



Maternity policy

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1. Scope

This policy sets out the entitlements of employees of the Local Authority in respect of maternity pay and leave under both the statutory and contractual schemes.

The difference in entitlements between the teaching and non-teaching schemes are a result of the different conditions of employment, which are illustrated in the guidance note on 'Maternity Leave Pay Entitlements' on the HR Portal.

This policy has been subject to consultation with Trade Unions. It does not form part of anybody's contract of employment and may be varied.

2. Entitlement to maternity leave

Irrespective of length of service, employees 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 legislation, employees must take at least two weeks' leave immediately following the birth of their baby (four weeks' if they work in a manual handling environment).

3. Commencing maternity leave

Once the pregnancy has reached the 11th week before the due date, maternity leave can commence at any time. If maternity leave has not already commenced by the time the employees' baby is born, maternity leave will automatically commence on the day after the date the baby is born.

If an employee is absent due to a pregnancy related illness at any time during the 4 weeks before the 'Expected Week of Childbirth' (EWC), they are legally required to commence maternity leave from the start date of the absence and cannot continue to work even if they want to.

If the employee is absent due to pregnancy related illness before the 4th week prior to the EWC, the absence will be treated as sickness.

4. Ante-natal appointments

Employees have the right to reasonable paid time-off for antenatal appointments, including GP and hospital appointments, and prescribed pregnancy-related treatments or classes, (usually between 7 and 10). Employees must notify the Headteacher/Line Manager as far in advance as possible and be prepared to show them a record of their appointment, if required.

Fathers and partners of pregnant women are entitled to unpaid time-off to attend two ante-natal appointments (time-off is capped at six and a half hours for each appointment).

5. Statutory Maternity Pay

Unlike maternity leave, there are criteria which determine entitlement to Statutory Maternity Pay (SMP).

This depends on how long an employee has worked for the local authority and whether this is more than 26 weeks at the 15th before the due date, and if their earnings are above the qualifying level.

- the first 6 weeks of SMP is at the higher rate i.e., 90% of average weekly earnings
- plus, a further 33 weeks of SMP at the lower rate i.e., standard SMP rate or 90% of average weekly earnings – whichever is the lower amount.

All payments are subject to deductions for national insurance, income tax and pension. Payment of SMP cannot start earlier than the 11th week before the expected week of childbirth.

SMP is not refundable to the Local 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.

Employees have a statutory right to continue to benefit from their normal terms and conditions of employment, with the sole exception of pay. For the purposes of simplification, entitlements of teaching and support staff have been separated in the guidance note on 'Maternity Leave Pay Entitlements' on the HR portal.

If the baby is born prior to maternity leave commencing, the day after the day of childbirth should be regarded as the first day of maternity leave

During maternity absence the employee must not work again, other than 'Keeping in Touch Days' (see point 15), until the agreed return to work date. An earlier return will bring maternity leave to an end.

7. Notification of pregnancy

Employees should inform their line manager or Headteacher, as soon as possible of their pregnancy and the approximate date they intend to start maternity leave. This notification must be before the 15th week of your Expected Week of Childbirth (EWC). This is in an employees' own interests and ensures that we can take any necessary steps to look after the health and safety of both employees' and their unborn baby. Early notice also enables us to inform employees of their entitlement to maternity leave and pay.

If an employee does notify their line manager or Headteacher prior to the birth, then it may impact maternity pay.

If an employee wishes to change the date maternity leave starts, they can do so by giving 28 days' notice of the change.

Maternity leave cannot start any earlier than the 11th week before the expected week of childbirth.

7.1. Application for maternity leave

To provide formal notification of the intention to apply for maternity leave, employees should complete the 'Notification for Maternity Leave Form' on the HR portal. The form requires the following information to be provided:

- the expected week of childbirth (EWC)
- the date intended for maternity leave to start
- the original MATB1 certificate.

This form must be completed by the employee and signed by the Line Manager/Headteacher and submitted to our payroll provider for processing.

8. Expected return date

Unless an employee informs us otherwise, we will assume that the full entitlement of 52 weeks' will be taken.

Should an employee wish to return before the end of maternity leave, they must give us 28 days' notice in writing to the Headteacher / line manager.

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

8.1. Teachers

The payment of occupational maternity pay (i.e., 12 weeks half-pay) (as detailed in the guidance note on 'Maternity Leave Pay Entitlements' on the HR portal) is dependent upon the employee returning to their job after maternity leave for a period of 13 weeks.

