



**Plymouth Nursery Schools Federation**

**MATERNITY LEAVE AND PAY (SUPPORT STAFF) POLICY**

**Headteacher**

A handwritten signature in black ink, appearing to be "SMA", written over a light grey background.

**Dated 05/06/2024**

**Chair of Governors**

A handwritten signature in black ink, appearing to be "C. P. ...", written over a light grey background.

**Dated 05/06/2024**

**Review date- June 2024**

**To be Reviewed- June 2027**

## CHANGES

01 April 2007: Amended legislation Work & Families Act 2006

05 October 2008: Legislative changes October 2008

05 February 2010: Policy amendment

March 2010: Styling revised in line with corporate guidelines

16 August 2010: Pension section amended

9<sup>th</sup> September 2010: Updated for schools

October 2010: Legislative changes from April 2011

July 2011: Pension section amended

June 2012: Updated following implementation of the Plymouth Book

August 2015: updated following Legislative changes in April 2015. Styling revised in line with corporate policy

April 2024: Updated following Legislative changes to Redundancy

## Contacts

If you have any questions regarding this policy please contact the school's HR Provider.

| CONTENTS  | Page |
|---|------|
| Background  | 4    |
| In Scope  | 4    |
| Key Principles  | 4    |
| Definition  | 4    |
| Eligibility – Maternity Leave and Statutory Maternity Pay (SMP)                     | 4    |
| Entitlement   | 5    |
| Maternity Leave Dates   | 7    |
| Complications with Pregnancy  | 8    |
| Conditions of Employment  | 8    |
| Right to Return to Work   | 10   |
| 11    Keeping in Touch (KIT) Days   | 10   |
| 12    Contact during Maternity Leave  | 10   |
| 13    Returning to Work   | 11   |
| 14    On the Return to Work   | 11   |
| 15    Parental Leave (Unpaid)   | 12   |
| 16    Shared Parental Leave   | 12   |
| 17    Consecutive Periods of Maternity Leave  | 12   |
| 18    Returning to Local Government service following a break for Maternity reasons | 12   |
| 19    Relevant Forms/Policies/Guides  | 13   |

## 1. BACKGROUND

This Policy sets out the help and support that (Insert Name of School) will give employees who are pregnant, their rights and responsibilities, and the law relating to maternity entitlements.

As the maternity provisions are complex, if an employee becomes pregnant, she should clarify the relevant procedures with her line manager to ensure that they are followed correctly.

This procedure does not form part of any contract of employment, and we may amend it at any time in line with statutory requirements.

## 2. IN SCOPE

Applies to all employees, excluding:

- National Employers' Organisation for School Teachers (NEOST) – School teachers and centrally employed teachers.
- Soulbury Committee.

**Note:** If the employee chooses to opt into Shared Parental Leave this procedure should be used in conjunction with the Shared Parental Leave Procedure Guide.

## 3. KEY PRINCIPLES

- Pregnant employees have the right to 52 weeks maternity leave.
- Eligible employees can claim up to 39 weeks of statutory maternity pay.
- During maternity leave the employee can have up to 10 keep in touch (KIT) days.
- Reasonable time off (paid) for antenatal care appointments.
- Depending on the length of leave, the employee has the right to return to their original job or a suitable alternative.
- In the case of multiple births, the maternity entitlement is the same as for the birth of one child.

## 4. DEFINITIONS

The following terms are used in this guide:

- Expected Week of Childbirth (EWC) – the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

- Qualifying Week – the 15<sup>th</sup> week before the expected week of childbirth.

## 5. ELIGIBILITY

### Maternity Leave

All pregnant employees are entitled to take up to 52 weeks' maternity leave regardless of their length of service.

### Statutory Maternity Pay (SMP)

To be eligible for SMP, an employee must:

- be an employee of Plymouth City Council
- have at least 26 weeks' continuous local government service by the end of the Qualifying Week
- have average weekly earnings of no less than the lower earnings limit for National Insurance, in the eight weeks up to and including the qualifying week
- still be employed during (but not necessarily until the end of) the qualifying week
- provide medical evidence of the expected date of childbirth by the qualifying week (MATBI certificate)
- Must still be pregnant at the 11<sup>th</sup> week before the EWC, or have already given birth and be absent due to maternity leave.

