

MATERNITY AND ADOPTION LEAVE

Contents

The Policy	2
Scope of the Policy	2
Review	3
Guidance and Procedures	3
1. Leave and Pay.....	3
General Terms.....	3
Welsh Government Occupational Maternity or Adoption Pay Scheme.....	4
Statutory Maternity and Adoption Provisions.....	5
Overseas Adoptions	6
Fostering for Adoption	6
Surrogacy	6
Statutory Maternity or Adoption Allowance.....	6
Allowances	6
2. Employees who are not on Welsh Government Terms and Conditions.....	7
3. Contractual Benefits	7
4. Health and Safety	7
5. Sickness Absence	7
6. Ante-natal Care and Adoption Meetings.....	8
7. How to Apply for Maternity or Adoption Leave.....	9
8. Timing of Leave	9
9. Miscarriage, Stillbirth or the Death of a Baby.....	10
10. Supporting Parents of Ill or Premature Babies.....	11
11. Keeping in Touch and Retention of ICT Equipment.....	12
12. Returning to Work.....	12
13. Postponing Your Return to Work and Resignation	13
14. Repayment of Maternity or Adoption Pay	14
Annex A: Roles and Responsibilities	15

Related Policies and Useful Websites

[Paternity / Co-Parental Leave](#)

[Shared Parental Leave](#)

[Career Breaks](#)

[Special Leave](#)

[Parental Leave](#)

[Policy for Pregnant or Nursing Employees](#)

[Pregnancy & Maternity Information Pack \(Managers\)](#)

[Pregnancy & Maternity Information Pack \(Employees\)](#)

[Maternity Leave/Pay \(Gov.uk\)](#)

The Policy

1. It is the Welsh Government's policy to pay full contractual pay for maternity or adoption leave subject to qualifying criteria, in conjunction with further statutory pay and leave entitlements.
2. The Maternity and Adoption Leave Policy forms part of our framework of family friendly and flexible working policies, which support modern working families. The framework includes our [Paternity/Co-Parental Leave Policy](#) and [Shared Parental Leave Policy](#) both of which allow fathers/co-parents or partners to have a more active role in childcare following birth or adoption. We have designed these policies to enable employees to combine work and family life so that we can retain their valuable skills in the workplace and they can fulfil their potential.
3. The Welsh Government values diversity and our Equality Strategy and Action Plan aims to create an inclusive workplace. We are committed to ensuring and promoting equality of opportunity and eliminating discrimination, harassment and victimisation in employment. We aim to ensure that all employees have equality of opportunity in employment and career advancement on the basis of their skills, ability, qualifications and suitability for work. Employees are supported and encouraged to develop to their full potential to deliver high quality services to the people of Wales.

Scope of the Policy

4. This policy applies to all Welsh Government employees on permanent or fixed term contracts who are pregnant or in the process of adopting a child. In most cases, it only applies to those on Welsh Government terms and conditions. Section 2 of the Guidance and Procedures (below) sets out the statutory position for employees on other terms and conditions, additional to any provision made in their contracts.
5. This policy **does not** apply to contractors, inward secondees, agency staff or any other workers not directly employed by the Welsh Government.
6. Whilst every effort has been made to use inclusive language in this policy, please note that in recognition of the laws and regulations surrounding pregnancy rights in the UK and the likely expectations of the majority of our pregnant employees, this document does contain some gendered terms. Where such terms appear in the guidance, they should be taken as applying equally to trans or non-binary parents.
7. All our policies are fully inclusive of all staff regardless of age, marriage and civil partnership (both same sex and opposite sex), pregnancy and maternity, race, religion or belief, sex, sexual orientation, whether they have an impairment or health condition, are neurodivergent or use British Sign Language, their gender identity or gender expression. We acknowledge that the terms 'gender identity' and 'gender expression' are not protected characteristics as defined by the Equality Act 2010, however, we believe that Government policy which includes provision for those persons who identify within the 'trans' umbrella (rather than on the basis of

binary gender) is a more inclusive approach and one which ensures the Welsh Ministers are in a position to comply with all their statutory duties related to equality and the promotion of well-being in Wales. If you have any feedback on the inclusivity of this policy, please email EqualityintheWorkplaceTeam@gov.wales.

