.

Your employee may vary the start date of her Maternity Leave by giving written notice of 28 days. Maintaining an open dialogue will help you gain as much notice as possible.

If your employee experiences a premature birth or birth before the notified start date of Maternity Leave, then Maternity Leave is started on the day after the birth.

If your employee experiences a stillbirth after 24

weeks of pregnancy or the baby dies then she is still entitled to full Maternity Leave and pay.

Unless she informs you in writing, you should assume that your employee will return to work after 52 weeks of Maternity Leave.

If your employee wishes to return to work before her full 52 week entitlement then she needs to provide written notice of at least 8 weeks.

Your employee's rights on return to work vary slightly depending on when she returns:

- During or at the end of Ordinary Maternity Leave (the first 26 weeks), your employee has the right to return to the same job with the same terms and conditions.
- During or at the end of Additional Maternity Leave (the last 26 weeks) your employee has the right to return to her old job on her old terms and conditions unless it is “not reasonably practicable”, in which case you must offer her a suitable alternative job on similar terms and conditions. In practice, with the exception of major re-organisation, it is very rare for it to be considered “not reasonably practicable” for her to return to her old role.

Maternity Pay

There are potential two types of Maternity Pay available from the state:

- Statutory Maternity Pay (SMP)
- Maternity Allowance (MA)

Many larger employers provide Occupational Maternity Pay in addition to SMP. Eligibility to this is defined in the employment contract.

Statutory Maternity Pay (SMP)

To be eligible for SMP an employee must have worked for her employer for at least 26 weeks by the end of the 15th week before the baby is due (this is known as the “Qualifying Week” or QW).

SMP amounts to six weeks at 90% of your employee's average normal pay, followed by 33 weeks at a flat-rate or 90% of her normal pay, whichever is the lower. Payment of SMP is administered by the employer and paid for up to 39 weeks. Details on how to calculate, administer and recover SMP can be found on the HMRC hrc.gov.uk

To claim SMP your employee must provide written notice of 28 days before she wishes SMP to start. She also needs to provide confirmation of her pregnancy which is usually a MAT B1 certificate. A MAT B1 is available from her midwife or GP usually from week 20.

Once you receive written notice, you need to acknowledge this within 4 weeks, confirming:

- Eligibility for SMP.
- The date on which leave and SMP will commence.
- Expected return to work date (52 weeks after date on which leave commences).

An entitlement to SMP remains even if:

- The employee leaves her job or is dismissed after the Qualifying Week.
- The employee has no intention of returning to work.
- You cease to trade or become insolvent after the Qualifying Week

If an employee is not eligible for SMP then their employer must issue them with an SMP1 form. If this is the case advise your employee to contact the Job Centre Plus as they may be eligible for Maternity Allowance.

Maternity Allowance (MA)

This is a benefit for those who are working, or have worked recently, but are not entitled to SMP. MA amounts to 90% of average earnings or a flat rate whichever is lower. It is paid by Job Centre Plus for up to 39 weeks.

To qualify a person must have worked for at least 26 weeks in the 66 weeks (15 months) before the baby is due. The weeks do not have to be continuous or with the same employer and can include periods of self-employment. Earnings must be more than £30 a week in 13 of those weeks.

If your employee thinks that you have calculated their entitlement to SMP incorrectly or if you fail to come to a decision within four weeks of being given notice, they can ask the HM Revenue and Customs to intervene. There may also be a fine.

TIP:

Full details of how to calculate, administer and recover SMP can be found on the HRMC website hrc.gov.uk e.g.

- The amount of SMP can be affected by sick pay or a pay rise during the time in which average pay is calculated
- You can recover some or all SMP paid.
- If you are an SME then you may be able to claim a small additional amount of compensation.
- You may be able claim advanced funding for SMP.

Keeping in touch

Keeping in touch helps to create a smooth transition back to work after leave. There is a requirement to **offer** to inform your employee of changes at work, training opportunities and job vacancies while she is on Maternity Leave. But, if you do not provide your employee with this type of information it may be considered discriminatory.

