

How umbrella company contractors calculate holiday pay when on maternity leave

Umbrella company contractors on maternity leave are still entitled to claim holiday pay alongside time out to have a baby, as their holiday accrues during this time as it would do during working hours.

This is according to Chris Futcher, CEO of [The Pulse Umbrella Group](#), who explains that umbrella company contractors are relatively well protected should they take maternity leave, although the issues surrounding holiday pay during maternity can be far from straightforward for the contractor if not explained by their service provider.

"Because of the rarity of the situation, it would be hard to predict how an umbrella company would approach such an arrangement, but contractors are well within their rights to claim holiday pay during maternity. However, it may not always particularly practical from the point of view of the contractor or the umbrella."

What are the umbrella contractors' maternity leave entitlements?

In order to clarify the umbrella company contractors' holiday pay entitlements during maternity leave, it is important that contractors understand [what maternity benefits they are entitled to](#).

"Maternity leave for umbrella company contractors is split into paid and unpaid leave," explains Futcher. "All employees are entitled to a maximum of 52 weeks of maternity leave. This consists of 26 weeks of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML)."

"Out of the 52 weeks allowed, contractors are able to claim statutory paid maternity leave for a total of 39 weeks, leaving the remaining 13 weeks unpaid."

For the first six weeks of the 39 in which the contractor can claim statutory maternity pay, they are eligible for 90% of their weekly earnings, which the umbrella company is liable for.

For the remaining 33 weeks, the contractor is entitled to £123.06 or 90% of their earnings, whichever amounts to the smallest sum. These payments are provided by the Government.

It is important for contractors to understand that there are certain notification and qualification criteria required for a contractor to qualify for maternity pay.

"First, the contractor must inform the umbrella company of their pregnancy in writing with a [MAT B1](#) form once the pregnancy has been confirmed," continued Futcher. "This stage is vital, as unless the form is submitted, the contractor can't access any benefits."

Further criteria require the contractor to have:

Worked for the umbrella company on or before the qualifying week (15th week before due date)

Had 26 weeks service in the qualifying week

Had average weekly earnings of at least £90 per week in the eight weeks prior to the qualifying week.

How does holiday pay accrue during maternity leave?

Despite being a bit of a grey area, contractors on maternity leave can expect to receive and accumulate holiday entitlement in the same way that they would if they were working.

Futcher explains: "Holiday pay is accrued during maternity leave in the same way that it is accrued during working hours. Therefore holiday pay is also due for the period in which maternity leave is taken. Even though the contractor is not on assignment at the time, it can be classed as the same thing."

"So, if the contractor were to take the full 52 weeks maternity leave, they would be entitled to claim a years' worth of holiday pay on top of the maternity entitlement paid to them."

Futcher notes that holiday pay always accrues at the rate of the national minimum wage, regardless of the contractors' overall income, as this is the basic rate of pay operated by [umbrella companies](#):

"Under an overarching contract of employment used by umbrella companies, all contractors are on a pay rate that is the minimum wage. They then get holiday pay on top, and whatever else they earn is usually classed as variable commission. But any statutory pay is based on the basic pay rate."

Therefore, with holiday pay accruing at the minimum wage pay rate of £6.70 per hour, this – given that the contractors' yearly holiday entitlement is 5.6

weeks – would make the umbrella company liable for a maximum of £1,313.20, or around £109 per month.

How is holiday pay sourced during maternity leave?

Although it is a legal requirement for the umbrella company to source and issue holiday pay during maternity leave, Fitcher highlights that it doesn't tend to be commercially viable, and can result in a scenario which neither really benefits the contractor or the umbrella company.

"Holiday pay has to be taken from the gross contract income. This is because there isn't any other income to take that holiday pay from and the umbrella company doesn't necessarily have any additional funds to source holiday pay from during maternity."

Umbrella companies will typically retain a margin of round £25-£30 per week from each contractor. This profit margin is dependent upon the contractor working and maintaining an income which obviously ceases to exist once the contractor begins maternity leave.

"Considering these factors, I think there needs to be a degree of pragmatism from both the contractor and the umbrella company when dealing with this issue. I also think that there can be several interpretations around this, and a 'one size fits all' solution doesn't exist."

Approaches umbrellas may take

According to Fitcher this is such an unusual scenario that there isn't a strongly defined code of practice for umbrellas to adopt. As a result, contractors who find themselves claiming holiday pay when on maternity leave may experience differing responses from their umbrella companies.

Typically, the umbrella company may want to pay as much holiday pay up front as possible when receiving notice from the contractor, as it would discharge them from as much liability as possible.

Although this satisfies the umbrella company's legal obligation, in this instance the contractor is no better off as the additional holiday pay would have to be taken from the gross contract value at the same time as the normal holiday pay entitlement. This may also reduce the amount of expenses that the contractor is able to claim.

"At Pulse, we have countered this by reducing the retained margin and by effectively processing payments for free during a portion of the dual holiday pay period as a good-will gesture, which has always been well received.

"This ensures that the necessary legal obligations have been met, and the contractor can see that we're doing what we can to make the situation as trouble-free as possible. It's not the most elegant solution, and not always possible, but it generally seems to work out as the fairest solution."

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