

## **WELSH GOVERNMENT HR POLICIES**

### **MATERNITY AND ADOPTION LEAVE**

It is the Welsh Government's policy to pay full contractual pay for maternity or adoption leave subject to qualifying criteria, in conjunction with further statutory pay and leave entitlements.

Our policy on Maternity and Adoption leave forms part of our framework of family friendly and flexible working policies which support modern working families. It is designed to enable employees to combine work and family life so that we can retain their valuable skills in the workplace and they can fulfil their potential.

Please note that all of our policies are fully inclusive of all staff regardless of age, marriage (including equal/same sex marriage) and civil partnership, disability, sex, sexual orientation, pregnancy and maternity, race, religion or belief, gender identity or gender expression.

The policy does not apply to contractors, inward secondees, agency staff or any other worker not directly employed by the Welsh Government.

[The Guidance and Procedures to support implementation of this policy outlines the rights and employment benefits available to employees who take maternity or adoption leave and can be accessed by clicking here](#)

# WELSH GOVERNMENT HR GUIDANCE AND PROCEDURES

## MATERNITY AND ADOPTION LEAVE

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[The Policy](#) (*click to access*)

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## **Roles and responsibilities:**

Employees are responsible for:

- Ensuring that any requests for time off to attend ante-natal care or adoption appointments are made to their line manager with as much notice as possible;
- Notifying their line manager and the Corporate Shared Service Centre of the expected start date for maternity or adoption leave within the required notice period;
- Completing the Maternity or Adoption Statement [form](#) and forwarding it to their line manager for authorisation, together with any other documentation required;
- Notifying their line manager whether any sickness absence is pregnancy-related;
- Notifying their line manager and the Corporate Shared Service Centre of any change to their leave start date or return to work date;
- Attending any Keeping in Touch days agreed with their line manager, and,
- Repayment of contractual pay (less any statutory pay) if they fail to return to work for a minimum of one month following maternity or adoption leave, unless there are exceptional circumstances. Any decision to waive repayment will be at the discretion of the Deputy Director, HR Expert Services and People.

Line managers are responsible for:

- Agreeing time off for ante-natal care or (pre-)adoption appointments;
- Authorising Maternity or Adoption Statement [forms](#) and forwarding them to the Corporate Shared Service Centre;
- Agreeing any change to leave start dates or return to work dates;
- Ensuring that any pregnancy-related sickness absence is recorded appropriately;
- Arranging to keep in touch with the employee whilst they are on leave including when the employee is not able to return to their original post: and,
- Making arrangements for the employee to return to work, including ensuring that, if they are not able to return to their original post, a suitable alternative post is identified for the employee's return, in consultation with the Deputy Director and Director General/ Director of PSG.

Corporate Shared Service Centre is responsible for:

- Confirming an employee's maternity or adoption pay and leave entitlements and making the necessary arrangements;
- Providing links to keep employees updated with organisational developments whilst on leave, including links to appoint for job opportunities, e-learning/training and the WG Newsroom page which can be accessed externally;
- Ensuring that pregnancy related sickness absence is not counted towards attendance management trigger points or calculation of half or nil pay dates;
- Ensuring the employee is reinstated on the pay system on their return to work; and,
- Advising employees and line managers on the application of this policy and this guidance/procedure.

HR Equality in the Workplace Team is responsible for:

- Considering business cases for posts not be held open for employees for 12 months;
- Considering business cases to refuse requests from employees to return to their post on a part-time basis.

## **Guidance and Procedures**

### **General**

The Welsh Government values diversity and our Equality Strategy and Action Plan aims to create an inclusive workplace. We are committed to ensuring and promoting equality of opportunity and eliminating discrimination, harassment and victimisation in employment. We aim to ensure that all employees have equality of opportunity in employment and career advancement on the basis of their skills, ability, qualifications and suitability for work. Employees are supported and encouraged to develop to their full potential to deliver high quality services to the people of Wales.

### **1. Application**

- 1.2 The policy and this guidance do not apply to contractors, inward secondees, agency staff or any other workers not directly employed by the Welsh Government.

