

## Sustain's maternity policy

Sustain wants to help staff members during and after pregnancy. We will be flexible and supportive; we invite you to discuss your circumstances with Sustain to help us work out how best to do so. This policy sets out your rights and our mutual responsibilities on maternity leave, maternity pay, and other issues relating to pregnancy and maternity. The policy is designed to be as comprehensive as possible, however people's individual circumstances do vary, and if you have any queries that are not answered, or if you have any other questions about the policy, please contact Sustain's HR Manager (usually Sustain's Head of Finance or a member of the Senior Management Team). Please note that this policy does not cover people who work with Sustain on freelance contracts.

Sustain implements, and in some aspects exceeds, the maternity leave rights set out in legislation. Maternity leave is in addition to parental leave (see Parental Leave Policy). Shared parental leave and pay can be considered as an alternative to maternity leave and pay (see Shared Parental Leave Policy). It is also additional to paid annual leave entitlement.

A useful website for information is: <https://www.gov.uk/employers-maternity-pay-leave>

### 1. Time off for antenatal care

You are entitled to take paid time off during your normal working hours to receive antenatal care, although whenever it is possible to do so you should arrange your appointments at the start or end of your working day. Antenatal care includes appointments with your GP, midwife, hospital clinics and relaxation classes. Husbands, Civil Partners or Partners to expectant mothers are included for up to two appointments (up to 6.5 hours for each appointment, in line with ACAS guidance), which for partners employed by Sustain can be taken as unpaid leave, or the time can be made up by working other hours.

#### 1.1 Procedure for notifying absence for antenatal care

You should advise your manager that you will be absent as far in advance of your appointment as possible. Sustain reserves the right to be able to ask to see your appointment card, or some other confirmation of your appointment.

#### 1.2 Pay

You will continue to receive your normal pay for attendance at authorised antenatal appointments, including any time spent travelling to and waiting for the appointment.

### 2. Maternity leave

Every pregnant employee (whether part-time, full-time, permanent or temporary and regardless of her length of employment) is entitled to take up to 52 weeks maternity leave. This is split into the first 26 weeks which is called the Ordinary Maternity Leave period and a further 26 weeks which is the Additional Maternity Leave period. By law, you must take at least two weeks maternity leave after the birth of your child. Maternity pay covers up to 39 weeks (see section 6, below). Weeks 40-52 would be unpaid.

### 3. When does your maternity leave start?

You can choose to start your maternity leave at any time after the start of the 11th week before the week in which your child is due ('expected week of childbirth').

In the event that the baby is born before the date given for maternity leave to commence, leave will commence automatically on the date of birth.

See further note on maternity leave start date, in the 'illness during pregnancy' section below.

#### **4. Illness and absence during pregnancy**

Government guidance on sickness during pregnancy says that if you are absent from work for a pregnancy-related illness during the four weeks before the expected week of childbirth your maternity leave will start automatically, regardless of when you have said you want it to start.

However, Sustain recognises that pregnancy is an important and precious time, whilst also sometimes raising anxieties relating to health and income. We want to be supportive, flexible and to allow you more options for how to manage your situation. If you need to be absent from work for periods of time due to pregnancy-related illness, we will continue to pay your salary for up to two weeks of absence, provided we receive evidence from your doctor that the nature of your illness is pregnancy-related and means you should be absent from work.

After these two weeks of paid leave have been used up, Sustain will need to deal with any further illness and absence in line with our sickness and absence policies. You may need to go onto sick pay, and/or we may need to trigger your maternity leave automatically during the four weeks before the expected week of childbirth, regardless of when you said you want it to start. We will discuss options with you and prioritise a compassionate and supportive approach.

As a note of clarification, taking reasonable rest periods during working hours to deal with e.g. morning sickness is not included in your calculation of sickness leave during pregnancy, unless this becomes more significant and disruptive to your work. Provided that you let us know what you need in this regard, Sustain will endeavour to be flexible to accommodate your needs.

#### **5. Shared parental leave**

Employees who meet the eligibility criteria, have the right to end their maternity leave period early and opt in to shared parental leave. This allows employees to share the period of leave and pay between the parents and to take time off in up to three blocks at a time, up to the child's first birthday. For more information refer to Shared Parental Leave Policy.

#### **6. Maternity leave notification requirements**

By the 15th week before your expected week of childbirth you must give notice in writing of your intention to take maternity leave, to Sustain's HR Manager. The notice must be at least 28 days before the absence is due to start (unless this is not reasonably practicable). The employee should state in writing:

- You are pregnant
- The week the baby is expected to be born
- When you want your maternity leave to start

Employees should provide Sustain with a copy of a certificate confirming their pregnancy. This certificate is called a MATB1 and is usually issued by a Doctor/Midwife 14 weeks before the Expected Week of Childbirth. Upon receipt, the employee should pass this to Sustain's HR Manager, who will then write to the employee within 28 days confirming the date on which the maternity leave will end. The MATB1 is required in order to pay the SMP.

