

Policy Circular

Document No 01/07

Owner: Strategy & Communications Directorate

Subject: Statutory Maternity Leave and Pay

Version: 2 of 2

Last Amended: 3 June 2010

Date Reviewed: 3 June 2010

Next Review: June 2012

1.0 Background

1.1 Maternity Leave

There are two types of Statutory Maternity leave available to a woman who gives birth to a baby. **Ordinary Maternity Leave (OML)** which is available for the first 26 weeks and **Additional Maternity Leave (AML)** which is available for a further 26 weeks.

OML and AML are available regardless of how long a person has worked for their employer providing they notify the employer of their intention to take leave at least 15 weeks before the baby is due.

1.2 Maternity Pay

In order to qualify for Statutory Maternity Pay a person must have been working for their employer for 26 weeks into the 15th week before their baby is due.

They must be earning above the Lower Earnings Limit (LEL) and making NI contributions. If an employee does not satisfy these

Independent Living Fund

Equinox House, Island Business Quarter, City Link, Nottingham NG2 4LA

Tel: 0845 601 8815 or 0115 945 0700, Fax: 0115 945 0945, Textphone: 0845 601 8816

Email: funds@ilf.org.uk, Website: www.dwp.gov.uk/ilf

The Independent Living Fund is an Executive Non-Departmental Public Body of the Department for Work and Pensions

qualifying conditions they may be able to apply for Maternity Allowance. This can be applied for through Jobcentreplus and social security offices.

Maternity payments are subject to tax and NI deductions.

SMP can be paid for a period of 39 weeks. Where maternity leave is taken for an additional 13 weeks statutory maternity pay is not available for this period.

1.3 Claiming SMP back

Small businesses where the National Insurance Contributions (NIC) are £45,000 or less in the relevant tax year, can recover 104.5 % of SMP payments made in the same tax month from HMRC. For 2010-11 this is made up of:

- 100% of the SMP
- 4.5% of the SMP - this is an additional amount as compensation for the employer's NIC paid on the SMP

Larger businesses where the NIC is more than £45,000 in the relevant tax year, can recover 92% of the total of all payments of SMP made in the same tax month.

1.4 Advances

Employers are able to offset any monies required for SMP payments against any payments that are due to be made to the Inland Revenue. If the amount they need to pay in SMP exceeds the Tax and NI due the employer may apply to the Inland Revenue for the additional funding.

2.0 Policy

In practice all ILF Users who directly employ personal assistants will fall into the category of small business employers (i.e. having an NI contribution of less than £45,000 per year) and will therefore be able to reclaim from the Inland Revenue the full amount of any maternity pay due to be paid to an employee.

In appropriate circumstances an advance is available from the HMRC to whom any further queries should be addressed. ILF will make no contribution to these statutory payments or to any other (contractual) payments that a client may have agreed to make.

ILF monies may be used to pay for replacement care that is provided while the usual PA is on Maternity leave and any associated employer on-costs for the replacement PA.

An individual still accrues annual leave entitlements during periods of maternity leave. The ILF can meet the costs of annual leave for a PA who is taking maternity leave assuming to do so would not take the award above the ILF maximum.

3.0 Procedure

Where information is sought regarding the ILF approach to maternity pay Users should be informed of the above policy.

ILF staff should not act as advisers on maternity pay matters, Clients should be advised to contact HMRC for full advice and relevant documentation.

4.0 Source

Equal opportunities commission website
Trustees Meeting/Away day December 2004
Trustees meeting 13 September 2006
DTI, HMRC and Working Families Websites
Directgov Website

5.0 Cross References

Statutory Sick Pay policy
Statutory Adoption Leave and Pay policy
Statutory Paternity Leave and Pay policy

6.0 History Date Reviewed

19 September 2007
3 June 2010

Equality Impact Assessment

Screening Template

This preliminary impact assessment form is to help you screen your policy, project, function or new service. It should help you consider whether a full Equality Impact Assessment is required by looking at whether there is a potential negative or positive impact on any of the equality groups, if there is an opportunity to promote equality, and whether further data is needed.

Title of policy, project, function or service:

Statutory Maternity leave and pay

Short description of aims and objectives

The Policy offers guidance to staff as to how to deal with queries regarding maternity pay and leave

Thinking about each group below, does (or could) the policy, project, service or function have an impact on members of each equality group? If so, how?

| Equality Group | Yes – negatively | Yes – positively | Unclear | No impact |
|-----------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| Age | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Disability | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Race | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Gender | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Transgender | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Sexual orientation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Religion or belief | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Socio-economic groups | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

What information or research has been considered in judging these impacts?

This document merely confirms the statutory entitlements of maternity leave and pay and that the ILF will not contribute towards these costs as the monies can be re-claimed from National Insurance contributions that have been made.

You should consider a full Equality Impact Assessment (EIA) if:

- (a) you feel one or more equality groups will be negatively impacted by the policy, project or service, or
- (b) there is an opportunity to promote equality and eradicate discrimination.

You may also consider further research if it is unclear, at this stage, what the impact may be.

Based on your findings, is a full EIA required?

Yes

No

Please provide a short summary of your decision-making below:

This policy document merely states requirements of statutory maternity leave and pay as set the government. The ILF does not make this policy.

Notes:

- The completed EIA Screening Template should be sent to Jon Duckworth, User Liaison Manager for approval by the Equality Impact Assessment Board (EIAB).
- We will contact you with any comments or queries about the completed form.

**This form was
completed by:**

Helen Sanderson