### **2. Leave and Pay**

- 2.1 All permanent employees and employees on fixed term appointments are entitled to take up to 52 weeks maternity or adoption leave, regardless of their length of service.

- 2.2 All employees taking maternity or adoption leave must take two weeks' compulsory maternity or adoption leave. For mothers, this must be taken immediately following the birth. For employees adopting a child, this leave can start up to 14 days before the child is placed for adoption or alternatively can be taken from the date of placement for adoption.
- 2.3 When a couple adopt a child they can decide which of them will take adoption leave and which will take co-parental leave.
- 2.4 An employee will not qualify for adoption leave or pay from the Welsh Government if they:
- arrange a private adoption
  - become a special guardian or kinship carer
  - adopt a step-child
  - adopt a family member or stepchild of a family member.

However, help may be available from the relevant local authority.

### **Welsh Government occupational maternity or adoption pay scheme**

- 2.5 All permanent and fixed term appointment employees who are currently employed, in receipt of pay and who have completed at least **one year's continuous service** with the Welsh Government by the end of the Qualifying Week (for pregnant employees), or by the week the adoption agency informs you that you have been matched with a child, are eligible to apply for the occupational maternity /adoption pay scheme. The Qualifying Week is the 15<sup>th</sup> week before the expected week of childbirth.

Those eligible will be entitled to:

- 26 weeks maternity/ adoption leave on full contractual pay which will be inclusive of Statutory Maternity or Adoption pay; and,
  - an additional 13 weeks Statutory Maternity Pay or Statutory Adoption Pay; and,
  - up to a further 13 weeks unpaid maternity or adoption leave.
- 2.6 Employees on permanent part year appointments are not paid contractual pay (inclusive of statutory pay) for any maternity or adoption leave which falls during a period when they would not normally be working under the terms of their appointment, regardless of when the maternity or adoption leave begins or ends. However, they will continue to receive statutory pay during these periods.
- 2.7 If an employee leaves the Welsh Government for any reason prior to or during maternity or adoption leave, they will no longer be eligible for contractual maternity or adoption pay. However, the employee will continue to receive any statutory pay to which they are entitled.
- 2.8 Permanent employees may also apply for a Career Break after 52 weeks maternity or adoption leave. This is a period of special leave without pay for a

period of up to 5 years. Please refer to the [Career Break](#) policy for further information.

- 2.9 Any type of unpaid leave taken prior to commencement of maternity or adoption leave may affect an employee's entitlement to Statutory Maternity or Adoption Pay which is earnings-related. Employees are advised to contact the Corporate Shared Service Centre to discuss this before applying for any unpaid leave prior to maternity or adoption leave.
- 2.10 Applicants must intend to return to work for the Welsh Government no longer than 52 weeks after the start of the maternity or adoption leave period or immediately after a career break. Failure to return to work will normally mean that any maternity or adoption pay received above the statutory entitlement will need to be re-paid. Please refer to paragraph – Repayment of Pay for further information.

### **Statutory Maternity and Adoption provisions**

- 2.11 All permanent and fixed term appointment employees who have completed at least **26 weeks continuous service** with the Welsh Government by the end of the Qualifying Week for pregnant employees, or at least 26 week continuous service by the week the adoption agency informs an employee that they are matched with a child, are eligible to apply for 39 weeks statutory maternity or adoption pay at the rates below. The 26-week period must include at least one day's employment in the Qualifying Week (as relevant).

The Qualifying Week is the 15th week before the expected week of childbirth (EWC). To be eligible for statutory maternity or adoption pay, an employee must also have average weekly earnings at least equal to the lower earnings limit for national Insurance contributions. (The Corporate Shared Service Centre can advise on the current lower earnings limit).

