

RIGHTS AND BENEFITS



Benefits for everyone	157	Rights during maternity leave	168
Tax credits	158	Returning to work	169
Benefits if your income is low	159	Other employment rights	170
Maternity benefits	163	Other types of leave	171
If you are unemployed	166	Your rights under sex discrimination law	174
Maternity leave	167		

Make sure that you know your rights and that you claim all the benefits that you are entitled to when you are pregnant. Maternity rights do change and different benefits have to be claimed using different forms and from different offices. The benefit rates in this chapter are accurate from April 2009. Get further advice if you are unsure of anything.

Help and advice

Working out what benefits and rights you are entitled to and making claims can be complicated. There are a number of government departments and voluntary organisations that can help you.

- Your local Jobcentre Plus can give you advice about benefits. Look in the business numbers section of the phone book under 'Jobcentre Plus'.
- Citizens Advice Bureaux, law centres and other advice agencies can advise you about your rights at work. To find your local advice agencies, look in your Yellow Pages phone book under 'Counselling and Advice'.
- Some local authorities have welfare officers who can give you advice. Phone your social services department and find out if your area has one.

- Some national voluntary organisations offer information and advice on benefits and rights at work, for example Acas and One Parent Families/Gingerbread (see pages 182 and 184).
- If you are a member of a trade union, your staff representative or local office should be able to advise you on your maternity rights at work.
- The Equality and Human Rights Commission can advise you if your problem is to do with sex discrimination (see page 174).
- The Health and Safety Executive has a useful booklet for women explaining the health and safety rights that apply to pregnant women and women who have recently given birth.



Useful websites

www.direct.gov.uk

www.dwp.gov.uk (Department for Work and Pensions)

www.hmrc.gov.uk/taxcredits

www.hse.gov.uk (Health and Safety Executive)

www.equalityhumanrights.com (Equality and Human Rights Commission)

www.adviceguide.org.uk (Citizens Advice Bureau)

www.cmoptions.org (Child Maintenance Options)

www.acas.org.uk (Acas)

www.direct.gov.uk/employees

www.healthystart.nhs.uk

www.workingfamilies.org.uk

www.jobcentreplus.gov.uk



BENEFITS FOR EVERYONE

Some benefits are available to all mothers, regardless of how much they earn.

Free prescriptions and NHS dental treatment

What are they?

Prescriptions and NHS dental treatment are free while you are pregnant and for 12 months after you have given birth. Your child also gets free prescriptions until they are 16.

How do I claim?

To claim for free prescriptions, ask your doctor or midwife for form FW8 and send it to your health authority. You will be sent an exemption certificate that lasts until a year after your due date.

To claim after your baby is born (if you did not claim while you were pregnant) fill in form A in leaflet P11, *NHS Prescriptions*, which you can get from your doctor or Jobcentre Plus.

To claim for dental treatment, tick a box on a form provided by the dentist or show your exemption certificate (see above).

Child Trust Fund

What is it?

A long-term savings and investment account for children.

Who gets it?

All children born on or after 1 September 2002, provided they are eligible for Child Benefit, live in the UK, and are not subject to immigration control.

How much is it?

You will get a voucher for £250 from the government to start an account for your child.

If you get the full amount of Child Tax Credit (CTC) because your household income is at or below the Child Tax Credit income limit (£16,040 in 2009/10), your child will get a further £250 paid directly into their account.

At seven, children will get another payment of £250 (with children from lower income families again receiving a further £250).

You, your family, your friends and, in time, your child can contribute up to a total of £1,200 a year to the account tax free. The money can only be withdrawn by your child, and they cannot take it out until they are 18.

How do I claim?

All you have to do is claim Child Benefit for your child. You will automatically be sent an information pack and voucher within a month.

From 6 April 2009, some account providers will not require the Child Trust Fund voucher to be handed in or posted when you are opening an account. However, you will still need to provide information such as your child's unique reference number (printed on the voucher) to open an account.

More information

For more information, call 0845 302 1470 or go to www.childtrustfund.gov.uk

Child Benefit

What is it?

Child Benefit is a tax-free benefit to help parents with the cost of caring for their children. It is payable for each child from birth until at least age 16.

Who gets it?

Every mother or the person responsible for the care of a child, but you must generally be living in the United Kingdom.

How much is it?

- £20.00 per week for your first child.
- £13.20 a week per child for any other children.

Child Benefit can be paid directly into a bank, building society or Post Office™ card account. It is usually paid every four weeks in arrears, but single parents and families on low incomes can choose to be paid weekly.

How do I claim?

You can get claim packs:

- in your Bounty Pack (which most new mothers are given in hospital)
- from your Jobcentre Plus office
- from the post office
- by phoning 0845 302 1444.

Fill in the forms and send them with your baby's birth certificate to the Child Benefit Centre. The birth certificate will be returned to you. You need to register your baby to get a birth certificate (see page 138).

You can also apply online at www.hmrc.gov.uk/childbenefit/

You should start to claim Child Benefit within three months of your baby's birth, otherwise you will lose some of the benefit.

More information

Child Benefit can help to protect your State Pension if you stay at home to look after your child. For every complete year that you get Child Benefit, but you don't pay enough National Insurance contributions to count towards the basic pension, you automatically get Home Responsibilities Protection.



TAX CREDITS

What are they?

Two tax credits were introduced in April 2003:

- Child Tax Credit gives financial support for children.
- Working Tax Credit helps people in lower-paid jobs by topping up their wages.

You may not be able to get tax credits if you have come to live here from another country. You should get advice.

Who gets Child Tax Credit?

Child Tax Credit can be claimed by lone parents or couples with one or more children. Nine out of 10 families with children get this credit.

Who gets Working Tax Credit?

Working Tax Credit can be claimed by single people or couples, with or without children.

You must work at least 16 hours each week if:

- you have dependent children and/or
- you have a disability
- or
- you must be 25 or over and work at least 30 hours a week.

You can be treated as if you are working during the first 39 weeks of your maternity leave if you were working enough hours immediately before starting your maternity leave.



Help with childcare costs

Many working parents can get help with their childcare costs through tax credits. If you work at least 16 hours a week and use registered childcare, you could get 80% of the costs back. This is up to a limit of £175 a week if you have one child or £300 a week if you have two or more. Your household income is taken into account in working out what you get. Call the Tax Credits Helpline on 0845 300 3900 to find out more.

How do I claim?

Call the Tax Credits Helpline on 0845 300 3900 for a form to claim both Child Tax and Working Tax Credits.

How much will I get?

The amount you get will depend on your circumstances, including:

- the number of children in your household
- the number of hours you and your partner work
- your household's gross income for the last tax year.

Claims for the current tax year will initially be based on your previous tax year's income. Awards will run until the end of the tax year.

If there is a change in your circumstances, for example after the birth of your baby, the amount you are entitled to may change. As long as you report the change within three months, any extra money can be backdated to the date of the change.

Maternity Allowance or the first £100 a week of Statutory Maternity Pay are not counted as income.

Families with children, with an annual income of £50,000 or less, will get at least £545 a year.

More information

If you get tax credits you may also be able to get the £500 Sure Start Maternity Grant and help with fares to hospital for treatment (including antenatal appointments).

You can get help from Healthy Start if you get Child Tax Credit but not Working Tax Credit with an annual family income of £16,040 or less (2009/10).