An employee who has a stillbirth after 24 weeks of pregnancy is entitled to paid maternity leave provided she otherwise meets the eligibility criteria above. If the baby dies after birth, the employee will also be entitled to paid maternity leave. (see Complications with Pregnancy section for further details)

If the employee meets the criteria above and leaves employment with Plymouth City Council after the start of the qualifying week, she will still receive SMP.

An employee with more than one employer may be eligible for statutory maternity pay from both.

## 6. ENTITLEMENT

### Maternity Leave

- Ordinary Maternity Leave (OML). The first 26 weeks
- Additional Maternity Leave (AML). Follows on from OML with no gap between the two. AML can last up to 26 weeks.

### Maternity Pay

If the employee qualifies for Statutory Maternity Pay (SMP) it will be paid for a period of up to 39 weeks.

SMP is 90% of average weekly earnings for the first six weeks, then;

*the fixed statutory amount for the next 33 weeks or 90% of average weekly earnings if earnings are less than the fixed rate.*

SMP rates are fixed by government and are subject to tax and National Insurance deductions. Full details of the rates of SMP and how and when it may be paid can be obtained from Payroll.

If the employee returns to work before the end of the 39 week period, she will stop receiving SMP.

To make use of Shared Parental Leave and Pay, the employee should refer to the Shared Parental Leave procedure guide and the relevant forms.

### **Employees excluded from receiving SMP**

An employee is excluded from receiving SMP under the following conditions:

- Earnings are too low (earnings during the 8 weeks up to and including the qualifying week must be at least equal to the lower earnings limit for National Insurance contributions)
- They are not employed by PCC during the qualifying week (ie the 15th week before the expected week of childbirth)
- They work for another employer after the childbirth and during the maternity pay period.

### **Maternity Allowance (MA)**

If an employee is ineligible for SMP, she may be able to claim state maternity allowance (MA) instead, which is paid by the Department for Work and Pensions (DWP) through the Job Centre Plus, provided that she satisfies the contribution conditions based on her previous employment or self-employment. Payments are made weekly for a maximum of 39 weeks.

### **Pre-maternity entitlement**

All pregnant employees are entitled to paid time off to attend appointments for antenatal care; these can include medical examinations, and/or relaxation or parent-craft.

Antenatal appointments must be made on the advice of a medical practitioner, registered midwife or registered health visitor. Employees will be required to show a certificate from such professionals confirming that she is pregnant, and/or an appointment card or some other document showing an appointment has been made.

The employee must notify her line manager of the time and date of appointments as soon as possible.

The baby's father or the mother's partner has the right to take unpaid time off during working hours to accompany the mother to an antenatal appointment on up to two occasions for a maximum of six and a half hours on each occasion.

### **Notifications**

An employee should advise her line manager by the end of the 15th week before the EWC, or earlier, that:

- She is pregnant,
- When the baby is due (Expected Week of Childbirth), and
- When she would like her maternity leave and pay to begin.

The employee should also provide a certificate from her doctor or midwife which confirms her Expected Week of Childbirth (known as a MATBI).

This will enable the manager to take any necessary steps to look after the employee's health and safety and that of her baby. As soon as they are notified the line manager should complete a risk assessment. The findings of the risk assessment must be recorded in writing.

The employee will be informed of any risks identified by the risk assessment and any preventative or protective measures that we have taken or intend to take to combat these risks.

The line manager must ensure the employee completes an Employee Notification of Maternity Leave form (MATFORM) which will need to be signed by them and the employee, this form should then be sent to Delt Payroll. Payroll will then write to the employee within 28 days of receiving this notification confirming the latest date on which the employee must return to work after Maternity Leave.

When an employee actually commences Maternity Leave, the line manager should complete a Manager Notification of Maternity Leave form (MATNOTE) and send it to Payroll. Only the first section of the form (Form 1: Notification of commencement of leave) should be completed at this stage.

When the employee returns from Maternity Leave, the second section of the form (Form 2: Notification of return from leave) should be completed by the line manager and sent to Payroll.

Note: returning to work after the initial 2 week maternity period automatically ends the maternity period. If parents would like to opt into Shared Parental Leave (SPL) hereafter, they should make use of the Shared Parental Leave Procedure and the SPL Curtailment form.

## **7. MATERNITY LEAVE DATES**

### **Start Dates**

The employee can choose to start their maternity leave any time from 11 weeks before the beginning of the EWC. Maternity leave may start earlier than this if the employee gives birth to the child. The employee may continue working up to the date their baby is due provided that this does not contravene Health and Safety regulations.