The rates at which the statutory maternity or adoption pay are made are as follows:

- 90% of average weekly earnings (before tax) for the first 6 weeks; and,
  - the weekly rate set by the UK Government or 90% of average weekly earnings (whichever is lower) for the next 33 weeks; and,
  - up to a further 13 weeks unpaid maternity or adoption leave.
- 2.12 Statutory Maternity or Adoption pay is paid in the same way as monthly pay with Income Tax and National Insurance contributions deducted. Details of current rates are available from the Corporate Shared Service Centre.
- 2.13 Under HMRC rules, it is payable for the full 39 weeks even if the employee leaves the organisation for any reason during this period. This entitlement does not imply that the employment relationship continues beyond the last day in employment at the Welsh Government.

## **Overseas Adoptions**

- 2.14 If an employee is adopting a child from overseas, one year's service must have been completed by the date the "official notification" is received in order to qualify for the Welsh Government occupational adoption scheme. (This is permission from a UK authority that an employee can adopt from abroad). To qualify for both statutory leave and pay, the employee must have at least 26 weeks' continuous service by the time they receive this official notification.

## **Fostering for adoption**

- 2.15 An employee fostering for adoption is entitled to leave and pay at the appropriate rate (occupational or statutory) depending on the length of continuous service at the date that the child comes to live with them.

## **Surrogacy**

- 2.16 Every pregnant employee has the right to 52 weeks maternity leave. If a birth mother enters into a surrogacy arrangement, this would have no impact on her right to maternity leave. However, in a surrogacy arrangement there is no legal right for the receiving parent to maternity leave. They would be entitled to adoption leave if they adopted the child. A partner would also be entitled to paternity/co-parental leave. Both adoptive parents would be entitled to shared parental leave, should they decide that they wanted to use this. (See Shared Parental Leave policy and procedures for more information.)

## **Statutory Maternity or Adoption Allowance**

- 2.17 Employees who do not qualify for Statutory Maternity or Adoption Pay may be eligible to receive up to 39 weeks of Statutory Maternity or Adoption Allowance. To qualify, employees must have been employed or self-employed for 26 out of the 66 weeks before the expected week of childbirth or placement for adoption. Payment is made by the Benefits Agency and further information is available on the Department of Work and Pensions website at [www.gov.uk](http://www.gov.uk).

## **Allowances**

- 2.18 An employee who is receiving a Temporary Duties Allowance will continue to receive this allowance whilst on full contractual pay (inclusive of statutory pay) during maternity or adoption leave until the agreed end date of the allowance or contractual pay ceases, whichever occurs sooner.
- 2.19 An employee in receipt of an allowance under the Allowances policy will continue to receive this whilst on full contractual pay (inclusive of statutory pay).

### **3. Employees who are not on Welsh Government terms and conditions**

- 3.1 The statutory provisions of the policy and this guidance apply to employees regardless of their terms and conditions. This is because employment legislation changed in April 2007 and on 5 October 2008 to provide additional benefits and rights for employees. The policies in place in merged bodies have not changed to reflect this enhanced provision. The statutory provision is being applied by extension from the Welsh Government policy to ensure compliance with current legislation and equality of treatment for all employees.
- 3.2 Employees who are not on Welsh Government terms and conditions of employment will not be eligible to apply for the Welsh Government occupational maternity or adoption pay scheme. Their existing terms and conditions of employment relating to maternity and adoption leave will continue to apply.

### **4. Contractual Benefits**

- 4.1 The contract of employment continues for employees during the period of paid and unpaid maternity or adoption leave. During this period, employees continue to benefit from the contractual benefits of their existing terms and conditions of employment with the exception of pay and employers pension contributions during any period of unpaid maternity or adoption leave.
- 4.2 Annual leave, public and privilege holidays also continue to accrue during maternity or adoption leave. The total of any holidays accrued should be agreed with the employee on their return to work, with advice from the Corporate Shared Service Centre as appropriate, and taken with line management agreement, subject to business requirements as to timing. The employee has the right to take all accrued leave after maternity or adoption leave either immediately or on a gradual basis in agreement with the line manager. In some circumstances, employees may not have been able to take accrued leave in the annual leave year following their return. Should this mean that they are likely to carry over in excess of twelve days annual leave into the next leave year, they will be able to do so with Deputy Director approval, in accordance with the terms of the Annual Leave Policy.