Review

8. We will review this policy and the associated guidance and procedures every two years or whenever a relevant change in legislation occurs.

Guidance and Procedures

1. Leave and Pay

General Terms

- 1.1 All permanent employees and employees on fixed term appointments¹ are entitled to take up to 52 weeks' maternity or adoption leave, regardless of their length of service.
- 1.2 All employees taking maternity or adoption leave must take 2 weeks' compulsory maternity or adoption leave. If you are pregnant, you must take this period of compulsory leave immediately following the birth of your child. If you are adopting a child, the period of compulsory leave can start up to 14 days before the child is placed for adoption or alternatively can be taken from the date of placement for adoption.
- 1.3 If you are eligible for maternity or adoption leave you may share up to 50 weeks of the leave with your partner. This could make it easier for you to share childcare responsibilities in your child's first year. For more information, please refer to our [Shared Parental Leave Policy](#).
- 1.4 When you and your partner adopt a child you can decide which of you will take adoption leave (the 'primary adopter') and which will take paternity/co-parental leave (the 'secondary adopter').
- 1.5 You will not qualify for adoption leave or pay from the Welsh Government if you:
 - arrange a private adoption;
 - become a special guardian or kinship carer;
 - adopt a step-child;
 - adopt a family member or stepchild of a family member.

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

¹ Employees on fixed term contracts will not have their contracts extended to take account of a period of maternity leave. This is in accordance with regulation 9 of the Maternity and Parental Leave Regulations 1999. The regulations state that employees continue to be bound by the original terms of their contract while they are on maternity leave.

Welsh Government Occupational Maternity or Adoption Pay Scheme

- 1.6 All permanent and fixed term appointment employees are eligible to apply for the occupational maternity or adoption pay scheme if they are:
- currently employed;
 - in receipt of pay; and
- have completed at least **one year's continuous service** with the Welsh Government by the end of the 'Qualifying Week'² (for pregnant employees), or by the week the adoption agency informs them that they have been matched with a child. *When you and your partner adopt a child you can decide which of you will take adoption leave (the 'primary adopter') and which will take paternity/co-parental leave (the 'secondary adopter')*.

If you are eligible for occupational maternity or adoption pay, you will be entitled to:

- 26 weeks' maternity or adoption leave on full contractual pay which will be inclusive of Statutory Maternity or Adoption pay; and,
 - an additional 13 weeks' Statutory Maternity Pay or Statutory Adoption Pay; and,
 - up to a further 13 weeks' unpaid maternity or adoption leave.
- 1.7 If you choose to 'convert' some of your maternity or adoption leave to Shared Parental Leave (see paragraph 1.3) you may share up to 37 weeks of your maternity or adoption pay with your partner. For more information, please refer to our [Shared Parental Leave Policy](#).
- 1.8 If you are on a permanent part year appointment you are not paid contractual pay (inclusive of statutory pay) for any maternity or adoption leave which falls during a period when you would not normally be working under the terms of your appointment, regardless of when the maternity or adoption leave begins or ends. However, you will continue to receive statutory pay to which you are entitled during these periods.
- 1.9 If you leave the Welsh Government for any reason³ prior to starting maternity or adoption leave, you will not be eligible for contractual maternity or adoption pay or any statutory pay from Welsh Government.⁴ If you leave the Welsh Government for any reason during maternity or adoption leave, your entitlement to contractual maternity or adoption pay will cease on your last day of service but you will continue to receive any statutory pay to which you are entitled.

² The Qualifying Week is the 15th week before the expected week of childbirth.

³ This includes the end of a fixed term appointment.

⁴ You may be entitled to statutory maternity or adoption pay if you take up a post with another employer. Alternatively, you may be entitled to a maternity allowance. For more information please see GOV.UK

WELSH GOVERNMENT HR POLICIES AND PROCEDURES

- 1.10 If you are a permanent employee, you may also apply for a Career Break after 52 weeks' maternity or adoption leave. This is a period of special leave without pay for a period of up to 5 years. Please refer to the [Career Break](#) policy for further information.
- 1.11 Any type of unpaid leave you take prior to commencement of maternity or adoption leave may affect your entitlement to Statutory Maternity or Adoption Pay, which is earnings-related. You should contact the Corporate Shared Service Centre (CSSC) to discuss this before applying for any unpaid leave prior to maternity or adoption leave.
- 1.12 If you apply for maternity or adoption leave, you **must** intend to return to work for the Welsh Government no more than 52 weeks after the start of the leave period or immediately after a subsequent career break. Failure to return to work will normally mean that any maternity or adoption pay received above the statutory entitlement will need to be re-paid. Please refer to section 14 – Repayment of Maternity or Adoption Pay for further information.

