



## **ANDERIDA ADOLESCENT CARE**

### **MATERNITY, PATERNITY AND ADOPTION POLICY**

Anderida celebrate the pregnancies and arrival of the children of their employees, it is vitally important that the pregnant woman is safe throughout her pregnancy as well as at the same time being aware of the role, they hold in safeguarding vulnerable young people. On informing Anderida, staff will be required to undertake a comprehensive risk assessment with their supervisor, they will consider and address such issues as:

- Specific risk factors of the individual young people supported
  - Levels of violence within the home they are core teamed at
  - Necessity for restraint
  - Insensitivity of the young people's own difficult family circumstances
  - Physical and emotional impact of pregnancy
  - Capability for driving
- (This list is not exhaustive)

**Anderida employees are entitled to Statutory Maternity rights, these are as follows:**

#### **MATERNITY RIGHTS**

- ✓ Premature or sick babies.
- ✓ Receiving maternity pay.
- ✓ Attending antenatal appointments.
- ✓ Health and safety considerations while pregnant.
- ✓ Agency workers' rights.
- ✓ Employment rights during maternity leave.
- ✓ Returning to work after a period of maternity leave.
- ✓ Unfair treatment due to being pregnant or taking maternity leave.

#### **WHAT IS MATERNITY LEAVE?**

Pregnant employees have the right to 52 weeks maternity leave, they do not have to take this in full but must take a minimum of 2 weeks. The first 26 weeks are known as ordinary maternity leave, and the second 26 weeks as additional maternity leave.

**While there is no minimum length of service required to take maternity leave, a pregnant employee must tell their employer at least 15 weeks before the baby is due:**

- That they are pregnant.
- When the expected week of childbirth is (an employer can request a medical certificate that confirms this).
- The date they intend to start maternity leave. This can normally be any date which is no earlier than the beginning of the 11th week before the baby is due. (Also, see the section- Premature and sick babies).

If the employee wants to change the start date of their maternity leave, they must mutually agree a new date.

After receiving confirmation that the employee is pregnant, an employer must write to them within 28 days setting out her return date. The employer at this point should assume the employee is going to take 52 weeks' leave.

If, in the four weeks before baby is due, the employee is off work with a pregnancy-related illness, maternity leave automatically begins on the following day.

### **PREMATURE OR SICK BABIES**

If the baby arrives early, maternity leave will automatically start on the day after the birth.

If the baby is stillborn after the twenty fourth week of pregnancy or if the baby is born alive at any point (even if the baby later passes away) the employee is entitled to full maternity rights.

When a baby is born prematurely or with health needs, an employee may not want to be thinking about work. An employer should offer appropriate Workplace support for parents with premature or sick babies in these circumstances.

### **RECEIVING MATERNITY PAY**

A pregnant staff member will be entitled to Statutory Maternity Pay (SMP) - this will be payable if the employee has:

- Worked continuously for one company for at least 26 weeks ending with the 15th week before the expected week of childbirth.
- Average weekly earnings at least equal to the lower earnings limit for National Insurance contributions.

SMP is payable for 39 weeks. For the first six weeks it is paid at 90 percent of the average weekly earnings, calculated over the previous 17 weeks. The following 33 weeks will be paid at the SMP rate or 90 per cent of the average weekly earnings, whichever is lower.

Since April 2020, the rate for SMP has been **£151.20 per week**. The amount is reviewed every April.

For more information on qualification for SMP, go to GOV.UK - Maternity, Adoption and paternity calculator for employers.

## **ATTENDING ANTENATAL APPOINTMENTS**

All pregnant employees are entitled to reasonable time off with pay for antenatal appointments made on the advice of a registered medical practitioner. This may include relaxation classes and parent-craft classes. After the first appointment, an employer may ask an employee to provide an appointment card or other documents that show an appointment has been made.

An expectant father or partner of a pregnant woman has the right to take time off work to go to two antenatal appointments. This time off is usually unpaid and is limited to six and a half hours per appointment.

*(This will mostly be accommodated through the staff members rota, but where possible they are asked to make arrangements outside of this as most have 4/5 days off per week)*

## **HEALTH AND SAFETY CONSIDERATIONS WHILE PREGNANT**

An employer must consider any specific workplace risks in its general risk assessment for an employee.

*(See above re: pregnancy risk assessments)*

## **PREGNANCY-RELATED ILLNESS**

If an employee is unable to attend work due to a pregnancy-related illness, they should report in sick in the usual way. An employer should record these absences but keep them separate to any other sickness absences. Pregnancy-related absence must not count towards any review points or trigger points an employer may have in its absence policy.

There is no automatic right to be paid in full for a pregnancy-related absence. An employee should be paid whatever they would usually be paid if they were absent from work due to sickness.

*(Anderida will continue to record through the 'traffic light' absence procedure to monitor and identify potential support or changes to the risk assessment)*

## **EMPLOYMENT RIGHTS DURING MATERNITY LEAVE**

During maternity leave, the employee is entitled to benefit from all their usual terms and conditions of employment, except for remuneration (monetary wages or salary), although they may be entitled to receive maternity pay.

