



Sports in the news: what do the employment lawyers think this February?

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Enhanced maternity benefits for female footballers: levelling up the playing field

As interest in women's football increases, so mounts the pressure on organisations and Clubs to level up the playing field between women and their male counterparts by providing greater protections and benefits to their female athletes.

Earlier this year, the Professional Footballer's Association (PFA) reached a landmark decision with the Football Association (FA) that sees a significant enhancement in the contractual rights of both FA Women's Super League (WSL) and FA Women's Championship players. Under FIFA Regulations, the employing Clubs are bound to enforce this agreement which will come into effect from the 2022 - 2023 season and will apply to any new contract signed from this period.

Amongst other provisions relating to long term sickness and injury, WSL and Women's Championship players will now receive

enhanced maternity pay totalling 100% of their weekly wage, (inclusive of any other remuneration and benefits) for the first 14 weeks of their maternity leave. Previously, players had only been entitled to Statutory Maternity Pay (SMP).

While this (welcome) development has come within the specific context of the women's football industry, it will still be of interest to employment lawyers and HR professionals working in other sectors. Trends relating to family leave and pay are constantly changing, and here at GQ|Littler we are noticing an uptake in employers seeking to (a) enhance pay above the statutory minimum and (b) equalise enhanced offerings between fathers, mothers and adoptive parents.

For those less familiar with family leave and pay in the UK, the key questions that arise here for employers are: what are the key differences between statutory and enhanced maternity pay? And crucially, when playing the business game, which option will help your business to come out on the winning side?

Statutory pay vs Enhanced pay...

What is SMP? Employers are obliged to pay SMP to their employees or employed workers for a period of 39 consecutive weeks. To be eligible for SMP, an employee must have been employed for a total of 26 weeks (ending on the 15th week before their expected week of childbirth). Employees receive 90% of their normal weekly earnings for the first 6 weeks' leave, and the 'prescribed rate' (set annually by the government) for the remaining 26 weeks.

What is enhanced maternity pay? Enhanced maternity pay is a **contractual** right through which employers can offer to pay their employees above their SMP entitlement. The value and format of enhanced payments will vary and is at the discretion of the employer.

...Which is the safer bet for your business?

Most employers in the professional and financial services sectors will offer some form of enhanced maternity pay or benefits. That is not the case for employers in all industries though, and often how an employer structures their maternity (or other family leave) offering will depend on what their competitors within their industry are doing.

How you implement enhanced maternity pay will depend on the context of your business and balancing the commercial needs of the company with supporting working mothers so that they can easily return to work. Whilst larger employers may offer to pay an employee's full salary the first 5 months and then 50% pay for the remaining months, this may not be financially viable for smaller employers who may opt for alternative solutions - such as a return to work bonus for employees returning from maternity leave.

The important point however, is that whilst the financial cost of enhanced maternity pay may differ from business to business, what remains constant is that offering it at all will be largely beneficial and advantageous for your business. You are more likely both to recruit and **retain** female employees by providing these benefits. Moreover, these policies help to promote equality and diversity in the workforce, helping your business to grow and reach wider audiences as well as being positive for your wider reputation with clients.

Here's hoping that the PFA's decision to enhance maternity rights will be followed by other employers within and outside the sports industry.