If a woman gives birth before she has begun her maternity, the maternity pay period (MPP), and therefore her ordinary maternity leave, will start on the day after the day childbirth occurs. For example, where a woman gives birth on a Tuesday, her MPP would start the next day. Thereafter, each week the MPP would start on a Wednesday and end on the following Tuesday.

If the employee takes annual leave immediately before maternity leave starts and the baby is born earlier than expected, her maternity leave will commence the day after the birth. Any outstanding or accrued holiday can then be taken at the end of maternity leave.

Maternity leave will also be triggered if an employee is absent from work for a pregnancy related reason, such as a pregnancy-related illness or suspension on maternity grounds, in the four week period before her expected week of childbirth.

If the employee leaves employment with Plymouth City Council after the start of the 15th week before the EWC, and is otherwise eligible to receive SMP, payment will commence on the Sunday of the 11th week before the EWC. If she leaves employment after this date, the SMP pay period starts on the day following the day on which she left employment.

In any of the above cases where the employee gives birth before her maternity leave has begun or is off sick in the four weeks before the EWC, the line manager will notify payroll, and payroll will inform the employee of her revised maternity leave end date within 28 days.

### **Changing the start date of maternity leave**

Employees who would like to change their planned start date of their maternity leave after they have already notified their manager will need to give 28 days' notice or as soon as reasonably practicable.

Within 28 days of receiving such notification, payroll will notify the employee, of the revised date on which their maternity leave period will start and end.

## **8. COMPLICATIONS WITH PREGNANCY**

An employee will be paid for any periods of pregnancy related sickness in the same manner that applies to any other type of sickness absence, as set out in the Plymouth Book, provided that she has not yet begun ordinary maternity leave. Pregnancy or maternity related sickness is recorded separately from other sickness absence and does not qualify towards sickness absence triggers or attendance targets.

If any problems arise (such as premature or still birth) the employee is strongly advised to contact their line manager (either personally or through a friend), as soon as possible. We can then ensure arrangements can be put in place to organise maternity entitlements and provide support.

If the pregnancy results in a non-live birth (miscarriage) or termination, before the 24th week of pregnancy, we will grant either special leave or sick leave, as appropriate on the basis of the individual circumstances. The decision should be based on the needs of the employee and medical opinion.

An employee who has a stillbirth after 24 weeks of pregnancy will be entitled to maternity leave, while an employee who miscarries before this point will not. An employee who gives birth to a live baby is entitled to maternity leave, regardless of the point at which the baby is born. This applies even if the baby lives for only a short period of time.

## **9. CONDITIONS OF EMPLOYMENT**

Pregnant employees have the right not to be dismissed or discriminated against for any reason connected with their pregnancy or maternity leave.

During the period of maternity leave, the employee's contract of employment continues in force. An employee is expected to continue to comply with the terms and conditions of their contract while on Maternity leave and she is entitled to receive all her contractual benefits, except for salary. In particular, any benefits in kind (such as use of a laptop and mobile phone) will continue and contractual annual leave entitlement will continue to accrue. If the employee is in receipt of childcare vouchers through a salary sacrifice arrangement prior to going on maternity leave, she will be entitled to receive these for the duration of their maternity leave, even though there is no salary to sacrifice. If a pay rise is awarded any time from the start of the eight week set period for calculating SMP and the end of the SML, statutory payments (SMP) will be recalculated and arrears paid.

If the employee is a member of the Local Government Pension Scheme (LGPS), the first 26 weeks (OML) will count in full for pension purposes, irrespective of whether she receives any pay. If the employee does receive pay, then they will pay the normal percentage rate, but only on the actual

pay received, with the Council also paying any required employer contributions under the scheme regulations. After the first 26 weeks, the normal percentage rate will continue to be paid on pay which is received and will also count in full.

If unpaid maternity leave is taken, pension contributions will not be made and therefore pension will not accrue for this period. However, it is possible to buy this 'lost' pension by electing to pay Additional Pension Contributions (APCs) and, if this is paid within 30 days of returning to work, the Council will pay 2/3rds of the total cost; this is known as a Shared Cost APC (SCAPC).

### **Annual Leave**

Annual leave for support staff on all year round contracts:

Annual leave will continue to accrue during maternity leave. The employee should discuss the management of annual leave with their line manager at the earliest opportunity to ensure that annual leave can be taken around the needs of the service.

