

Name of Policy: Maternity Policy	Version/Last Review Date: Oct 2018
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Other Policies linked to this policy: Equal opportunities Equality & community cohesion	Next Review Date: Oct 2019
Governor Committee Responsible	Pay Committee

WNA Vision: All children will achieve their full potential, with holistic support, whilst enjoying and driving their own learning, gaining self-respect, self-esteem and self-belief. Our classroom extends to rich, exciting environments within the forest, the beach, the city and the community as a whole.

Aim

The aim of this policy is to explain an employee's entitlements to maternity leave, statutory and occupational maternity pay and to explain the steps that need to be taken by an employee and their Headteacher before and during maternity leave.

Scope

This policy applies to all employees holding permanent, temporary or fixed term contracts.

Key Information

Employees within the scope of this policy are entitled to the following benefits:

- 52 weeks maternity leave, which must be taken as a continuous block
- The right to return to their job or a similar job on terms and conditions no less favourable, at the end of their maternity leave
- Paid time off for antenatal care
- Statutory maternity pay and/or occupational maternity pay, subject to meeting certain qualifying criteria.

These are explained in more detail throughout this document.

Entitlement to Maternity Leave

All pregnant employees are entitled to 52 weeks maternity leave, regardless of their length of service or hours worked. This must be taken as a continuous block. The maternity leave is split into two parts, which attract different employment rights. The first 26 weeks leave is referred to as ordinary maternity leave (OML) the subsequent 26 weeks period is referred to as additional maternity leave (AML).

Only one period of leave is available per pregnancy irrespective of whether more than one child is born.

Employment rights during ordinary maternity leave (OML)

- During ordinary maternity leave the employee is entitled to benefit from all their normal terms and conditions of employment with the exception of pay
- This period is counted as continuous service for calculation of statutory employment rights, and other contractual payments relating to their length of service. This means that this period is included in the calculation of entitlement to sick pay
- On return from OML an employee is entitled to return to the same job on the same terms and conditions as before her leave began
- If there has been a re-grading or pay award applied to her post during the period she was on OML then she is entitled to receive these benefits as if she hadn't been away
- OML also includes 2 weeks compulsory maternity leave, which immediately follows the birth of the employee's baby and the employee is not permitted to work or return to work during this period.

Employment rights during additional maternity leave (AML)

- Employees are entitled to benefit from all their normal terms and conditions of employment with the exception of pay during Additional Maternity Leave
- Continuity of employment is preserved through additional maternity leave for the purpose of calculating entitlement to statutory employment rights (such as redundancy, unfair dismissal rights, notice requirements)
- The period of additional maternity leave will be treated by the school as continuous for the purpose of calculating contractual sick pay

- On return from additional maternity leave the employee is entitled to return to the same job on the same terms and conditions before her leave as if she had not been absent. If this is not reasonably practicable then she should be offered a similar job on conditions that are no less favourable.

Maternity Pay

There are two types of maternity pay and these have different qualifying criteria. An employee may qualify for none, one or both of the entitlements set out below.

An employee's entitlement to maternity pay will be closely related to their length of service at certain key dates a number of weeks before the date the baby is due to be born (this date is stated on the MAT B1 certificate which is provided by a doctor or midwife)

Statutory Maternity Pay (SMP) – The basic statutory maternity pay scheme provided by the Government

To be entitled to statutory maternity pay the employee must have:

- 26 weeks continuous service with WNA by the 15th week before the expected week of confinement (EWC)
- National insurance contributions, which are greater than the lower earnings limit (in the qualifying week)

SMP is paid for a total of 39 weeks. This is split into two levels of payment:

- For the first 6 weeks of maternity leave the payment of SMP equals 90% of the employee's average weekly earnings, this is known as higher rate SMP.
- For the subsequent 33 weeks employees are entitled to receive a fixed rate payment known as standard rate SMP (unless 90% of their weekly earnings is less than this rate). This fixed rate changes regularly and the prevailing rate can be found at www.direct.gov.uk

SMP payments start when an employee begins her maternity leave. They will continue for a period of 39 weeks unless the employee returns to work before that time.

Employees who do not fulfil the qualifying conditions for SMP may be entitled to Maternity Allowance (MA) or other benefits, which are controlled and paid by the Department for Work and Pensions.

Occupational Maternity Pay (OMP) – An enhancement to the statutory scheme

To be entitled to OMP an employee must:

- Have 2 years' service with West Newcastle Academy by the 11th week before the EWC.

And
- At the end of maternity leave return to work for a minimum period of 13 weeks equivalent to the employee's hours at the time of commencing maternity leave. School closure periods are included for this purpose. (If she does not she will be required to repay any half pay paid to her).