### **5. Health and Safety**

- 5.1 A pregnant employee is able to request a pregnancy risk assessment at any point during their pregnancy. Further information can be found in the New and Expectant Mothers policy (Health and Safety):  
<https://documents.hf.wales.gov.uk/xclient/id:A730891>.

### **6. Sickness Absence**

- 6.1 A pregnant employee must inform their line manager of any sickness absence under the attendance management procedure and whether or not the illness is related to the pregnancy. The line manager will then record the sickness absence through HR Self Service. .



- 6.2 Pregnancy related sickness absence is 'protected' in that it does not count towards sickness absence management trigger points or the calculation of half and nil sickness pay dates. The protected period ceases once the employee has returned to work or was due to return to work following maternity leave, even if the condition causing the absence appears to be pregnancy related, e.g. post-natal depression.
- 6.3 Employees on maternity or adoption leave will not be eligible for contractual or statutory sick pay nor will sickness count as part of their sickness absence record during this leave.
- 6.4 Where an employee has provided notice (normally eight weeks) of their return to work date following maternity or adoption leave and cannot return to work due to illness, a Fit Note must be provided to the line manager. The employee will be treated as being back at work (and on sickness absence) even if they have not physically returned because of illness. Sickness absence will be recorded as normal and the employee will receive sick pay at the appropriate rate from the intended date of return. Normal attendance management procedures must be followed.
- 6.5 Bank Holidays or privilege days do not accrue during periods of sickness absence.

## **7. Ante-natal care and adoption meetings**

- 7.1 Time off with pay for a pregnant employee to attend appointments for Ante-Natal care made on the advice of a registered medical practitioner, registered mid-wife or registered health visitor will be permitted providing the employee supplies their line manager with evidence of enrolment for classes and details of future appointments.
- 7.2 A permanent employee (including fixed term appointments) who is the expectant father, spouse or partner in an enduring relationship (including same sex marriage and civil partnership) of a pregnant woman is entitled to take unpaid time off work to accompany the expectant mother to up to two ante-natal appointments. If an employee does not wish to take unpaid leave to attend the adoption meeting, they may use flexi or annual leave subject to agreement from their line manager.
- 7.3 A permanent employee (including an employee on a fixed term appointment) is entitled to take paid time off work to attend meetings arranged by an adoption agency in advance of a child being placed with them for adoption. This time off must be taken in the period between being notified of a match with a child and the date that the child joins the family. The entitlement is as follows:
- Single adopters may attend up to 5 appointments with pay;
  - Joint adopters may elect one of the adopters to attend up to 5 appointments with pay, whilst the other adopter is entitled to attend up to 2 unpaid appointments.

- 7.4 Managers are entitled to request sight of adoption appointment letters/cards, even if received electronically. Time off from work to attend adoption meetings taken as paid leave will need to be recorded retrospectively on the Adoption Leave Statement Form when submitting an application for adoption leave. If an employee does not wish to take unpaid leave to attend the adoption meeting, they may use flexi or annual leave subject to agreement from their line manager.

## **8. How to apply**

- 8.1 When an employee reaches the 25<sup>th</sup> week of their pregnancy, they will receive a MATB1 form from either their GP or midwife. This form states the expected date the baby is due. Once the employee has received form MATB1, they should send it with the [Maternity Statement Application](#) to the Corporate Shared Service Centre.
- 8.2 If an employee is adopting a child, they must give their line manager at least 28 days' notice of when they intend to take adoption leave by completing the [Adoption Leave Statement form](#) available on the intranet. After attaching official documentation confirming that the employee has been matched with a child, the form must be authorised by the line manager and forwarded to the Corporate Shared Service Centre. The employee is required to forward a copy of the Adoption certificate to the Corporate Shared Service Centre as soon as it is available.
- 8.3 Employees are encouraged to meet Corporate Shared Service Centre colleagues to discuss their maternity or adoption leave plans so that they fully understand their benefits and requirements of the procedure.
- 8.4 A pregnant employee who wishes to take Maternity Leave<sup>1</sup> (contractual and/or statutory) must notify the Welsh Government by the end of the 15<sup>th</sup> week before the expected week of childbirth;
- that they are pregnant;
  - the expected date of childbirth (as defined below)
  - the intended start date of maternity leave; and
  - following the birth, an employee who intends to return to the Welsh Government should provide the Welsh Government with the actual date of birth.
- 8.5 "Childbirth" for the purposes of maternity leave rules is defined as the birth of a living child or the birth of a child whether living or not after 24 weeks of pregnancy.

