

<b>School Policy for:</b>	Maternity Provisions for Schools Based Staff Policy (DRAFT)		
<b>Date:</b>	February 2021		
<b>Policy Lead(s):</b>	David Phillips		
<b>Approved by (X):</b>	<i>Full Governing Body</i>	<input type="checkbox"/>	<i>Business Management Committee</i>
	<i>Pay Committee</i>	<input type="checkbox"/>	<i>Pupil and Resources Committee</i> x
	<i>Curriculum and Students' Progress Committee</i>		<input type="checkbox"/>
<b>Approval signature and/or date:</b>	24/02/2021 Chair of governors		
<b>Next review date:</b>	November 2022 (by the Pay Committee)		



**CHILWELL  
SCHOOL**

# Nottinghamshire Maternity Provisions for Schools Based Staff

**July 2019**

# MATERNITY PROVISIONS FOR SCHOOL STAFF

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# MATERNITY PROVISIONS FOR SCHOOL STAFF

## 1.1 INTRODUCTION

The purpose of this document is to provide information and guidance on the maternity provisions **for employees within schools. This guidance outlines entitlements to maternity leave; statutory and occupational maternity pay and steps that need to be taken by an employee and Head Teacher before and during maternity leave.**

Pregnancy and maternity are protected characteristics within the Equality Act 2010 and therefore the Governing Body has legal responsibilities under this legislation.

Employees within schools have different entitlements to maternity leave and pay, depending on their length of service and national conditions of service which is underpinned by employment legislation. For teachers these can be found in the Conditions of Service for School Teachers in England and Wales (Burgundy Book) and for Support Staff in the National Joint Council (NJC) for Local Government Services (Green Book).

The administrative procedures outlined below and summarised in Appendix A can be undertaken by the school or purchased as an ad-hoc service from the HR Team through Services for Schools. This section should be read in conjunction with the [Schools' Staff Absence Protection scheme](#). A copy of this can be found on [Wired / HR Guidance \(schools\) / Staff Absence Protection Scheme](#).

### **Shared Parental Leave**

This applies to employees who meet the eligibility criteria. Shared Parental Leave is a form of leave that gives parents more flexibility in sharing the care of their child. A mother can elect to opt out of the maternity leave scheme and she and her partner may opt into the Shared Parental Leave scheme. For full details see Shared parental Leave in HR Guidance.

### **Terms and conditions**

An employee is entitled to receive the same terms and conditions during both ordinary and additional maternity leave, this includes accrual of annual leave and bank holidays. Please contact HR for further advice.

## GUIDANCE FOR SCHOOLS

### 1.2 Ante-natal care

All pregnant employees are entitled to reasonable time off with pay to keep appointments for antenatal care made on the advice of a registered medical practitioner, midwife or health visitor. Antenatal care may include relaxation classes and parent-craft classes. Employees are not required to provide evidence of the first appointment, however Head Teachers may ask an employee to produce evidence of subsequent appointments. The employee must provide, if requested by the Head Teacher, a certificate from a registered medical practitioner, midwife or health visitor, confirming the pregnancy together with an appointment card or some other document showing that an appointment has been made. With effect from 1 October 2014 the provisions in the Children and Families Act have introduced a right for fathers and partners (including same sex partners), and intended

parents in a surrogacy situation, to take paid time off work to accompany a pregnant woman at an antenatal appointment on two occasions. Employees are entitled to be absent for a maximum of 6.5 hours on each such occasion. The appointment must be on the advice of a registered medical practitioner, midwife or nurse. The employee will need to provide a signed declaration confirming: the qualifying relationship with the pregnant woman or her expected child; that the purpose of the time off is to accompany the woman at her antenatal appointment and the date and time of the appointment. The employer should not unreasonably refuse an employee to take time off under this provision.

### **1.3 Health & Safety at Work**

The law requires that a written assessment of risk is undertaken as soon as a school become aware that an employee is pregnant. This initial assessment should be reviewed at regular intervals throughout the pregnancy and the period following a return to work until either 6 months after the date of childbirth or until the employee ceases to breastfeed. Guidance on risk assessments may be found in the Health and Safety Manual (Schools Portal).