See page 162 for more information.

help for
families

BENEFITS IF YOUR INCOME IS LOW

Income-based Jobseeker's Allowance and Income Support

What are they?

Income-based Jobseeker's Allowance (JSA) and Income Support are payments for people who are not in work and do not have enough to live on. If your family income falls below a set level, the benefit will 'top it up'. This means that you may be able to get Income Support even if you are already getting Statutory Maternity Pay, Maternity Allowance, Employment and Support Allowance or some income from part-time work.

Who gets them?

You can claim income-based JSA if:

- you are 18 or over and you are capable of and actively seeking work. You can claim this benefit if you are living with your partner as long as you are both either unemployed or working part time.

If you are 16–17 and face severe hardship you may be able to claim. You should get further advice about this.

You can claim Income Support if:

- you are 16 or over and cannot be available for work because you are a single parent or because you are 29 weeks pregnant or more, or
- you are pregnant and not well enough to work because of your pregnancy.

You cannot claim income-based JSA or Income Support if:

- you live with your partner and they work for 24 hours or more a week

- you work for more than 16 hours a week, or
- you have savings of more than £16,000.

If you or your partner are too sick or disabled to work for another reason (not your pregnancy), you should get advice. You may be able to claim Employment and Support Allowance instead.

How much are they?

This depends on:

- your age
- the size of your family
- what other income you have.

If you are under 25 or have more than £6,000 in savings, you can get a lower rate. If you are claiming during pregnancy, you should let your Jobcentre Plus know as soon as the baby is born, as your benefit may go up.

How do I claim?

To claim income-based JSA before your baby is born, you or your partner must both go to the Jobcentre Plus in person. You may be able to claim by post if you live a long way from the Jobcentre. Once you are 29 weeks pregnant, you do not have to sign on if your partner is claiming with you. Your partner can continue to claim for you and the baby.

To claim Income Support, fill in form A1, which you can get from a post office or a Jobcentre Plus. You do not need to sign on.

The benefit is paid directly into your bank account. If you are claiming income-based JSA, you or your partner (or both, before you are 29 weeks pregnant) will have to go to your Jobcentre Plus every fortnight to 'sign on' to show that you are available for work.

More information

If you get Income Support, income-based JSA, income-related Employment and Support Allowance or Pension Credit, you can claim other benefits, such as:

- a £500 Sure Start Maternity Grant
- help with fares to hospital
- Housing Benefit
- Council Tax Benefit.

You may be able to get help with mortgage interest payments.

You can get help from Healthy Start.

See page 162 for more information.





£500 Sure Start Maternity Grant from the Social Fund

What is it?

The £500 Sure Start Maternity Grant is a lump sum payment to help buy things for a new baby.

Who gets it?

Pregnant women and new parents who get:

- Income Support
- income-based Jobseeker's Allowance
- income-related Employment and Support Allowance
- Pension Credit
- Working Tax Credit where a disability or severe disability element is included in the award, or
- Child Tax Credit payable at a rate higher than the family element.

How much is it?

£500 for each baby who is:

- expected
- born
- adopted
- the subject of a parental order (following a surrogate birth), or
- the subject of a residence order (in certain circumstances).

How do I claim?

Claim using form SF100 (Sure Start), which you can get from Jobcentre Plus. You can claim any time from 11 weeks before your due date until three months after the birth, adoption or date of parental or residence order. If you are adopting or have been granted a residence order, your baby must be aged under 12 months when you claim.

Part of the form will need to be completed by your midwife, GP or health visitor. This is to confirm when your baby is due or actually born, and that you have received advice about the health and welfare of your baby and, if you claim before your baby is born, yourself.

If you cannot get any of the benefits listed above (see 'Who gets it?') until after your baby is born, you must still claim the Sure Start Maternity Grant within the three-month time limit.

Health in Pregnancy Grant

As a mum-to-be living in the UK, you can claim a one-off payment of £190 to help you. You can use the grant to keep yourself healthy or for things for your baby. It's your choice.

Who gets it?

Almost every pregnant woman gets it. It doesn't depend on your income. The grant is available between the 25th week and your expected due date. You may not be able to claim if:

- you are subject to immigration control, or
- you are not ordinarily resident in the UK.

How much is it?

£190 and it's tax free, so it will not affect your tax credits or any other benefits.

How do I claim?

When you reach your 25th week, ask your midwife or doctor for a claim form at your next appointment. Make sure your midwife or doctor has completed and signed their part of the form. If they have not, it could delay your claim.

You have 31 days from the date your midwife or doctor signs the claim to get it back to Her Majesty's Revenue and Customs (HMRC). Once HMRC receives your form, they aim to send you a letter within three weeks to tell you if your claim has been allowed. You will be paid your grant about one week after you get the letter.

For more information visit www.direct.gov.uk/money4mum2be or call 0845 366 7885.

The Discretionary Social Fund

What is it?

The Discretionary Social Fund provides grants and interest-free loans for needs that are difficult for people to meet out of their weekly benefits or regular income.

Who gets it?

There are three types of payments available:

- Community Care Grants are for people getting Income Support, income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance or Pension Credit.
- Budgeting Loans are interest-free, repayable loans for people getting Income Support, income-based JSA, income-related Employment and Support Allowance or Pension Credit for at least 26 weeks.
- Crisis Loans are interest-free, repayable loans for people (on benefits or not) who are unable to meet their immediate short-term needs in a crisis.

How much can you get?

This depends on your personal circumstances, your ability to pay and how much money is available. Social Fund payments are not a right and there is a limited amount of money to be distributed between all those who successfully apply.

How do I claim?

Contact Jobcentre Plus.

More information is also available in leaflets:

- *A Guide to the Social Fund* (SB16, available at www.dwp.gov.uk)
- *The Social Fund* (DWP1007).

More information

- Loans have to be repaid at a set amount per week, which will be taken directly from your income if you are claiming other benefits. The amount you have to repay per week depends on the size of the loan, the size of your income and any other debts you may have.
- You cannot get a Budgeting Loan or a Crisis Loan for more than £1,500 and the total you owe the Social Fund cannot be more than £1,500.
- The amount of any Discretionary Social Fund payment you get will be reduced on a pound-for-pound basis by any savings you or your partner has. For Community Care Grants, savings over £500 (£1,000 if you or your partner are aged 60 or over) will usually affect how much you can get. For Budgeting Loans, savings over £1,000 (£2,000 if you or your partner are aged 60 or over) will usually affect how much you can get.
- The Social Fund can only provide Community Care Grants to families receiving Income Support, income-based JSA, income-related Employment and Support Allowance or Pension Credit under certain circumstances. These could be to help pay fares to visit a mother and baby in hospital or to help a family under exceptional pressure. Grants do not have to be repaid.



Housing Benefit – help with your rent

What is it?

Housing Benefit will help pay your rent if you are on income-based Jobseeker's Allowance (JSA), Income Support or income-related Employment and Support Allowance, or if you have a low income. If you are a council tenant it will be paid direct to the council; if you are a private tenant, it will be paid either to you or directly to your landlord.

How much is it?

It depends on:

- the rent you pay
- average rents in your area
- the size of your home
- your income
- savings
- other benefits
- your age, and
- your family size.

It may not be the same amount as the rent you are actually paying. The amount of savings you have can also affect the amount of Housing Benefit you get. You cannot get Housing Benefit if you have savings of more than £16,000.

