



HR Services

THE BUSINESS OF EDUCATION

Maternity Policy

Date of Issue: December 2018

Changes since last version: Family provisions has been broken down into sub-sections. Refer to the Family Provisions Policy.

The Professional Associations/Trade Unions have been consulted on this code of conduct, and HfL recommends it for adoption.

It is recommended that this cover page should be removed on adoption.

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1. Scope and objective

This section sets out your entitlements as an employee of schools in Hertfordshire to maternity pay and leave under the statutory scheme and the contractual maternity scheme.

The difference in entitlements between the teaching and non-teaching scheme are a result of the different conditions of employment which are illustrated in the table in Appendix 1.

2. Entitlement to maternity leave

Irrespective of your length of service, you are entitled to take up to 52 weeks' of Maternity Leave, consisting of 26 weeks' Ordinary Maternity Leave (OML), plus 26 weeks' of Additional Maternity Leave (AML) immediately following OML.

Under UK law you must take at least two weeks' leave immediately following the birth of your baby (four weeks' if you work in a manual handling environment).

3. Commencing maternity leave

You can start your Maternity Leave at any time once you have reached the 11th week before your baby is due. If you have not already commenced your Maternity Leave when your baby is born, your Maternity Leave will start automatically on the day after the date on which your baby is born.

However, if you are absent due to pregnancy related illness at any time during the 4 weeks' before your Expected Week of Childbirth (EWC), you are legally required to begin your Maternity Leave from the start date of the absence and cannot continue to work even if you want to. If you are absent due to pregnancy related illness but before the 4th week before your EWC, the absence is treated as sickness. If you are subject to the HCC Terms & Conditions where the first two days of sickness absence are unpaid, the first two days of sickness should be recorded as 'Pregnancy Related Sickness'. You will be entitled up to five days paid pregnancy related sickness leave to cover the first two unpaid days of an absence. This leave type is recorded by the line manager or Head Teacher (NB: the absence reason managers need to select is 'Pregnancy Related SCK LEA' in order to ensure that this is recorded as paid).

4. Ante-natal appointments

You have the right to reasonable paid time off for antenatal appointments, including GP and hospital appointments, and prescribed pregnancy-related treatments or classes. Please notify your Line Manager/Head Teacher as far in advance as possible and be prepared to show them your appointment record, if required.

5. Statutory Maternity Pay

Unlike Maternity Leave, your legal entitlement to Statutory Maternity Pay (SMP) will depend on how long you have worked for the Local Authority and whether this is more than 26 weeks at the 15th week before your baby is due and your earnings are above the qualifying level

First 6 weeks at the Higher Rate of SMP i.e. 9/10ths of average weekly earnings, plus a further 33 weeks at the Lower Rate of SMP.

All payments are subject to deduction for National Insurance, Income Tax and superannuation.

Payment of SMP cannot start earlier than the 11th week before expected week of childbirth. SMP is not refundable to the Authority if the return to work obligation is not fulfilled.

6. Maternity pay and leave scheme

The following scheme applies to all full-time and part-time employees in schools.

You will have a statutory right to continue to benefit from all your normal terms and conditions of employment, with the sole exception of pay. For the purposes of simplification, entitlements of teaching and non-teaching staff have been separated in the table listed Appendix 1.

When the baby is born before maternity leave, the day after the day of childbirth should be regarded as the first day of maternity leave

During maternity absence you must not work again, other than 'Keeping in Touch Days' (see Maternity rights and Provisions Item 9), until the return date agreed as part of the particular chosen option. Earlier return (e.g. as a supply teacher) will invalidate the arrangement.

7. Notification of pregnancy

You should inform your Line Manager or Headteacher, as soon as possible of your pregnancy and the approximate date you intend to start your Maternity Leave. This notification must be before the 15th week before your Expected Week of Childbirth (EWC). This is in your own interests, and ensures that we can take any necessary steps to look after your health and safety and that of your baby. Early notice also allows us to let you know what your entitlements are to Maternity Leave and pay.

7.1. Application for maternity leave (Form MATLEAVE 1)

To provide formal notification of your intention to apply for Maternity Leave you should complete the Notification for Maternity Leave Form, Appendix 2, which you will find in the Appendices to this Policy. The form requires you to provide the following information:

- Your EWC
- The date on which you intend to start your maternity leave
- The original MATB1 certificate

This form must be completed by you, signed by your Line Manager/Headteacher and submit the following to your nominated Assistant HR Officer for your school in the Schools Transactions Team, 4th Floor, County Hall, Hertford, SG13 8DF (you can use the free school courier service)

8. Expected return date

Unless you inform the School otherwise, we will assume that you will be taking the full entitlement of 52 weeks' leave for which you are eligible.