#### **7. Maternity pay and benefits**

Employees will be entitled to Statutory Maternity Pay (SMP) if you have at least 26 weeks' service by the end of the 15th week before your child is born, whether or not you intend to return to work. If you do not qualify for SMP because of your length of service then you may be entitled to claim Maternity Allowance which is paid by the Government. You will need to obtain a Form SMP1 so that you can take this to the local Jobcentre Plus/Social security office.

SMP is paid for a maximum of 39 weeks, the first 6 weeks will be paid at 90% of average weekly earnings calculated over the period of 8 weeks up to and including the Qualifying Week if this is lower than the Government's set weekly rate. However Sustain pays employees who meet the eligibility criteria 90% of normal pay (inclusive of SMP) for weeks 1-6, and 50% of normal pay (inclusive of SMP) for weeks 7-11. The remaining 28 weeks will be paid at the lower SMP standard rate. SMP is paid in accordance with current government legislation and is reviewed each April.

Please follow the notification guidance in Section 5 so that Sustain can process your claim to SMP in good time and to ensure you receive your maximum entitlement.

Your SMP and any additional pay will be paid into your bank account on the same date that you would have received your salary.

## 8. Contractual benefits

You will continue to receive your contractual benefits for the full period of your maternity leave period with the exception of pay where SMP or Maternity Allowance applies.

You are entitled to continue with your pension contributions during Maternity Leave. Whilst your own contributions are lower due to your Maternity Pay being lower than your regular wages, Sustain will continue to contribute based on your level of pay before maternity leave i.e. what we are currently contributing on a monthly basis. Please confirm with the HR Manager whether you would like to do this or not.

## 9. Holidays

While you are absent on Ordinary and Additional Maternity Leave, you will continue to accrue holiday entitlement in the usual way on a *pro rata* basis but on a higher holiday entitlement, than your normal 'basic' annual leave. This is take into account the various public holidays and office closures (total 11 days) over the year.

You must take this additional holiday within 12 months of your return to work. There may be an option to receive pay in lieu, but this must be discussed with Sustain's HR Manager.

## 10. Contact during maternity leave

Sustain would like to, and is entitled to, maintain reasonable contact with the employee from time to time during her maternity leave e.g. to discuss the employee's plans for return to work or update on developments at work. It is helpful if the employee can indicate how much contact she would like, preferably by providing a contact email address

An employee can agree to work for Sustain (or attend training) for up to 10 days during either her Ordinary Maternity Leave or Additional Maternity Leave without that work bringing her maternity leave to an end and without loss of SMP. These are called keeping in touch (KIT) days.

There is no obligation on the employee's part to work keeping in touch days nor on Sustain's part to provide them; it is entirely a matter of an agreement between both parties.

**Commented [M1]:** In this section we have slipped back into referring to 'the employee' whereas elsewhere in the document and also in the Adoption policy we usually refer to 'you'.

Any keep in-touch days worked do not extend the period of maternity leave. Once the keep in touch days have been used up, the employee would lose a week's SMP for any week in which she agrees to work for Sustain.

## **11. Returning to work**

You will have been formally advised in writing by Sustain of the date on which your maternity leave will end and the date on which you are expected to return to work if you take your full 52-week entitlement of maternity leave. You are expected to return on this date, unless you notify Sustain otherwise. If you are unable to attend work at the end of your maternity leave due to sickness or injury or for another serious personal reason such as bereavement, you will be expected to comply with the reporting procedure set out in Sustain's *Sickness and Absence Policy* or other policies relevant to your personal circumstances. In any other case, late return without prior authorisation will be treated as unauthorised absence.

It would help Sustain if you can confirm during your maternity leave when you will be returning to work, especially if your plans or circumstances change. If you wish to return to work earlier than the date on which your maternity leave ends, you must provide Sustain with 8 weeks' notice, preferably in writing. If you don't, Sustain reserves the right to insist that you do not return until the 8 weeks have passed (provided this is not later than your expected return date), usually in order to have time to manage the employment relationship with the person providing maternity cover.

If you decide not to return to work at all after maternity leave, you must give notice of resignation as soon as possible and in accordance with the terms of your contract of employment. If the notice period would expire after your maternity leave has ended, Sustain may require you to return to work for the remainder of your notice period.

### **Rights and responsibilities on return to work**

According to the ACAS rules, which Sustain abides by:

- You are not legally permitted to return to work during the two-week period following childbirth.
- If you return to work after Ordinary Maternity Leave you have the right to return to the same job on the same terms and conditions.
- If you return to work after taking Additional Maternity Leave you also have the right to return to the same job. If however it is not reasonably practical for you to resume your original role then you have the right to return to another job, which is both suitable and appropriate in the circumstances (described as 'suitable alternative employment' – see further information below), if there is a suitable vacancy.

If you do not wish to return to work after maternity leave, you must give notice in line with the terms and conditions of your employment contract.

If your original job is continuing, but you would like to apply for another job vacancy at Sustain, then you are free to apply in the normal way. This will not affect your rights to continue in your existing job, if you are unsuccessful in your application or if you choose not to accept an offer from Sustain of employment in this different job.