How do I claim?

If you are getting income-based JSA or Income Support, you will get a Housing Benefit claim pack with your JSA/Income Support claim form. Otherwise, get a form from your local council.

Help with mortgage interest repayments

Who gets it?

If you have got a mortgage and you are on income-based Jobseeker's Allowance (JSA), Income Support or income-related Employment and Support Allowance, you may be able to get help with your interest payments. There is usually a waiting period during which you will not get any help.

How much is it?

You can only get help with interest payments (not repayments of capital or contributions to a linked PEP, endowment or insurance policy) and the amount is usually based on a standard average interest rate (which may not be the same as the interest you are paying).

You usually have to wait for 13 weeks before you get help, but you may have had to wait longer if you claimed benefits before January 2009.

How do I claim?

Once you have claimed income-based JSA or Income Support, your Jobcentre Plus office will automatically send you form MI12 about your housing costs shortly before your benefits become payable. You fill out part of the form and then send it to your mortgage lender to fill out the rest.

The money will either be paid to you as part of your income-based JSA or Income Support, or it will be paid directly to your mortgage lender.

More information

Tell your mortgage lender straight away if you get into difficulties with your mortgage. If you are unable to meet your repayments, you may be able to negotiate a temporary agreement for reduced repayments (e.g. during your maternity leave).

If you have a 'flexible mortgage', this should be relatively easy to arrange. Some mortgage lenders allow a 'repayment holiday' of a few months once during the life of the mortgage.

If you have mortgage protection insurance, contact your insurer immediately. Most insurance policies will pay out if you are receiving out-of-work benefits, but not if you are only receiving Statutory Maternity Pay or Maternity Allowance.

Council Tax Benefit

What is it?

Council Tax Benefit helps you to pay your Council Tax if your income is low.

Who gets it?

If your income is low or you are getting income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance or Income Support, you may get Council Tax Benefit.



How much is it?

You may get all of your Council Tax paid or just part of it. It will depend on your income, savings, whether other adults live with you, and an assessment of your circumstances.

How do I claim?

If you are getting income-based JSA or Income Support, you will get a Council Tax Benefit claim form with your JSA/Income Support claim form. Otherwise, get a form from your local council.



Healthy Start

What is it?

Healthy Start is a scheme that provides vouchers that can be exchanged for milk, fresh fruit and vegetables and infant formula milk. You can also get free vitamins. You can get vouchers that are worth £3.10 per week or £6.20 per week for children under one year old.

Who gets it?

You qualify for Healthy Start if you are pregnant or have a child under four years old and you and your family get one of the following:

- Income Support
 - income-based Jobseeker's Allowance
 - income-related Employment and Support Allowance
 - Child Tax Credit and have an annual family income of below £16,040 or less (2009/10)
 - Working Tax Credit run-on (but not Working Tax Credit). Working Tax Credit run-on is the Working Tax Credit you receive in the four weeks immediately after you have stopped working for 16 hours or more per week
- OR
- you are pregnant and under 18 years of age.

How do I claim?

- Pick up the Healthy Start leaflet HS01, *A Healthy Start for Pregnant Women and Young Children*, from your local health centre, or call 0845 607 6823 to request a free copy.
- Ask your health visitor for more information.
- Visit www.healthystart.nhs.uk

You will need your midwife to fill in their part of the application form. You can apply as soon as you are 10 weeks pregnant. Getting vouchers and vitamins cannot be backdated, so apply as early as you can.

Once your baby is born, you should claim Child Tax Credit to make sure you continue to get your vouchers, if you are still entitled. See page 158 for more information.

Help with hospital fares

Who gets it?

If you or your partner gets income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance or Income Support, you can get a refund for fares to and from the hospital (including for your visits for antenatal care). This can cover normal public transport fares, estimated petrol costs and taxi fares if there is no alternative. You may also be entitled to help if your family has a low income. You may also get help if you get tax credits or Pension Credit. Check your award letter for details.

How do I claim?

If you get income-based JSA, income-related Employment and Support Allowance or Income Support, you can claim when you visit the hospital. You will just need to show proof that you get the benefit.

You can claim within three months of your visit by filling in form HC5, which you can get from the hospital or Jobcentre Plus.

Fill in form HC1 if you don't get income-based JSA, income-related Employment and Support Allowance or Income Support but your income is low. You can get this from your doctor, hospital or Jobcentre Plus. Depending on how low your income is, you will then be given:

- certificate HC2, which means you qualify for free services, or
- certificate HC3, which means that you qualify for some help.

You show the certificate when you go to the hospital, or you can claim within three months of your visit on form HC5.



MATERNITY BENEFITS

Maternity Allowance

What is it?

Maternity Allowance (MA) is a weekly allowance paid through Jobcentre Plus.

Who gets it?

Women who cannot get Statutory Maternity Pay (see page 165) get MA. These are:

- women who have changed jobs during pregnancy
- women who have had periods of low earnings or unemployment during pregnancy
- women who are self-employed.

You can claim MA if you have been employed and/or self-employed in at least 26 of the 66 weeks before your expected week of childbirth. This 66-week period is known as the test period. You must also have gross average weekly earnings of at least £30. The average is taken over any 13 weeks in the test period. You should choose the 13 weeks in which you earned the most. In your chosen weeks, you can add together earnings from more than one job, including any self-employed work. You will be treated as earning a certain amount if you are self-employed.

How much is it?

MA is paid for 39 weeks at a standard rate of £123.06 per week, or 90% of your gross average weekly earnings if this is less than £123.06.

When is it paid?

The earliest that MA can start is 11 weeks before the week your baby is due and the latest is the day following the birth.

If you are unemployed, your MA will start 11 weeks before the week your baby is due.

If you are employed or self-employed at the start of the 11th week before the week your baby is due, you can choose when to start your MA. You can even work right up until the date the baby is due, unless:

- you are absent from work because of a pregnancy-related reason during the four weeks before the week your baby is due. In this case your MA will start automatically on the day following the first day of your absence from work, or
- your baby is born before your MA is due to start. In this case your MA will start on the day following the birth and will last for 39 weeks.

How do I claim?

You can make a claim for MA from the 14th week before the week your baby is due.

- Fill in form MA1, available from Jobcentre Plus or your antenatal clinic.
- Download an MA claim pack in PDF format from www.dwp.gov.uk/advisers/claimforms/ma1.pdf
- Contact Jobcentre Plus on 0800 055 6688.

You must also send your maternity certificate (form MAT B1). This is issued by your GP or midwife from 20 weeks before the week your baby is due.



If you are employed in the 15th week before your baby is due and do not qualify for Statutory Maternity Pay, you must also send in form SMP1 from your employer to show why you don't qualify. You will have to provide original payslips to show you meet the earnings condition.

If you are self-employed, Jobcentre Plus will confirm this direct with Her Majesty's Revenue and Customs.

When you have completed your claim form, send it to Jobcentre Plus, together with your maternity certificate (MAT B1) and your original payslips.

Claim as soon as you can, even if you are still at work, do not have the medical certificate, or cannot provide any other information needed to complete the claim form. You can always send things in later. You must claim within three months of the date your MA period is due to start. If you delay, you will lose money.

How is it paid?

MA is paid directly into your bank account, weekly or every four weeks in arrears.

Working during the Maternity Allowance pay period

You are allowed to work as an employed or self-employed person for up to 10 days during your MA pay period without losing any MA.

