



What to do when you find out an employee is pregnant

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An employee has just told you she is pregnant. You already know that employees have the right to take maternity leave and to return to the same job, but what happens in the months leading up to the employee's departure? There are certain protocols to follow, and obligations required of both employee and employer. Effective management from the start will benefit you and your employee in the run up to maternity leave.

Policy

It's a good idea to have a pregnancy and maternity policy in place that is easily accessible for all staff. This will help both parties understand what they need to do. A

template maternity and parental leave policy is available in BDA Expert.

Notification requirements

By the end of the 15th week before the baby is due, an employee is required to inform you of the following:

- The fact that she is pregnant;
- The expected week of childbirth; and
- The date she intends to start her maternity leave.

You should ask your employee to confirm everything in writing if she has not already done so. An employee does not need to tell you she is pregnant before this, but it is in her interests to inform you earlier if possible. Otherwise, she will not be entitled to benefit from the wide protections available to pregnant employees until she notifies you.

Once an employee has notified you of the date that she wishes to start her maternity

leave, you have 28 days to respond in writing to acknowledge receipt. You should confirm when her maternity leave will end and assume that this will be 52 weeks from the start date she has given you. Employees can always change this return date at a later stage but must give you 8 weeks' notice first. Everything should be confirmed in writing, but it would be advisable to sit down with the employee and discuss everything face-to-face, particularly if the employee is not sure when she wants her maternity leave to start. A maternity leave template is available to Expert members.

Your employee may subsequently decide that she wants to change the start date of her maternity leave. If so, she must give you at least 28 days' notice before the date she originally intended to start her leave or 28 days' notice before the new date, whichever is the earlier. If the employee has a good reason for failing to comply with this notice period, she can give a shorter notice period.

Common sense should be used and notice periods should not be strictly enforced if the practice can easily accommodate the employee's request.

If your employee wishes to claim statutory maternity pay, she must provide you with a copy of her MAT B1 Certificate. This is a certificate from a doctor or midwife confirming the expected week of childbirth. You should ask for a copy before the employee starts her maternity leave.

Time off for ante-natal care

All pregnant employees have a statutory right to reasonable time off during working hours for ante-natal care. This right applies to all employees regardless of hours worked or how long they have worked for you. Employees are entitled to pay during the period of time off and should be paid their normal rate of pay.

Ante-natal care includes the usual GP and midwife appointments and hospital visits for scans provided that these are recommended by a registered medical practitioner, registered midwife or registered health visitor. It may include relaxation classes and parentcraft classes too, if these have also been recommended. As a very rough guide, a woman will attend approximately seven antenatal care appointments throughout her pregnancy. If it is her first child, this increases to 10 appointments. All pregnancies vary however, and some women will require more ante-natal care if there are health-problems.

The employee should inform you of the date and time of the appointment. Reasonable notice should be given. If the employee gives very short notice for an appointment, it may be reasonable for you to refuse a request for time off, if the appointment is non-urgent. You are entitled to ask for evidence of ante-natal appointments, except for the first appointment.

It is generally accepted that travel to and from the appointment is included in the right to take time off. Requests should be met wherever possible. It may be reasonable to ask that an employee arrange appointments outside of normal working hours to minimise their absence from the practice, for example if they work part-time. Employers should be aware though that often employees do not have control over the timing of the appointment.

Employers should not ask employees to make up the time at a later date. If you

unreasonably refuse a request for time-off for ante-natal care, or refuse to pay for the time-off, an employee may bring a tribunal claim. If you lose, you will be ordered to pay the employee compensation, which will be the amount of pay the employee would have been entitled to if she had taken time off. An unreasonable refusal to grant time off for ante-care may also amount to pregnancy and maternity discrimination for which compensation is unlimited.

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Maternity leave and Statutory Maternity Pay

Employees can choose to start their maternity leave any time from the beginning of the 11th week before their due date until the week of the birth. It may start earlier if they suffer a pregnancy-related illness within a month of their due date or if the baby is born earlier than expected, in which case leave starts the day after the baby is born. Employers cannot specify the date on which leave will start.

Coronavirus and risk assessments

Employers have a duty to protect the health and safety of their employees and special obligations apply when staff become pregnant. Please note that the following information is based on the current available government advice as at the date of writing.

Once a staff member has notified you in writing that she is pregnant, you must undertake a workplace risk assessment as soon as possible. You should regularly review the risk assessment as the employee's pregnancy develops or if the workplace or work conditions change. A number of risk assessments are available in BDA Expert and differentiate between clinical and non-clinical roles.

If the practice follows correct procedures, we understand that the dental environment is a safe one and

that pregnant members of the dental team can continue to work safely. We now have established Standard Operating Procedures and a good supply of PPE which gives members of the dental team substantial protection against catching coronavirus.

As would be expected, managers and other team members must be mindful of colleagues who are pregnant. The following of all practice policies (such as wearing the correct PPE, hand washing and social distancing) to avoid transmission of the virus between team members is essential. Masks should be worn throughout the practice in staff rooms and other non-clinical areas where other staff are around.

The government currently advise that if you are 26 weeks pregnant and beyond, or if you are pregnant and have an underlying health condition that puts you at a greater risk of severe illness from COVID-19 at any gestation, you should take a more precautionary approach. This is because although you are at no more risk of contracting the virus than any other non-pregnant person who is in similar health, you have an increased risk of becoming severely ill and of pre-term birth if you contract COVID-19.

Employers must ensure team members are able to adhere to any active national guidance on social distancing and/or advice for pregnant women considered to be clinically extremely vulnerable (this group may previously have been advised to shield). For many workers, this may require working flexibly from home in a different capacity. All employers should consider both how to redeploy these staff and how to maximise the potential for homeworking, wherever possible. Where adjustments to the work environment and role are not possible, then alternative work should be found. If it cannot be found, they should be suspended on paid leave.

Pregnant workers should continue working only if the risk assessment advises it is safe to do so after suitable control measures have been put in place. Pregnant workers should be involved in the risk assessment process and be satisfied that their continued working in the area does not put them or their baby at risk. ♦

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