Statutory Maternity and Adoption Provisions

- 1.13 All permanent and fixed term appointment employees who have completed at least **26 weeks' continuous service**⁵ with the Welsh Government, are eligible to apply for 39 weeks' statutory maternity or adoption pay at the rates below. For pregnant employees the 26-week period must include at least one day's employment in the Qualifying Week (the 15th week before the expected week of childbirth).

To be eligible for statutory maternity or adoption pay, you must also have average weekly earnings at least equal to the lower earnings limit for National Insurance contributions. (The CSSC can advise on the current lower earnings limit).

The statutory maternity or adoption pay rates are as follows:

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

⁵ You must have completed at least 26 weeks' continuous service by the end of the Qualifying Week if you are pregnant or by the week that the adoption agency informs you that you have been matched with a child if you are adopting.

Overseas Adoptions

- 1.16 If you are adopting a child from overseas, you must have completed one year's service by the date the "official notification"⁶ is received in order to qualify for the Welsh Government occupational adoption scheme. To qualify for both statutory leave and pay, you must have at least 26 weeks' continuous service by the time you receive this official notification.

Fostering for Adoption

- 1.17 If you are fostering for adoption, you are entitled to leave and pay at the appropriate rate (occupational or statutory) depending on your length of continuous service at the date that the child comes to live with you or up to 14 days before the placement starts.

Surrogacy

- 1.18 Every pregnant employee has the right to 52 weeks' maternity leave. If you are pregnant and enter into a surrogacy arrangement, this would have no impact on your right to maternity leave. If you are the intended parent in a surrogacy arrangement you have no legal right to maternity leave, however you would be entitled to adoption leave if you adopted the child and your partner would also be entitled to paternity/co-parental leave⁷. As adoptive parents, you may also be entitled to shared parental leave, should you decide that you wanted to use this. (See our [Shared Parental Leave Policy](#) for more information.)

Statutory Maternity or Adoption Allowance

- 1.19 If you do not qualify for Statutory Maternity or Adoption Pay, you may be eligible to receive up to 39 weeks' Statutory Maternity or Adoption Allowance. To qualify, you must have been employed or self-employed for 26 out of the 66 weeks before the expected week of childbirth or placement for adoption. Payment is made through JobCentre Plus and further information is available at [Gov.uk](#).

Allowances

- 1.20 If you are in receipt of a Temporary Duties Allowance (TDA), you will continue to receive the allowance whilst on full contractual pay (inclusive of statutory pay) during your maternity or adoption leave until the agreed end date of the allowance or contractual pay ceases, whichever occurs sooner.
- 1.21 If you are in receipt of an allowance under the Allowances policy, you will continue to receive this whilst on full contractual pay (inclusive of statutory pay).

⁶ This is permission from a UK authority that you can adopt from abroad.

⁷ Under the terms of the Welsh Government's Paternity/Co-parental leave policy if they are a Welsh Government employee or those of their own employer if they are employed elsewhere.

2. Employees who are not on Welsh Government Terms and Conditions

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

3. Contractual Benefits

- 3.1 Your contract of employment continues during the period of paid and unpaid maternity or adoption leave. During this period, the contractual benefits of your existing terms and conditions of employment continue with the exception of pay and employers pension contributions during any period of unpaid maternity or adoption leave.
- 3.2 Annual leave, public and privilege holidays also continue to accrue during maternity or adoption leave. The total of any holidays accrued will be agreed with you on your return to work, with advice from the CSSC as appropriate. You have the right to take all accrued leave after maternity or adoption leave either immediately or on a gradual basis in agreement with your line manager. In some circumstances, you may not have been able to take all the accrued leave in the annual leave year following your return. Should this mean that you are likely to carry over in excess of twelve days annual leave into the next leave year, you will be able to do so with Deputy Director approval, in accordance with the terms of the [Annual Leave Policy](#).