An employee on maternity leave should be kept up to date with anything that is happening within the workplace. This should usually include, but is not limited to:

- Promotion opportunities
- Changes at work
- Social events

How the employee is kept up to date should be agreed between the employee and employer before the maternity leave begins.

### **KIT - KEEPING IN TOUCH DAYS**

An employee and an employer can agree to up to ten KIT days (keeping in touch days) throughout the period of maternity leave. These are optional days which can be worked, for the employee to remain in contact with their workplace.

The type of work done and the payment for this work should be agreed between the employer and employee beforehand.

If an employee works more than ten keeping in touch days, then their maternity leave and pay will automatically come to an end.

There is no obligation on an employer to offer KIT days or for an employee to agree to them.

KIT days could be used in situations where it would be beneficial for the employee to attend a work-related activity. For example, a training session or a team meeting. Alternatively, KIT days could be used to work part of a week, which could help the employee return to their role in a gradual way.

### **ANNUAL LEAVE**

An employee continues to accrue all of their paid annual leave while on maternity leave. An employer must ensure that an employee is able to take all their annual leave at some point.

An employer and employee could agree that annual leave can be taken before the maternity leave starts or after it comes to an end. It is important to note that annual leave cannot be taken at the same time as maternity leave.

### **REDUNDANCY**

If a redundancy situation arises, the employee on maternity leave must be offered a suitable alternative vacancy if one is available. If there is no suitable alternative work, the employee can be made redundant.

#### **However, it is essential that:**

- The pregnancy or maternity is not a reason for redundancy.
- The redundancy is genuine.
- Redundancy procedures have been followed fairly.
- Redeployment has been considered.
- If a redundancy situation arises an employee on maternity leave must be consulted along with all other staff. An employer must ensure that the person is not put at a disadvantage for being pregnant or on maternity leave.

If an employee on maternity leave is selected for redundancy, the employer should then consider whether it has any suitable alternative vacancies and, if it does, these should be offered to the person on maternity leave before any other employee.

## **RETURNING TO WORK AFTER MATERNITY LEAVE**

At the end of maternity leave, the employee will usually return to their original job but there are some factors to take into account.

If an employee takes maternity leave for six months or less, they have the right to return to their job on the same terms and conditions as before they left, if the job still exists and depending on how their employment contract defines 'the job'.

If an employee takes maternity leave for more than six months, they still have the right to return to their old job - however, if it is not reasonably practicable to do so, they can be offered a similar job where terms and conditions must be as good.

If an employee wants to return to work before taking their full maternity entitlement, they should inform their employer of their intentions at least eight weeks before the date they intend to return.

If an employee wants to amend their hours or duties on their return from maternity leave, they have the right to make a flexible working request. For more information, go to our page on Flexible Working Requests.

## **UNFAIR TREATMENT DUE TO BEING PREGNANT OR TAKING MATERNITY LEAVE**

An employee has the right not to be treated unfavourably because they are either pregnant or on maternity leave.

If an employee feels they are being treated unfavourably, they should first consider raising the issue informally. Some issues can be resolved quickly through a conversation with a line manager or other appropriate person within the business.

If an informal approach does not work an employee has the option of raising a formal complaint (also known as a grievance). This should be done in writing and can make the employer aware of how strongly the employee feels about the situation, while also giving the employer the opportunity to resolve it.

As a last resort the employee could consider making a complaint to an employment tribunal. There is generally a three-month time limit for bringing a claim to a tribunal. However, this time limit can pause if Early Conciliation is taking place. For more information, go to Employment Tribunals.

## **FURTHER INFORMATION**

- Other Sites
- GOV.UK - Maternity Allowance
- GOV.UK - Statutory Maternity Pay and Leave: employer guide

## **PATERNITY LEAVE**

What is paternity leave?

Paternity leave is a period of either one or two consecutive weeks that fathers or partners can take off from work to care for their baby or child.

**It is available to employees who:**

- Have or expect to have responsibility for the child's upbringing.
- Are they the biological father of the child, the mother's husband or partner (including same sex relationships) or the partner of the primary adopter.
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due, or the end of the week in which the child's adopter is notified of being matched with the child (UK adoption), or the date the child enters the UK (overseas adoptions).

## **TAKING PATERNITY LEAVE**

### **Births**

An employee must inform their employer no later than the end of the 15th week before the expected week of childbirth that they wish to take paternity leave. They should say when the baby is due, if they're going to take one or two weeks off, and when they expect their paternity leave to start.

- An employee can choose for their leave to begin on:
  - The day the baby is born.
  - A certain number of days after the baby is born.
  - A specific date which is not earlier than when the baby is due.
- Paternity leave cannot start before the baby is born and the baby may not arrive on time. An employer should therefore be prepared to be flexible with cover arrangements for employees planning to take paternity leave.

Employees will need to complete their paternity leave within 56 days of the actual date of birth of the child.

## **SHARED PARENTAL LEAVE**

Shared Parental Leave (SPL) enables eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could involve returning to work for part of the time and then resuming leave at a later date.

## **HOW SHARED PARENTAL LEAVE WORKS**

Shared Parental Leave can give parents more flexibility in how they share the care of their child in the first year following birth or adoption.