These 10 days are called Keeping in Touch (KIT) days. Once you have used up your 10 KIT days, if you do any further work you will lose a day's MA for any day on which you work. You must tell Jobcentre Plus about any work you do.

The amount you get paid for the days you work in your MA pay period will not affect your MA.

More information

If you are not entitled to MA, your Jobcentre Plus office will automatically check whether you might be entitled to Employment and Support Allowance (see below).

For further information about MA, see leaflet NI17A, *A Guide to Maternity Benefits*, available from www.dwp.gov.uk/advisers/ni17a

Employment and Support Allowance

What is it?

This is a weekly allowance that is normally paid to people whose ability to work is limited because of an illness or disability. It may also be paid to women who don't qualify for Statutory Maternity Pay or Maternity Allowance.

Who gets it?

Women who have paid enough National Insurance contributions during the last three tax years or women who are on a low income.

Jobcentre Plus will check this. If you are not sure whether or not you qualify, phone Jobcentre Plus for more information.

How much is it?

- £64.30 per week if you are aged 25 or over.
- £50.95 if you are aged under 25.

You may get more than this in some circumstances, for example if you have a partner who is not working and is not claiming benefits for themselves.

It is awarded from the Sunday of the sixth week before your baby is due until two weeks after your baby's birth. It may not be paid for the first three days of your claim.

How do I claim?

Make a claim for Maternity Allowance using form MA1, which you can get from Jobcentre Plus or your antenatal clinic. You also have to send your maternity certificate (form MAT B1), which is issued by your GP or midwife from 20 weeks before the week your baby is due. You don't need to send in a sick note from your doctor.

If you are not entitled to Maternity Allowance, Jobcentre Plus will check automatically to see if you qualify for Employment and Support Allowance. It can be paid directly into your bank. You must claim within three months of the start of your entitlement.

More information

To find out more about Employment and Support Allowance:

- call Jobcentre Plus on 0800 055 6688
- ask for leaflet DWP 1001, or
- visit the website at www.dwp.gov.uk/esa

Statutory Maternity Pay

What is it?

Statutory Maternity Pay (SMP) is money paid by your employer to help you take time off at and around the birth of your baby. It is paid up to a maximum of 39 weeks. Your employer can claim back some or all of it from Her Majesty's Revenue and Customs (HMRC). SMP counts as earnings and your employer will deduct tax and National Insurance.

You can get it even if you don't plan to go back to work or you leave your employment after you qualify for SMP. You will not have to pay SMP back if you don't return to work.

You may qualify for SMP from more than one employer.

Who gets it?

You get SMP if:

- you have been continuously employed for at least 26 weeks by the same employer up to the qualifying week. This is the 15th week before the week your baby is due. **This means you must have been employed by that employer before you were pregnant.** Part weeks count as full weeks and one day's employment in the qualifying week counts as a full week, and
- you earn an average of £95 a week before tax. This amount is called the Lower Earnings Limit for National Insurance contributions and is the amount you have to earn to qualify for benefits. You have to earn more than this amount before you actually start paying National Insurance.

Your earnings are averaged over an eight-week period, running up to and including the 15th week before the week your baby is due. This period may vary slightly depending

on whether you are paid weekly, monthly, or at other intervals.

To find out which is your qualifying week, look on a calendar for the Sunday before your baby is due (or the due date if that is a Sunday). Count back 15 Sundays from there. You should use the due date on the MAT B1 certificate, which your midwife or GP will give you when you are 20 weeks pregnant.

If you are not sure if you are entitled to SMP, ask your employer anyway. Your employer will work out whether or not you should get it, and if you don't qualify they will give you form SMP1 to explain why. If your employer is not sure how to work out your SMP or how to claim it back, they can ring the HMRC Employer Helpline on 08457 143 143 for advice.

How much is it?

SMP is paid for a maximum of 39 weeks.

- For the first six weeks you get 90% of your average gross weekly earnings, with no upper limit.
- For the remaining 33 weeks, you get a standard rate of £123.06, or 90% of your average gross weekly earnings if 90% is less than £123.06.

SMP is usually paid in the same way and at the same time as your normal wages, but your employer may decide to pay differently, for example in a lump sum.

When is it paid?

The earliest you can start your SMP is 11 weeks before the week your baby is due. The latest is the day following the birth.

To work out the earliest date, use the due date on your MAT B1 certificate, which your midwife or GP will give you.

Find the Sunday before your baby is due (or the due date if it is a Sunday) and count back 11 Sundays from there.

It is up to you to decide when you want to stop work, unless your job finishes before your SMP starts or you are off work for pregnancy-related reasons in the four weeks before your baby is due.

If your job finishes before the 11th week before the week your baby is due, your SMP must start 11 weeks before the week your baby is due.

If your job finishes after the 11th week but before your SMP is due to start, your SMP must start the day after you left your job. If you are still employed you can choose to work right up until the date the baby is due, unless:

- you are absent from work because of pregnancy-related reasons during the four weeks before the week that your baby is due. In that case your SMP should start automatically the day following the first day of absence from work, or
- your baby is born before the start of your SMP. In that case your SMP will start the day following the birth and will be paid for 39 weeks.



You can work for up to 10 days for the employer who pays you SMP and still keep the SMP for the weeks in which you do that work. These days are called Keeping in Touch (KIT) days.

After that, if you do any further work you cannot get SMP for any week in which you work for the employer who pays you.

If you return to work early, your SMP will stop. Your SMP cannot start again once you have stopped your maternity leave.

If after the birth you start work for a new employer who did not employ you in the 15th week before the week your baby was due, you must tell the employer paying your SMP. They will then stop paying your SMP.

How do I claim?

You must give your employer at least 28 days' notice of the date you want to start your pay. They may need this in writing. You must also send your maternity certificate (MAT B1 form), which is issued by your GP or midwife from 20 weeks before the week your baby is due.

You can give notice for leave and pay together in the 15th week before the week your baby is due. You can change your mind about the dates you have given for the start of your SMP but you must give your employer 28 days' notice of this change and confirm the new date in writing.

More information

See leaflet NI17A, *A Guide to Maternity Benefits*, which is available from www.dwp.gov.uk/advisers/ni17a

IF YOU ARE UNEMPLOYED

Contribution-based Jobseeker's Allowance

What is it?

Contribution-based Jobseeker's Allowance (JSA) is an allowance that lasts for up to 26 weeks for people who are unemployed or working less than 16 hours a week.

Who gets it?

You get it if:

- you have paid enough National Insurance contributions during the last two tax years before the current calendar year. Tax years run from April to March.
- you are available for work for as many hours as your caring responsibilities permit (this must be at least 16 hours a week), and
- you are actively seeking work.

How much is it?

- £50.95 a week if you are under 25.
- £64.30 a week if you are 25 or over.

Your partner's earnings are not taken into account, but, if you are in part-time work, **your** earnings are and will reduce how much benefit you get.

The benefit is paid directly into your bank account, normally every two weeks.

How do I claim?

Go to your local Jobcentre Plus, or claim by post if you live too far away. You will have to go to your Jobcentre Plus every fortnight to 'sign on' to show that you are available for work.

More information

If your family has no other income, you will probably be entitled to income-based JSA and other benefits for families on low incomes (see page 159).