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<sup>1</sup> Whilst this legal requirement relates to employees who are eligible to take paid maternity leave, we strongly advise all pregnant employees to inform us of their pregnancy by this point to enable us to take all reasonable steps to ensure the health, safety and well being of pregnant employees.

- 8.6 If the date of placement for adoption changes, an employee must give as much notice as possible to their line manager and the Corporate Shared Service Centre but must confirm the revised date within 28 days of receiving details of this change.

## **9. Timing of leave**

- 9.1 Maternity leave may start on any day of the working week but no earlier than 11 weeks before the expected week of childbirth.
- 9.2 If childbirth occurs prior to the planned date of maternity leave, maternity leave commences on the day after the birth, even if this is before the 11<sup>th</sup> week before the expected week of childbirth. The employee must inform the Corporate Shared Service Centre in writing as soon as possible to preserve their right to maternity leave and pay.
- 9.3 Where an employee is absent due to a pregnancy-related illness at any time during the 4 weeks before the expected week of childbirth, maternity leave will start from the first day of sickness absence. If an employee is absent due to a pregnancy related illness prior to the 4 weeks before the expected week of childbirth, and is still absent at this time, maternity leave will automatically start at the beginning of the 4<sup>th</sup> week before the expected week of childbirth.
- 9.4 Adoption leave can start:
- up to 14 days before the child starts living with the employee (UK adoptions)
  - when the child arrives in the UK or within 28 days of this date (overseas adoptions).
- 9.5 If an employee wishes to change their maternity or adoption leave start date, they must discuss this with the line manager, complete a new Maternity or Adoption Leave Statement and forward this once authorised to the Corporate Shared Service Centre.

## **10. Miscarriage and Stillbirth**

- 10.1 If, sadly, a baby is lost before the 24<sup>th</sup> week of pregnancy it is treated as a miscarriage, as in law. Should sickness absence ensue, the first two weeks of absence would be treated by the WG as 'protected' for both absence management trigger points and pay purposes. If a sickness absence continues beyond the protected two weeks, the subsequent absence would then revert to being covered in the normal way under the Attendance Management Guidance and Procedures. Line managers will be expected to ensure appropriate support is provided to an employee dealing with a pregnancy loss and should take into account the level of distress of the employee and exercise discretion when applying the Attendance Management Guidance and Procedures under such circumstances. Line managers will need to ensure the return to work of an employee who has experienced a pregnancy loss is handled sensitively and compassionately.

- 10.2 If a baby is stillborn from the 24<sup>th</sup> week of pregnancy, the mother will be entitled to statutory and contractual maternity leave and pay for which they are eligible.