Where risks are identified the following remedies should be considered: -

- i) temporary changes to working hours, duties and/or working conditions;
- ii) temporary redeployment to suitable alternate work
- iii) suspension on medical grounds. Prior to this course of action being taken you should contact the HR Team for further advice.

Where any of the above changes are implemented there should be no detriment to the employee.

### **1.4 Sickness**

Any absence, as a result of a pregnancy related illness, before the 4th week before the Expected Week of Confinement (EWC), falls within the remit of the sickness regulations.

An employee absent with a maternity related illness, after the 4th week before EWC will be deemed to have commenced maternity leave.

### **1.5 Still birth or death of a child**

A woman is still eligible for the full maternity provision if, after 24 weeks of pregnancy, the baby is stillborn or if the baby dies.

### **1.6 Statutory Maternity Pay (SMP)**

SMP is payable for a maximum of 39 continuous weeks. The period for which it is paid is called the Maternity Pay Period. SMP cannot start earlier than the 11th week before the EWC, and no later than the birth date of the baby.

## **1.7 TEACHING STAFF**

Maternity provisions apply to all teachers employed on either a full-time or a part-time basis. For supply staff advice on maternity entitlements should be sought from the Nottinghamshire Schools Supply Agency.

Head Teacher maternity should be managed by the Chair of Governors with advice from the HR team.

## **Maternity leave**

Every woman will be entitled to take 52 weeks maternity leave, regardless of the hours worked or the length of continuous service (26 weeks ordinary maternity leave followed by 26 weeks additional maternity leave). Leave shall not start earlier than 11 weeks before the EWC or from the time of childbirth if earlier. If the birth occurs before the commencement of the leave then the leave will commence the day following the birth. An employee must take a minimum of 2 weeks compulsory maternity leave following childbirth.

## **Maternity pay**

If the teacher has more than one year's continuous service at the 11<sup>th</sup> week before the EWC, she will be entitled to both Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP).

OMP comprises:

- (a) 4 weeks at full pay
- (b) 2 weeks at 9/10ths of normal pay
- (c) 12 weeks at half pay (without deduction of state benefit, unless half pay and SMP or equivalent, exceeds full pay).

It should be noted that there may be occasions where the amount of SMP or Maternity Allowance will exceed normal pay and in such cases the County Council will make no OMP payments to the employee.

SMP is a set amount (see Department for Work and Pensions website for current rates, [www.dwp.gov.uk](http://www.dwp.gov.uk)) and is payable for the first 39 weeks of maternity leave. This amount is offset against OMP as employees cannot earn more than they would have earned had they been at work.

If a teacher has less than one year's continuous service at the 11<sup>th</sup> week before the EWC but does have 26 weeks continuous service at the 15<sup>th</sup> week before EWC she will only be entitled to SMP (6 weeks at 90% of normal pay, plus 33 weeks at the current SMP rate).

If the teacher is not eligible for SMP due to having less than 26 weeks continuous service at the 15<sup>th</sup> week before EWC or having not paid enough National Insurance contributions, then she will be sent details on how to claim maternity allowance. Please see Procedure for claiming maternity pay section.

## **Procedure for claiming maternity pay**

In accordance with their conditions of service, the teacher should give the Head Teacher at least 15 weeks' prior notification of the expected date of childbirth.

The teacher must notify the Head Teacher of the following, in writing, at least 21 days before the absence begins:

- (a) that she will be absent due to pregnancy and that she either intends to return to work or wishes to have her job held open until after the birth of her baby;
- (b) the date the absence will begin (this must not be earlier than 11 weeks before the EWC);
- (c) if the 12 weeks at half pay is to be paid or withheld.

If the 12 weeks at half pay is paid there is an obligation to return to work for a period equivalent to at least 13 weeks or longer if they are a full-time teacher returning part-time. If the teacher does not return she will have to refund all OMP received for any week after the first 6 weeks of paid absence. To avoid this situation the twelve weeks at half pay can be withheld until 13 weeks full time service or full time equivalent for those working part-time, has been completed. The 13 weeks includes school closure periods.

The teacher must also:

- (a) complete form SMP4; (Appendix B)
- (b) provide a MAT B1 certificate (available from Doctor or Midwife).

