



# Maternity Leave Policy

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Linked to policies:

- Paternity Leave policy
- Shared Parental Leave policy
- Flexible Working policy
- Data Protection policy

Signed:

A handwritten signature in blue ink that reads "S. Day".

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### Version Control

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## **1. Introduction**

The purpose of this policy is to outline maternity leave and pay provisions for employees. Depending on whether employees meet the applicable eligibility criteria, they may have entitlement to statutory maternity pay (SMP). If the employee does not have entitlement to SMP, she would have access to statutory maternity allowance through the Job Centre Plus.

This policy sets out the rights of employees who are pregnant or have recently given birth, including time off for antenatal appointments and entitlement to maternity leave and pay.

The following definitions are used in this policy:

"Expected week of childbirth" means the week, starting on a Sunday, when your doctor or midwife expects you to give birth.

"Qualifying week" means the 15th week before your expected week of childbirth.

The policy does not form part of your contract of employment and we reserve the right to amend it at any time.

Other school policies/guidance may detail additional entitlements for the employee or employee's partner to maximise the time off they can have with their child. These additional entitlements include:

- paternity leave
- shared parental leave
- flexible working

## **2. Equal Opportunities**

The school expects employees to adhere to this policy in line with the school's obligations under equality legislation. The Headteacher must ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

Through the implementation of this procedure, the Directors will be mindful of the employer obligation to seek to maintain and protect the mental health and wellbeing of all staff as far as is reasonably practicable.

## **3. Scope**

It is the responsibility of the Headteacher to ensure that employees for whom they are responsible are made aware of the provisions of this policy and that they are applied in a consistent manner. This policy applies to employees employed by us. It does not apply to workers, contractors, consultants or any self-employed individuals working for the organisation.

## **4. Time off for antenatal care**

All pregnant employees have the right to paid time off for antenatal care regardless of their length of service, hours of work or maternity leave entitlement. Antenatal care is defined as visits to a registered Medical Practitioner, Midwife or Health Visitor. Except for the first appointment, the

employee must provide a certificate from a registered practitioner, midwife or health visitor confirming an appointment has been made.

You should give your line manager as much notice as possible of your antenatal appointments and, wherever possible, try to arrange them outside of the school day when pupils are in attendance.

Partners of pregnant women, wishing to take time off to attend antenatal appointments, have different entitlements. For more information, please see the school's Paternity leave and pay scheme.

## **5. Entitlement to leave & pay**

**Leave:** All pregnant employees, i.e. those working under a contract of employment are entitled to take up to 52 weeks' statutory maternity leave (SML) around the birth of their child, regardless of their hours of work or length of service, where the appropriate notice has been given. This includes surrogate birth mothers. This right is irrespective of how long the employee has worked for the school.

SML is made up of 26 weeks' ordinary maternity leave (OML) followed immediately by 26 weeks' additional maternity leave (AML).

You can decide how much maternity leave you wish to take. However, you must take at least two weeks of compulsory maternity leave immediately after your child is born.

To exercise your right to take maternity leave, you must comply with the notification procedure set out below.

Ideally, you should notify the Headteacher as soon as possible that you are pregnant so that you may take paid time off to attend your antenatal appointments. This will also help us to ensure that we are able to address any health and safety concerns in a timely manner.

### **Maternity Pay:**

**Statutory Maternity Pay (SMP)** is paid by the school on behalf of the Department for Work and Pensions and is payable for up to 39 weeks of your maternity leave.

The first 6 weeks is payable at 90% of your average weekly earnings.

The remaining 33 weeks is payable at a rate set by the Government for the relevant tax year, or at 90% of your average weekly earnings (whichever is lower).

## **6. Eligibility**

**Leave:** To qualify for maternity leave, you need to notify the Headteacher that you wish to take maternity leave. This needs to be done no later than the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC).

### **Pay:**

You will qualify for statutory maternity pay if:

- you have been continuously employed for at least 26 weeks at the end of your qualifying week;
- you are still pregnant 11 weeks before the start of your expected week of childbirth (or have already given birth);
- you have provided us with a MAT B1 form confirming your expected week of childbirth;
- you have stopped working; and
- your average weekly earnings are not less than the lower earnings limit for national insurance contributions.