## **11. Supporting Parents with ill or premature babies**

- 11.1 When a baby is born prematurely or with additional health needs, it can be a difficult time for parents. Even if a baby has been born prematurely or unwell the mother must notify their line manager as soon as is reasonably practical that they have given birth and provide the date that the baby was born.
- 11.2 If a mother is unable to obtain and complete the Mat B1 form before the birth, the line manager may need to consider if it would be appropriate and helpful to remind them. This is to ensure that the mother receives the statutory maternity pay or contractual maternity pay for which they may be eligible. This is likely to be a very stressful time for parents and any communications regarding this or any other matter should be approached sensitively and compassionately. Line managers should ask if parents are happy to be contacted and the best way to do so e.g. phone, email, text and also what they want colleagues to know.
- 11.3 Employees who are partners of the mother may also need support and flexibility regarding them taking time off to support the mother and baby at this difficult time. Fathers and partners who are eligible for [paternity or co-parental leave](#) can discuss with line managers and agree to take this leave within 8 weeks of the actual date of birth, or within 8 weeks of the date that the baby was due to be born if they prefer. Employees who are eligible should also be aware of their statutory right to [parental leave](#) and [shared parental leave](#). An employee who is a partner of the mother of a baby born prematurely or unwell may in certain circumstance be eligible for special leave. Such circumstances might include supporting the mother to care for a baby whose health unexpectedly deteriorates after birth. Special leave with pay does not normally exceed 5 days (pro-rated for part-time workers who do not work every day) but special leave without pay may be granted for longer periods according to the circumstances. See 6.2 of the [Special Leave](#) guidance.
- 11.4 Returning to work can be a difficult time for parents of babies born early or unwell particularly when the baby has ongoing health or developmental issues which require frequent hospital appointments. Line managers are expected to view sympathetically requests to work flexibly from parents facing these pressures, whilst balancing the needs of the business. This might mean a permanent change of contract or an informal flexible working arrangement agreed between them and the employee which would help employees settle back to work. Line managers should also remind employees of their statutory right to paternity leave, parental leave, shared parental leave.

## **12 Keeping in Touch**

- 12.1 Line managers and employees on maternity or adoption leave should agree informal arrangements for keeping in touch so that employees can be updated

on developments which may affect them. This arrangement will be made and contact continued regardless of whether the employee will be returning to their original post. With both parties' agreement, line managers may also meet the employee during the period of maternity or adoption leave for Keeping in Touch ("KIT") days. KIT days are designed to give employees the opportunity to go to work to undertake training, receive updates and important communications and generally keep in touch without losing their right to maternity or adoption pay. Up to 10 KIT days (or part days) may be agreed. Should an employee attend a KIT day when they are either in receipt of Statutory Maternity or Adoption pay or not receiving any pay, they will be paid for the hours actually worked (inclusive of any statutory pay). Claims for payment for KIT days must be made by the employee emailing their line manager with details of the hours worked. The line manager should forward this email to the Corporate Shared Service Centre confirming authorisation of the payment.

- 12.2 To keep in touch with business developments, employees who currently have a Welsh Government laptop or other ICT equipment can choose to retain this equipment during their maternity or adoption leave. Line managers must maintain a record of the equipment and follow normal asset management and financial procedures. Employees must comply with the Security policy and log onto the corporate network every two weeks for virus software and other software updates to be automatically installed to keep the information held in a secure environment.

### **13. Return to work**

- 13.1 Under the provisions of the Employment Rights Act 1996 and the Maternity and Parental Leave Regulations 1999, an employee is not permitted to return to work during the compulsory leave period, which is for 2 weeks commencing with the day on which childbirth occurs or within 2 weeks of the start of adoption leave.
- 13.2 Employees must give at least 8 weeks written notice to their line manager of their return to work date regardless of the length of leave they intend to take. The intended date is provided by the employee in the Maternity or Adoption Statement. However, if an employee wishes to change their return to work date at any time, this may be discussed with the line manager and an earlier or later return agreed without the full 8 weeks notice at the line manager's discretion.
- 13.3 Legally, an employee who is absent from work because of pregnancy or childbirth or adoption of a child has the right to return to work in the same job, substantive grade and working the same hours at any time up to the end of the first 26 weeks of their period of maternity or adoption leave.
- 13.4 Welsh Government policy is that an employee exercising their right to return to work after 27 or more weeks maternity or adoption leave will normally be employed in the same job, substantive grade and working the same hours as before, and in any event will be treated for posting and transfer purposes no less favourably than if they had not been absent. This applies unless there are exceptional circumstances as to why the employee cannot return to their

previous post which is supported by a business case which has been agreed by the HR Equality in the Workplace Team.