The period of 13 weeks is calculated on the basis that it equates to the working arrangement at the point maternity leave commenced. For example, if an employee worked on a full-time basis at the commencement of maternity leave, and returns on a 0.5FTE basis, they will be required to return to work for a period of 26 weeks. If they do not fulfil this obligation they are obliged to repay occupational maternity pay.

The notification form allows employees to choose to have the 12 weeks half-pay withheld and to be paid as a lump sum on their return to work.

8.2. Support Staff

The payment of occupational maternity pay (i.e. 12 weeks half-pay) (as detailed in the guidance note of 'Maternity Leave Pay Entitlements' on the HR portal) is dependent upon the employee agreeing to return to work for at least 3 months to HCC, another local government or associated employer or a new employer following a TUPE in the same post (but excluding new employment with an Academy or Free School).

If they do not fulfil this obligation they are obliged to repay part, or all of their occupational maternity pay.

The notification form allows employees to choose to have the 12 weeks half-pay withheld and to be paid as a lump sum on their return to work.

9. Health and safety during pregnancy

We want employees to remain safe and healthy at work during their pregnancy. Whilst the site would not typically be considered as dangerous, we want to ensure that anything that could pose a risk to a pregnant woman and/or an unborn baby is identified and eliminated.

9.1. Risk Assessment

Once an employee has informed their line manager/ Headteacher that they are pregnant, a Risk Assessment will be completed and signed by both the employee and 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 working conditions or hours of work
- offering suitable alternative work on terms and conditions that are the same or not substantially less favourable
- suspension from duties, which will be on full pay unless an employee unreasonably refuses suitable alternative work.

A copy of a pregnancy risk assessment 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.

Employees should talk to their line managers/ Headteacher immediately if they have any concerns about their work that could put them or their unborn child at risk. The vast majority of risks are easily minimised or eliminated with the right level of care and consideration.

10. Sickness absence during pregnancy

Absence on account of illness which occurs before the 4th week period of EWC is treated as ordinary absence on sick leave.

However, if at any time during the 4 weeks before the EWC, an employee is medically unfit to carry out their duties and if the illness is associated with pregnancy, maternity leave must begin immediately. This includes illness during a holiday period (see paragraph 3).

Any absence which is not pregnancy related is treated as sickness absence.

10.1. Support staff

Employees who are covered by the 2012 Collective Agreement are entitled to up to 5 days paid leave if they experience pregnancy related sickness. This can be used to cover the first 2 days of sickness absence which would otherwise be unpaid.

11. Premature birth

If a baby is born prematurely before maternity leave has started, the birth will automatically trigger the start of maternity leave on the day after the birth, even if this is more than 11 weeks before the baby was due. Employees should inform their line manager / Headteacher as soon as is practically possible.

12. Miscarriage

A miscarriage can be a very distressing experience. If an employee suffers a miscarriage before 24 weeks of pregnancy they will not be legally entitled to maternity leave or maternity pay but will be entitled to sick leave in accordance with the Health and Attendance policy.

The UK Miscarriage Association provides support and information and can be contacted via www.miscarriageassociation.org.uk.

The employee can also contact Schools Advisory Service (The Medical and Wellbeing service which Greenside subscribes to). 24 hrs helpline 0845 4031037

13. Still birth

If a baby is stillborn or does not survive after being born, after the 24th week of pregnancy, an employee is legally entitled to maternity leave and maternity pay.

The employer will require the MAT B1 certificate from a 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.

In these circumstances, please refer to the Parental Bereavement Policy.

The employee can also contact Schools Advisory Service (The Medical and Wellbeing service which Greenside subscribes to). 24 hrs helpline 0845 4031037

14. Reasonable contact

Whilst an employee is on maternity leave, we would like to keep them up to date with what is going on at work and give them the opportunity to get in touch if needed. This is known as 'reasonable contact' and simply formalises good communication practices between line managers/ Headteacher and employees on maternity leave. Employees should agree with their line manager/Headteacher before starting maternity leave, the level of contact which will be maintained during maternity leave.

15. Keeping in touch (KIT) days

Employees may undertake ten 'Keeping in Touch Days' during maternity leave. This allows employees to work under their contract of employment for up to ten days and receive payment, as agreed with the Head Teacher, without bringing maternity leave to an end. Please note any part of a day worked will count as one KIT Day.

It is important to note that work is prohibited during compulsory maternity leave (the 2 weeks immediately after the birth of the baby).