Your employee needs to inform you of the date of birth of her baby and provide 8 weeks of written notice of her return to work date if this is earlier than the full 52 week entitlement.

An employee is also able to work for up to 10 days during maternity leave without bringing maternity leave to an end. These are called "Keeping in Touch" (KIT) days. If your employee is receiving Maternity Pay this continues on a KIT day and you should top this up to a normal days pay. There is no legal obligation on you or your employee to use KIT days. But, if your employee returns to work before her full 52 week to enable her partner to take Additional Paternity Leave all KIT days need to be used to officially end her Maternity Leave and trigger APL.

Paternity Leave and Pay

If you employ the baby's father or the husband/ (civil) partner of the mother they may be entitled to Paternity Leave. They may be eligible for two types of leave:

- Ordinary Paternity Leave (OPL)
- Additional Paternity Leave (APL)

Ordinary Paternity Leave and Pay

To qualify for OPL the baby's father or husband/(civil) partner of the mother needs to have been employed by you for 26 weeks by the end of the 15th week before the baby is due (this is known as the "Qualifying Week" or QW).

If entitled, an employee can choose to take 1 or 2 consecutive weeks of OPL which must start and end within 56 days of the baby's birth.

Notification of intention to take OPL must be received by the end of the Qualifying Week. Notice of intention to claim Statutory Paternity Pay (SPP) must be received 28 days prior to the start date of SPP.

Additional Paternity Leave and Pay

Additional Paternity Leave (APL) is a period between 2 and 26 weeks which can start from 20 weeks after the birth of the baby. It must be completed by the child's first birthday. At least 8 weeks of notice are required to take APL.

To be eligible for APL the baby's father or husband/(civil) partner of the mother needs to have been employed by you for at least 26 weeks before the Qualifying Week and the baby's mother needs to have returned to work at least 2 weeks before the end of her 52 weeks Maternity Leave entitlement. If the baby's mother returns to work before her Statutory Maternity Pay or Maternity Allowance ends, a qualifying father may be able to claim Additional Statutory Paternity Pay (ASPP). The mother needs to have used up her KIT days before the father can claim ASPP.

After a period of APL an employee has the right to return to the same job on the same terms and conditions. If the job does not exist you need to provide other suitable work. If an employee wants to return to work earlier than planned, 6 weeks of notice are required.

Parental Leave

Employed parents with one year of service have the right to Parental Leave. Parental Leave is a separate entitlement to Maternity Leave, Paternity Leave and Additional Paternity Leave. The purpose of parental leave is to allow working parents additional time off to care for the child for example, spending more time together or settling the child in to new childcare.

Parental Leave is taken in blocks of one week, up to a maximum of 4 weeks per year and a total of 18 weeks per parent per child before the child's fifth birthday. In the case of a disabled child, leave can be taken as single days before the child's 18th birthday. It is not paid.

Parental Leave should be requested with 21 days of notice unless impractical e.g. when birth is premature. If the Parental Leave does not immediately follow a period of Maternity or Paternity Leave then an employer can require that the leave is postponed. Parental Leave can be postponed for up to 6 months if taking the leave would cause significant disruption to business. Leave cannot be postponed beyond the child's maximum age limit.

Flexible working

The term "Flexible Working" refers to an arrangement that changes where or when an employee works, or the number of hours worked. It can be temporary or on-going. It can be formalised in a change to an employment contract or be discretionary use within an agreed framework.

Your employee has a statutory "Right to Request" flexible working if they have been employed by you for 26 weeks and have a child under 17 (or a disabled child under 18 who gets Disability Living Allowance). You have a statutory duty to **seriously** consider it.

The way in which you agree a flexible approach to work will depend on the type of flexibility being considered and your organisation's policies. Your employee may not need to use a formal process to agree a flexible approach to work. For a formal request there is a statutory process which includes an obligatory time-line.

How to agree flexible working is described in chapter 8.

Non discrimination

You cannot discriminate against your employee or sack her for a reason connected with her pregnancy or suspected pregnancy. This would be considered unlawful sex discrimination.