If maternity leave spans two annual leave years, as much leave as possible should be taken prior to the start of maternity leave. If the baby is born prematurely and the employee cannot take all of their outstanding leave allowance for the year they will be able to carry over more than 5 days to the next leave year.

Bank holidays also accrue during maternity leave.

If the employee decides not to return to work annual leave and bank holidays will be accrued up to the final date of service. If all leave was taken prior to maternity leave the employee may be required to pay some back as leave entitlement is proportionate to completed service during the leave year.

Annual leave for support staff on term time only contracts

For employees who are employed on term time only contracts, the school's payroll provider should be contacted when a return date has been finalised for the employee and the payroll provider should be requested to calculate how much time off the employee has missed being paid during their absence. The manager should discuss with the employee whether she wishes to take this entitlement as leave or receive a payment in lieu respect of the outstanding leave.

### **Dismissal**

If an employee is dismissed during maternity leave this will bring her maternity leave to an end. She will still be entitled to receive her full statutory maternity pay (assuming that she qualified for it), but will cease to be entitled to the benefit of any contractual terms and conditions.

### **Redundancy**

If a redundancy situation arises, the employee will be entitled to priority as far as suitable alternative employment is concerned. Where an appropriate vacancy exists, she must be offered the alternative employment under a new contract that begins on the day immediately following the day on which her previous contract comes to an end. The new work must be suitable in relation to the employee and appropriate for her to do under the circumstances, and the new terms and conditions must not be substantially less favourable than those of the previous contract. Where a suitable vacancy exists and the employer fails to offer it, the employee's dismissal will be automatically unfair. However, where the employee rejects the alternative employment, or no suitable vacancy exists, the employer is entitled to dismiss by reason of redundancy.

The employee will be afforded the above protections if they meet any one of the following criteria:

- A pregnant employee who is not on maternity leave will be protected from the date she informs her employer of the pregnancy.
- A pregnant employee who miscarries before 24 weeks who has informed their employer of the pregnancy will be protected for 2 weeks after the end of the pregnancy.
- A pregnant employee who miscarries after 24 weeks is entitled to maternity leave, so they assume the normal protection afforded by maternity leave.
- An employee on maternity leave will have their protection extended to 18 months from the date of childbirth if the employee informs the Council of the date of childbirth as soon as reasonably practicable. Where they do not inform the Council in this timescale, the 18-month period runs from the first day of the expected week of childbirth.

## **10. RIGHT TO RETURN TO WORK**

Employees have the right to return to the same job on the same terms and conditions if taking maternity leave for 26 weeks or less.

If the employee takes leave for more than 26 weeks then they have the right to return to the same job unless this is not reasonably practicable. We will endeavour to keep the same job available but if this cannot be done the employee will be offered a suitable and appropriate job and the terms and conditions will be no less favourable. If suitable employment is offered and the employee refuses the position she will have effectively resigned.

## **11. KEEP IN TOUCH (KIT) DAYS**

Employees can work for up to 10 days during maternity leave, but not during the two week compulsory maternity period. These workdays are called keeping in touch (KIT), and do not trigger the end of maternity leave or affect entitlement to SMP.

KIT days are not compulsory but we encourage the line manager to offer them, although the employee is under no obligation to use them if they do not wish to do so. The days do not have to be consecutive and can be used to attend any work-related activity such as training, conferences, and meetings. KIT days can be used before or after the birth (excluding the two weeks of compulsory maternity leave immediately following the birth).

Employees who do work on a KIT day will be entitled to their normal rate of pay for the day/half day that they work, which will be offset against SMP (if the KIT day occurs during the period when SMP is received). Working for part of a day will count as one KIT day, out of a total of 10. The total duration of the maternity leave period will remain the same regardless of whether or not the employee works on a KIT day, therefore the maternity leave period will not be extended or reduced as a result.

If a line manager and employee arrange KIT days, the line manager should advise Payroll, using a 'Keeping in Touch Days Record' so appropriate payments can be arranged.

## **12. CONTACT DURING MATERNITY LEAVE**

We reserve the right to maintain contact with the employee during their maternity leave to discuss various organisational updates and/or the employee's plans to return to work. Prior to the employee going on maternity leave, the line manager should discuss this with her including the ways

in which she would like contact to be maintained. This should be recorded on her personal file for the duration of the maternity leave. The employee can amend this at any time during her leave.

