



HANDLING STATUTORY MATERNITY LEAVE AND STATUTORY MATERNITY PAY

Brian Butler, Health & Safety and Employment Adviser for GCMA, gives guidance about the critical actions for the golf club manager and the pregnant employee.

As the Golf Club Manager, the first thing you need to do is to have an early meeting with the employee. It is a time for congratulations and a discussion on the maternity rights of the employee and the eligibility criteria that determine which rights she will enjoy before, during and after her pregnancy. These rights include:

1 Statutory Maternity Leave (SML)

Since April 2007, maternity leave has been extended to 52 weeks for all employees, regardless of length of service. This, of course, means employees who may have only just started with a club could go off on maternity leave for up to a year.

The 52 week period is divided into two parts, known as Ordinary Maternity Leave (OML) covering the first 26 weeks and Additional Maternity Leave (AML) being the next 26 weeks. Maternity leave employees have different contractual rights according to which period of leave they find themselves in. For example, for the period of OML, employees are entitled to the terms and conditions as if they were not absent, with the exception of remuneration. Employees, therefore, will receive their full holiday entitlement during OML.

On the other hand, for the AML period limited contractual terms apply and employees are only entitled to the minimum holiday entitlement under the Working Time Regulations, which is 4 weeks of annual leave. Clubs are free to allow employees to accrue their full holiday entitlement.

2 Statutory Maternity Pay (SMP)

An employee needs to have 26 weeks' service by the end of the 15th week before the expected week of childbirth to qualify for the payment.

The SMP period has increased to 39 weeks and can start on any day of the week, with the first 6 weeks paid at 90% of average weekly earnings.

For the next 33 weeks the employee is paid the lower of:

- ☞ £138.18 or
- ☞ 90% of average weekly earnings

3 Maternity Allowance

The employee may be eligible if:

- ☞ She has been employed and/or self-employed for at least 26 weeks in her 'test period' (66 weeks up to and including the week before the week her baby is due). Part weeks count as full weeks; and
- ☞ She has earned £30 a week averaged over any 13 weeks in her test period
- ☞ Maternity Allowance pays a standard weekly rate of £138.18 or 90% of the employee's average gross weekly earnings (before tax), whichever is the smaller
- ☞ MA is paid for a maximum period of 39 weeks

4 Time off for antenatal care

All pregnant employees, however long they have been in their jobs, are entitled to reasonable time off work for antenatal care. Any time off must be paid at the employee's normal rate of pay. It is unlawful to refuse to give the employee reasonable time off for antenatal care or to pay at her normal rate of pay.

The club can ask for evidence of antenatal appointments from the second appointment onwards. If asked, the employee should show you a medical certificate and an appointment card or some other written evidence of her appointment.

Antenatal care may include relaxation or parent craft classes as well as medical examinations, if these are recommended by the employee's doctor. If the employee can, she should try to avoid taking time off work when she can reasonably arrange classes or examinations outside working hours.

5 Special health and safety protection when the employee is pregnant, has given birth recently or is breast feeding

Some workplace hazards can affect pregnancy at a very early stage or even before conception, so the club must think of the health of women of child bearing age, not just wait until it is notified that an employee is pregnant.

a) Risk assessment

When the employee tells you she is pregnant you should review the risk assessment for the employee's specific work and identify any changes that are necessary to protect her and her unborn baby's health. You should involve the employee in the process and continue to review the assessment as her pregnancy progresses to see if any adjustments are necessary.

These risks might be caused by:

- ☞ lifting or carrying heavy loads
- ☞ standing or sitting for long periods
- ☞ exposure to toxic substances
- ☞ long working hours

As the employer, the club has an obligation to remove the risk or remove the employee from being exposed to it (for example by offering her suitable alternative work).

The following text is a useful model for letters to a pregnant employee.

Dear

Thank you for your written confirmation of your pregnancy. I am legally bound to take all reasonable precautions to ensure you and your baby's health and safety at work. I have to assess any particular risks to you as an individual and consider any need for changes to your working conditions or hours of work.

It is quite a simple exercise but does mean that I need to know of any medical concerns relevant to your employment in order to ensure that proper precautions are taken.

I suggest you discuss this with your doctor. Please then let me know in writing if there are any concerns. I can then make sure that any adjustments to your work can be introduced. I have prepared a risk assessment which you might wish to discuss with your medical practitioner so that all necessary measures have been considered.

Yours etc

Example Risk Assessment for a new and expectant mother employed in catering

ABC GOLF CLUB	
Risk Assessment for New and Expectant Mother	Activity Area - Catering

What are the hazards?	Who might be harmed and how?	What action is necessary?	Action by whom?	Action by when?	Done
Manual handling	Increased risk of postural problems when pregnant.	Ensure the employee has light duties not requiring excessive physical exertion.			
Heat stress	Dehydration or fatigue from extremes of hot or cold.	Ensure employee has access to refreshments and can take regular short breaks.			
Raised blood pressure	Raised blood pressure is associated with stress.	Discuss and agree the volume of work and the pace of work.			
Morning sickness	A condition that can arise from early shift work.	Flexible rostering.			
Morning sickness	A condition that can arise from smells that can be nauseating during pregnancy.	Flexible work allocation.			
Prolonged standing	Fatigue from prolonged standing can lead to problems with the development of the baby.	Ensure the employee can take short breaks and that suitable seating is available.			
Trips, slips and falls	Poor balance in later stages of pregnancy can increase the risk from slippery surfaces.	Clean spillages immediately and ensure sensible footwear is worn.			