Those not eligible for SMP will receive notification on form SMP1 (issued by HR - Pay Section, Employee Services Centre) which also gives details of how to claim maternity allowance from the local Job Centre Plus.

Teachers who are offered and accept employment with a Nottinghamshire County Council school whilst on maternity leave must seek advice from their current employer regarding their contractual obligation to return to their former post. The contractual requirement to avoid an obligation to repay any OMP they may have received normally requires a teacher to return to their former job for a period of three months (13 weeks), or longer if they are a full-time teacher returning part-time. Some local authorities have reciprocal agreements which allow a teacher returning from maternity leave to fulfil their return to work requirement with Nottinghamshire County Council. However, it is the responsibility of individual applicants to check out their own contractual position with their current employer before accepting the offer of a new post.'

## **Contact during maternity leave**

It is important for Head Teachers to maintain reasonable contact with staff during maternity leave, to keep them up to date with developments at the school. Examples include: job opportunities, newsletters, changes to posts, revised policies and procedures, minutes of meetings, invites to social events, training opportunities, information relating to pay and benefits, office relocation, potential redundancy issues and any other significant and relevant issues, such as a restructure. It is advisable for the Head to establish in advance what contact the employee wishes to have with the school during her maternity leave. A meeting should ideally take place one month before the maternity leave commences. The meeting should include, for example: establishing an agreed level, frequency and preferred method of contact; ascertaining whether the employee may wish to visit work during the maternity leave and if so when; allowing any concerns to be outlined by the employee and making the employee aware of the LA's support services.

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

Employees may agree with their Head Teacher to work for up to 10 days without bringing their maternity leave to an end or losing any statutory maternity payments. These days are known as Keeping in Touch (KIT) days and are different from the reasonable contact referred to above as actual work will be carried out on a KIT day.

If you work only part of a day this would still count as one of your 10 KIT days, regardless of whether you worked your normal hours on that day. You therefore cannot spread the total number of hours you would have normally worked during 10 days over more than 10 KIT days.

The type of work to be undertaken should be by agreement and this could include normal contractual duties, attending a training course or conference. Any proportion of a day counts as one KIT day.

Note that an employee cannot carry out any work in the compulsory maternity leave period of two weeks following the birth of the child.

It is recommended that employees are paid normal contractual pay for the total numbers of hours worked for KIT days which is in line with County Council policy. However, should the school wish to deduct a notional amount from the days pay equal to the daily SMP rate then they can do so and inform the Employee Services Centre accordingly.

## **Returning to work**

Employees have the right to return to the job in which they were employed under the original contract of employment before maternity leave started.

If the post becomes redundant while the employee is on maternity leave, attempts will be made to find suitable alternative employment.

It will be assumed that the teacher will return to work at the end of the period of maternity leave i.e after 52 weeks. At least 21 days notice, in writing, is required from the teacher if she proposes to return to work before the end of her maternity leave entitlement. The Head Teacher may postpone the return if 21 days notice is not given. However, a return cannot be postponed beyond the end of her maternity leave entitlement.

Following a return to work, the normal notice provisions will apply.

If the teacher does not return to work by the end of her maternity leave entitlement period, then the right to return to her post will be lost. However, if the teacher is unable to return to work due to sickness, the provisions of the sick pay scheme will apply.

Employees have the right to formally request to be considered for flexible working arrangements, flexible options include: job share schemes; part-time/term time only working; compressed working hours; changes to times worked; home working (for suitable roles). Please refer to the Flexible Working policy for school staff for further information.

## **Pension**

The 39 weeks maternity pay period is treated as pay for pension purposes and pension contributions, based on the pay received, will be deducted. This means that the 39 weeks counts towards pension calculations when the teacher retires.

There is no obligation to pay contributions on the remainder of the maternity leave period. However should the teacher wish to pay pension contributions for the duration of the unpaid maternity leave, advice should be sought from Teachers Pensions.

