

# Maternity Leave Policy

This policy details the time off that employees are entitled to when they are pregnant and after they have given birth. Employees may also wish to consider more flexible leave arrangements available through the Shared Parental Leave Policy, which can be found on the [extranet](#).

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Where the headteacher is the employee concerned, any reference to the headteacher in this policy should be replaced with the chair of governors.

## 1 Eligibility

All pregnant employees have the right to take maternity leave, regardless of their length of service, however, employees must meet qualifying conditions to receive pay during their leave.

## 2 Leave entitlement

All employees are entitled to 52 weeks maternity leave, regardless of their length of service. This leave is made up of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML).

It is up to the employee to decide when to start their maternity leave and how long to stay off work, subject to the following conditions:

- Maternity leave cannot start earlier than 11 weeks before the due date stated on the MATB1 certificate
- An employee cannot return to work during the 2 weeks after giving birth – this is compulsory maternity leave

## 3 Pay entitlement

### 3.1 Statutory maternity pay (SMP)

SMP is paid for up to 39 weeks during an employee's maternity leave and is the same for all employees, whether teaching or support.

In order to qualify for SMP, an employee must have:

- 26 weeks' continuous service by 15<sup>th</sup> week before the baby's due date
- Have average weekly earnings above £120.00
- Provided proof of the pregnancy (MATB1 certificate)
- Given the appropriate notice (see section 4)

Employees will receive:

- 6 weeks at 90% of average weekly earnings
- 33 weeks at SMP (or 90% of average weekly earnings, whichever is the lower)

The current rate of SMP can be found here: [www.gov.uk/maternity-pay-leave/pay](http://www.gov.uk/maternity-pay-leave/pay).

If the employee does not qualify for SMP they will be sent an SMP1 form by Payroll and Employee Services, detailing why they are not eligible for SMP. The employee may still qualify for Maternity Allowance and further details can be found here: [www.gov.uk/maternity-allowance](http://www.gov.uk/maternity-allowance).

## 3.2 Occupational maternity pay (OMP)

OMP is an enhanced maternity pay package available to employees if they meet certain qualifying conditions.

### 3.2.1 Teaching staff

Employees who are employed on teaching terms and conditions are entitled to the first 4 weeks at full pay (offset against SMP) and 12 weeks half pay in addition to SMP, usually paid during weeks 7-18 of their maternity leave. To qualify for OMP, the employee must have:

- More than one year of continuous service as a teacher (with one or more Local Authority) at the start of the 11<sup>th</sup> week before the baby's due date; **and**
- Agreed to return to work for at least 13 weeks (including periods of school closure).

Employees can choose not to confirm whether they intend to return to work but OMP will not be paid unless they have agreed to return to work. If an employee received OMP but subsequently changes their mind and decides not to return to work, any OMP will need to be repaid.

Employees who qualify will receive payment as follows:

	Weeks 1 – 4	Weeks 5 – 6	Weeks 7 – 18	Weeks 19 – 39
SMP	90% salary	90% of salary	Lower SMP rate	Lower SMP rate
OMP	+ top up to full salary		+ 12 weeks half pay	

### 3.2.2 Support staff

Employees who are employed on Green Book terms and conditions are entitled to 12 weeks half pay in addition to their SMP. This is usually paid during weeks 7-18 of their maternity leave. However, employees cannot exceed their normal rate of full pay and if this occurs, the OMP element will be reduced.

To qualify for OMP, the employee must have:

- More than one year of continuous local government service at the start of the 11<sup>th</sup> week before the baby's due date; **and**
- Agreed to return to work for at least 3 calendar months.

Employees can choose not to confirm whether they intend to return to work but OMP will not be paid unless they have agreed to return to work. If an employee received OMP but subsequently changes their mind and decides not to return to work, any OMP will need to be repaid.

Employees who qualify will receive payment as follows:

	Weeks 1 – 6	Weeks 7 – 18	Weeks 19 – 39
SMP	90% salary	Lower SMP rate	Lower SMP rate
OMP		+ 12 weeks half pay	

## 4 Notification

Pregnant employees are asked to notify their Headteacher of their pregnancy as soon as possible, however, they must follow the following timescales as a minimum.

Teachers	Support
<ul style="list-style-type: none"> <li>• Notify Headteacher at least 14 weeks before the baby's due date</li> <li>• Complete Maternity Notification Form and copy of MAT B1 at least 21 days before commencing maternity leave</li> </ul>	<ul style="list-style-type: none"> <li>• Complete Maternity Leave Notification Form, providing copy of MAT B1 at least 28 days before commencing maternity leave.</li> </ul>

## 5 Antenatal appointments

All pregnant employees are entitled to reasonable paid time off for antenatal appointments, including travelling time. This type of appointment may include any of the following, provided they have been recommended by a doctor or midwife and can include medical appointments, parent craft classes and relaxation classes.

Employees must provide evidence of all appointments if requested to do so.

## 6 Sickness absence

If an employee is absent from work with any illness, including those relating to pregnancy, prior to the 4 weeks before the baby's due date, the normal attendance management process should be followed and the employee will receive occupational sick pay as usual.

During the 4 weeks prior to the baby's due date, the process to be followed depends on the circumstances of the illness, as follows:

- If the absence is **not** pregnancy related, the normal attendance management process should be followed, and the employee will receive occupational sick pay;

- If the absence **is** pregnancy related, the employee's maternity leave will automatically be triggered, and their maternity leave will start the following day.