4. Health and Safety

- 4.1 You may request a pregnancy risk assessment at any point during your pregnancy. You can find further information in the [Policy for Pregnant or Nursing Employees](#).

5. Sickness Absence

- 5.1 If you are pregnant, you must inform your line manager of any sickness absence under the attendance management procedures and whether or not the illness is related to the pregnancy. Your line manager will then record the sickness absence through HR Self Service (Pobl).

WELSH GOVERNMENT HR POLICIES AND PROCEDURES

- 5.2 Pregnancy related sickness absence is 'protected' in that it does not count towards attendance management trigger points or the calculation of half and nil sickness pay dates. The protected period ceases once you have returned to work or were due to return to work following maternity leave, even if the condition causing the absence appears to be pregnancy related, e.g. post-natal depression.
- 5.3 If you are on maternity or adoption leave, you will not be eligible for contractual or statutory sick pay nor will sickness count as part of your sickness absence record during the leave period.
- 5.4 If you have provided notice (normally 8 weeks) of your return to work date following maternity or adoption leave and cannot return to work due to illness, you must provide a Fit Note to your line manager. In this instance, you will be treated as being back at work (and on sickness absence) even if you have not physically returned because of illness. Sickness absence will be recorded in the normal way and you will receive sick pay at the appropriate rate from your intended date of return. Normal attendance management procedures must be followed.

6. Ante-natal Care and Adoption Meetings

- 6.1 If you are pregnant, you will be eligible for time off with pay to attend appointments for ante-natal care made on the advice of a registered medical practitioner, registered mid-wife or registered health visitor. You will need to provide your line manager with evidence of enrolment for classes and details of future appointments.
- 6.2 If you are a permanent employee (including fixed term appointments) who is the expectant father/co-parent or the spouse or partner in an enduring relationship (including same sex marriage and civil partnership) of someone who is pregnant, you will be entitled to take unpaid time off work to attend to up to two ante-natal appointments. If you do not wish to take unpaid leave to attend such appointments, you may use flexi or annual leave subject to agreement from your line manager.
- 6.3 If you are a permanent or fixed-term employee who is expecting a baby through a surrogacy arrangement and applying for a parental order, you will be entitled to unpaid time-off to attend up to 2 ante-natal appointments.
- 6.4 If you are a permanent employee (including fixed term appointments), you will be entitled to take paid time off work to attend meetings arranged by an adoption agency in advance of a child being placed with you for adoption. This time off must be taken in the period between being notified of a match with a child and the date that the child joins your family. The entitlement is as follows:
- Single adopters may attend up to five appointments with pay;
 - Joint adopters may elect one of the adopters to attend up to five appointments with pay, whilst the other adopter is entitled to attend up to two unpaid appointments.

- 6.5 Line managers are entitled to request sight of adoption appointment letters/cards, even if received electronically. Time off from work to attend adoption meetings which you take as paid leave will need to be recorded retrospectively on the Adoption Leave Statement Form when you submit an application for adoption leave. If you do not wish to take unpaid leave to attend the adoption meeting, you may use flexi or annual leave subject to agreement from your line manager.

7. How to Apply for Maternity or Adoption Leave

- 7.1 When you reach the 25th week of your pregnancy, you will receive a MATB1 form from either your GP or midwife. This form states the expected date your baby is due. Once you have received form MATB1, you should send it with the [Maternity Statement Application](#) to the CSSC.
- 7.2 If you are adopting a child, you must give your line manager at least 28 days' notice of when you intend to take adoption leave by completing the [Adoption Leave Statement form](#). After attaching official documentation confirming that you have been matched with a child, the form must be authorised by your line manager and forwarded to the CSSC. You must also forward a copy of the Adoption certificate to the CSSC as soon as it is available.
- 7.3 You are encouraged to meet CSSC colleagues to discuss your maternity or adoption leave plans so that you fully understand your benefits and the requirements of the procedure.
- 7.4 If you are pregnant and wish to take Maternity Leave⁸ (contractual and/or statutory) you must provide the following information to the Welsh Government by the end of the 15th week before the expected week of childbirth:
- that you are pregnant;
 - the expected date of childbirth (as defined below)
 - the intended start date of your maternity leave; and

Following the birth of your baby, you must also notify us of the actual date of birth if you intend to return to work for the Welsh Government).