## **Annual Leave**

Under the Working Times Regulations, staff have a statutory right to 28 days annual leave (including bank holidays), this should be taken before or after the maternity leave. **This is not an additional entitlement to annual leave on top of the current school closure arrangements. In most circumstances the member of staff will take the leave in school closure periods and therefore will not be entitled to additional leave as the number of closure days will supersede the statutory entitlement.** The leave year for the purpose of establishing annual leave entitlement whilst on maternity leave will be 1 September in line with the school academic year. Leave should be taken in the current leave year providing there are sufficient school closure days. If there are insufficient school closure days, within the leave year in question, leave can be taken in term time following the maternity leave. However, in most cases this will not be relevant as leave will have already been used in the school closure periods. If the return from maternity is close to the end of the leave year the balance can be carried over and taken during periods of school closure in that leave year. We advise schools to contact HR for further advice.

## **Childcare Vouchers**

### Changes to childcare voucher scheme

The Government introduced a [new national Tax Free Childcare scheme on 5 October 2018](#).

This change will mean that the County Council's existing childcare voucher salary sacrifice scheme will close to new applicants on Monday 3 September 2018.

## **1.8 SUPPORT STAFF**

These maternity provisions apply to all school support staff, employed on either a full-time or a part-time basis. For advice about Maternity entitlements for supply staff employed by the Nottinghamshire Schools Supply Agency should be sought from the Agency.

### **Maternity leave**

Please see section 1.7

### **Maternity pay**

If a member of support staff has more than one year's continuous service at the 11<sup>th</sup> week before the EWC, she will be entitled to both Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP).

OMP comprises:

- (a) 6 weeks at 9/10ths of normal pay
- (b) 12 weeks at half pay (without deduction of state benefit, unless half pay and SMP or equivalent, exceeds full pay).

It should be noted that there may be occasions where the amount of SMP or Maternity Allowance will exceed normal pay and in such cases the County Council will make no OMP payments to the employee.

SMP is a set amount (see Department for Work and Pensions website for current rates, <https://www.gov.uk/maternity-pay-leave/pay>) and is payable for the first 39 weeks of maternity leave. This amount is offset against OMP as employees cannot earn more than they would have earned had they been at work.

If a member of staff has less than one year's continuous service at the 11<sup>th</sup> week before the EWC but does have 26 weeks continuous service at the 15<sup>th</sup> week before EWC she will only be entitled to SMP (6 weeks at 90% of normal pay, plus 33 weeks at the current SMP rate).

If the member of staff is not eligible for SMP due to having less than 26 weeks continuous service at the 15<sup>th</sup> week before EWC or having not paid enough National Insurance contributions, then she will be sent details on how to claim maternity allowance. Please see Procedure for claiming maternity pay section.

## **Procedure for claiming maternity pay**

The employee must notify the Head Teacher of the following, in writing, at least 21 days before the absence begins:

- (a) that she will be absent due to pregnancy and that she either intends to return to work or wishes to have her job held open until after the birth of her baby;
- (b) the date the absence will begin (this must not be earlier than 11 weeks before the EWC);
- (c) if the 12 weeks at half pay is to be paid or withheld.

If the 12 weeks at half pay is paid there is an obligation to return to work for a period of 3 months. If she does not return she will have to refund all OMP received for any week after the first 6 weeks of paid absence. To avoid this situation the twelve weeks at half pay can be withheld until 3 months has been completed.

The employee must also:

- (a) complete form SMP4; (Appendix B)
- (b) provide a MAT B1 certificate (available from doctor or midwife).

Those not eligible for SMP will receive notification on form SMP1 (issued by HR-Pay Section, Employee Services Centre) which also gives details of how to claim maternity allowance from the local Job Centre Plus.

## **Contact during maternity leave**

Please see section 1.7

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

Please see section 1.7

## **Returning to work**

Employees have the right to return to the job in which they were employed under the original contract of employment before maternity leave started

It will be assumed that the employee will return to work at the end of the period of maternity leave i.e. after 52 weeks. At least 21 days notice, in writing, is required from the employee if she proposes to return to work before the end of her maternity leave entitlement. The Head Teacher may postpone the return if 21 days notice is not given. However, a return cannot be postponed beyond the end of her maternity leave entitlement.

Following a return to work, the normal notice provisions will apply.

If the member of staff does not return to work by the end of her maternity leave entitlement period then the right to return to her post will be lost. However, if she is unable to return to work due to sickness, the provisions of the sick pay scheme will apply.