If you resign from your job

If you resign from your job and don't go back to work after maternity leave, you may be able to claim contribution-based Jobseeker's Allowance (JSA) for up to six months. However, you will have to show that you had 'just cause' for voluntarily leaving your job. You will also have to be available for work for as many hours a week as your caring responsibilities permit. This must be at least 16 hours a week.

If you have not paid enough National Insurance contributions, you may be able to claim income-based JSA instead (see page 159), depending on your personal circumstances. Apply in person at your local Jobcentre Plus.

If you are a single parent, you may be able to claim Income Support (see page 159) once your baby is born.

Remember that you may still be able to claim tax credits if you are unemployed (Child Tax Credit for your children; Working Tax Credit if your partner works enough hours). Apply to Jobcentre Plus for Income Support or to Her Majesty's Revenue and Customs for tax credits.



MATERNITY LEAVE

All employed women are entitled to 52 weeks' maternity leave, no matter how long they have worked for their employer, or the hours they worked. This is made up of 26 weeks of Ordinary Maternity Leave (OML) and 26 weeks of Additional Maternity Leave (AML).

You are usually considered to be an employee if:

- your employer deducts tax and National Insurance from your pay
- your employer controls the work you do, when and how you do it, and
- your employer provides all the equipment for your work.

If you work for an agency or do casual work, you are probably not an employee. However, you can still get maternity pay if you meet the normal conditions (see 'Maternity Allowance' on page 163 and 'Statutory Maternity Pay' on page 165).

time
with your **baby**

Ordinary Maternity Leave

All employed women:

- can take 26 weeks' leave, and
- have the right to return to the same job.

Additional Maternity Leave

All employed women:

- can take 26 weeks' leave from the end of their Ordinary Maternity Leave, and
- have the right to return to the same job. If that is not reasonably practicable, then you have the right to a suitable job on very similar terms and conditions.

When does maternity leave start?

The earliest you can start your statutory maternity leave is 11 weeks before the expected week of childbirth. This is when

you are about 29 weeks pregnant, so count back from the due date on your MAT B1 certificate, which your midwife or GP will give you. Find the Sunday before your baby is due (or the due date if it is a Sunday) and count back 11 Sundays from there.

You can decide when you want to stop work. You can even work right up until the date your baby is born, unless:

- you have a **pregnancy-related illness/absence in the last four weeks of your pregnancy.** In this case your employer can start your maternity leave even if you are off sick for only one day. However, if you are ill for only a short time, your employer may agree to let you start your maternity leave when you had planned, or
- your baby is born before the day you were planning to start your leave. In this case leave will start

on the day after you give birth. You should tell your employer as soon as you can that you have given birth.

How to give notice

Telling your employer that you are pregnant

The latest time you can tell your employer that you are pregnant is the 15th week before your baby is due. However, it is best to tell your employer as soon as possible to make sure that you have health and safety protection during your pregnancy and the right to paid time off for antenatal care. The law protects you from being dismissed or discriminated against because you are pregnant.

If you cannot give notice by the 15th week before you are due (for example, because you have to go into hospital unexpectedly), you must give notice as soon as you reasonably can.

Giving notice for statutory maternity leave

To give notice that you will be taking maternity leave, you must tell your employer the following in or before the 15th week before your baby is due. It is probably best to put this in writing:

- that you are pregnant
- the expected week of childbirth, and
- the date on which you intend to start your maternity leave.

If you want to change the date on which you start your maternity leave, you must give your employer notice of the new date at least 28 days before either the new date or the old date – whichever is earliest. If there is a good reason why that is not possible, tell your employer as soon as you reasonably can.

You can choose when to start maternity leave, but the earliest you can start getting Statutory Maternity Pay is in the 11th week before the week your baby is due.

Once you have given notice, your employer must write to you within 28 days and state the date you are expected to return from maternity leave.

Working out the 15th week before your baby is due

Find the Sunday before your baby is due (or the due date if it is a Sunday) and count back 15 Sundays from there. That is the start of the 15th week before the expected week when your baby is due.

You should use the due date on the MAT B1 certificate that your midwife or GP will give you when you are about 20 weeks pregnant.

RIGHTS DURING MATERNITY LEAVE

Since 5 October 2008, your contractual rights (that is, any special rights that apply to your particular workplace, such as a company car) continue throughout your maternity leave (Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML)) as if you were still at work. This includes your legal right to 5.6 weeks' paid annual leave (normally 28 days for full-time employees and the pro-rata equivalent for part-time workers) whether you are on maternity leave or not. This does not include your normal pay.

During the first 39 weeks of your leave you will probably be entitled

to either Statutory Maternity Pay or Maternity Allowance (see pages 165 and 163). After that your leave will be unpaid. Some employers also offer extra maternity pay: check your contract, or ask the human resources department or your union representative.

If you are made redundant while on maternity leave, your employer must offer you any suitable alternative work that is available. If there is none, they must give you any notice and redundancy pay that you are entitled to, although they could offset any maternity pay you get from the notice pay. Also, your employer must not discriminate against you by failing to consider you for opportunities such as promotion.

For more information visit www.direct.gov.uk/workandfamilies

Pay

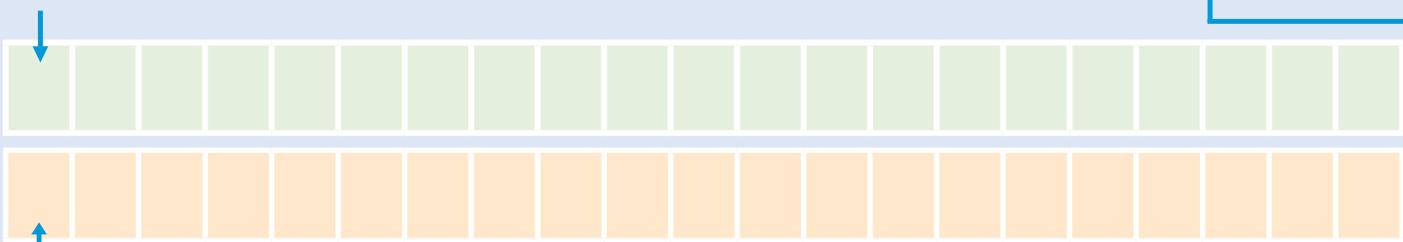
During OML and the first 13 weeks of AML, you may be entitled to Maternity Allowance or Statutory Maternity Pay (see pages 163 and 165). After that your leave will usually be unpaid. Some employers offer extra (or contractual) maternity pay, so check your contract or ask the human resources department or your union representative.

Rights and benefits in pregnancy

This guide shows you **when** you should claim for a range of benefits. The timing of your rights and benefits in pregnancy is very complicated, so use this chart as a rough guide only.

In this box, write in the date of the Sunday before the first day of your last period. (If your last period started on a Sunday, write in that date.) Then work along the top row filling in the dates of each successive Sunday.

You can claim the Health in Pregnancy Grant payment from this week.



Write in the first day of your last period here. Then work along the row filling in the remaining boxes. Each box represents a week. Write in the dates week by week until you get to the date on which your baby is due.

Discrimination

Your employer must not discriminate against you while you are on maternity leave. This means that they have to consider you for opportunities such as promotion.

If you are made redundant while on maternity leave, your employer must offer you any suitable alternative work that is available. If there is none, they must pay you any notice and redundancy pay that you are entitled to.