Occupational maternity pay is paid for a total of 18 weeks and is split into three levels of payment: **We are not in a position to offer this at the moment, governors are seeking further advice on this.**

- 4 weeks at full pay. (If the employee also qualifies for statutory maternity pay, and this amount is more than her SMP payment, then her OMP payment is **inclusive** of the SMP entitlement the employee does **not receive both**)
- 2 weeks at 90% of their weekly pay. (If the employee also qualifies for statutory maternity pay, and this amount is more than her SMP payment, then her OMP payment is **inclusive** of the SMP entitlement. The employee does **not receive both**)
- Followed by 12 weeks at half pay. If the employee also qualifies for statutory maternity pay this payment is made in **addition** to half pay. (Employees who qualify for OMP and SMP will not receive more than full pay when the two are combined.)

Where an employee is entitled to both statutory and occupational maternity pay the entitlements will run concurrently.

Where an employee is not entitled to SMP but receives Maternity Allowance, these payments will be offset against the OMP due.

An employee can choose to make the half pay last for longer by having it paid over 20 weeks at a rate of 3/10th of pay. The amount received overall is the same. If an employee is not sure whether they will return to work, they can ask for the half pay to be withheld until they have made a decision.

Employees **not** intending to return to work after maternity leave will only be entitled to SMP, if they meet the qualifying criteria for SMP.

During Pregnancy

Notifying the headteacher

An employee who discovers she is pregnant should notify her headteacher as soon as is reasonably practicable. The purpose of this is to:

- Trigger the employee's entitlements during this part of pregnancy
- To enable the headteacher to take steps to protect the health, safety and wellbeing of the employee and the unborn child
- To enable the headteacher and the employee to start planning for her maternity leave.

The headteacher must respect an employee's wishes about how and when she would like to tell her colleagues that she is expecting a baby. However employees should also be aware that for health and safety and business planning reasons, their headteacher might need to advise other colleagues about the employee's pregnancy.

Ante Natal Care

Pregnant employees have the right to paid time off to attend antenatal care. This includes time off to attend regular appointments, antenatal classes and 'Parent craft' and relaxation classes if these are recommended by a doctor or midwife.

An employee is not required to provide evidence of her first appointment. However the headteacher/line manager may ask an employee to produce evidence of subsequent appointments.

Risk Assessments and Health and Safety

Once a headteacher has been notified that an employee is pregnant, they are responsible for carrying out a risk assessment and taking steps to minimise any identified risk for the employee or her unborn child.

This assessment should be regularly reviewed throughout the pregnancy, to take account of changing risks as the pregnancy develops. This includes providing a suitable place to rest, whilst an employee is at work if she requests it.

If a risk cannot be avoided, changes to working conditions must be considered. Such changes might be to alter the employee's hours of work or to offer suitable alternative work.

Sickness absence during pregnancy

If an employee is absent from work due to sickness (including pregnancy related sickness) during her pregnancy this will be counted as sick leave as normal and the usual sick pay provision will continue to apply. Pregnancy related sickness should be disregarded for the purposes of managing absence under the Sickness Absence Policy.

It is recognised that "morning sickness" is a common symptom of pregnancy and some employees find that it affects them at only at certain times of the day. Where business requirements permit, it may be possible for the employee and manager to agree to temporarily adjust her working times to accommodate this, and avoid the need for the employee to be absent from work.

The only exception to the above is when an employee falls sick for a pregnancy related reason during the final four weeks before her EWC. In these circumstances her maternity leave and pay will be triggered immediately and she must commence maternity leave.

Non-pregnancy sickness during this period will be counted as sick leave as normal and the usual sick pay provisions will continue to apply.

Applying for maternity leave

Prior to applying for maternity leave, an employee should discuss her plans for commencing maternity leave with her headteacher to enable them to make arrangements to cover her work whilst she is away.

The earliest time maternity leave can start is the beginning of the 11th week before the week the baby is due to be born in, but an employee can work up to the day the baby is born if she chooses.

An employee is encouraged to apply for maternity leave by the 15th week before the EWC. However the latest date an employee should apply for maternity leave is 21 days before she intends to commence maternity leave. This is done through completing form MAT/L1 available from the school office. An employee may alter the date she wants her maternity leave to commence by following the notification periods set out below.

Once completed the employee should give her headteacher the MAT/L1 form and form MAT B1. The headteacher should take a photocopy for her own records, before both original documents are forwarded to THE PAYROLL DEPT FOR PROCESSING.

Maternity Pay cannot be paid until the MAT B1 certificate is received by THE PAYROLL DEPT.