8.1. Teachers

You do not have to give notice of the date of return; it is assumed that you will return; and that the date of return will be the date notified at the start of the maternity leave. Should you wish to return before the end of your maternity leave you must give 28 days' notice of the change to your Headteacher.

If you cannot return at the end of maternity leave because of illness, this will be treated as normal sick leave.

The payment of contracted maternity pay (i.e. 12 weeks half-pay under option B) is dependent upon your returning to employment with your associated employer after maternity leave for 13 weeks. If you do not complete this period of further service the payment will be refunded to the Authority. The notification form allows you to choose to have the 12 weeks half-pay withheld and to be paid as a lump sum on your return to work.

8.2. Non-teaching

You do not have to give notice of the date of return; it is assumed that you will return; and that the date of return will be the date notified at the start of your maternity leave. Should you wish to return before the end of your maternity leave you must give 28 days' notice to your Headteacher.

If you cannot return at the end of maternity leave because of illness, this will be treated as normal sick leave.

The payment of contracted maternity pay (i.e. 12 weeks half-pay under option B) is dependent upon your returning to your employer after maternity leave for 13 weeks. If you do not complete this period of further service the payment will be refunded to the Authority. The notification form allows you to choose to have the 12 weeks half-pay withheld and to be paid as a lump sum on your return to work.

9. Health and safety during pregnancy

We want you to remain safe and healthy at work during your pregnancy. The School's site would not typically be considered as dangerous, but we want to ensure that anything that could pose a risk to a pregnant woman and/or an unborn child is identified and eliminated.

9.1. Risk Assessment

Once you have informed your Line Manager/Headteacher that you are pregnant, a Risk Assessment will be completed and signed by both you and your Line Manager as soon as possible, and appropriate action taken to reduce any risks. Examples of steps we may take to avoid any risks include:

- Changing your working conditions or hours of work;
- Offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
- Suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

A copy of the New and Expectant Mothers' Assessment guidance can be found on the HR portal.

The Risk Assessment form should be kept under continuous review as risks may change throughout pregnancy. For example, morning sickness may cease to be a problem after early pregnancy. You should talk to your Line Manager/Headteacher immediately if you have any concerns about your work that could put you or your unborn child at risk. The vast majority of risks are easily minimised or eliminated with the right level of care and consideration.

If in the early months of pregnancy, you are advised by the County Medical Officer to be absent from school because of the risk of rubella, you will be granted leave with full pay less benefit, providing you do not unreasonably refuse to serve in another school where there is no such undue risk.

Absence on account of illness which occurs before the 4th week period is treated as ordinary absence on sick leave, providing it is covered by a doctor's certificate. However, after the 4th week date, if you are medically unfit to carry out your duties and if the illness is associated with pregnancy, maternity leave must begin immediately. This includes illness during a holiday period. Any absence which is not pregnancy related is treated as sickness absence.

10. Premature birth

If your baby is born prematurely before you have started your Maternity Leave, the birth of your baby will automatically trigger the start of your Maternity Leave, even if this is more than 11 weeks' before your baby was due. You should inform your Line Manager/ Headteacher and the HR Department as soon as is practically possible.

11. Miscarriage

A miscarriage can be a very distressing experience. If you suffer a miscarriage before 24 weeks of pregnancy you will not be legally entitled to Maternity Leave or Maternity Pay but you will be entitled to Sick Leave in accordance with the School's policy.

The UK Miscarriage Association provides support and information and can be contacted via www.miscarriageassociation.org.uk. You can also contact XXXX, the School's Employee Assistance Provider, on XXXXXXXXXX. [Please include the schools EAP details].

12. Still birth

If a baby is stillborn or does not survive after being born, if this is after the 24th week of pregnancy you will be legally entitled to Maternity Leave and Maternity Pay. We will still need the MAT B1 Form from your GP / Midwife if this hasn't already been provided. SANDS (The Stillborn and Neonatal Death Society) are a charity set up to help grieving parents. They can be contacted through www.sands.org.uk.

13. Reasonable contact

While you are on Maternity Leave, we would like to keep you up to date with what is going on at work and give you the opportunity to get in touch with the School if needed. This is known as 'Reasonable Contact' and simply formalises good communication practices between Line Managers/Headteacher and Employees on Maternity Leave. You should agree with your Line Manager/Headteacher before starting your Maternity Leave the level of contact which will be maintained during your Maternity Leave.