RETURNING TO WORK

Giving notice about returning to work

Your employer should assume that you will be taking your full entitlement of 52 weeks unless you tell them otherwise. You will be due back to work on the day after the 52-week period of maternity leave.

If you want to take all of your leave, you simply go back to work on that day.

If you decide not to take some or all of your maternity leave, whether Ordinary Maternity Leave (OML) or Additional Maternity Leave (AML), you should give eight weeks' notice to return to work early. Even if you only wish to take OML, or you just want to be off work while you still

get maternity pay, you must give eight weeks' notice of your return as you will in fact be returning early.

If you don't give this notice and just turn up at work before the end of your maternity leave, your employer can refuse to allow you to work for up to eight weeks or until the end of your leave, whichever is earlier. If you change your mind and wish to continue taking your maternity leave, you must give your employer eight weeks' notice before the earlier date of return.

The law does not allow you to work for two weeks (four weeks if you work in a factory) after childbirth. This period is known as **Compulsory Maternity Leave**. You will not be allowed to return to work during this time.

Your job when you go back

When you go back to work after AML, you have the right to return to the same job. But if your employer can show that this is not reasonably practicable, you have the right to be offered a suitable alternative job on at least the same terms and conditions. If the job no longer exists, this could be a redundancy situation and you should get advice. You should also be offered any suitable alternative vacancies if your post is made redundant while you are on maternity leave.

If you need more time off work

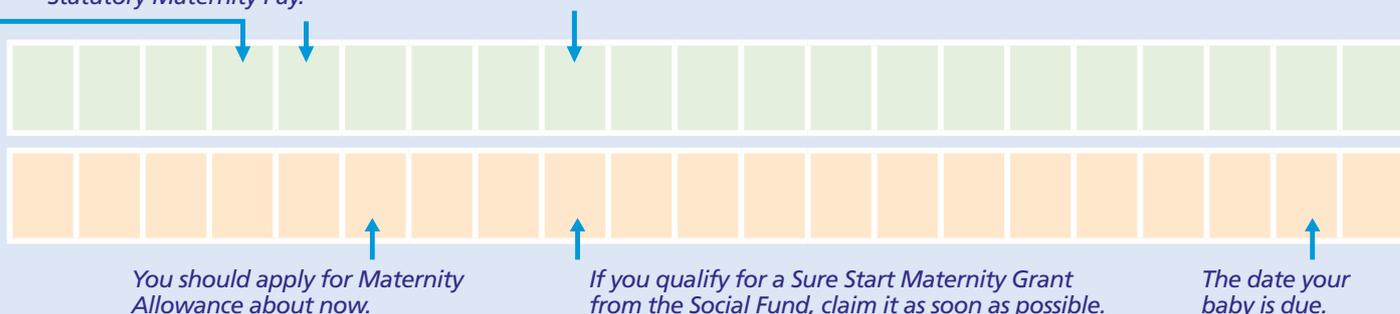
If you stay off work after your maternity leave has ended, you will lose your right to return to the same job. If you need more time off you could do one of the following:

- Ask your employer if you can take annual leave immediately after your maternity leave. Your paid holiday continues to accrue during maternity leave so you may have some holiday owing to you.
- Take some parental leave at the end of your maternity leave (see page 172). You must give 21 days' notice to take parental leave, and it is usually unpaid, unless your employer offers paid parental leave.
- If you cannot return because you are ill, you can take sick leave as long as you follow your employer's sickness procedures.

If you are not able to take annual leave and don't have enough notice to ask for parental leave, you can still ask your employer if they will agree to a further period off work (this will usually be unpaid). You should ask your employer to confirm this agreement in writing and to confirm that you will have the right to return to the same job. You should also check whether your employer is counting this as part of your parental leave entitlement.

You must have notified your employer of your pregnancy, the expected week of childbirth and the date you want to start Ordinary Maternity Leave. This is also your 'qualifying' week for Statutory Maternity Pay.

This is the earliest you can start your maternity leave and Maternity Allowance or Statutory Maternity Pay.



You should apply for Maternity Allowance about now.

If you qualify for a Sure Start Maternity Grant from the Social Fund, claim it as soon as possible.

The date your baby is due.



If you don't go back to work

You should resign in the normal way, giving at least the notice required by your contract or the notice period that is normally given in your workplace. If you don't have a contract, you should give at least a week's notice.

If you say you are going to return to work and then change your mind, you can resign from your job in the normal way. Your notice period can run at the same time as your maternity leave.

If you don't go back to work, you don't have to repay any of the Statutory Maternity Pay you received during your maternity leave.

Work during maternity leave

During maternity leave it is often helpful to keep in touch with your employer. Your employer is entitled to make reasonable contact with you during maternity leave. This might be to discuss things like arrangements for your return to work, or to update you on any significant changes in the workplace while you have been away.

You are entitled to do up to 10 days' work during your maternity leave without losing maternity pay or bringing your leave to an end.

These Keeping in Touch (KIT) days may only be worked if both you and your employer agree. Although particularly useful for things such as training or team events, they may be used for any form of work and should make it easier to return to

work after your leave. You will need to agree with your employer what work is to be done on KIT days and how much pay you will receive.

If you are pregnant again

Maternity leave does not break your continuity of employment, so if you are pregnant again, your right to maternity leave will be based on your total service with your employer. You may also qualify for Statutory Maternity Pay (SMP), as long as you meet the normal conditions. However, this will mean you will have to be receiving an average of at least £95 per week from your employer, worked out over approximately weeks 18–25 of your pregnancy when SMP entitlement is calculated.

If you have already taken Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) (a year off) you will be entitled to a second period of OML and AML. If you go straight into another period of OML without physically returning to work and decide to return to work after the second period of OML, you will not have the right to return to exactly the same job as you normally would at the end of OML. However, you will have the same right as you would have had at the end of AML. This is the right to return to the same job or, if that is not reasonably practicable, a suitable alternative job on similar terms and conditions.

If you return to work after the end of your first period of AML and before the start of your second period of OML, your rights to maternity leave are not affected. This means that you have the right to return to exactly the same job after your second period of OML. This applies even if you only returned to work for one day.

OTHER EMPLOYMENT RIGHTS

These rights apply no matter how long you have been employed or how many hours you work per week.

Paid time off for antenatal care

If you are an employee, you have the right to take reasonable time off for your antenatal appointments, including time needed to travel to your clinic or GP, without loss of pay.

You should let your employer know when you need time off. For appointments after the first one, your employer can ask to see your appointment card and a certificate stating that you are pregnant.

Antenatal care can include antenatal education and relaxation classes. You may need a letter from your GP or midwife to show your employer, saying that these classes are part of your antenatal care.

Health and safety rights

If you are pregnant, have recently given birth or are breastfeeding, your employer must make sure that the kind of work you do and your working conditions will not put your health or your baby's health at risk. To get the full benefit of this legal protection, you must notify your employer in writing that you are pregnant, have recently given birth or are breastfeeding.



- Your employer must carry out a risk assessment at your workplace and do everything reasonable to remove or reduce the risks found.
- If there are still risks, your employer must change your working conditions or hours of work to remove the risk.
- If this is not possible or would not remove the risk, your employer must offer you a suitable alternative job.
- If this is not possible, your employer must suspend you on full pay for as long as is necessary to avoid the risk. If you do night work and your doctor advises that you should stop for health and safety reasons, you have the right to transfer to day work or, if that is not possible, to be suspended on full pay. You must provide a medical certificate.