Starting Maternity Leave earlier or later than notified

If the employee wishes to alter the planned date she wants her maternity leave to start she must notify her headteacher of the new date:

- 28 days before her maternity leave was originally due to start
Or
- 28 days before the new date she wants to start her leave

Whichever of these two deadlines is the earliest.

Babies born before planned maternity leave starts:

If an employee's baby is born before she has notified her headteacher/line manager that she intends to start maternity leave, her maternity leave will commence automatically the day after the birth. She must provide confirmation to her headteacher of the date her baby was born as soon as is reasonably practicable.

During Maternity Leave

Pension Contributions

Where an employee is a member of the Teacher's Pension Scheme, or the Local Government Pension Scheme, pension contributions will continue to be deducted during the paid maternity leave period, providing they are in receipt of SMP or contractual maternity pay.

Contributions will be based on the actual remuneration that is received.

If the employee is no longer receiving any pay, they will no longer be a member of the scheme and the period will not count as service for pension calculation purposes.

On return to work, and providing they have not opted out of the scheme, obtained a refund of contributions or transferred service to another pension scheme, the service will be aggregated together.

If the employee has a break in service of more than 5 years, then they would be treated as a new entrant.

The Teachers' Pension Scheme produces a fact sheet that can be downloaded from their website www.teacherspension.co.uk

Annual Leave

Employees do not have a contractual right to paid annual leave but they do have a right to statutory annual leave under the Working Time Regulations. When an employee is on maternity leave her entitlement to statutory annual leave continues to accrue. Teachers will normally take this leave either before or after their maternity leave during school closure periods. In cases where an employee does not return to work after a period of maternity leave and there is outstanding annual leave accrued, this can be taken as payment in lieu at the rate of 1/260th of pay for each day accrued. For the purposes of calculation of statutory annual leave entitlement, the leave year runs from 1st September to 31st August.

Contact whilst on Maternity Leave

Whilst on maternity leave an employee's headteacher should maintain reasonable contact with the employee to keep her updated about developments at work and matters concerning her job. The headteacher and employee should agree the level and frequency of contact prior to the employee commencing maternity leave.

The school has an obligation to keep an employee informed of any other information relating to her job that she would normally be made aware of if working. This may fall outside of the individual agreement referred to.

Keeping in Touch Days

Whilst on maternity leave an employee may not carry out any work, without bringing her maternity leave to an end. The only exception to this is the 'Keeping in Touch' Days

To assist an employee with her return to work, she may by mutual agreement work up to Ten 'Keeping in Touch' (KIT) days during the unpaid period of her maternity leave to help her prepare to return to work. A KIT day can be used to attend training sessions or meetings (providing these are related to the employee's job) as well as carrying out aspects of the employee's job. In exceptional circumstances a KIT day may be worked during the paid period of maternity leave.

There is no obligation for an employee to work a KIT day if it is offered; likewise an employee cannot insist that the school provide them with a KIT day.

Any work done on a particular day is counted as using one KIT day. For example, if an employee agrees with her headteacher that she will attend a training course and the course lasts two hours, this is counted as using up one of her KIT days.

An employee working a KIT day will be paid their normal hourly rate of pay for the hours actually worked. Claims for payment must be authorised by the employee's headteacher. The employee must clearly state the date worked, and the actual number of hours worked on that day (lunch breaks are excluded). If a KIT day is worked during the paid period of maternity leave an employee will be paid their maternity pay, plus the hours worked. The total payment will be limited to no more than what they would receive for a normal full day's pay.

KIT days do not extend the period of maternity leave. Payment for KIT days will always be made in arrears at the next available payroll.

Returning to work

Returning to Work as Notified

An employee does not need to give notice that she wishes to return to work if:

- She has elected to take the full 52 weeks maternity leave
- Or
- When she applied for maternity leave, she specified an earlier return date and she returns on this date

At the end of her maternity leave an employee is entitled to return to the job in which she was employed under her original contract of employment, and on terms and conditions not less favourable than those, which would have been applicable to her if she had not been absent.

The only exception to this is where a woman returns to work during or after her additional maternity leave, and it is not reasonably practicable for her to return to her old job. In this case she should be offered a similar job on terms and conditions no less favourable to her original job.

There is no automatic entitlement to return to work on a part time basis. However an employee is entitled to apply for a change in her working pattern/hours and to have this request seriously considered. Such a request should only be denied if there are clear business reasons. Please refer to the school's policy on the Statutory Right to Request Flexible Working, for further information.

If an employee is not able to return to her old job for reasons of redundancy, she will be entitled to be offered a suitable alternative vacancy where one exists. Any such offer should be of work that is suitable and appropriate to the employee and this means the place, capacity and terms and conditions of employment must not be substantially less favourable than if she had been able to return to her original job.

