

# Millbrook Primary School



## Maternity Policy

### Policy Creation & Review

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## 1. Scope and objective

This policy 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 guidance note on Maternity Leave Pay Entitlements.

## 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.

## 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, (usually between 7 and 10). Please notify your Headteacher/Line Manager as far in advance as possible and be prepared to show them your appointment record, 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, 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.

The first 6 weeks is paid at the Higher Rate of SMP i.e., 90% of your average weekly earnings, plus a further 33 weeks at the Lower Rate of SMP, which is the standard rate of SMP or 90% of your average weekly earnings, whichever is the lower.

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

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 support staff have been separated in the guidance note on Maternity Leave Pay Entitlements.

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

## **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 of 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.

If you do not notify your Line Manager or Headteacher prior to the birth, then it may impact Maternity pay.

If you wish to change the date your maternity leave starts you can do so by giving 28 days' notice of the change.

Your maternity leave cannot start any earlier than the 11<sup>th</sup> week before the expected week of childbirth.

### **7.1. Application for maternity leave**

To provide formal notification of your intention to apply for Maternity Leave you should complete the Notification for Maternity Leave Form, in the policy toolkit. 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 submitted to the school's payroll provider for processing.

## **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.

Should you wish to return before the end of your maternity leave you must give 28 days' notice in writing of the change to your Headteacher / Line Manager.

If you cannot return 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 notes on Maternity Leave Pay Entitlements, is dependent upon you returning to your 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 you work on a full-time basis at the commencement of maternity leave, and return on a 0.5FTE basis, you will be required to return to your job for a period of 26 weeks. If you do not fulfil this obligation you are obliged to repay your occupational maternity pay to your employer.

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. Support Staff**

The payment of occupational maternity pay (i.e. 12 weeks half-pay) as detailed in the guidance notes of Maternity Leave Pay Entitlements is dependent upon you agreeing to return 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 you do not fulfil this obligation you are obliged to repay part, or all of your occupational maternity pay to your employer.

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
- Suspending you from duties, which will be on full pay unless you have unreasonably refused 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. 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.

## **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 your EWC, 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. See point 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 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 on the day after the birth, even if this is more than 11 weeks before your baby was due. You should inform your Line Manager/ Headteacher as soon as is practically possible.

## **12. 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](http://www.miscarriageassociation.org.uk). You can also contact Optima Health, the School's Employee Assistance Provider by contacting Sandra Lovatt in the first instance.

## **13. Still birth**

If a baby is stillborn or does not survive after being born, 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](http://www.sands.org.uk). You can also contact Optima Health, the School's Employee Assistance Provider, by contacting Sandra Lovatt in the first instance.

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

## **14. 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.

## **15. Keeping in touch (KIT) days**

You may undertake ten 'Keeping in Touch Days' during your maternity leave. This allows you to work under your contract of employment for up to ten 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.

It is important to note that work is prohibited during compulsory maternity leave

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.

## **16. 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.

### **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 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.

### **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 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. For school using Serco payroll please contact the Schools Transactions Team to establish how this is likely to affect you, for non-Serco schools contact your Headteacher/line manager.

## **17. 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.

### **17.1. Local Government Pension 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.

## **18. Returning to work from maternity leave**

You are entitled to return to work on the same terms and conditions, and the same or equivalent role, 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.

## **19. 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.

## **20. 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 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. In addition, 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 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 you 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 your Maternity Pay and will continue during your 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. You cannot open a Tax-Free Childcare account for your newborn child until 31 days before you return to work. However, you can have Tax-Free Childcare accounts for any older children while on maternity leave for the newborn. You will be able to retain and pay into those accounts during your maternity leave period.

## **22. Flexible Working**

Prior to or when you return from Maternity Leave if you wish to be considered for part-time hours, you must apply in writing under the Flexible Working Policy. Please see 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, she may qualify for SMP or OMP if she 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. Failure to Return to Work**

If you fail to return to work on the dates agreed with the school, you 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 you have the same opportunities to access job vacancies, promotion and development opportunities. Before you commence your maternity leave you should discuss with your employer how you would like to be notified of any opportunities that arise that you wouldn't otherwise be aware of from other publicised sources, e.g., Teach in Herts.