The KIT days are not limited to an employee's usual job and could be used for training or other events or to ease the return to work. Any KIT Day must be agreed with the Headteacher. There is no obligation on us to offer employee's KIT days or on employees to complete KIT days.

16. Holiday entitlement

Holiday entitlement continues to be accrued at the rate provided under the contract of employment during maternity leave. This entitlement applies to all employees including term time only workers and teachers.

16.1. 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 legislation. Periods of 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.

16.2. Term-time only workers

In order to calculate the entitlement to annual leave, it is necessary to carry out a 'Balance of Salary' calculation at the start of the maternity leave period and a second calculation at the end of the leave period. This calculation takes into account the start date with the Local Authority and the number of completed weeks of the academic year up to the point maternity leave starts. The proportion of completed weeks will then be compared to the salary 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 an employee returns to work, a second calculation is carried out to identify whether they are entitled to a payment in respect of annual leave accumulated whilst on maternity leave.

Please note: the date on which maternity leave starts and ends can significantly affect the balance of salary calculation.

17. Pension plan

Contributions to the Local Government and Teachers Pension Scheme will automatically continue to be deducted from actual pay if employees are members of the scheme on paid maternity leave.

17.1. Local Government Pension Scheme member only.

If an employee takes unpaid maternity leave they must decide whether to pay pension contributions for this period and upon their return to work, will be given the opportunity to purchase contributions for any period of unpaid maternity leave.

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

18. Returning to work from maternity leave

Employees are entitled to return to work on the same terms and conditions, and the same or equivalent role, as if they had not been on Maternity Leave.

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

If employees wish to change the date of return they must give 28 days' notice. There is no provision for the employer to postpone the return to work after maternity leave, unless an employee failed to give the required 28 days' notice of a change to the return to work.

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

19. Requests for extending maternity leave

At the discretion of the employer, an employee may be granted extended maternity leave without pay in excess of the 52-week period. This would not constitute a break in 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.

20. Dismissal protection

Where it is not practicable by reason of redundancy for the employer to permit a return to work in the substantive post, employees 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 and appropriate to the circumstances. In addition, the capacity and place you are to be employed and the terms and conditions of employment should not be substantially less favourable, than if they were able to return in the job as 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 employees 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 and appropriate to the circumstances and the capacity and place 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 their HR Advisors.

21. Financial Support for Childcare

21.1. Childcare voucher scheme

The Childcare Voucher Scheme, which is now closed to new applicants, enables employees to exchange part of your salary for Childcare Vouchers which are exempt from Tax and National Insurance. Participation in the Childcare Scheme will not affect maternity pay and will continue during the maternity leave period.

21.2. Government Tax-Free Childcare

Tax-Free Childcare allows eligible working families to claim 20% of their childcare costs, up to £2,000 per child per year (or £4,000 for a child with a disability), from the Government. Employees cannot open a Tax-Free Childcare account for a newborn child until 31 days before the return to work. However, can have Tax-Free Childcare accounts for any older children while on maternity leave for the newborn. Employees will be able to retain and pay into those accounts during the maternity leave period.

22. Flexible Working

Prior to or when an employee returns from maternity leave, if you wish to be considered for part-time hours, they must apply in writing under the Flexible Working Policy.

23. Shared Parental Leave

Shared parental leave enables employees to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date.

For more information, please see Shared Parental Leave Policy (Birth).

24. Pay Review whilst on maternity leave

Employees are entitled to a pay review whilst on maternity leave in the same way that they would be if they weren't on maternity leave.

If following a pay review the employee becomes eligible for a pay rise between the start of the original calculation period and the end of the maternity leave, both the higher and standard rate of SMP and OMP will be recalculated to take account of the employee's pay rise. This means that the employee's SMP and OMP will be recalculated and increased retrospectively. In some cases, they may qualify for SMP or OMP if they did not previously. The employee will be paid a lump sum to make up any difference between SMP or OMP already paid and the amount payable as a result of the pay rise.

25. No return to work

If an employee does not return to work on the agreed date, they may be subject to disciplinary action in the same way as any other employee who has failed to return to work following a period of absence.

26. Job Opportunities whilst on maternity leave

Whilst on maternity leave employees have the same opportunities to access job vacancies, promotion and development opportunities. Before commencing maternity leave, employees should discuss with the employer how they would like to be notified of any opportunities that arise that they wouldn't otherwise be aware of from other publicised sources, e.g., Teach in Herts.