Breastfeeding

If your employee intends to continue to express milk or breastfeed during her normal working hours then she must inform you in writing before returning to work.

You have an obligation under Health and Safety legislation to do a full risk assessment as described above, as well as, make reasonable adjustments to ensure she has **access to** a safe and comfortable environment to express milk, breastfeed or rest. You also need to ensure that she has **access to** a safe and hygienic place to store expressed milk, sterilising equipment or a breast pump. You must not refuse your employee access to training or prevent her returning to work because she is breastfeeding or expressing.

Emergency time off for a dependant

Employees are entitled to take a reasonable amount of time off for a dependant in an emergency, this includes:

- Making arrangements for the care of a dependant who is ill or injured.
- Making arrangements if there is an unexpected disruption in childcare.
- Dealing with an unexpected incident at school.
- Arranging or attending a funeral of a dependant.

There is no obligation to pay an employee if they take time off in an emergency. You cannot discipline an employee for taking reasonable time off in these circumstances. Your employee needs to tell you what is happening as soon as possible.

TIP:

Larger employers may provide access to a back-up childcare scheme. Smaller employers may have a list of back-up childcare providers that could help employees.

4. Emotional Intelligence and bias

As a manager it is your role to create the environment in which your employees can thrive in a way that enables your organisation to meet its goals and purpose.

The way in which you act to create this environment will be driven by your own unique set of values and needs as well as your learnt experiences. These form your unconscious biases.

The term unconscious bias refers to something that we have learnt so well that we no longer think about it consciously, like reading or riding a bike. Our ability to embed learning is core to our ability to adapt and survive. Recognising that biases are learnt is core to avoiding their pitfalls.

Concepts of work and family often tap into unconscious biases about gender roles or commitment to work.

Emotional Intelligence and bias ...

As you work with your employee to plan the transition through pregnancy, maternity leave and return to work you need to be aware of your own biases and how these can affect the way you interact with your employee and support her directly and indirectly. It may well be the case that your employee holds values that are different from your own.

Take some time now to consider your own biases. Use the questions below to focus.

- What is your ideal family?
 - a) I take the main or full responsibility for earning and my partner takes most or all responsibility for managing the house and nurturing our family
 - b) We equally share responsibility for earning and nurturing our family
 - c) I take the nurturing role and my partner has main or whole responsibility for earning.
- What is your attitude towards people who want to “have it all”, that is, a career and family?
- What are your assumptions about the commitment of part-time workers and/or mothers?
- How could these attitudes impact your thoughts and behaviours toward your employee?

Emotional Intelligence and bias ...

Expecting a baby is often an exciting time. However, it can be very normal for all expectant parents, both men and women, to experience an “emotional wobble”.

Allow your employee time to adjust to thought of their new responsibilities and consider all of their options carefully.

The leadership style you use with your employee will depend on their emotional state. For employees feeling uncertain or vulnerable the best form of leadership is often a combination of directive and supportive as well as being future focused. For an employee feeling confident and capable an appropriate style is more likely to be collaborative.

Listen to your employee and focus on flexing your style to match your employee’s emotional state.

Remember that nobody knows how they will react to being a parent until they are one. With good support you will retain a highly motivated and engaged employee.

5. Developing an Action Plan

Work with your employee to develop an action plan of key dates, identifying who needs to do what by when. There is a useful table of key dates in chapter 10 of this guide.

TIPS:

Your action plan should include:

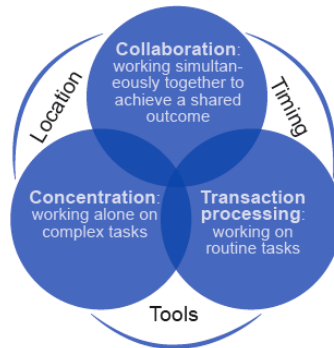
- ☐ Key dates, such as antenatal appointments (and who will provide cover if required), handover date(s), start date of maternity leave, potential keep in touch days, deadline for when to request flexible working, planned return date etc.
- ☐ Time to analyse the role and develop options for maternity cover.
- ☐ Handover details, including, when to explore options, time to develop detailed plan of who and when and then time to do the handover.
- ☐ Pay details such as when to determine entitlement to MA or SMP, the date by which payroll need to be informed, and if a performance review needs to be done prior to leave to ensure the correct pay increments or bonuses.
- ☐ Health and Safety assessment and review dates.
- ☐ When and how to tell other people at work.