14. Keeping in touch (KIT) days

Current legislation allows for you to agree working up to a maximum of ten days during your OML or AML. These days are known as Keeping in Touch (KIT) Days and must be complete days. It is important to note that work is prohibited during compulsory maternity leave (2 weeks after childbirth, or 4 weeks dependent on your role).

The KIT days are not limited to your usual job; they could be used for training or other events. You may also wish to use some of your KIT days to ease your return to work.

Any KIT day must be agreed between you and the Headteacher. There is no obligation on the School to offer you KIT days or on you to complete KIT days offered.

You may undertake 10 'Keeping in Touch Days' during your maternity leave. This allows you to work under your contract of employment for up to 10 days and receive payment as agreed

with your Head Teacher, without bringing your maternity leave to an end. Please note any part of a day will count as one KIT day.

15. Holiday entitlement

Your holiday entitlement continues to be accrued at the rate provided under your contract whilst you are on Maternity Leave. This entitlement applies to all employees including term time only workers and teachers.

15.1. Teachers

The Conditions of Service for School Teachers makes no reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days per annum under UK law. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of maternity leave will have acquired a right to additional annual leave. It is possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

15.2. Term time only workers

In order to calculate the entitlement to annual leave it is necessary to carry out

‘Balance of Salary’ calculation at the start of the maternity leave period and a second calculation at the end of your leave period. This calculation takes into account your start date with the Authority and the number of completed weeks of the academic year up to the point you start your maternity leave. The proportion of completed weeks will then be compared to the salary you have been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary.

Once you return to work, a second calculation is carried out to identify whether you are entitled to a payment in respect of annual leave you have accumulated whilst on maternity leave.

Please note: The date on which you start and end your maternity leave can significantly affect the balance of salary calculation. Please contact the Schools Transactions Team to establish how this is likely to affect you.

16. Pension plan

Contributions to the Local Government and Teachers Pension Scheme will automatically continue to be deducted from your actual pay if you are a member of the Scheme on paid maternity leave.

Local Government Scheme member only.

If you take unpaid maternity leave you must decide whether to pay pension contributions for this period and on your return to work you will be given the opportunity to purchase contributions for any period of unpaid maternity leave.

Contributions will be based on the pay you were receiving the day before unpaid leave started. Should you wish to purchase service for periods of unpaid maternity leave, you must contact the LPP Local Government Pension Scheme Administration team on 0300 323 0260 within 30 days of your return to work.

17. Returning to work from maternity leave

You are entitled to return to work on the same terms and conditions as if you had not been on Maternity Leave.

No notification is necessary if you plan to return at the end of maternity leave; it is assumed that you intend to return on that date.

If you wish to change the date of your return you must give 28 days' notice.

There is no provision for the employer to postpone the return to work after maternity leave, unless you have failed to give the required 28 days' notice of a change to your return to work.

If you cannot return at the end of maternity leave because of illness, this will be treated as normal sick leave.

18. Requests for extending maternity leave

At the discretion of the Head Teacher you may be allowed extended maternity leave without pay in excess of the 52-week period. This would not constitute a break in your service. Any such request should be submitted at the earliest possible date but no less than 8 weeks before the date indicated as the intended date of return at the start of the maternity leave.

19. Dismissal protection

Where it is not practicable by reason of redundancy for the school to permit you to return to work in your job as defined in above you shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to you and appropriate to the circumstances, and that the capacity and place in which you are to be employed and your terms and conditions of employment are not substantially less favourable to you than if you had been able to return in the job to which you were originally employed.

Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if you had not been absent, necessitate a change in the job in which you were employed prior to your absence. The work to be done should be suitable to you and appropriate to the circumstances and the capacity and place in which you are to be employed and your terms and conditions of employment should not be less favourable to you than if you had been able to return to the job in which you were originally employed.

Headteachers and governors should seek further advice from the HR/Payroll Team.

20. Childcare voucher scheme

****Please note this scheme only applies to Hertfordshire County Council Schools. ****

Participation in the Childcare Scheme will not affect your Maternity Pay and will continue during your Maternity Leave period. The Childcare Voucher Scheme enables you to exchange part of your salary for Childcare Vouchers which are exempt from Tax and National Insurance. For a basic rate taxpayer this could mean a saving of over £500 per year. Please refer to Appendix 3 for full details on the scheme.