Parents can share up to 50 weeks of leave and up to 37 weeks of pay and choose to take the leave and pay in a more flexible way (each parent can take up to 3 blocks of leave, more if their employer allows, interspersed with periods of work).

Eligible parents can be off work together for up to 6 months or alternatively stagger their leave and pay so that one of them is always at home with their baby in the first year.

### **WHO CAN APPLY FOR SHARED PARENTAL LEAVE?**

To trigger the right to SPL for one or both parents, the mother/adopter must:

Have a partner

Be entitled to:

- ✓ Maternity/adoption leave
- ✓ To statutory maternity/adoption pay

#### **A parent who intends to take SPL must:**

- Be an employee.
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
- Have properly notified their employer of their entitlement and have provided the necessary declarations and evidence.
- In addition, a parent wanting to take SPL is required to satisfy the 'continuity of employment test' and their partner must meet the 'employment and earnings test'.

### **CONTINUITY OF EMPLOYMENT TEST**

The individual has worked for the same employer for at least 26 weeks at the end of the 15th week before the child's expected due date/matching and is still working for the employer at the start of each leave period.

### **EMPLOYMENT AND EARNINGS TEST**

In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 a week in any 13 weeks.

If both parents are employees and meet the qualifying requirements, then there will be a joint entitlement. The parents will have to decide how to divide the leave entitlement once the mother/adopter has decided to curtail their maternity/ adoption leave.

### **SHARED PARENTAL PAY**

From April 2020, Statutory Shared Parental Pay is paid at £151.20 or 90% of an employee's average weekly earnings (whichever is lower).

To qualify for Statutory Shared Parental Pay, a parent must pass the continuity of employment test and have earned an average salary of the lower earnings limit of £116 for the 8 weeks' prior to the 15th

week before the expected due date or matching date. The other parent in the family must meet the employment and earnings test.

### **HOW TO APPLY FOR LEAVE AND PAY**

Having an early and informal discussion can provide an opportunity for both the employee and employer to talk about their preference regarding when Shared Parental Leave is taken.

It can also be an opportunity to discuss when any discontinuous leave can be best accommodated if appropriate.

If an employee wishes to take Shared Parental Leave, they must notify their employer of their entitlement at least eight weeks before the start of any Shared Parental Leave starts.

If a parent asks for a continuous block of leave, the employer is required to agree to it. However, where the notification is for discontinuous blocks of leave the employer can refuse and require that the total weeks of leave in the notice be taken in a single continuous block. It is therefore beneficial for the employee and employer to discuss and attempt to agree a way in which the different blocks of leave can be taken.

There is no established statutory requirement to mirror occupational maternity schemes when a Shared Parental Leave scheme is established. The important thing is that within a Shared Parental Leave scheme, men and women are treated equally and paid at the same rate in the same circumstances.

### **ADOPTION LEAVE**

Qualifying employees who have been matched with a child may take up to 52 weeks adoption leave and may be entitled to 39 weeks of statutory adoption pay. If a couple jointly adopt a child, one may take adoption leave and the other parent may be able to take paternity leave or shared parental leave.

### **KEY POINTS**

The main adopter will be able to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments.

Adoption leave is a "day one" right there is no qualifying period.

Statutory Adoption Pay - the first six weeks will be paid at 90% of the employee's normal earnings.

Some surrogate parents will become eligible for adoption leave.

#### **Adoption leave may be taken:**

- When a child starts living with the employee or up to 14 days before the placement date (UK adoptions).
- When an employee has been matched with a child by a UK adoption agency.
- When the child arrives in the UK or within 28 days (overseas adoption).
- The partner of an individual who adopts, or the secondary adopter if a couple are adopting jointly may be entitled to paternity leave and pay or shared parental leave.

Employees must give their employer documentary proof to show that they have the right to paid Statutory Adoption Leave. This is usually a matching certificate from the adoption agency. The adoption agency must be recognised in the UK.

**Statutory adoption leave can start either:**

From the date the child starts living with the employee

Up to 14 days before the date the child is expected to start living with the employee.

Employees should tell the employer within seven days of being told that they have been matched with a child, if this is not possible, they must tell the employer as soon as possible.

Employees who request or take adoption leave are protected against suffering a detriment or unfair dismissal. They have a right to return to the same job after 26 weeks adoption leave and after 52 weeks a suitable alternative job must be found.

**STATUTORY ADOPTION PAY**

Since April 2020, the rate of statutory adoption pay has been £151.20 per week. For the first six weeks the employee will be entitled to 90% of their normal earnings. The following 33 weeks will be paid at the statutory adoption pay rate. Some employers may offer to pay more than this - if they do it may form part of the terms and conditions of the employment contract.

**KEEP IN TOUCH DAY**

Both parties should agree when and how the employer will keep in contact, this may be via email, telephone contact etc. Employees should also agree with their employer if they will work the "keeping in touch" days, these can be used for training days, team events etc.

Up to ten keeping in touch days can be worked, and there is no provision for these days to be paid, this should be agreed between employee and employer. Statutory Adoption Pay may be paid, or this may be off set against any contractual pay agreed.