Analysing your employee's role

A detailed understanding of what your employee does and who they interact with provides a solid foundation for planning maternity cover and also identify potential flexible solutions to reduce the stress of commuting later in pregnancy or flexibility around maternity appointments

The next couple of pages describe how to identify the activities and constraints in any role.

Every role is made up of three basic types of activity. Each activity will be constrained by time and location in different ways. Each activity may also depend on different tools.



Use the following exercise to identify activities that make up your employee's role. The most effective way is to ask your employee to keep a diary of what they do.

1. Use copies of the table on the next page or set up a spreadsheet with the same column headings.
2. Use this to keep a diary for a week or month.
3. When you have completed your diary add the following columns and categorise each row
 - (i) "Work type" is it "collaboration", "concentration" or "transaction"?
 - (ii) "Time dependency" is it required in "real time" or can it be done in "batches"?
4. If you have not used a spreadsheet, then transfer the data now into a spreadsheet. Sort by "Task description". Can any of the rows be added together? If so sum the durations and make a note in the Time/ date column to capture if this is done daily, weekly or monthly.
5. Sort by "Time dependency". Simplify by adding rows together where possible.
6. Sort by "Work type" and "Tools". Set up a column for "Location dependency" and note down if each task can be done remotely.
7. What patterns emerge? Are there logical chunks where you can split the role across other member of the team to provide maternity cover? Where can you work from home to reduce the stress of commuting later in pregnancy?

My diary

Time/ date	Task description	Key project/ stakeholder	Duration (hrs)	Other participants	Tools	Work type	Time dependency	Location dependency

"Work type" = "collaboration", "concentration" or "transaction". "Time dependency" = "real time" or "batch".
 "Location dependency" = "remote" or "on site"

Options for maternity cover

The plan for maternity cover should reflect its temporary nature.

The common options for maternity cover are:

- Temporary replacement with a single person. This could be a transfer from another part of the organisation, perhaps enabling a development move or it could mean recruitment of a temporary employee or contractor. Ensure that the temporary nature of this assignment is understood from the outset including the potential that your employee could return early from Maternity Leave.
- Reprioritisation of workload across the team and dispersal of responsibilities throughout the remaining team
- Postponement of activities. Usually suitable for project based roles.

The sooner you have this plan in place the easier it will be to communicate with stakeholders and develop a handover plan. It also helps to minimise the impact if your employee needs to start maternity leave earlier than planned.

Telling others at work

Maternity Leave is also a time of adjustment for your employee's colleagues and/or clients. The way in which they work might change as a result of her pregnancy, maternity leave and potential flexible working on return to work.

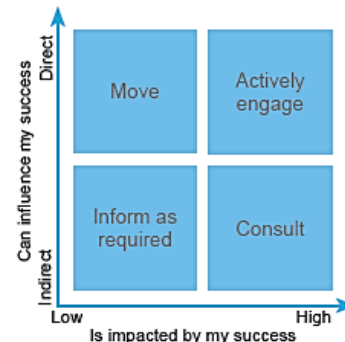
Work with your employee to plan when you will tell different people. Be willing to talk about concerns they may have about handover plans.

As well as the people that your employee works with directly there may be others who are influential in the success of her on-going career. The way in which she shares her news and handover plan can help to reinforce a positive and professional image.

Use the exercise on the next page to identify stakeholders that may be impacted by maternity leave and consider how you will keep them informed of plans for the handover

Identifying stakeholders

Who is it that will be impacted by this maternity leave? Who is it that will be influential in a smooth transition through maternity leave and your employee returning to work?



For each of the 'stakeholders' who have direct influence and/or are impacted by this maternity leave, identify how you can communicate in a way that will reinforce their confidence in you, your employee and your team to deliver what they need.