- 7.5 "Childbirth" for the purposes of maternity leave rules is defined as the birth of a living child or the birth of a child whether living or not after 24 weeks of pregnancy.
- 7.6 If the date of placement for adoption changes, you must give as much notice as possible to your line manager and the CSSC and must confirm the revised date within 28 days of receiving details of this change.

8. Timing of Leave

⁸ Whilst this legal requirement relates to employees who are eligible to take paid maternity leave, we strongly advise all pregnant employees to inform us of their pregnancy by this point to enable us to take all reasonable steps to ensure their health, safety and wellbeing.

WELSH GOVERNMENT HR POLICIES AND PROCEDURES

- 8.1 Your maternity leave may start on any day of the working week but no earlier than 11 weeks before the expected week of childbirth.
- 8.2 If your baby is born prior to the planned start date of maternity leave, your maternity leave commences on the day after the birth, even if this is prior to the 11th week before the expected week of childbirth. You must inform the CSSC in writing as soon as possible to preserve your right to maternity leave and pay.
- 8.3 If you are absent due to a pregnancy-related illness at any time during the 4 weeks **before** the expected week of childbirth, your maternity leave will start from the first day of sickness absence. If you are absent due to a pregnancy-related illness prior to the 4 weeks before the expected week of childbirth, and are still absent at this time, your maternity leave will automatically start at the beginning of the 4th week before the expected week of childbirth.
- 8.4 Adoption leave can start:
- up to 14 days before the child starts living with you (UK adoptions)
 - when the child arrives in the UK or within 28 days of this date (overseas adoptions).
- 8.5 If you wish to change your maternity or adoption leave start date, you must discuss this with your line manager, complete a new Maternity or Adoption Leave Statement and once authorised, forward this to the CSSC. You must give at least 28 days' notice.

9. **Miscarriage, Stillbirth or the Death of a Baby**

- 9.1 If, sadly, a baby is lost before the 24th week of pregnancy it is treated in law as a miscarriage. Whilst there is no entitlement to statutory maternity leave and pay in these circumstances, if you need to take sickness absence as a result of your loss, the first 2 weeks of absence would be treated by the Welsh Government as 'protected' for both absence management trigger points and pay purposes. If your absence continues beyond the protected 2 weeks, it will then revert to being covered in the normal way under the Attendance Management Guidance and Procedures.
- 9.2 If a baby is lost from the 24th week of pregnancy, this is treated as a stillbirth. If your baby is either stillborn or is born alive at any point during your pregnancy but does not survive, you and your partner will be entitled to the statutory and contractual maternity or paternity/co-parental leave and pay for which you are eligible. If you opted into Shared Parental Leave prior to the death of your child, you will still be able to take any pre-booked periods of leave⁹.
- 9.3 If your baby is stillborn or is born alive but does not survive, both you and the baby's father/co-parent are also entitled to two weeks' paid Parental

⁹ Parents are not entitled to book further periods of Shared Parental Leave (ShPL) following the death of their child. But they can apply **once** to reduce (or reschedule) the ShPL that has already been booked.

Bereavement Leave **in addition to** your maternity or paternity/co-parental leave or any Special Leave for bereavement. A week of parental bereavement leave is the same number of days that you normally work. This leave may be taken at any time **within 56 weeks of the death of your baby**. Please see our [Losing a Child or Baby](#) guidance for more information.

- 9.4 The loss of a baby at any point can be an extremely distressing experience and line managers are expected to ensure appropriate support is provided to employees dealing with a pregnancy loss, taking into account the level of distress of the employee and exercising discretion when applying the Attendance Management Guidance and Procedures under such circumstances. This could include treating the loss as a 'mitigating factor' where trigger points are hit, only because of absences directly related to the loss. Line managers will also need to ensure the employee's return to work following a pregnancy loss is handled sensitively and compassionately. This could include signposting to the [EAP Service](#) or [Occupational Health](#) if necessary.

