



# MATERNITY

## Policy and Procedure

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### Introduction

Maternity provisions are available to all female employees, regardless of length of service, number of hours worked and occupational grouping.

Although it's difficult to simplify the maternity scheme to a few basic principles, the following information highlights the most important things employees need to know about maternity leave and maternity pay.

### Abbreviations and Terms

Continuous Local Government Service	For the purposes of maternity leave, previous local government service refers to full or part-time service with any public authority to which the Redundancy Modification Order (Local Government) 1983 applies
DWP	Department for Work and Pensions
EWC	Expected Week of Childbirth - the week in which the baby is due
Higher Rate (of SMP)	9/10ths (90%) of average weekly earnings
Lower Rate (of SMP)	Basic weekly amount of SMP, reviewed each year
MA	Maternity Allowance - DWP benefit available to those not entitled to SMP (subject to qualification)
MAT B1	Certificate issued by a Doctor or Midwife from the 20 <sup>th</sup> week before the EWC, showing the date the baby is expected or was born
MPP	Maternity Pay Period during which SMP is payable
OMP	Occupational Maternity Pay - the payment received as an employee of the organisation
QW	Qualifying Week - the 15 <sup>th</sup> week before the start of the week in which the baby is due

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SMP	Statutory Maternity Pay
SSP	Statutory Sick Pay
SPP	Statutory Paternity Pay
Weeks Pay	The term “a weeks pay” for employees whose remuneration for normal working hours doesn’t vary with the amount of work done in the period, is the amount payable by the organisation to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a weeks pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned

### **Notification of Pregnancy**

The law requires a woman to tell her employer that she’s pregnant and will take maternity leave, by the end of the 15th week before the expected week of birth, however it’s beneficial if the news is shared as early as possible. Line Managers can contact HR Services - Occupational Health and Safety Section as soon as they’re informed of an employee’s pregnancy should they require advice about carrying out relevant risk assessments.

### **Maternity Leave**

- **Ante-Natal Care**

Employees are entitled to time off with pay to attend antenatal appointments or relaxation/parentcraft classes arranged by their Doctor’s clinic or hospital and will be asked to show evidence of their appointments/classes by their line manager.

If appointments fall on public holidays or hours not normally worked employees cannot claim time off in lieu. Evening classes and National Childbirth Trust classes are not covered.

The husband, civil partner or partner of the pregnant women has the right to unpaid time off to attend up to 2 ante-natal appointments.

- **Maternity Leave**

Employees are entitled to 26 weeks ordinary maternity leave and 26 weeks additional maternity leave providing up to 52 weeks maternity leave in total:

- 39 weeks paid maternity leave, which may begin at any time from the 11<sup>th</sup> week before the EWC.
- remain absent up to a maximum of 52 weeks

**Employees cannot commence their maternity leave earlier than 11 weeks before the EWC.**

- **Maternity Support Leave**

Maternity Support Leave of 5 days with pay may be granted to the nominated carer of the expectant mother at or around the time of the birth. The leave must be taken in a block period. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to her at or around the time of the birth.

To apply for this leave, the nominated carer must:

- be an employee of school.
- submit a letter from the expectant mother confirming that they'll be their nominated carer.
- produce a copy of the expectant mother's MAT B1 (Maternity Certificate).
- give the school sufficient notice of the actual timing of the leave

Maternity Support Leave is an entitlement for staff covered by NJC Local Government Conditions of Service (Green Book). For teaching staff, Maternity Support Leave is at the discretion of the Head Teacher/Governing Body of the school.

To apply for this leave the employee must complete **Appendix A - Maternity Support Leave Application Form**.

- **Paternity Leave**

In addition to the 5 days Maternity Support Leave (where applicable), two week's leave, paid at the lower rate of SMP, which is the lower of 90% of average weekly earnings or current SPP, (and their earnings are above the lower limit for N.I. contributions) may be granted to the biological father of the child, the partner/husband of the mother or the female partner in a same sex couple if he/she has 26 weeks' continuous service by the end of the 15<sup>th</sup> week before the EWC.

Eligible employees can choose to take either one week or two consecutive week's paternity leave (not odd days).

Leave can start on any day of the week on or following the child's birth but must be completed within 56 days of the actual date of birth of the child or if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.

Only one period of leave is available irrespective of whether more than one child is born as a result of the pregnancy.

You must tell your line manager at least 15 weeks before the week the baby is expected:

- the baby's due date
- when you want your leave to start, for example the day of the birth or the week after the birth

- if you want 1 or 2 weeks' leave

To apply for this leave, the employee must complete **Appendix B - Paternity Leave Application Form**.

- **Shared Parental Leave**

Mothers, fathers and partners of mothers of children due on or after 5 April 2015, or adoptive parents who are notified of having been matched with a child on or after 5 April 2015 have the right to opt to take Shared Parental Leave. Please refer to the Shared Parental Leave Policy for further information.