This risk assessment needs to be kept under review and covers an employee who is pregnant, has given birth within the previous 6 months or is breast feeding.

b) Return to work after maternity leave

When returning to work after ordinary maternity leave (the first 26 weeks of the employee's Statutory Maternity Leave), she has a right to the same job and the same terms and conditions as if she hadn't been absent.

This also applies when she comes back after additional maternity leave (the last 26 weeks of her Statutory Maternity Leave). However, if it is not reasonably practical for the employee to return to her original job (eg because the job no longer exists) she does not have the same right. In that case, she must be offered alternative work with terms and conditions as if she hadn't been absent.

c) Keeping in touch days

During an employee's maternity leave it is often helpful for her and the club to keep in touch. The club is entitled to make reasonable contact with the employee during her Statutory Maternity Leave. This might be to update the employee on any significant changes in the workplace, including any opportunities for promotion or job vacancies.

The employee can work up to ten days' during her Statutory Maternity Leave without losing her Statutory Maternity Pay or Maternity Allowance.

These keeping in touch days may only be worked if both you and the employee agree. (Note: The employee cannot work during the compulsory maternity leave which is the 2 weeks immediately after her child is born)

Although particularly useful for things such as training or team events, keeping in touch days may be used for any form of work. They should make it easier for the employee to return to work after her leave.

You will need to agree with your employee what work is to be done on keeping in touch days and how much pay.

d) Employee notification

To qualify for maternity leave, the employee must notify you no later than the end of the 15th week before the expected week of childbirth (EWC) - the 'qualifying week' – of:

- ☞ The fact that she is pregnant
- ☞ The expected date of the baby's birth.
- ☞ The intended start date of her maternity leave. (Note that an employee can change the start date of her leave.)

The employee must produce medical evidence of the date the baby is due, usually the MAT B1, but you can accept other medical evidence providing it shows the date the baby is due. MAT B1 is the medical evidence given to the employee by the doctor or midwife showing the expected date of confinement (childbirth). Evidence is acceptable if it is signed from the start of the 20th week before the EWC. The MAT B1 form cannot be issued before the start of the 20th week before the EWC and must be given to you within 21 days from the start of the SMP pay period unless there is good reason for the evidence being produced late.

If the employee does not qualify, you must return form MAT B1 to her.

e) Acknowledgement of notification

After receiving the employee's notification, you must in turn notify the employee of the date on which the leave will end. This will normally be 52 weeks from the intended start of her maternity leave.

- ☛ You must give the employee this information within 28 days of her notification, unless the employee has since changed the date her leave will start. In that case, you must notify her of the end date within 28 days of the start of her leave.
- ☛ If you fail to give the employee proper notification and the employee subsequently doesn't return to work on time, she may have protection against victimisation and dismissal. In addition, if the employee wants to change her return dates, she may also not be obliged to comply with the requirement to give you 8 weeks' notice for this reason.

The following is a suitable letter to acknowledge the employee's notification.

Dear

Congratulations and thank you for telling me about your pregnancy and the date that your baby is due. I am writing to you about your maternity leave and pay.

As we have discussed, you are eligible for 52 weeks' maternity leave (26 weeks' ordinary maternity leave plus 26 weeks' additional maternity leave. Given your chosen start date of [insert date], your maternity leave will end on [insert date].

If you want to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date or 28 days before [insert date leave starts] (your original start date), whichever is sooner.

If you decide to return to work before [insert date leave ends], you must give me at least 8 weeks' notice.

As we discussed, you are eligible for 39 weeks' Statutory Maternity Pay/not eligible for Statutory Maternity Pay [delete as appropriate].

Your maternity pay will be £[insert amount] from [insert date] to [insert date] and £[insert amount] from [insert date] to [insert date].

or

The form SMP1 (enclosed) explains why you do not qualify for Statutory Maternity Pay. You may however be entitled to Maternity Allowance. If you take this form to the Jobcentre Plus or Social Security Office at [insert local details], they will be able to tell you more.

As your employer I want to make sure that your health and safety as a pregnant mother are protected while you are working, and that you are not exposed to risk. I have already carried out an assessment to identify hazards in our workplace that could be a risk to any new, expectant, or breastfeeding mothers. Now you have told me you are pregnant I will arrange for a specific risk assessment of your job and we will discuss what actions to take if any problems are identified. If you have any further concerns following this assessment and specifically in relation to your pregnancy, please let me know immediately.

During your maternity leave we are both able to make reasonable contact with each other to help with staying in touch. We are also able to agree that you can do up to ten days' work during your maternity leave without it affecting either your maternity leave or your SMP. Before you begin your maternity leave we should discuss how we will keep in touch during your time off.

If you decide not to return to work you must still give me proper notice. Your decision will not affect your entitlement to SMP.

If you have any questions about any aspect of your maternity entitlement, please do not hesitate to get in touch with me. I wish you well.

Yours etc

Brian Butler can be contacted on the GCMA Helpline: 01432 761663.

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The HMRC has produced the following flow chart which golf club managers might find useful.

OPERATING THE STATUTORY MATERNITY PAY SCHEME