Dismissal or unfair treatment

It is sex discrimination for your employer to treat you unfairly, dismiss you or select you for redundancy for any reason connected with pregnancy, childbirth or maternity leave.

If you are dismissed while you are pregnant or during your maternity leave, your employer must give you a written statement of the reasons. You may also have a claim for compensation for sex discrimination. If you are making a claim against your employer, you must put your claim into the Employment Tribunal within three months of the problem arising – get advice as soon as possible.



OTHER TYPES OF LEAVE

Paternity leave

Paternity leave is one or two weeks' leave to care for a child or support their mother.

Who gets it?

Your baby's biological father, your husband or your partner, including a same-sex partner, will be able to take paternity leave providing they:

- expect to have responsibility for bringing up the child, and
- have worked for the same employer for at least 26 weeks by the 15th week before your baby is due.

If your partner is not the biological father and is not married to you or in a civil partnership with you, they must live with you and your baby to get paternity leave.

When does it start?

It can start:

- from the date of your baby's birth
- from a chosen number of days or weeks after the date of your baby's birth (whether this is earlier or later than expected), or
- from a chosen date.

Paternity leave must be taken within 56 days of your baby's birth or, if your baby is born early, within the period from the actual date of birth up to 56 days after the expected week of birth.

Your partner will be able to return to the same job after paternity leave.

Statutory Paternity Pay

Statutory Paternity Pay (SPP) is paid by employers for up to two weeks.

Who gets it?

Your partner can get SPP if they:

- are the baby's father or your husband/partner and are responsible for the baby's upbringing (your partner must live with you and your baby if they are not the biological father and are not married to you or in a civil partnership with you)
- have worked for an employer for 26 weeks by the 15th week before the baby is due
- are still employed by the same employer when the baby is born
- earn at least £95 per week on average (before tax) in the eight weeks immediately before the week your baby is born.

How much is it?

£123.06 per week or 90% of your partner's average weekly earnings, whichever is less.

How do I claim?

Your partner must give their employer at least 28 days' notice of the date when they want their SPP to start – or notify them as soon as is reasonably practicable.



Parental leave

Parental leave is designed to give parents more time with their young children. It entitles you to take 13 weeks' leave per parent per child, usually unpaid, up to your child's fifth birthday. Parents of disabled children are entitled to 18 weeks' leave, to be taken before the child is 18. For parental leave, a disabled child is a child who gets Disability Living Allowance (DLA). It is also available for adoptive parents, in which case you can take it either within five years of the placement for adoption or before your child's 18th birthday, whichever is earlier.

Who gets it?

Employees who have been employed for a year by the time they wish to take leave to care for a child.

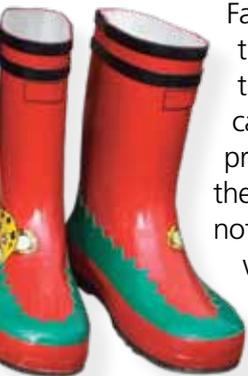
You cannot usually take all your 13 weeks in one go. Your employer may limit the amount of leave you can take to four weeks per child in any one year.

How do I claim?

You must give your employer 21 days' notice of the dates when you want to take your leave. Your employer can postpone the leave, but only if their business would be disrupted unduly.

Fathers wanting to take time off at or around the birth of their baby can take parental leave, providing they give their employers 21 days' notice of the expected week of childbirth.

An employer cannot postpone leave in these circumstances.



More information

Visit www.direct.gov.uk/workandfamilies

Time off for dependants

Every employee is also entitled to emergency unpaid leave to make arrangements for the care of a child who falls ill, gives birth or is injured. This leave can be used if there is a sudden problem with care arrangements for your child – for example, if your childminder falls ill.

Flexible working arrangements

Parents have the right to ask for flexible working arrangements. If you need to change your working hours because of childcare, you also have the right to have your request considered seriously under sex discrimination law.

Follow the procedure outlined on page 173. If your request is refused, you should get advice about whether you have a claim for compensation under the new right and under sex discrimination law.

Your rights

You have the right to request flexible working arrangements if you have or expect to have parental responsibility for:

- a child under 17 (from April 2009), or
- a disabled child under 18 who is entitled to Disability Living Allowance (DLA).

Parental responsibility means that you are a:

- mother
- father
- adopter
- guardian

Flexible working

Flexible working covers a wide variety of working practices. It can be any working pattern other than the normal working pattern in an organisation. Most people are familiar with working part time for pro-rata pay or working different shift patterns. Other ways of flexible working include the following:

- **Flexitime.** Employees may be required to work within core hours, but outside these times they get flexibility in how they work their hours.
- **Job sharing.** Typically, two employees share the work normally done by one employee.
- **Working from home.** New technology makes work possible by telephone, fax and email from home, or other remote locations.
- **Term-time working.** An employee on a permanent contract takes paid or unpaid leave during school holidays.
- **Staggered hours.** Employees in the same workplace have different start, finish and break times – often as a way of covering longer opening hours.
- **Compressed working hours.** Employees work their total agreed hours over fewer working days – for example, a five-day working week is compressed into four days.

There is a clear procedure that you and your employer must follow. Your employer must seriously consider your request and can only refuse for one of the business reasons set out in the legislation. Any reduction in the number of hours worked will result in pay being reduced.

- special guardian
- foster parent
- private foster carer, or
- person who has been granted a residence order in respect of a child

or

- you are married to, or the partner or civil partner of, one of the above.

The change that you ask for can relate to the hours that you work, the days that you work or your place of work.

Who does it apply to?

You can ask for flexible working if:

- you are an employee
- you have worked for your employer for 26 continuous weeks prior to your request (continuous employment generally means working for the same employer without a break, but this is not always the case. Further information is available at www.direct.gov.uk)
- you have parental responsibility for a child under 17 (from April 2009) or a disabled child under 18 who is entitled to DLA (or you are married to, or the partner or civil partner of, that person).

You cannot ask for flexible working if:

- you have made a request in the last 12 months

- you are an agency worker
- you are a member of the armed forces.

How do I ask to change my hours?

Your request/application must:

- be in writing (whether on paper or by email). Find out if your employer has a standard form for making an application. If not, sample letters can be downloaded from www.direct.gov.uk
- state that the application is being made under the statutory right to request a flexible working pattern
- confirm that you are applying as someone who has or expects to have parental responsibility for the upbringing of a child under 17 or a disabled child under 18 who is entitled to DLA and that you are the parent, adopter, guardian or foster parent of the child (or that you are married to, or the partner or civil partner of, that person)
- state the flexible working pattern you are asking for and the date you want it to start. The proposed date should allow time for the application to be considered and implemented. There is no set time, but the process can take up to 14 weeks or longer where issues arise
- explain how you think your new working pattern may affect your employer and how you think this could be dealt with
 - state whether you have made an application to your employer before, and if so when
 - be signed and dated.

Your application should be as clear as possible.

You should also keep a copy.