10. Supporting Parents of Ill or Premature Babies

- 10.1 If your baby is born prematurely or unwell, you must still notify your line manager as soon as is reasonably practical that you have given birth and provide the date that the baby was born. If you are unable to obtain and complete the MATB1 form before the birth, you should do so as soon as possible so that you can receive the statutory or contractual maternity pay for which you may be eligible.
- 10.2 The Welsh Government recognises that when a baby is born prematurely or with additional health needs, it can be a difficult and stressful time for parents, and line managers are expected to approach such situations sensitively and compassionately. Line managers should ask if parents are happy to be contacted and the best way to do so e.g. phone, email, text and also what they want colleagues to know. If a MATB1 form has not yet been submitted, the line manager may need to consider if it would be appropriate and helpful to remind the employee to do so.
- 10.3 Employees who are fathers/co-parent or partners may also need support and flexibility to allow them to take time off to help their family at this difficult time. If you are eligible for [paternity or co-parental leave](#) you can, with the agreement of your line manager, take this leave within 8 weeks of the actual date of birth, or within 8 weeks of the date that the baby was due to be born if you prefer. You may also have a statutory right to [parental leave](#) and [shared parental leave](#) (subject to eligibility).
- 10.4 If your partner has given birth to a premature or unwell baby you may in certain circumstance be eligible for special leave. Such circumstances might include supporting your partner to care for a baby whose health unexpectedly deteriorates after birth. Special leave with pay does not normally exceed 5 days (pro-rated for part-time workers who do not work every day) but special leave without pay may be granted for longer periods according to the circumstances. See 6.2 of the [Special Leave](#) guidance.

- 10.4 Returning to work can be a difficult time for parents of babies born early or unwell, particularly when the baby has ongoing health or developmental issues, which require frequent hospital appointments. Line managers are expected to view requests to work flexibly from parents facing these pressures sympathetically, whilst balancing the needs of the business. This might mean a permanent change of contract or an informal flexible working arrangement agreed between them and the employee, which would help employees settle back to work. Line managers should also remind employees of their statutory right to paternity leave, parental leave, and shared parental leave.

11. Keeping in Touch and Retention of ICT Equipment

- 11.1 You and your line manager should agree informal arrangements for keeping in touch while you are on maternity or adoption leave so that you can be updated on developments that may affect you. This arrangement will be made, and contact continued regardless of whether you will be returning to your original post. If you both agree, your line manager may also meet you during the period of maternity or adoption leave for Keeping in Touch ("KIT") days.
- 11.2 KIT days are designed to give you the opportunity to go to work to undertake training, receive updates and important communications and generally keep in touch without losing your right to maternity or adoption pay. Up to 10 KIT days (or part days) may be agreed. Should you attend a KIT day when you are either in receipt of Statutory Maternity or Adoption pay or not receiving any pay, you will be paid for the hours actually worked (inclusive of any statutory pay). You must make claims for payment for KIT days by emailing your line manager with details of the hours you have worked. Your line manager should forward this email to the CSSC confirming authorisation of the payment.
- 11.3 If you currently have a Welsh Government laptop or other ICT equipment, you can choose to retain this equipment during your maternity or adoption leave to keep in touch with business developments. Your line manager must maintain a record of the equipment and follow normal asset management and financial procedures. You must comply with the Welsh Government [Security Policy](#). It is recommended that you log onto the corporate network every 2 weeks for virus software and other software updates to be automatically installed to keep the information held in a secure environment. If you do not, then your device may require a long restart period or may need to be returned to IT services for manual updates to be applied.

12. Returning to Work

- 12.1 Under the provisions of the Employment Rights Act 1996 and the Maternity and Parental Leave Regulations 1999, you are not permitted to return to work during the compulsory leave period, which is for 2 weeks commencing with the day on which childbirth occurs or within 2 weeks of the start of your adoption leave.
- 12.2 You must give at least 8 weeks' written notice to your line manager of your return to work date regardless of the length of leave you intend to take. The intended date is provided by you in the Maternity or Adoption Statement. However, if you

WELSH GOVERNMENT HR POLICIES AND PROCEDURES

wish to change your return to work date at any time, you should discuss this with your line manager who may be able to agree an earlier or later return without the full 8 weeks' notice (subject to business requirements).