Appendix 1: Maternity Leave Entitlements

Teaching Staff – Summary of options

OPTION A For employees with less than 26 weeks continuous service with Hertfordshire and/or another LEA

A (i) Resignation

A (ii) 52 weeks **Unpaid** leave

OPTION B For employees with 26 weeks or more continuous service with Hertfordshire at the beginning of the 15th week before the expected week of childbirth

B (i) Resignation

B (ii) **26 weeks'** ordinary maternity leave, which includes maternity pay, paid as follows:

<u>Teachers</u>	} } } } } } } } } }	Statutory Maternity Pay is paid if certain qualifications are met.
<u>With less than one year continuous service with Hertfordshire or another Authority</u>		
-6 weeks SMP at 9/10 week's salary		
-20 weeks SMP at the lower rate		
<u>With one year or more continuous service with Hertfordshire or another Authority</u>		
-4 weeks full pay		
-2 weeks at 9/10 weeks salary		
-12 weeks half pay plus SMP at the lower rate		
-8 weeks SMP at the lower rate		

B (iii) **26 weeks** ordinary maternity leave plus additional maternity leave of **26 weeks**, in total, up to **52 weeks** leave. During this time you will also receive pay made up as follows:

<u>Teachers</u>	} } } } } } } } } }	Statutory Maternity Pay is paid if certain qualifications are met
<u>With more than 26 weeks but less than one year continuous service with Hertfordshire or another Authority</u>		
-6 weeks SMP at 9/10 week's salary		
-33 weeks SMP at the lower rate		
-13 weeks unpaid leave		
<u>With one year or more continuous service with Hertfordshire</u>		
-4 weeks full pay		
-2 weeks at 9/10 weeks salary		
-12 weeks half pay plus SMP at the lower rate		
-21 weeks SMP at the lower rate		
-13 weeks unpaid leave		

OPTION C Teachers with less than 26 weeks service with Hertfordshire, but with 1 year or more continuous service with Hertfordshire and another Local Authority.

Entitled to up to 52 weeks maternity leave. 18 weeks maternity pay, to be paid as follows:

4 weeks at Full Pay	}	No SMP will be payable
2 weeks at 9/10		
12 weeks at half pay		
21 weeks unpaid leave		

Non-teaching Staff – Summary of options

OPTION A For employees with less than 26 weeks continuous service with Hertfordshire or another LEA

A (i) Resignation

A (ii) 52 weeks **Unpaid** leave

OPTION B For employees with 26 weeks or more continuous service with Hertfordshire at the beginning of the 15th week before the expected week of childbirth

B (i) Resignation

B (ii) **26 weeks'** ordinary maternity leave, which includes maternity pay, paid as follows:

<u>LG Staff</u>	}	Statutory Maternity Pay is paid if certain qualifications are met.
<u>With less than one year continuous service with Hertfordshire or another Authority</u>		
-6 weeks SMP at 9/10 week's salary		
-20 weeks SMP at the lower rate		
<u>With one year or more continuous service with Hertfordshire or another Authority</u>		
-6 weeks at 9/10 weeks salary		
-12 weeks half pay plus SMP at the lower rate		
-8 weeks SMP at the lower rate		

B (iii) **26 weeks** ordinary maternity leave plus additional maternity leave of **26 weeks**, in total, up to **52 weeks** leave. During this time you will also receive pay made up as follows:

<u>LG Staff</u>	}	
<u>With more than 26 weeks but less than one year continuous service with Hertfordshire or another Authority</u>	}	
-6 weeks SMP at 9/10 week's salary	}	
-33 weeks SMP at the lower rate	}	
-13 weeks unpaid leave	}	
<u>With one year or more continuous service with Hertfordshire or another Authority</u>	}	Statutory Maternity Pay is paid if certain qualifications are met
-6 weeks at 9/10 weeks salary	}	
-12 weeks half pay plus SMP at the lower rate	}	
-21 weeks SMP at the lower rate	}	
-13 weeks unpaid leave	}	

OPTION C For employees with 26 weeks or more continuous Local Government service with Hertfordshire and another LEA but less than 26 weeks with Hertfordshire at the beginning of the 15th week before the expected week of childbirth

C(i) **26 weeks** ordinary maternity leave plus additional maternity leave of **26 weeks**, in total, up to **52 weeks** leave. During this time you will also receive pay made up as follows: -

-6 weeks at 9/10 week's salary	}	Statutory Maternity Pay is not payable.
-12 weeks half pay.		

Appendix 2: Notification of maternity leave

On completion please hand this form to your Headteacher.