## Maternity Pay

- Who Qualifies?

If an employee has completed less than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC, but has completed 26 weeks service by the 15<sup>th</sup> week before the EWC (and their earnings are above the lower limit for N.I. contributions), they will be entitled to SMP i.e. 6 weeks at 9/10ths (90%) of their normal pay and 33 weeks lower rate of SMP, paid at the lower of 90% of average weekly earnings or current SMP rate

If the employee has completed more than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC, the payments will be:

### Non-Teaching Staff

For the first six weeks of absence an employee will be entitled to 9/10ths of a week's pay offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP

- If the employee has declared their intention to return to work, they will be entitled to:
  - 12 weeks of absence at half pay plus lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate. (Not exceeding full pay).
  - In addition to the above, 21 weeks lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate.
  - No pay for any remaining period of absence up to the date of return (up to 13 weeks)
  - The 12 weeks half pay can be paid over a mutually agreed distribution, e.g. 12 weeks half pay, 3/10<sup>ths</sup> pay over the remaining 20 weeks or to receive the amount in full on the return to work after the maternity leave period.
  - If the employee does not intend to return to work, payments during the subsequent 33 weeks of leave will be paid at the lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate. Employees can choose to defer half payments if they know in advance that they won't be returning to work.

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## Teaching Staff

For the first four weeks of absence an employee will be entitled to full pay, followed by two weeks of 9/10ths of a week's pay offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP:

- If the employee has declared their intention to return to work, they will be entitled to:
  - 12 weeks of absence at half pay plus lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate. (Not exceeding full pay)
  - In addition to the above, 21 weeks lower rate SMP, paid at the lower rate of 90% of average weekly earnings or current SMP rate.
  - No pay for any remaining period of absence up to the date of return (up to 13 weeks)

Payments made shall be made on the understanding that the employee will return to the organisation's employment for a period of at least 3 months. If the employee doesn't return, they will be required to pay back the half pay payments.

If the employee chooses to take a career break immediately after maternity leave, half payments would not need to be paid back unless they decided not to return to work following the career break.

- **What if the employee does not qualify for SMP?**

If the employee has not worked for the School for 26 weeks prior to the 15<sup>th</sup> week before the baby is due, they may be eligible for Maternity Allowance paid by the DWP.

If the employee is not entitled to SMP, they will be sent a form SMP1 by HR Services. The form is sent to the DWP along with the MAT B1.

- **Leavers**

Qualifying employees who leave during maternity leave will receive their full SMP entitlement.

## What to Do

- **What the employee must do BEFORE commencing Maternity Leave**

The employee must give their Line Manager/Head Teacher at least 28 days notice, in writing, including the following details:

- The expected week of childbirth (EWC).
- The date on which they would like to start their maternity leave.

**Appendix C - Starting Your Maternity Leave Form** should be used for this purpose and the original MAT B1 Certificate should be included.

This will confirm the EWC and is the official notice of the employee's pregnancy for payment and audit purposes.

- **What the Organisation must do BEFORE you commence Maternity Leave**

The employee will be written to within 28 days of receiving the 'Starting Your Maternity Leave Form' stating the expected date of return from maternity leave.

- **The Right to Return to Work**

An employee is entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them if they had not been on maternity leave. "Job" for this purpose means the nature of the work which they are employed to do and the capacity and place in which they are employed.

- **Redundancy**

Where it is not practicable by reason of redundancy to return to the job the employee had before their maternity leave commenced, they will be offered a suitable alternative post, if this is available, which will be on terms and conditions not substantially less favourable than that in which they were originally employed.

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

- **Exercising the Right to Return to Work**

It will be assumed that an employee will be returning to work at the end of their maternity leave period, i.e. 26 weeks or 52 weeks. If an employee wishes to return earlier than this, they must notify the Head Teacher in writing at least 8 weeks prior to the proposed date of their return to work. Where the notice given is less than 8 weeks the Head Teacher may postpone the return to work to ensure 8 weeks' notice, but not beyond the end of the maternity leave period.

Where, because of an interruption of work it is unreasonable to expect the employee to return on the notified date, they may instead return when work resumes, or as soon as reasonably practicable thereafter.

**In both instances the employee cannot return to work/carry out any work during the first 2 weeks following childbirth.**

- **Delaying the Return to Work**

It will be assumed that an employee will return to work as agreed prior to starting maternity leave however if the employee wishes to delay their return to work, they should give 8 weeks' notice in writing. Employees are entitled to remain absent up to a maximum of 52 weeks.

- **Reasonable Contact**

The Head Teacher is allowed to make 'reasonable contact' with the employee whilst on maternity leave. Employees should be informed of significant workplace developments and training opportunities. It is advised that a meeting takes place between the employee and the Head Teacher prior to the start of maternity leave to establish the level of workplace information the employee wishes to receive whilst on maternity leave.