- 12.3 Legally, if you are absent from work because of pregnancy, childbirth or adoption of a child you have the right to return to work in the same job, substantive grade and working the same hours at any time up to the end of the first 26 weeks of your period of maternity or adoption leave.
- 12.4 Welsh Government policy is that an employee exercising their right to return to work after 27 or more weeks' maternity or adoption leave will normally be employed in the same job, substantive grade and working the same hours as before, and in any event will be treated for posting and transfer purposes no less favourably than if they had not been absent. This applies unless there are exceptional circumstances as to why the employee cannot return to their previous post, which is supported by a business case agreed by the HR Equality in the Workplace Team.
- 12.5 If you wish to return to work on a part-time basis, then the Welsh Government will expect to accommodate your return to the same post unless there are exceptional reasons why this is not possible. Once again, such reasons would have to be supported by a business case which has been agreed by the HR Equality in the Workplace Team.
- 12.6 There may be circumstances where it is not possible or desirable for you to return to your original post and wherever possible, this will be discussed and agreed with you before you take maternity or adoption leave. The Deputy Director, in consultation with the Director General, will need to identify a suitable post for you to return to and discuss this with you at the earliest opportunity.
- 12.7 If you return to work following maternity or adoption leave, you have the right to request to work flexibly or to take parental leave in the same way as all other employees.
- 12.8 The Welsh Government recognises that new parents may need a period of adjustment and/or additional support when returning to work, particularly following a prolonged absence or if their baby was born prematurely or with health needs. With your line manager's agreement, you may use annual leave to facilitate a gradual return to work following maternity, adoption or shared parental leave providing this is reasonable and meets business needs.
- 12.9 All reasonable steps will be taken to provide a healthy and safe environment for nursing employees to express milk. For more information, see our [Policy for Pregnant or Nursing Employees](#) on the [Childcare What are my Options](#) intranet pages.

13. Postponing Your Return to Work and Resignation

WELSH GOVERNMENT HR POLICIES AND PROCEDURES

- 13.1 The Welsh Government may postpone your return to work for up to 21 days from the proposed date of return or from the end of your maternity or adoption leave period, provided we notify you of the reasons for the postponement before that date and pay you for this period.
- 13.2 You will be treated as having resigned if you inform the Welsh Government in writing that you do not intend to return to work immediately following your maternity or adoption leave, unless this is for the purpose of taking an agreed career break. If you are not taking a career break, you will then be informed by the Welsh Government that you have no statutory right to return to work. However, if you change your mind you may be allowed to return at the discretion of the Welsh Government if you do so within **4 weeks** of the end of the maternity or adoption leave period you would have otherwise been entitled to had you not resigned. In this case, your resignation will be cancelled and the period of additional absence will be counted as paid and/or unpaid maternity or adoption leave.

14. Repayment of Maternity or Adoption Pay

- 14.1 You don't need to repay any pay received in excess of statutory maternity or adoption pay provided you have stated on your Maternity or Adoption Leave Statement that you intend to return to work within a period of 52 weeks from the start of your maternity or adoption leave period and you complete one month's service after your maternity or adoption leave ends. You may offset any annual leave due to you at your return to work date against the one month's service to reduce or fully meet this requirement.
- 14.2 You can also satisfy this requirement to return to work by undertaking recurring short-term temporary appointments and part year appointments in subsequent periods of work rather than one continuous period per month.
- 14.3 If you take a career break immediately following your maternity or adoption leave you will need to repay maternity or adoption pay (in excess of statutory pay) if you resign during the course of the career break or do not complete one month's service after the career break ends.
- 14.4 Repayment of maternity or adoption pay will be waived at the discretion of the Deputy Director, HR Operations and Performance where:
- you provide evidence from a medical professional that you will be unable to return because your child has an impairment or additional needs; or
 - with your agreement, there are good management reasons why you need not return or where the Welsh Government believes you have a genuine intention to return which cannot be realised because of exceptional circumstances.

Roles and Responsibilities

Employees are responsible for:

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

Line managers are responsible for:

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

Corporate Shared Service Centre (CSSC) is responsible for:

WELSH GOVERNMENT HR POLICIES AND PROCEDURES

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

HR Equality in the Workplace Team is responsible for:

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