6. Handing over

Develop a handover timetable with your employee.

Use the job analysis tool in chapter 5 of this pocket guide to identify the activities that make up her role. For every activity in her role plan out who will take this responsibility, when you will do the handover and what knowledge and skills need to be transferred or key people to whom the person providing covers needs to be introduced.

The sooner you have this plan in place the easier it will be to get diary time with those taking on responsibilities.

Some women find it useful to complete a performance review before going on leave. It can help to ensure that the right pay increments or bonuses are paid. Failure to apply bonuses fairly could be discriminatory. A performance review can also provide a positive record of her achievements which can help to increase confidence when returning to work.

7. Keeping in touch

Employees who keep in touch with their colleagues, manager and employer find the process of returning to work easier than those who do not.

An employer is required to **offer** to inform their employee of changes at work, training opportunities and job vacancies while she is on leave. Agree a “keep in touch plan” with your employee for how this is done e.g. by phone call, email or letter.

Your employee is required legally to inform you if:

- The baby is born before the planned maternity leave start date.
- She plans to return to work before the end of her 52-week statutory entitlement (eight weeks formal notice is required).

Regular planned communication provides a heartbeat to maintain positive working relationships. Long periods of silence can lead to decay in the quality of relationships.

Keeping in touch continued....

An employee can also work for up to 10 days during Maternity Leave without bringing your leave to an end. These days are called “Keeping in Touch” or “KIT” days (see page 21)

There is no legal obligation on you or your employee to use KIT days. However they are a very useful way of keeping skills up to date, staying abreast of changes at work and/or phasing back to work.

If your employee is receiving Maternity Pay, then she continues to do so on a KIT day and you should top-up your Maternity Pay to a normal days pay. This can be a very useful way of supporting employees where your organisation is not able to provide Occupational Maternity Pay or provides very little.

TIP:

Keeping in touch with your employee whilst she is on Maternity Leave, and supporting her colleagues to keep in touch, will promote a successful return to work.

8. Preparing to return to work

Start preparing for your employee's return as soon as possible. Some processes can take a considerable amount of time. For example, it can take up to 14 weeks to sort out a flexible working arrangement.

Plan backwards from your employee's return to work date. There is a table of useful key dates in chapter 10 of this guide.

Flexible Working Options

The term “Flexible Working” refers to an arrangement that changes where or when your employee works, or the number of hours worked. It can be temporary or on-going and it can be an ad hoc arrangement or formalised in a change of employment contract.

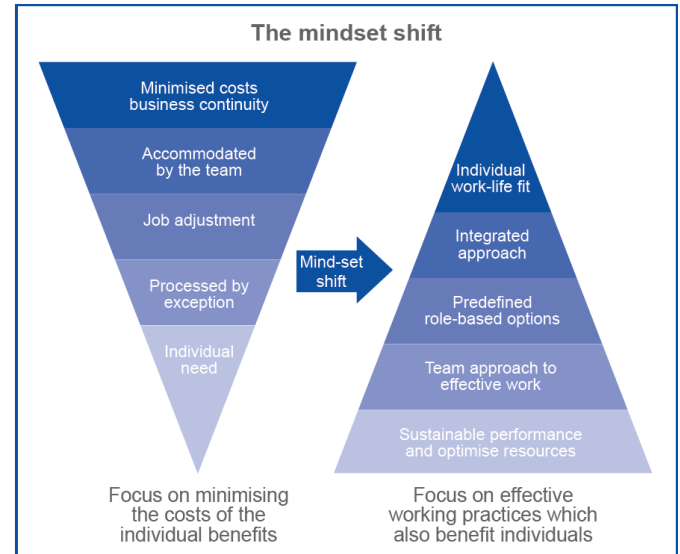
Flexible working options continued...

Flexible working allows employees to integrate different aspects of life and create a positive work-life-fit.

A flexible approach to work also has many benefits for an employer.