Employees have the right to formally request to consider flexible working arrangements, flexible options include: job share schemes; part-time/term time only working; compressed working hours; changes to times worked; home working. Please refer to the Flexible Working policy for school staff for further information, options will need to be suitable for the role.

## **Pension**

The 39 weeks maternity pay period, regardless of whether employees receive SMP or OMP, is treated as pay for pension purposes and pension contributions, based on the pay received, will be deducted. This means that the 39 weeks counts towards pension calculations when the employee retires

There is no obligation to pay contributions on the remainder of the maternity leave period. However, should the employee wish to pay pension contributions for the duration of the unpaid maternity leave, advice should be sought from the Pensions Section, Employee Services Centre.

## **Annual Leave**

The total maternity leave period counts as continuous service for the purposes of calculating various entitlements e.g. periods of notice, redundancy payments, annual leave.

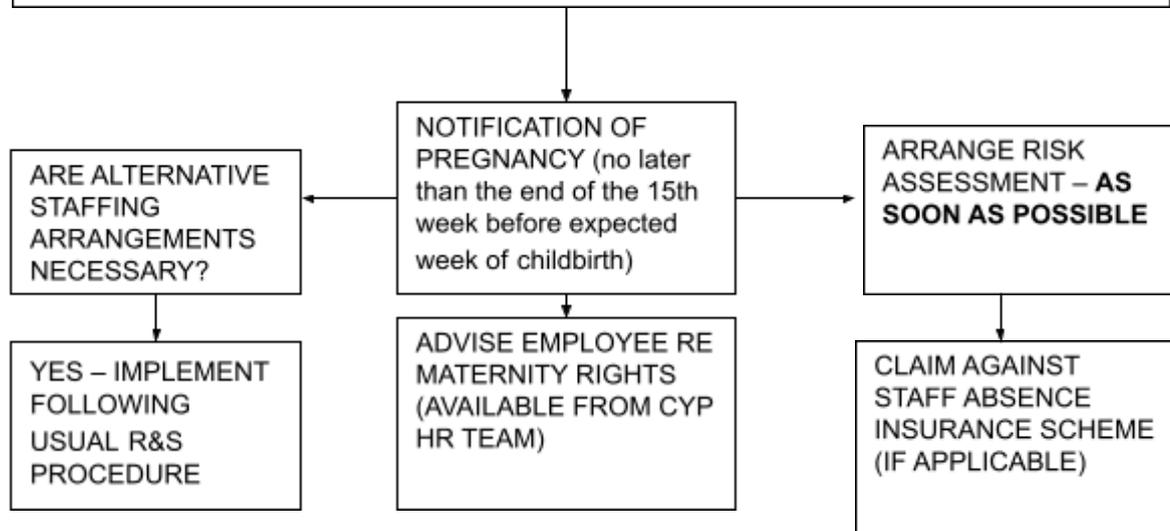
Members of staff who work all year round are normally expected to take pro rata annual leave, calculated up to and including the 6 weeks at 9/10ths pay, prior to commencement of maternity leave. The remainder of that year's leave entitlement should be taken upon return to work. However, in cases where the maternity leave period spans 31st March the annual leave outstanding will be carried forward into the next leave year. Normally this annual leave should be taken at the end of maternity leave.

An employee is entitled to any statutory bank holidays which fall during the maternity leave period. Where applicable, additional annual leave will be granted and can be taken before or after maternity leave.

Members of staff who do not work all year round but are not paid on equated pay (EG Teaching Assistants) should refer to the annual leave guidance in section 1.7 of this document.

**Childcare Vouchers** - [Please](#) see section 1.7

**MATERNITY – CHECKLIST FOR HEAD TEACHERS**



**EMPLOYEE TO PROVIDE THE FOLLOWING DOCUMENTATION:**

- LETTER REQUESTING MATERNITY LEAVE (AT LEAST 21 DAYS BEFORE ABSENCE BEGINS)
- SMP 4 FORM (BACK OF BOOKLET OR ON SCHOOLS PORTAL)
- MAT B1 FORM FROM GP