- 13.5 If they wish to return to work on a part-time basis, then the Welsh Government will expect to accommodate this in the same post unless there are exceptional reasons as to why the Division cannot accommodate this expectation. Once again, these reasons would have to be supported by a business case which has been agreed by the HR Equality in the Workplace Team.
- 13.6 There may be circumstances where it is not possible or desirable for an employee to return to their post and wherever possible, this will be discussed and agreed with the employee before they take their leave. The Deputy Director in consultation with the Director General will need to identify a suitable post for the employee to return to and discuss this with them at the earliest opportunity.
- 13.7 Any employee returning to work following maternity or adoption leave has the right to request to work flexibly or to take parental leave in the same way as all other employees.
- 13.8 In agreement with the line manager, an employee may request the use of annual leave to facilitate a gradual return to work providing this is reasonable and meets business needs.
- 13.9 All reasonable steps will be taken to provide a healthy and safe environment for nursing mothers to express milk. See the [New and Expectant Mothers Policy on the Health and Safety intranet pages](#).

#### **14. Postponing return to work and resignation**

- 14.1 The Welsh Government may postpone an employee's return to work for up to 21 days from the proposed date of return or from the end of the maternity or adoption leave period provided it notifies them of the reasons before that date and pays them for this period .
- 14.2 An employee will be treated as having resigned if they inform the Welsh Government in writing that they do not intend to return to work immediately following maternity or adoption leave. They will then be informed by the Welsh Government that they have no statutory right to return to work. However, they may be allowed to return at the discretion of the Welsh Government if they so wish and if they do so within 4 weeks of the end of the maternity or adoption leave period they would have otherwise have been entitled to had they not resigned. Their resignation will then be cancelled and the period of absence will be counted as paid and/or unpaid maternity or adoption leave.

#### **15. Repayment of Pay**

- 15.1 Repayment of pay received in excess of statutory maternity or adoption pay is not required provided an employee has stated on the Maternity or Adoption Leave Statement that they intend to return to work within a period of 52 weeks

from the start of their maternity or adoption leave period and they complete one month's service after their maternity or adoption leave ends. The employee may offset any annual leave due to them at their return to work date against the one month's service to reduce or fully meet this requirement.

- 15.2 This requirement to return to work can also be satisfied by undertaking recurring short term temporary appointments and part year appointments in subsequent periods of work rather than one continuous period per month.
- 15.3 An employee who takes a career break immediately following a period of maternity or adoption leave will only need to repay maternity or adoption pay (in excess of statutory pay) if they resign during the course of the career break or does not complete one month's service after the break ends.
- 15.4 Repayment of maternity or adoption pay will be waived at the discretion of the Deputy Director, Expert Services and People where:
- an employee provides evidence from a medical professional that they will be unable to return because the child has a disability or additional needs; or
  - with the agreement of the employee, there are good management reasons why they need not return or where the Welsh Government believes there is a genuine intention to return which cannot be realised because of exceptional circumstances.

## **16. Review**

- 16.1 The policy and this guidance/procedure will be reviewed every two years or whenever a relevant change in legislation occurs.

## Gendered Terms used in this Guidance

Term	Meaning in this guidance	Included in	Why we have used this term
Birth Mother	Individual who gives birth to a child but does not take on a parental role.	Paragraph 2.16	Accepted legal term used in surrogacy and adoption arrangements.
Expectant Father	Prospective biological male parent of a child.	Paragraph 7.2	Included as the majority of employees will expect this term to be used.
Expectant Mother	Pregnant individual (not necessarily a Welsh Government employee)	Paragraph 7.2	Included as the majority of employees will expect this term to be used.
Father	Biological male parent of a child.	Paragraph 11.3	
Maternity Leave	Period of time granted to an individual giving birth, to allow them to recover from the birth and take care of their child.	Throughout	Accepted legal term.
Maternity Pay	Weekly payment to an employee from an employer during their period of maternity leave.	Throughout	Accepted legal term.
Mother	Parent who gives birth to a child.	Paragraph 11.3	Included as the majority of employees will expect this term to be used.
New and Expectant Mothers Policy	Welsh Government policy for employee's who are pregnant or have recently given birth to a baby	Related Policies Paragraphs 5.1 / 13.9	Consider re-title? Include something in here about needs of transgender and non-binary staff?
Pregnant Woman	Individual who is pregnant.	Paragraph 7.2	It is not possible to substitute the more inclusive term 'pregnant'



			employee' without altering the meaning of this paragraph.
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