- The organisation retains skills and experience
- Keeps a successful team intact
- Saves time and money recruiting and training someone new.
- Potentially allows the organisation to cover a wider span of hours
- Lowers stress and the impact of personal issues on productivity

For flexible working to be successful it needs to be more than just a change in the rules that govern when and where work is done. It is a mindset shift which is based on an attitude of trust, respect and responsibility. It is a set of behaviours that are outcome focused, both on immediate outcomes and longer term goals.



Use the output of the job analysis exercise in chapter 5 of this guide and work with your employee to identify potential flexible working options that meet their needs and the needs of the organisation.

There are considerable benefits to taking a team approach to flexibility. More information can be found in the pocket guide for managers “Leading high performing, flexible teams”

Flexible working options continued...

The way in which you agree a flexible approach to work will depend on the type of flexibility you are considering and your organisation's policies e.g. you may be able to make an agreement directly with your employee or you may need to use a formal request process.

The most effective flexible working arrangements are developed collaboratively between employee and manager. A flexible working request should not be a surprise if you have kept an open dialogue with your employee.

For a formal request there is a statutory process which includes an obligatory time-line. A formal request can take up to 14 weeks to agree if there are appeals.

If you receive a formal request then you need to set up a meeting to discuss it within 28 days unless you are going to provide exactly what has been requested.

Following the meeting you must send a written decision within 14 days. The decision can be to agree, offer a compromise or refuse the request.

A request for flexible working can only be refused if one of these specific business reasons apply:

- Burden of additional costs.
- Detrimental effect on ability to meet customer demand.
- Inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- Detrimental impact on quality.
- Detrimental impact on performance.
- Insufficiency of work during the periods you propose to work.
- Planned structural changes.

If you are unable to agree a request for one of these business reasons, you should explain to your employee in writing the reason you are refusing the request and why it applies in this case. Your employee has 14 days from receiving your written decision in which to appeal. For further information on the time-line for appeals visit the Acas website www.acas.org.uk.

You should also consider any potential issues with discrimination if you refuse a request to a woman with childcare responsibilities. Indirect discrimination may arise because many more women than men work part-time and have primary childcare responsibility.

Creating a Back to Work plan

Use the original handover plan as a basis for a “Back to Work” plan. A useful option is to create a ‘phased return’ that refreshes your employee’s skills, rebuilds relationships and enables new arrangements at home and childcare to settle in.

The demands of the home are very different to the demands of the workplace. A phased return can help to rebuild confidence. A phase return can be created by using ‘Keeping-in-touch’ (KIT) days, accrued holidays or, a short-term period of flexible working. Maintain an open dialogue with your employee to agree the best option. Your organisation may provide financial support over and above pro-rated pay in order to support a phase return.

TIPS:

- A weekly review or update during the first month is useful to understand what is working well and where to make adjustment to improve performance and wellbeing.
- Agree a date for two to three months after your employee’s return to work to look at objectives.

Supporting psychological wellbeing

Any change in life has the potential to cause negative stress and your employee may feel a little less emotionally resilient than normal.

Allow her time to settle into a new routine. Help her pace herself with interesting work and the opportunity to catch up with colleagues and rebuild working relationships.

Statistically one in 10 mothers experience post-natal depression (PND) in the UK. PND is a mental illness and it can be classified as a disability under the Equality Act.

As an employer you have a duty of care towards your employee, even if you only suspect that your employee has PND and she has not formally told you. Ensure that there is clear and accessible information on where to get help.

With the right treatment your employee will recover from PND and this recovery will be faster in a supportive environment.

Breastfeeding

Some mothers choose to continue breastfeeding or expressing after they return to work. If your employee intends to continue to breastfeed or express during her normal working hours then she must inform her employer in writing before she returns to work.

You have a legal obligation under Health and Safety legislation to make reasonable adjustments to ensure your employee has access to a safe and comfortable environment. You are obliged to ensure somewhere safe and hygienic to store expressed milk, sterilising equipment and breast pump and to rest. For a small employer this could mean finding access to a suitable environment outside of the workplace.

You must not refuse access to training or prevent your employee returning to work because she is breastfeeding. This could be unlawful sex discrimination.