**SCHOOL TO CONFIRM ENTITLEMENT IN WRITING WITHIN 28 DAYS INCLUDING:**

- OMP
- SMP
- TIMESCALE

(AD HOC SERVICE FOR MATERNITY ADMINISTRATION IS AVAILABLE FROM THE HR TEAM)

DOCUMENTATION TO BE FORWARDED TO THE EMPLOYEE SERVICES CENTRE OR HR TEAM (IF BUYING AD HOC SERVICE) TO ACTION MATERNITY PAYMENTS

**FOLLOWING THE BIRTH: DOES THE EMPLOYEE INTEND TO RETURN?**

**YES**

- ENSURE EMPLOYEE IS KEPT UP TO DATE WITH DEVELOPMENTS IN SCHOOL
- NOTICE TO RETURN TO WORK IS NOT REQUIRED UNLESS THE INTENTION IS TO RETURN EARLY, IF BEFORE THE END OF THE MATERNITY PERIOD EMPLOYEE MUST GIVE AT LEAST 21 DAYS NOTICE IN WRITING. RETURN CAN BE POSTPONED IF NOTICE NOT GIVEN.
- ENSURE EMPLOYEE IS AWARE OF FLEXIBLE WORKING POLICY
- TAKE NECESSARY STEPS TO TERMINATE TEMPORARY STAFFING ARRANGEMENTS
- PLAN RE-INDUCTION TO WORK PROCEDURE

**NO**

- RECOUP MATERNITY PAY IF OVERPAID
- IF NECESSARY TO FILL THE POST FOLLOW USUAL R&S PROCEDURE

# **Notification of Maternity Absence and claim form for Statutory Maternity Pay (SMP)**

**GUIDANCE NOTES**

- a) Please read these notes in conjunction with the "Employee's Guide to Maternity Provisions".
- b) You must complete this claim form at least 28 days (usually the 14<sup>th</sup> week before your Expected Week of Childbirth (EWC)) before you start your maternity leave.
- c) Wherever possible, you should submit form MAT B1 with this claim, to the School Business Manager not later than the 11<sup>th</sup> week before your EWC.  
**Payment of SMP will not commence until MAT B1 has been received.**
- d) You must inform the School Business Manager immediately should any of the following events occur during your maternity pay period:
  - (i) You are taken into legal custody.
  - (ii) You work after the birth of your child for another employer who you were not working for in the 15<sup>th</sup> week before your EWC.

**PLEASE COMPLETE SECTIONS A-C AND RETURN TO THE SCHOOL BUSINESS MANAGER, CHILWELL SCHOOL, QUEENS ROAD WEST, CHILWELL, NOTTINGHAMSHIRE, NG9 5AL.**

**SECTION A**

- 1. Full Name (BLOCK CAPITALS): \_\_\_\_\_
- 2. Home Address and Postcode: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 3. National Insurance Number: \_ \_ \_ \_ \_
- 4. Position: \_\_\_\_\_
- 5. Work base: \_\_\_\_\_
- 6. Department: \_\_\_\_\_
- 7. Personnel number: \_ \_ \_ \_ \_  
(above name on payslip)

**SECTION B**

- 1. My expected date of childbirth is: \_\_\_\_\_
- 2. I intend to commence maternity leave on: \_\_\_\_\_

3. a. I want my occupational half maternity pay (OMP) paid during my maternity absence Yes/No\*

or

b. I am a Local Government worker covered by the Green Book and want my occupational half maternity pay (OMP) paid on my return to work, after completing 3 calendar months Yes/No\*

or

c. I am a Teacher covered by the Burgundy Book and want my occupational half maternity pay (OMP) paid on my return to work, after completing 13 weeks, or the equivalent if reducing my hours Yes/No\*

4. A valid maternity certificate MAT B1 is/is not attached\*

(\*delete as applicable)

### **SECTION C**

I declare that the information given above is correct.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Tick the box if you have signed on behalf of the employee.

**Please return this form to the School Business Manager, Chilwell School, Queens Road West, Chilwell, Nottinghamshire, NG9 5AL.**

### **SECTION D**

**To be completed by The School Business Manager**

I confirm that \_\_\_\_\_ (name) will

commence Maternity leave on \_\_\_\_\_ (date).

Authorised by: \_\_\_\_\_ Date: \_\_\_\_\_