Suitable alternative employment may also be offered where there are other exceptional circumstances other than redundancy, which necessitate a change in the job in which she was previously employed and would have occurred had the employee not been absent.

Returning to work earlier or later than originally notified

If an employee wishes to return to work earlier than she originally notified she should discuss this with her headteacher as soon as possible. If she is in her ordinary maternity leave period she should confirm her intention in writing and this must be given to her headteacher 21 days before she intends to return.

Where an employee gives less than the required notice period, her return may be postponed to allow for the required 21 days' notice, but not beyond the end of the maternity leave period.

The headteacher/line manager is responsible for notifying THE PAYROLL DEPT of the revised return to work date.

If an employee wants to take more maternity leave than she anticipated she should discuss this with her headteacher as soon as possible. She must notify her headteacher in writing no later than 8 weeks before she was due to return and advise of the new return to work date. Maternity leave cannot be extended beyond 52 weeks.

Return to work is delayed because of sickness absence

If an employee is unable to return to work due to sickness at the end of her maternity leave period, she should notify her headteacher/line manager through the normal sickness absence reporting procedure. She will be required to provide medical certificates as normal. This absence will be treated as sickness absence and the usual sick pay provisions will apply.

Taking parental leave immediately following maternity leave

An employee can agree with her headteacher to take parental leave immediately following the end of maternity leave. The headteacher needs to ensure that they have maintained proper records and that THE PAYROLL DEPT are informed so they can record the absence appropriately and ensure accurate pay calculations.

Return to work is delayed due to an interruption to work by industrial action or other unforeseen circumstances not related to the employee

If the employee's return to work is delayed by industrial action or other unforeseen circumstances not related to the employee, the employee should return to work when work resumes or as soon as is reasonably practicable thereafter

Risk assessments and Health and Safety on Return from Maternity Leave

The headteacher is responsible for carrying out a second risk assessment where an employee returns to work within 6 months of giving birth or if they continue to breastfeed upon their return.

Employees intending to continue breastfeeding upon return to work must notify their headteacher as soon as possible so that appropriate arrangements can be organised.

Problems arising during Pregnancy

Although the majority of pregnancies progress without any problems, premature births, miscarriages or very rarely stillbirth do occur from time to time.

The following information provides guidance should any of these circumstances arise.

Premature Birth

The premature birth of a baby can be a difficult time for employees who are either the parents or close relatives. Time off for the mother will be in accordance with the Maternity Policy with maternity leave commencing the day after the birth of the baby.

Request for time off from other family members will only affect a small proportion of employees at any one time. It is nonetheless important to handle each case with sensitivity. Leave for this purpose should be considered in accordance with the school's policy for dealing with requests for special leave. Flexible working options could also be considered.

Miscarriage and Stillbirth

The miscarriage or stillbirth of a baby, regardless of when it occurs is bereavement and the employee may experience a variety of emotions. They will require understanding from school management and colleagues.

The stillbirth or death of a baby before the 24th week of pregnancy is classed as a miscarriage and any absence following the miscarriage would need to be covered by a sickness certificate if the employee is absent for more than 7 calendar days.

A stillbirth from the 24th week of pregnancy onwards is classed as a 'birth' and the full provisions of the maternity scheme in terms of pay and leave will apply.

Maternity and unfair dismissal provisions

All employees are protected against unfair dismissal for reasons of pregnancy or childbirth, regardless of hours worked or length of service. There are specific guidelines relating to this area, which must be followed.

"Sharing" Maternity Leave/Maternity Pay – Known as Additional Paternity Leave

For babies due to be born on or after 3 April 2011 the mother can choose to "share" part of her maternity leave. This is called "Additional Paternity Leave" (APL) and can be taken by the father of the baby and/or the husband or partner (including same-sex partner or civil partner) of the mother for the purpose of caring for the baby.

The mother has to return to work with an entitlement to at least two weeks' statutory maternity leave remaining. There may also be an entitlement to statutory maternity pay (SMP) or statutory maternity allowance (SMA) remaining. The remaining entitlement to SML and SMP can then be used by the father, husband or partner of the mother. This right to APL is in addition to any entitlement to Maternity Support Leave or Ordinary Paternity Leave.

Additional Paternity Leave can be taken any time from 20 weeks after the baby is born, but must have finished by the baby's first birthday. A period from 2 weeks to a maximum of 26 continuous weeks can be taken and this leave must be for the purpose of caring for the baby.

To qualify for APL the father, husband or partner of the mother must have at least 26 weeks' continuous employment ending with the qualifying week (the 15th week before the mother's expected week of childbirth) and continue to work from the qualifying week into the week before they wish to take APL.

Work out your entitlement to statutory and/ or occupational maternity pay