Employees who are sick during their maternity leave are not entitled to sick pay, as they will be receiving SMP and/or OMP.

Where an employee cannot attend work at the end of their maternity leave due to sickness, the normal attendance management process should be followed. Please note that in this circumstance, for the purpose of entitlement to OMP, they employee will be deemed to have returned to work even in they are off sick.

## **7 Risk assessments**

Risk assessment forms and further guidance can be found on the Health and Safety page on the extranet.

### **7.1 Pregnant employees**

The Headteacher must carry out a formal risk assessment for an employee as soon as reasonably practicable after being notified of their pregnancy.

The risk assessment should be reviewed on a regular basis throughout the pregnancy and upon the employee's return to work. Where risks that may adversely affect the health and safety of the employee or their baby are identified, the Headteacher should consider temporary adjustments to the employee's working environment or offer suitable alternative work. The employee's normal rate of pay should continue during any period of adjustment.

Headteachers should be aware that if adjustments are not deemed to be feasible, the employee is entitled to paid leave for as long as necessary to protect her and/or the baby's health and safety.

### **7.2 Employees who are breastfeeding**

An employee returning to work from maternity leave may wish to express milk during the working day. Consideration should be given to any health and safety implications for breastfeeding employees and a risk assessment should be completed to identify any issues.

Although it is appreciated that space is often at a premium, every effort should be made to provide suitable quiet and private facilities for women who are expressing breastmilk. Headteachers should be aware that the ladies toilets are not an acceptable facility.

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

All employees on maternity leave may be able to participate in up to 10 KIT days without bringing their maternity leave to an end. KIT days are not limited to the employee's normal job and can include attendance at training events, appraisals, meetings as well as enabling them to return to work gradually at the end of their leave.

KIT days must be mutually agreed, therefore an employer cannot insist that an employee participates in KIT days and an employee cannot insist on working without their employer's permission.

Working any part of a day will count as one day for the purpose of calculating the number of KIT days taken. If an employee has multiple posts in the school, only 10 KIT days can be taken in total. KIT days cannot be taken during the first 2 weeks following the birth.

## 8.1 Pay

The Headteacher should ensure that the work to be carried out on the day and the payment arrangements are clearly understood by the employee before any work is undertaken.

Teachers	Support
<p>The employee will be paid their normal rate of pay, offset against any SMP and/or OMP they are receiving, for the number of hours actually worked on each KIT day.</p>	<p>The employee's normal rate of pay, offset against any SMP and/or OMP they are receiving, will be paid for each KIT day.</p> <p>Payment per day will be based on the number of days in the month the KIT day is worked i.e. 1/28<sup>th</sup>, 1/29<sup>th</sup>, 1/30<sup>th</sup> or 1/31<sup>st</sup> of the employee's monthly full time equivalent salary.</p>

## 9 Returning to work

The school will assume that the employee will take their full 52 weeks of maternity leave and if the employee intends to return to work on this date, there is no requirement to provide formal notice of their return.

The Headteacher (or manager) should contact the employee prior to their return to ensure their return to work is as smooth as possible and to discuss any particular needs they may have.

If an employee wishes to return to work before the end of their maternity leave or change their return to work date, they must give at least 21 days' notice of the date they intend to return to work, in writing to the Headteacher.

If less than 21 days' notice is given, the school can postpone the employee's return by 21 days, although any postponement cannot go beyond the end of the 52-week maternity leave period.

## 10 Special circumstances

Event	Outcome
<p><b>Early birth</b></p>	<p>If the baby is born earlier than their due date and before they had started maternity leave, their leave will automatically begin the day after the birth.</p>
<p><b>Stillbirth and miscarriage</b></p>	<p>If the baby is born stillborn or lost through miscarriage after 24 weeks, the employee is entitled to take maternity leave.</p> <p>If the employee does not wish to take maternity leave, they are entitled to 2 weeks leave under the Parental Bereavement Leave Policy.</p> <p>Where a miscarriage or termination takes place before 24 weeks the council will give sympathetic consideration to the individual circumstances under the Compassionate Leave Policy.</p>



This policy has been developed by the HR Advice and Support team, based on current legislation and best practice. If you would like any advice on the application of this policy, please do not hesitate to contact the team:

<b>Telephone</b>	03000 266688
<b>Email</b>	hradvice@durham.gov.uk

**Further support can be accessed by contacting (subject to SLA buy in):**

<b>Payroll and Employee Services</b>	<a href="mailto:pesschools@durham.gov.uk">pesschools@durham.gov.uk</a>
<b>Occupational Health</b>	<a href="mailto:occhealthadmin@durham.gov.uk">occhealthadmin@durham.gov.uk</a>
<b>Health and Safety</b>	<a href="mailto:hsteam@durham.gov.uk">hsteam@durham.gov.uk</a>
<b>Employee Assistance Programme</b>	<a href="http://www.healthassuredeap.com">www.healthassuredeap.com</a> Username: durham Password: council 0800 716017

<b>Author</b>	<b>Version</b>	<b>Last review</b>	<b>Next review</b>
LK	v 1.3	April 2022	April 2024

The school complies with all relevant statutory obligations. The school privacy notice provides more specific information on data collected and how it is handled, a copy of which can be accessed from the school. For more information please contact the school directly.

If you have any concerns about how your data is handled, please contact either the school Data Protection Officer (details available from the school office), or the Information Commissioner's Office.