<p>Personal Details</p> <p>Preferred title.....</p> <p>Full name.....</p> <p>Home Address.....</p> <p>.....Post Code</p> <p>Home Telephone Number.....</p> <p>National Insurance Number.....</p> <p>Personnel Number.....</p> <p>School..... School Ref. No.....</p> <p>Post Held.....</p>
<p>Expected date of childbirth</p> <p>Date of the beginning of 11th week before childbirth.....</p> <p>Date on which maternity leave is expected to start</p> <p><i>Must not be earlier than 11th week date</i></p>
<p>I elect to take option.....</p> <p><input type="checkbox"/> Please tick if you would like us to withhold 12 weeks half pay until you return to work.</p> <p><input type="checkbox"/> <i>Local Government Staff Only</i> Please tick if you would like to have 12 weeks of half pay paid over weeks 7 to 26.</p> <p>Date service commenced in Hertfordshire County Council.....</p> <p><i>If less than 26 weeks from the beginning of the 15th week before the EWC</i></p> <p>Date when continuous service with other authority(ies) began.....</p>

Declaration

I, the above named, wish to inform you that I am pregnant and wish to take maternity leave. I understand that the contractual maternity pay is conditional on remaining available for 13 weeks following my maternity leave to continue working for my current employer. If I do not fulfil this obligation I am obliged to repay part or all of my contractual maternity pay to my employer. I confirm that I have read the Maternity Policy.

Signed Date

Signed Date
Headteacher

Forward to the Schools Transactions Team, 4th Floor, County Hall, Hertford SG13 8DF (Pay Point: CHN507)

Appendix 3: FAQs on deducting Childcare Vouchers from Occupational Maternity Pay (Hertfordshire County Council Schools Only)

Q. Does HCC have to continue benefits employees were exercising immediately prior to maternity leave commencing.

A. Yes, legislation requires HCC to allow benefits that employees were exercising immediately prior to their leave to continue throughout their leave.

Q. How much can deducted from OMP?

A. Deductions for childcare vouchers shall be made from OMP as a proportion of the value of vouchers claimed equal to the proportion of normal salary paid as OMP. For example, if an employee receives 50% of normal salary as OMP HCC will deduct 50% of the value of the vouchers claimed.

Q. If an employee is not eligible to receive OMP payments will deductions for childcare vouchers still be taken?

A. No, only deductions from OMP are made and therefore if employees are not eligible for OMP no deductions will be made.

Q. During an employees last period of maternity leave these deductions were not made, why are they being taken from subsequent OMP payments?

A. Under the terms and conditions of the childcare voucher scheme HCC have always had the provision to make these deductions from OMP. In the past HCC has not exercised this right. Given the increasing costs to the scheme through maternity HCC has taken the decision to begin these deductions to mitigate against the increase in costs and therefore ensure the scheme remains viable.

Q. What happens if childcare vouchers are cancelled whilst the employee is on maternity leave?

A. If childcare vouchers are cancelled no further deductions will be made.

Q. Can an employee start taking childcare vouchers during a period of maternity leave?

A. No. Employees are only entitled to benefits that they were exercising immediately prior to their leave. Therefore employees who are not taking the vouchers at the point their leave commences cannot join the childcare voucher scheme until they return to work.

**Please note that the County Council's payroll administrator, Serco, does not manage the payroll for all schools in Hertfordshire, and is unfortunately not able to include those schools who do not purchase the Serco payroll service within the scope of this scheme. However, the County Council can help schools to set up a childcare voucher scheme with their own payroll provider.*

HCC's ID number for the Childcare Voucher scheme with Computershare Vouchers for Non-School employees is 4861 and for School employees is 0018175108.

Changes to Childcare Voucher Deductions when being paid are calculated based on the employee's average salary over the 8 weeks before the 15th week before the expected week of childbirth. Employees should be aware that if they have given up part of their salary in return for Childcare Vouchers then their Statutory and Occupational Maternity, Adoption or Paternity pay will be based on the salary remaining after these deductions have been made. Therefore they may choose to suspend their voucher payments over the payment calculation period in order to receive a higher rate of maternity pay.

Where an employee on Maternity/Paternity Leave continues with the Childcare voucher scheme, payments will be deducted from Occupational Maternity/Paternity Pay. Any such deduction will be equivalent to the proportionate reduction in salary that is paid as Occupational Maternity/Paternity Pay; the level of deduction will not exceed the percentage of salary that is paid as Occupational Maternity/Paternity Pay.



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