Shortly before the employee returns to work, her line manager may invite her to have a discussion (in person or over the telephone) about the arrangements for her return to work.

### **13. RETURNING TO WORK**

By law, a new mother may not under any circumstances return to work within two weeks of the birth of the baby.

Before an employee goes on maternity leave, Payroll will advise on the date they expect the employee to return. Employees who intend to return on this date do not have to give any further notice. Once confirmation is given of the maternity start and leave dates, an employee will need to give the statutory 8 weeks' notice in order to return to work earlier than originally confirmed.

If the employee attempts to return early without notification the line manager may delay the return by up to the 8 weeks' notice period, provided this does not extend beyond the end of additional maternity leave.

Failure to return to work by the end of maternity leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the maternity leave period.

#### **Choosing not to return to work**

If an employee resigns whilst on maternity leave, she should give the required notice under her contract of employment. Her last day of service will be her last day of maternity leave, unless she gives written notice to resign on an earlier date.

Eligibility for SMP is not in any way connected with, or dependent on, the woman's decision whether or not to return to work after maternity leave. Thus if a woman resigns from employment, or is dismissed (e.g. for redundancy), payment will still be made provided she meets all the qualifying conditions.

Note: there is no requirement to repay SMP/MA payments.

### **14. ON THE RETURN TO WORK**

The line manager will complete the second part of the Manager Notification of Maternity Leave form (MATNOTE). This will notify Payroll that the employee has returned from maternity leave and will trigger the start of normal pay.

During the return to work meeting the line manager must conduct a Risk Assessment taking into account the Breastfeeding Procedure where applicable. They should also offer a re-induction where necessary/requested and provide an update for the employee on any elements that she may have missed during the leave period.

#### **Flexible Working**

An employee returning to work after maternity leave has no statutory right to do so on a part-time basis.

Employees are entitled to request flexible working, please refer to the Flexible Working Policy.

## **15. PARENTAL LEAVE (UNPAID)**

Employees who have completed one years' continuous service, whether before or during maternity leave, are entitled to parental leave, which may be taken immediately after maternity leave (subject to notice requirement for taking parental leave – see Parental Leave Policy).

### **Returning to work after ordinary maternity leave followed by parental leave**

An employee returning to work after ordinary maternity leave followed by up to four weeks parental leave (the maximum allowed in any leave year 01 April to 31 March), or less than four weeks, is entitled to return to her original job on the no less favourable terms and conditions.

### **Return to work after additional maternity leave followed by parental leave**

An employee who takes a period of parental leave immediately after additional maternity leave is entitled to return to her original job, or if that is not reasonably practicable, to a job that is similar in terms of duties, skills, status and rewards.

## **16. SHARED PARENTAL LEAVE**

If an employee brings her maternity leave to an end before 52 weeks, she may be entitled to share the remainder of her leave entitlement with her partner under Shared Parental Leave. (see the Shared Parental Leave Guidance for full details).

## **17. CONSECUTIVE PERIODS OF MATERNITY LEAVE**

It is possible that an employee who takes her full entitlement to maternity leave (52 weeks) may become pregnant whilst on leave and become entitled to another consecutive period of maternity leave without returning to work. Maternity leave does not break continuity of employment, so her right to maternity leave for this pregnancy will be based on total services with PCC. However, the employee may not have earned enough (or anything) in the relevant calculation period to qualify for SMP. In this situation if the employee does not qualify for SMP, they may be able to claim for maternity allowance.

## **18. RETURNING TO LOCAL GOVERNMENT SERVICE FOLLOWING A BREAK FOR MATERNITY REASONS**

Where an employee returns to Local Government service following a break for maternity reasons, or reasons concerned with caring for children or other dependents, he or she will be entitled to have previous service taken into account in respect of the sickness and maternity scheme

entitlements provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.

An employee can have a break in service of more than eight years for maternity reasons and as long as they have not had full time employment their continuous service will be recognised for annual leave entitlements.

If the employee chooses to take up employment with (insert name of school) after previous service with Local Government, they will be asked to complete and sign a form confirming their service and that they have had no full-time paid employment since they left.

## **19. RELEVANT FORMS/POLICIES/GUIDES**

Forms can be found on Schoolroom in HR Support, Forms section.

Flexible Working Policy

Parental Leave Policy

Shared Parental Leave Guidance

Paternity Policy