- **Keeping in Touch Days**

An employee on maternity leave or in receipt of maternity allowance can return to work for up to 10 days during their leave without losing their right to statutory maternity pay or maternity allowance. Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace, however an employer cannot insist that an employee carries out any work. Working for part of a day will count as one day and any additional work carried out beyond 10 days will result in loss of SMP.

A woman's maternity leave will not be extended due to the fact that she has carried out some work during this period.

A woman will be paid for the hours worked on KIT days. SMP will be offset against a normal days pay. No more than a normal days pay will be paid.

Claims for keeping in touch days should be made on the **Appendix D - KIT Days Claim Form** and emailed to [HR.Payroll@southtyneside.gov.uk](mailto:HR.Payroll@southtyneside.gov.uk)

## **Further Information**

- **Early Birth**

If the baby is born early but after the employee has already started to receive maternity pay, then their pay will not be affected and will continue to be paid as if the baby had been born when it was due.

If the baby is born before the employee has informed the Head Teacher of their intention to take maternity leave, they will still be entitled to maternity pay. They must still provide medical evidence of the date the baby was due to be born. Evidence of both the expected and actual dates of birth is provided on the MAT B1 Certificate.

- **Late Birth**

If the baby is born later than the week it was due, maternity leave is not affected and will be paid as if the baby was born on the expected date.

- **Miscarriage/Still Birth**

If the baby is stillborn earlier than the 24<sup>th</sup> week of pregnancy, the employee will not be eligible for maternity pay and leave. However, if they are unfit to return to work at this time, will have access to the Compassionate Leave Policy.

If the baby is stillborn after the start of the 24<sup>th</sup> week of pregnancy, then the employee will still qualify for full maternity pay and leave.

- **Calculating the 11<sup>th</sup> or 15<sup>th</sup> Week before the EWC**

If the baby is due on a Sunday, count back 11 or 15 weeks to find the start of the 11<sup>th</sup> or 15<sup>th</sup> week before the EWC. If the baby is due on any other day of the week, go back to the previous Sunday and count back 11 or 15 weeks.

- **SMP and SSP – Basic Rules**

Employees cannot receive SMP and SSP at the same time.

**In normal circumstances:**

- If the employee is sick after 4 weeks before the EWC and still at work, they can receive SSP if the illness is **not** pregnancy related.
- If the employee's sickness after the 4<sup>th</sup> week before the EWC **is** pregnancy related, maternity leave and pay are triggered automatically.

- **Annual Leave**

Maternity leave does not affect entitlement to annual leave. Employees will continue to accrue annual leave even during unpaid maternity leave. Bank holidays should accrue as they fall, with a substitute day's leave being provided. Employees should therefore plan wherever possible, to take annual leave before the commencement of maternity leave however if an employee is unable to take all their annual leave in the current leave year, they will be able to carry forward any remaining leave to the next leave year.

- **Phased Return using Annual Leave**

To support the return to work after maternity leave, a phased return using the annual leave accrued during maternity leave may be an option for some staff. Discussions about this should take place as early as possible and arrangements are subject to line manager/Head Teacher agreement in line with the needs of the school

- **Breastfeeding**

If you are planning to breastfeed when you return to work you should inform your Head Teacher in writing at the same time as you confirm your return to work date. A risk assessment will be carried out by your Head Teacher to identify risks to you as a breastfeeding mother or to your baby. If there are risks they must do all that is reasonable to remove the risks or make alternative arrangements for you. The School must also provide suitable rest facilities. Breaks don't have to be paid so discussions should take place at the earliest opportunity as to how the time will be managed.

- **Fertility Treatment**

Employees who are undergoing fertility treatment will be allowed reasonable time off to attend appointments.

- **Pensions**

During maternity leave employees will pay pension contributions calculated on the actual pay they receive.



Employees also have the option to pay pension contributions for any period of unpaid leave taken. The advantage of paying these pension contributions is that the employee does not have a break in pensionable service and the calculation of any pension is not affected.

For further information and advice, please contact the relevant pensions service i.e. Tyne and Wear Pension Fund, Teachers Pensions Service or NHS Pensions.

- **Parental Leave**

Please refer to the Parental Leave Policy for further information. For further information in relation to flexible working, please refer to the Job Share Policy and the Flexible Working Policy in the Schools Human Resources Manual.

- **Childcare Salary Sacrifice Scheme**

Please refer to the Childcare Salary Sacrifice Policy in the Schools Human Resources Manual

- **Childcare Advice**

When it comes to choosing childcare there are lots of options to think about. You can contact the **Families Information Service** to request a personalised list on 0800 783 4645 or email [fis@southtyneside.gov.uk](mailto:fis@southtyneside.gov.uk)

### **Equality and Diversity Statement**

The School is committed to promoting equality and valuing diversity. An equality check for HR Services was carried out in 2015 which included all the policies in the HR Manual. No equality implications were identified in this policy.