TIP: To avoid any potential feelings of embarrassment ensure that there is a clearly written and visible policy statement about breastfeeding.

9. Returning to work

Most women find that it takes a while to adjust on returning to work. The first few days can be a mix of emotions as your employee and her colleagues go through the handover and reintegration process and settle back into routine.

Make sure that you are there to greet your employee on their first day back and ready to bring them up to speed with changes in the workplace. The first day back sets the tone for how valued and motivated your employee will feel returning to work.

Checklist for returning to work

- ☐ Confirm access codes/keys to get into her place of work
- ☐ Confirm who will meet your employee on her first day back and brief her on any changes
- ☐ Mark your employees return to work with a welcome back card or something similar to demonstrate how she is valued.
- ☐ Confirm ids and access to computer systems
- ☐ Confirm access to a workstation if required
- ☐ Agree handover plan to resume responsibilities
- ☐ Arrangements in place to support breastfeeding or expressing if required

If Things Go Wrong

Should any problem arise with your employee during maternity leave or on return to work seek to understand the situation. Misunderstandings left to fester can easily escalate in to mistrust and hostility. Keeping in touch and maintaining an open dialogue can help to avoid conflict.

Occasionally there are employee relations issues brought about by the redeployment of maternity cover. Ensure those providing maternity cover understand the rights of the returning employee and that this is captured in a written agreement.

Occasionally an employee will not return to work at the end of maternity leave. If it is the employee's intention to resign then this should be done with the required notice period. If the employee is unwell then they should be transferred directly onto your sick pay scheme. If neither of these situations applies and discussion does not resolve the situation you may need to use a disciplinary process. Seek legal advice before you initiate a disciplinary process.

A successful return to work: you can make it work!

Nearly half those working in the UK are women. More than 80% will become mothers. There are an increasing number of women (and men) who successfully integrated a career and a hands-on parenting role.

The journey to parenthood is one of the biggest transitions in life. Yes there will be some bumps, but with good preparation, professionalism, emotional awareness and a proactive approach to you can retain a motivated and engaged employee.

For further information on how you can develop high performing flexible teams and promote engagement and positive work-life-fit visit the Working Families website www.workingfamilies.org.uk.

10.key dates

During Pregnancy	
Week 12	<ul style="list-style-type: none"> Your employee may tell you she is pregnant. Arrange a Health and Safety risk assessment Familiarise yourself with your employees rights, your obligations and your organisations practices and policies. Book a meeting with your employee to start to develop an action plan. Work with your employee to analyse her role. Consider options for maternity cover Plan how you will tell colleagues, clients and other stakeholders. Consider your own values and beliefs about work and family. Identify how these may affect the way you support your employee.
Week 18	<ul style="list-style-type: none"> The average earnings on which Statutory Maternity Pay (SMP) are based are calculated over the next 8 weeks. If you haven't started to develop an action plan for handover, keeping in touch and returning to work then start now!
Week 20	<ul style="list-style-type: none"> MAT B1 certificate is available from now. Your employee may provide written notice of intention to take maternity leave and claim SMP. You need to acknowledge within 28 days and confirm either entitlement to SMP or issue SMP1 and confirm leave start and end dates.

During Pregnancy	
Week 24	<ul style="list-style-type: none"> If the baby is still born after the end of week 24 then maternity rights apply in the same way as for a live birth. Antenatal appointment frequency may increase as pregnancy progresses. You cannot reasonably refuse paid time off for antenatal care.
Week 25	<ul style="list-style-type: none"> Employee needs to provide notice of intention to take maternity leave and pay by the end of the 15th week before the expected week of childbirth (approximately week 26) If an employee is not entitled to SMP you must issue an SMP1. Advise your employee to apply for Maternity Allowance or Employment and Support Allowance from Job Centre Plus The mother's partner / the baby's father needs to provide notice to their employer of intention to take Ordinary Paternity Leave if entitled.
Week 29	<ul style="list-style-type: none"> Maternity Leave and Pay earliest start date (11 weeks before EWC)
Week 36 onwards	<ul style="list-style-type: none"> Final preparation and handovers. Finalise your "Keeping in Touch" plan. If your employee is absent from work for a pregnancy-related reason in the last 4 weeks you can start her Maternity Leave and Pay earlier than planned.
Actual week of childbirth	<ul style="list-style-type: none"> Maternity Leave must start the day after the baby is born, if it has not already started. Your employee needs to inform you that the baby has been born.