Should your position become redundant during Ordinary or Additional Maternity Leave, or if your contract expires during the period of maternity leave, or if there is some other reason why it is not reasonably practicable for Sustain to take you back in your original job, you are entitled to be offered suitable alternative employment (if such employment is available) of equivalent status and responsibility and on terms and conditions that are no less favourable than would have applied if you

had not been absent. Sustain will offer you suitable alternative employment, if such employment is available.

If no suitable alternative employment is available, then you will be offered redundancy in line with the terms and conditions of your employment contract.

As ACAS explains, the meaning of 'suitable alternative employment' depends on:

- how similar the work is to your current job
- the terms of the job being offered
- your skills, abilities and circumstances in relation to the job
- the pay (including benefits), status, hours and location.

In some circumstances, Sustain may need to conduct a review and interview process with you to determine whether a role meets the 'suitable alternative employment' criteria and to help you understand what you are being offered. Sustain may also need to do this to balance and manage different legal, employment, contractual and funder commitments and responsibilities. If you are asked to participate in such activities during your period of maternity leave, this will be treated this as part of your KIT days. Sustain will endeavour to keep things as clear and simple as possible, and to consult you and inform you of the process and reasons for decisions throughout.

If you are offered suitable alternative employment by Sustain, you do not have to accept it. However, you should be aware that you may lose your right to statutory redundancy pay if you unreasonably turn down an offer of suitable alternative employment. If you do turn a first offer down, Sustain will endeavour to find you other suitable alternative employment, however we are not obliged to do so after a first offer has been turned down. If there is no other suitable alternative employment at Sustain, then Sustain may need to offer you redundancy.

You have the right to a four-week trial period for any suitable alternative employment that you are offered. The four-week period could be extended if you need training. Any extension must be agreed in writing before the trial period starts. Tell Sustain during the trial period if you decide the new job is not suitable for you. This will not affect your employment rights, including your right to statutory redundancy pay. You will lose your right to claim statutory redundancy pay if you do not give notice within the four-week trial period.

Sustain will ask you to provide contact details (usually a personal email address and/or a phone number) to enable us to notify you during your maternity leave of any opportunities for suitable alternative employment, or other employment opportunities with Sustain. There will be a deadline attached to any offer of suitable alternative employment, and to any review or interview process, and Sustain will give you reasonable notice and time to respond. If you miss a deadline to respond, then Sustain reserves the right to offer the opportunity to someone else.

## **12. Flexible working**

You have the right to apply for flexible working. It is Sustain's policy to promote flexible working arrangements for all employees and in particular for people returning from maternity and other parental leave. Further details, including the procedure to be followed, can be found in Sustain's Flexible Working Policy.

If you would like to apply for flexible working, please do so as far in advance of your return date as possible, so that there is adequate time for full consideration of your request.

## **13. Health and safety**

Sustain takes full responsibility for the assessment of the risks to the health and safety of pregnant employees. Upon notification of a pregnancy, Sustain will assess any risk to the pregnant employee by undertaking a risk assessment. Where risk is identified and it is not possible to avoid the risk, Sustain will work with you to adapt your working arrangements in order that you can avoid the risk. Should the situation arise where this is not possible, the employee will be suspended on full pay pending the removal of the risk.

#### **14. Data protection**

Sustain will treat all information about pregnancy and parental circumstances with care, compassion and the utmost sensitivity.

In the implementation of this policy, Sustain may process personal data and/or special category personal data collected in accordance with its GDPR and data protection policy. Data collected from the point at which this policy is invoked will only inform the organisation for the benefit of implementing this policy. All data is held securely and accessed by, and disclosed to, individuals only for the purposes of this policy. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's GDPR and data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under Sustain's disciplinary procedure.

## 15. Information for internal use

Date of most recent update:	14/08/20		
Reviewer and lead on policy:	Kath Dalmeny, Quoc-anh Tran, Merav Shub, working with CBR Solutions		
Considered by management team:	Yes	Done (date):	10/08/20
Approved by (usually Chief Executive):	Kath Dalmeny	Done (date):	14/08/20
Sustain Council of Trustees approval required?	Yes, to be conducted via email		
At which Council meeting?	n/a	Done (date):	xxx
Is this policy in the list of 'required' policies?	Yes		
For <u>required</u> policies only, updates include (describe the changes in brief list format; keep and add older date to the list of previous updates): <i>Note: For <u>discretionary</u> policies, these updates will be recorded in Sustain Council meeting minutes.</i>	Policy published as part of HR Healthcheck 2020, adapted from CBR Solutions template		
Next review date (minimum period – usually three years – or if prompted by legislative change; or in the interim at the discretion of Sustain/trustees):	August 2023		
Filed in Sustain drive (drive and folder names):	xxx		
Publish privately on intranet? (include the final part of the file location – the page name not full URL):	xxx		
Publish publicly on Sustain website? (include location – full URL):	No		
Policy adapted from template provided by CBR Solutions: <a href="https://www.cbrsolutions.org.uk/">https://www.cbrsolutions.org.uk/</a>			