When your employer receives the application

Your employer must:

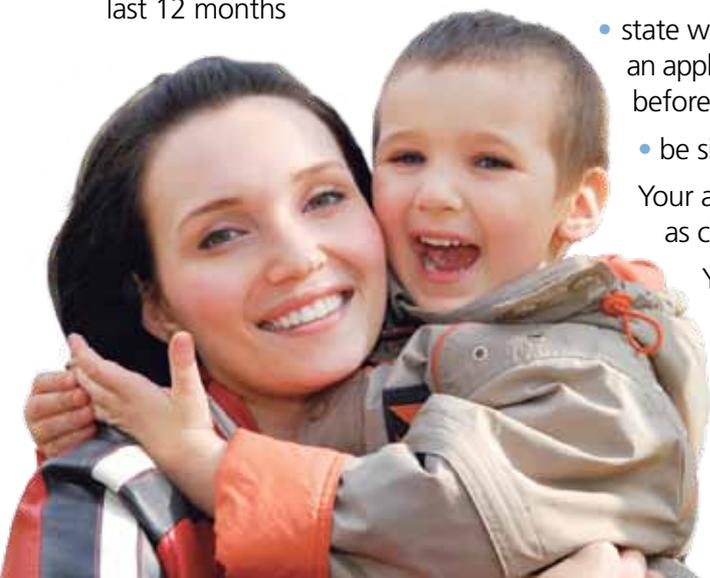
- hold a meeting with you within 28 days of your application. You are allowed to bring a companion but your employer does not have to let you bring someone who is not employed by them. This meeting should discuss your application. If your employer does not think that the proposed working pattern can be accommodated within the needs of the business, they should discuss any possible compromise arrangements
- give you notice of their decision within 14 days of the meeting and tell you about your right of appeal
- give a reason for refusing, which must be one of those allowed by the regulations, with an explanation of why that reason applies in your case.

Refusing your request

Your employer can only refuse your request for one of the following business reasons:

- the burden of additional costs
- the detrimental effect on the ability to meet customer demand
- an inability to reorganise the work among existing staff
- an inability to recruit additional staff
- the detrimental effect on quality
- the detrimental effect on performance
- not enough work during the periods when the employee wants to work
- planned structural changes.

Your employer must also explain why that reason applies in your circumstances.





Appeal

You have the right to appeal within 14 days of receiving notification of your employer's refusal. To appeal, you must write to your employer stating your reasons for appealing. You must sign and date your letter. Your employer must hold the appeal meeting within 14 days of receiving your notice of appeal. You have the right to be accompanied during the meeting if you wish, usually by another worker employed by the same employer, although your employer may agree to let someone else attend. Your employer must:

- allow your companion time off to accompany you without it affecting their pay
- hold the meeting at a convenient time and place for both parties, and
- notify you of their decision in writing within 14 days of the appeal meeting, giving reasons for their decision.

Tribunals

You can make a claim in a tribunal if your employer does not follow the procedure or refuses for a reason not stated in the rules or without an explanation.

You must complete the appeal procedure and wait for the decision before you can make a tribunal application.

An employment tribunal or an Acas binding arbitration that finds in your favour can order your employer to:

- reconsider your application by following the procedure correctly
- pay you an award (up to a maximum of eight weeks' pay (up to the statutory maximum of £350 per week) in compensation).

Legal help

The legal help scheme allows people on a low income to get free legal advice and assistance when preparing for a tribunal. Funding for general legal advice (not advocacy) is available, to those who qualify financially, under the legal help scheme. Full representation is available under legal aid (to those who qualify financially) for cases brought in the Employment Appeal Tribunal.

More information is available at www.adviceguide.org.uk

YOUR RIGHTS UNDER SEX DISCRIMINATION LAW

It may be indirect sex discrimination if an employer refuses a woman's request to change her working pattern. It may be direct sex discrimination if an employer refuses a man's request when they allow a woman to work differently.

Your employer will only know if they have a good reason for refusing your request if they give it a lot of thought. Refusing even to consider your request or having a policy of refusing part-time work could be seen as sex discrimination by an employment tribunal. An employer must consider each individual request in order to avoid discriminating against a woman or a man with childcare responsibilities.

People often assume that a job has to be done full time or at certain fixed times of day, but if you and your employer look carefully at your job you may be able to work out a more child-friendly option – perhaps one that neither of you had considered before.

Who does the law apply to?

Sex discrimination law applies to all employers and all employed parents with childcare responsibilities. It only applies if you would be disadvantaged by not being allowed to work the child-friendly hours you need. You must have a good reason for asking to work differently – just as an employer must have a good reason for refusing. A good reason might be:

- you cannot find or afford full-time childcare
- you cannot find or afford childcare outside 9am–5pm, Monday–Friday
- you have to be there when your child or children come home from school
- your parents or relatives cannot look after your child full time
- you are suffering from severe stress from working long hours
- you are distressed or disadvantaged by having to work your old hours.

The difference between rights under sex discrimination law and the right to request flexible working

The new statutory right to request flexible working only applies to employees who are parents of children under 17 (or under 18 if disabled), who have not made an application within the last 12 months, and who have worked for their employer for 26 weeks at the time of making the application.

Sex discrimination law may help you if you need to change your working pattern in order to care for your child but cannot use the statutory procedure. This may be because you have made a request under the procedure within the last 12 months or have worked for your employer for less than 26 weeks.

The procedure

There is no specific application procedure under sex discrimination law. If you can, initially make your request under the new right to ask for flexible working (see page 172).

If your employer refuses your request

If your new working pattern will cause major problems, then your employer may be justified in refusing your request. You can get further advice from your trade union representative or local Citizens

Advice Bureau or the Equality and Human Rights Commission (EHRC).

If you want advice on whether you might have a good case for a tribunal, you should see a specialist employment lawyer.

If this doesn't work, you can make a claim in an employment tribunal if your employer refuses your request without a good business reason. The tribunal will look at your employer's reasons and will question them carefully about whether they were justified in refusing

your request. They can also award unlimited compensation for loss of pay (if you had to leave your job) and for injury to feelings.

You must make a tribunal claim within three months of the refusal under the new right and under sex discrimination law.



Have you claimed everything?

You can claim → If you get ↓	Child Benefit	Free prescriptions	Free dental treatment	£500 Sure Start Maternity Grant*	Social Fund loans***	Council Tax Benefit (not NI and Housing Benefit)	Help with mortgage	Healthy Start**	Fares to hospital
Income-based JSA	Y	Y	Y	Y	Y	Y	Y	Y	Y
Income Support	Y	Y	Y	Y	Y	Y	Y	Y	Y
Low income	Y	Y****	Y****	Y*	N	Y	N	N	Y
All mothers	Y	Y****	Y****	N	N	N	N	N	N

- * You can claim if you get Pension Credit, income-related Employment and Support Allowance, Working Tax Credit, where a disability or severe disability element is included in the award or Child Tax Credit at a rate higher than the family element.
- ** You can also claim if you get Child Tax Credit but not Working Tax Credit with an income of £16,040 or less. The qualifying criteria for Healthy Start are: Income Support/income-based JSA/income-related Employment and Support Allowance/Child Tax Credit without Working Tax Credit (unless Working Tax Credit run-on only is in payment) and annual family income of £16,040 or less.
- *** You have to be on Income Support, income-based JSA, income-related Employment and Support Allowance or Pension Credit to get a Social Fund loan (called a Budgeting Loan) unless there is an emergency or disaster and you are without resources to prevent risk to health (this is called a Crisis Loan).
- **** Free prescriptions and free dental are only available for low income/all mothers during pregnancy and for one year after birth.
- ***** Some people will get full help, other people may only get partial help – it all depends on how low income is.