

Your questions answered: maternity leave

“What is the best approach to managing the maternity leave process?”

One of the most popular questions to arise, Nigel Jones, Sales & Marketing Director at Practice Plan, takes a look at managing the maternity leave process, including ways to plan effectively to ensure a smooth transition.

HR issues are a topic that we get asked about on a fairly regular basis as many practices are keen to ensure they're abiding by the law. And how best to manage pregnant employees and their maternity leave is one of the most popular questions that comes up.

Understandably, practice owners and managers are keen to ensure the wellbeing of their pregnant staff, and that they are offering them the right kind of support during this time. Being clear on the legal requirements can also help to make the process as stress-free and smooth as possible. To provide that clarity I asked specialist solicitor Sarah Buxton: **What is the best approach to managing the maternity leave process?**

Sarah: “Whilst an impending baby is undoubtedly a blessing for the soon-to-be parents, when an employee takes leave associated with that pregnancy it can potentially cause difficulties for an employer. It is therefore important that they remember that a pregnant employee has a special status in law and therefore, it is vital to correctly manage the maternity leave process. However, although you should tread carefully, a pregnant employee should be treated the same as any other employee.

Know your employee's rights

The first step to effectively managing the maternity leave process is being aware of those things to which your pregnant employee is entitled. There are many aspects to be aware of including the obvious matters, such as maternity leave and pay, and the not-so-obvious matters including holiday entitlement, pension contribution and 'keeping in touch' (KIT) days amongst others. Ensuring that you are aware of what your employee is entitled to will allow for smoother management of the maternity leave process and a happy employee who receives everything to which they are entitled.

Maternity leave

In regard to maternity leave itself, all employees, regardless of length of service, have the right to take 52 weeks of maternity leave. This is comprised of 26 weeks' ordinary maternity leave and a further 26 weeks of additional maternity leave. It is also important to remember that the first two weeks of maternity leave are compulsory and if you allow an employee to return to work during this period you may be guilty of a criminal offence.

Maternity pay

Whilst all employees are entitled to take maternity leave, employees are only entitled to receive statutory maternity pay (SMP) where they meet certain requirements. The employee must have 26 weeks' continuous service up to and including the 15th week before the expected week of child birth, and average earnings of at least the lower earnings limit for National Insurance during the eight-week period ending with the 15th week before the expected week of child birth. Providing that the employee satisfies those two requirements, they will be entitled to 39 weeks' SMP.

Health and safety

All employers are under a duty to protect the health and safety of their employees. There are special duties that apply in respect of new or expectant mothers in the workplace. In summary, the law requires employers:

- To assess the workplace risks posed to new or expectant mothers or their babies.
- To alter the employee's working conditions, or hours of work, to avoid any significant risk.
- Where it is not reasonable to alter working conditions or hours, or it would not avoid the risk, to offer suitable alternative work on terms that are not 'substantially less favourable'.

- Where suitable alternative work is not available, or the employee reasonably refuses it, to suspend the employee on full pay.

Antenatal appointments

All pregnant employees have a statutory right to paid time off during working hours 'for the purpose of receiving antenatal care', regardless of hours worked or length of service.

Know your obligations

To qualify for maternity leave, a pregnant employee must inform their employer not less than 15 weeks before the due date of: their pregnancy, their expected week of child birth and when they intend to begin maternity leave. Once you have received this you have 28 days to inform the employee of the end date of their maternity leave. This will be 52 weeks from the start of her maternity leave. It is best practice to ensure that all notifications are made in writing. This allows for a full and accurate record to be kept about the employee's pregnancy and also provides protection against the employee alleging that they were not notified of the end date of their maternity leave, as you could face consequences should you fail to accurately inform them of this.

Plan effectively

Employment continues during maternity leave and it is important to remember that the employee is entitled to return to their original job or one that is not dissimilar. Therefore, as soon as practicable after being notified of the pregnancy, you should consider how best to cover that employee's workload so as to leave room for their return following the end of their leave.

If you do recruit another person on a temporary basis, it is important to ensure you put the right contract in place whether that is a worker contract, temporary or a fixed-term contract.

Communicate with the employee

Talk with your employee about their rights and what they are entitled to and don't let that communication stop when they begin their maternity leave. Whilst on maternity leave, employees are entitled to up to 10 KIT days. These are days where they can attend work without bringing their leave to an end. These KIT days can be significant in helping the employee feel that they are still very much 'in the loop' whilst on maternity leave. They can also allow for a smoother transition when they do return to work.

Be aware of discrimination

Pregnancy and maternity are protected characteristics laid down in the Equality Act 2010, which provides that it is unlawful

to treat a woman less favourably because of her pregnancy or maternity leave. Employers should bear this mind if they are considering making any alterations to the workplace that may affect this employee, such as reducing their pay or hours.

The most common area where employers trip themselves up in this regard is where an employee is absent from work due to pregnancy-related sickness. If an employee is treated unfavourably because of a pregnancy-related illness, this will constitute unlawful pregnancy and maternity discrimination and any dismissal will be automatically unfair. Any pregnancy-related absence or maternity leave absence should therefore be ignored in respect of any promotion decision or the assessment of any other benefits at any stage of her employment.

If you are unsure about what to do in regards to managing the maternity leave process then always seek legal advice at the earliest opportunity.”

Staying within HR regulation is a must for any business, including dental practices, not just for compliance but also to ensure your working life is as hassle-free as possible. Thanks to Sarah for her expert advice on this particular issue which I'm sure has provided clearer insight into how to make sure you're acting in the correct way when a team member announces they're expecting. ■

About the authors

Sarah Buxton is a Director and HR and Employment Solicitor at FTA Law. She specialises in acting for dental practice owners in all aspects of running and managing a team. Please call 0113 834 3740 for further information.



Your questions answered!

Nigel Jones is Sales and Marketing Director at Practice Plan, the UK's leading provider of practice-branded dental plans and has spent the majority of his 27-year career supporting the development of successful private practice. Through this regular column, he offers YOU the chance to ask any questions you may have about dentistry and running a practice today. Simply email hello@practiceplan.co.uk with your question alongside your job title and location and let us do the rest!