If you become eligible for a pay rise between the start of the original calculation period and the end of your maternity leave, your statutory maternity pay will be recalculated to take account of your pay rise, regardless of whether statutory maternity pay has already been paid. This means that your statutory maternity pay will be recalculated and increased retrospectively, or that you may qualify for statutory maternity pay if you did not previously. In these circumstances, you will be paid a lump sum to make up any difference between statutory maternity pay already paid and the amount payable as a result of the pay rise.

Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

### **7. Maternity allowance**

If you are not entitled to statutory maternity pay, you may qualify for maternity allowance from the Government. If this is the case, we will return your original MAT B1 form to you along with an SMP1 form so that you are able to pursue a claim for maternity allowance.

#### **If any of the circumstances outlined below apply, you will cease to be entitled to SMP:**

- you do not give 28 days' notice of the date you intend to start your maternity leave and the reason given for the delay is unacceptable
- you are taken into legal custody during the maternity pay period.
- you start working after the birth for someone who did not employ you in the 15th week before baby due.

### **8. Sickness absence**

If you are absent from work due to a pregnancy-related illness, you will receive statutory sick pay in the same way as you would during any other sickness absence.

However, if you are absent from work due to a pregnancy-related illness in the four weeks immediately before your expected week of childbirth, your maternity leave will start automatically.

You must notify the Headteacher as soon as reasonably practicable that you are absent for a pregnancy-related illness and the date that your absence began.

### **9. Notice to take maternity leave**

You can start your maternity leave at any time from the Sunday at the beginning of the 11th week before your expected week of childbirth.

To take maternity leave, you need to give the Headteacher notice in writing by the end of the qualifying week, or as soon as possible afterwards, of:

- the fact that you are pregnant;
- your expected week of childbirth; and
- the date on which you wish your maternity leave to start.

You will also have to provide the Headteacher with your MAT B1 form, which is a certificate from your doctor or midwife confirming your expected week of childbirth.

Failure to give the required notice and provide us with your MAT B1 form may affect your entitlement to maternity leave and pay.

We will write to you within 28 days of receipt of your notice confirming the date on which you are expected to return to work if you take your full 52-week entitlement to maternity leave.

### **Changing your maternity leave start date**

If you wish to bring forward your maternity leave start date, you must inform the Headteacher in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable.

The date that you select as your maternity leave start date cannot be before the Sunday at the beginning of the 11th week before your expected week of childbirth.

If you wish to postpone your maternity leave start date, you must inform the Headteacher in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

If you change your maternity leave start date, we will write to you within 28 days of the start of your maternity leave confirming the revised date that you must return to work if you take your full 52-week entitlement to maternity leave.

### **10. Commencement of maternity leave**

The starting date of the maternity leave period should normally be agreed between you and the Headteacher. However, the final decision is yours. The earliest you can start your maternity leave is 11 weeks before the baby is due, or from the time of childbirth if that is earlier, but you can, if you want to and are fit enough, work right up to the time your baby is due.

Your maternity leave will usually start on the date that you have chosen, unless:

- your child is born before your chosen maternity leave start date, in which case your maternity leave will start on the day after you give birth; or
- you are absent for a pregnancy-related reason (for example, if you are off sick for a pregnancy-related illness or suspended on health and safety grounds) in the four weeks before your expected week of childbirth, in which case your maternity leave will start on the day after your first day of absence.

If you give birth before your intended maternity leave start date, you must notify the Headteacher in writing of the date that you have given birth as soon as reasonably practicable.

If you are ill for a non-pregnancy related reason, you will be regarded as being on sick leave until either the baby is born, or the date you have given as the start date of your maternity leave, when you will start receiving your maternity pay.

### **11. Contact during maternity leave**

We reserve the right to maintain reasonable contact with you during your maternity leave. This may be to discuss your plans for returning to work, to discuss any special arrangements to be made or training to be given to ease your return to work, or to update you on developments at work during your absence.

### **12. Keeping in touch (KIT) days during maternity leave**

You can agree to work (or attend training) for up to 10 days during your maternity leave without that work bringing your maternity leave or statutory maternity pay to an end. These are known as "keeping-in-touch" days. [Any work carried out on a keeping-in-touch day will count as a whole working day and you will be paid your normal rate of pay.]

We have no right to require you to carry out any work and you have no right to undertake any work during your maternity leave. Any work undertaken on keeping-in-touch days is entirely a matter for agreement between you and the Headteacher.

### **13. Notice for ending maternity leave**

You may take your full period of maternity leave entitlement and return to work at the end of the additional leave period without having to provide notice.