After the baby is born

Week 2	<ul style="list-style-type: none"> Compulsory maternity leave is 2 weeks following birth (4 if you work in a factory).
Week 6	<ul style="list-style-type: none"> Employee may formally apply for flexible working if her partner is taking Additional Paternity Leave when your baby is 20 weeks old. (It can take up to 14 weeks for a formal flexible working request to be agreed). Implement your “Keeping in Touch” plan. Your employee can work up to 10 KIT days without bringing her maternity leave to an end. If she wishes to return to work before her full 52 weeks, then currently the 10 KIT days need to be worked before maternity leave is brought to an end.
Week 11	<ul style="list-style-type: none"> Suggest your employee catches up with colleagues if she hasn't already done so. Your employee may notify you of intention to return to work if her partner is taking APL from week 20 (8 weeks of notice are required). The partner of your employee also needs to inform their employer as 8 weeks of notice are required for this also. Your employee may formally apply now for flexible working if she is returning to work at the end of Ordinary Maternity Leave. It can take up to 14 weeks to agree. A good time to encourage your employee to start exploring a back to work plan including any phase back and KIT days.
Week 20	<ul style="list-style-type: none"> The earliest point from which the baby's father may take Additional Paternity Leave if the baby's mother has ended her Maternity Leave (having worked 10 KIT days).

After the baby is born

Week 49	<ul style="list-style-type: none"> Your employee may give notice of intention to take Parental Leave at the end of Additional Maternity Leave (21 days of notice are required).
Week 52	<ul style="list-style-type: none"> Last week of Additional Maternity Leave if your employee has not already returned to work. If she wants to return to work sooner than this, she must give 8 weeks of notice in writing of her return date. She has the right to return to the same job. If she is ill at the end of Additional Maternity Leave then your normal sickness procedure applies. It is quite common for an employee to use her accrued holiday at the end of her maternity leave.

After returning to work

Week 1	<ul style="list-style-type: none"> Your employee's official return to work date is when your maternity leave ends, although she may have done up to 10 KIT days of work prior to this. Implement the handover plan Book a date for 2-3 months after return in order to discuss objectives and career aspirations.
Week 12	<ul style="list-style-type: none"> Review what is working and well and what needs to be adjusted. (Weekly conversations prior to this can help to avoid surprises).

11. Useful Contacts

HMRC

Forms, calculators and procedures for statutory payments such as SMP
www.hmrc.gov.uk
Helpline 08457 143 143

Business Link

Information on setting up and running a business
www.gov.uk
Helpline 0845 600 9006

ACAS

Promoting good employee relations
www.acas.org.uk
Helpline 08457 474747

CIPD

A range of resources for employers, some of which are free to non-members.
www.cipd.co.uk

XpertHR

A range of resources for employers, some of which are free to non-members.
www.xperthr.co.uk

Working Families

For help combining work and family including advice on benefits and rights
www.workingfamilies.org.uk

Health & Safety Executive
Working to prevent death, injury and ill health to those at work and those affected by work activities.
www.hse.gov.uk

Equality and Human Rights Commission

The commission provides advice and guidance on implementing the equalities act
www.equalityhumanrights.com

Citizens Advice

Helping to solve legal, money and other problems through free, confidential advice
www.citizensadvice.org.uk
Helpline Wales 08444 772020
Helpline England 08444 111 445

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A Pocket Guide for Managers

Pregnancy, maternity leave and a successful return to work

This practical pocket guide provides an essential toolkit for managers to create a smooth transition through pregnancy, maternity leave and a successful return to work.

Working Families is the UK's leading work-life organisation providing legal advice to employees and practical, evidence-based support to organisations and policy makers.

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