If you wish to return to work earlier than the end of your additional maternity leave period, you must give at least eight weeks' notice in writing to the Headteacher confirming the date on which you intend to return.

If you have notified the school of an early return date, but subsequently change your mind about returning to work on this date, you must give notice in writing to the Headteacher at least eight weeks before the earlier of the date on which you intend to return and the date on which you had previously given notice to return.

### **14. Returning to Work after maternity leave**

You have the right to resume working in the same job and on the same terms and conditions if returning to work from a period of ordinary maternity leave. If you have taken a period of additional maternity leave, you have the right to return to the same job wherever possible. However, if this is not reasonably practicable, we will offer you a suitable alternative job on terms and conditions that are no less favourable.

We will write to you as the end of your maternity leave approaches to remind you of your expected date of return and the arrangements for your first day back.

We recognise that returning to work from maternity leave after a significant period of time away from work can be challenging. We will take steps to ensure that your return to work is as smooth as possible and work will be handed back to you on a gradual basis.

If you decide that you do not wish to return to work, you must give written notice of resignation as soon as possible in accordance with the terms of your contract of employment.

### **15. Requests for flexible working**

If, following a period of maternity leave, you feel that you would benefit from a change to your working arrangement, you should make a request for flexible working in accordance with our flexible



working policy. Although we will take all reasonable steps to accommodate a request for flexible working, the full range of flexible working options will not be appropriate for all jobs.

#### **16. Shared parental leave**

If you and your partner meet the eligibility and notice requirements, you may choose to end your maternity leave and pay early and take shared parental leave instead. This will enable you and your partner to take it in turns to have periods of leave to care for your child, return to work while your partner takes leave, or take leave at the same time as each other.

Further information can be found in our shared parental leave policy.

#### **17. Delaying return to work**

If the employee is unable to return to work on the expected day due to sickness, the absence will be treated as sickness in the normal way.

#### **18. Your rights during maternity leave**

During ordinary maternity leave and additional maternity leave, all the terms and conditions of your contract except normal pay will continue. Your pay will be replaced with statutory maternity pay if you are eligible for it. However, other benefits such as holiday entitlement and pension contributions will continue as set out below.

#### **19. Holiday entitlement (all year round staff)**

If you are contracted to work all year round and therefore take annual leave, you will continue to accrue your holiday entitlement during your maternity leave.

You should make every effort to take any outstanding holiday entitlement before commencing maternity leave or immediately after your maternity leave has ended. Any holiday entitlement that has not been taken because of maternity leave may be carried over into the next holiday year with the agreement of the Headteacher.

#### **20. Pension contributions**

We will continue to make pension contributions based on your normal pay during ordinary maternity leave and any period of paid additional maternity leave. The contributions that you make will be based on the actual pay that you receive during your maternity leave.

The organisation's pension contributions will cease during any period of unpaid additional maternity leave.

#### **21. Health and Safety**

We have a duty to take care of the health and safety of all our employees.

We have an additional duty to carry out an individual risk assessment as soon as we receive written notice that an employee is pregnant, has given birth in the last six months or is breastfeeding where the work is of a kind that could pose a risk to their health or their baby.

Where we carry out an individual risk assessment, we will inform you of any risks that we have identified and the steps that we propose to take to eliminate or reduce them. This may mean altering your working hours, changing your working conditions, or offering you suitable alternative work.

In certain cases, we may have to suspend you from work until the risk to you or your baby has been removed. If you are suspended, your employment will continue during any period of suspension. You will also be entitled to your normal salary and contractual benefits, unless you have unreasonably refused an offer of suitable alternative employment.

## **22. Other/change in circumstances**

### **Stillborn birth**

If a baby survives for only an instant, it is a live birth not a stillbirth.

If the baby is stillborn before the 24th week of pregnancy, i.e. earlier than the 16th week before the expected week of childbirth, SMP is not payable. Instead sick pay applies.

If the baby is stillborn after the start of the 16th week before the expected week of childbirth, then SMP should be paid as it would for a live birth.

### **Entitlement to SMP/OMP if a baby dies after birth**

In the event of the employee giving birth to a live baby which later dies during the maternity leave period, SMP should continue to be paid.

## **23. Data protection**

When managing an employee's maternity leave and pay, the school processes personal data collected in accordance with its data protection policy. Data collected from the point at which an employee informs the school that they plan to take maternity leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their maternity leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.