

## Maternity Policy

Date	Review Date	Endorsed by	Approved by	Link Governor
Dec 2015	Dec 2016	Resources Committee	Governing Body	Cordelia Shakleton

This policy applies to employees of the School only and outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave.

This policy does not apply to agency workers or the self-employed. It does not form part of any individual's contract of employment with the School and is not intended to have contractual effect. It is provided to all employees for guidance only and reflects the School's current practices. Subject to minimum statutory requirements from time to time in force, the School reserves the right to vary and amend this policy and any procedure under it at any time and will notify all employees of the details of the change as soon as is reasonably practicable.

This policy refers to the term Expected Week of Childbirth (EWC). This means the week, starting on Sunday and ending on Saturday in which your doctor or your midwife expects you to give birth.

The policy also refers to the Qualifying Week (QW). This means the fifteenth week before your EWC.

### Notification of Pregnancy

You must inform the School as soon as possible that you are pregnant. This is important as there may be health and safety considerations that the School needs to take into immediate account to protect the health, safety and welfare of you and the baby you are carrying.

In any event, you are required to inform the School before the end of the Qualifying Week, or as soon as reasonably practicable afterwards, of the following:

- The fact that you are pregnant;
- Your Expected Week of Childbirth (EWC); and
- The date on which you would like to start your maternity leave.

The School requires you to provide a certificate from your doctor or midwife (usually on a MATB1 form) confirming your EWC.

### Time off for ante-natal care

If you are pregnant you may take reasonable paid time off during working hours for ante-natal care. This may include any relaxation or parent craft classes that your doctor, midwife or health visitor has advised you to attend. You should try to give us as much notice as possible of the appointment so that the School has sufficient time to put any cover arrangements in place that may be necessary during the time of your absence.

The School may ask you to provide the following, unless it is the first appointment:

- A certificate from the doctor, midwife or health visitor stating that you are pregnant; and
- An appointment card.

## **Sickness during Pregnancy**

Periods of pregnancy-related sickness absence shall be paid in accordance with our normal sickness and absence policy in the same manner as any other sickness absence.

You should consult your individual contracts of employment and the School's sickness absence policy and procedure for further information.

However, employees should note that periods of pregnancy-related sickness absence from the start of their pregnancy until the end of their maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions.

If you are absent for a pregnancy-related reason during the six weeks before your EWC, your maternity leave will usually start automatically (see below for further information).

## **Health and Safety Considerations**

The School has a general duty to take care of the health and safety of all employees. We are also required to carry out a specific risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding. The earlier you notify us of your circumstances the sooner we can carry out the required risk assessment so it is to your advantage to notify us as soon as possible.

The School will provide you with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken.

If the School considers that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work we will take such steps as are necessary (and for as long as is necessary) to avoid those risks.

This may involve:

- 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; or
- Suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

## **Statutory Maternity Leave**

Shortly before your maternity leave starts the School will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you expressly request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.

All employees are entitled to a period of up to 52 weeks' maternity leave which is divided into:

- Ordinary Maternity Leave of 26 weeks (**OML**);
- Additional Maternity Leave of a further 26 weeks immediately following OML (**AML**).

## **Occupational Maternity Leave for Teaching Staff**

Teachers who have more than 1 year's continuous service with the School or one or more Local Education Authority's at the beginning of the 11<sup>th</sup> week before the EWC shall have the following entitlement to:

- a) 18 weeks' leave of absence with pay (as set out below under "Occupational Maternity Pay Scheme"); and

- b) Take additional leave for up to 29 weeks counting from the beginning of the week (i.e. Saturday/Sunday night) in which her childbirth occurs.

### **Starting Maternity Leave**

The earliest date you can start maternity leave is 11 weeks before the EWC (unless your child is born prematurely before that date).

You must notify the School of your intended start date in accordance with the notification requirements set out above.

Once we receive your notification, we will then write to you within 28 days to inform you of the date we will expect you to return to work if you take your full entitlement to maternity leave (**Expected Return Date**).

You may wish to start your maternity leave a little later than originally intended. If this is the case, you can postpone your intended start date by informing us in writing and giving at least 8 weeks' notice or by notifying us in writing at least 28 days before the original intended start date. If that is not possible, then as soon as reasonably practicable.

Alternatively, you may decide that you need or wish to start your maternity leave earlier than originally anticipated. If so, you can bring forward the intended start date by informing us in writing and giving at least 8 weeks' notice or by notifying us in writing at least 28 days before the new start date, whichever is sooner. If that is not possible, then as soon as reasonably practicable.

Your maternity leave shall start on the earlier of:

- Your intended start date (if notified to us in accordance with this policy); or
- The day after any day on which you are absent for a pregnancy-related reason during the six weeks before the EWC; or
- The day after you give birth.

If you are absent for a pregnancy-related reason during the six weeks before the EWC, you must let us know as soon as possible in writing. Maternity leave will be triggered automatically unless both parties agree to delay it.

If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible.

Employees should note that the law prohibits you from working during the two weeks following childbirth and during this period you are required to take compulsory maternity leave, even if you do not wish to do so, to protect your and your new babies' health, safety and welfare.

### **Terms and Conditions of employment during OML and AML**

All the terms and conditions of your employment remain in force during OML and AML, except for the terms relating to pay.

In particular:

- Benefits in kind such as life insurance, health insurance, use of the School's sporting and leisure facilities as applicable shall continue;
- Annual leave entitlement under your contract shall continue to accrue (see below); and
- Pension benefits shall continue (see below).

### **Annual leave entitlements during maternity leave**

During OML and AML your statutory entitlement to paid annual leave will accrue at the normal rate.

Annual leave entitlement cannot usually be carried over from one holiday year to the next and employees are normally required to take their holiday entitlement within the holiday year in which it accrues or forfeit any accrued but untaken holiday entitlement at the end of the holiday year.

However, the School recognises that this may operate in such a way as to unfairly disadvantage employees who elect to take the maximum statutory entitlement to maternity leave. As such, special exceptions apply in the case of maternity leave.

Your Line Manager/Head of Department or the Principal will usually hold an informal meeting to discuss the best way to manage your holiday entitlement during your proposed period of maternity leave as soon as possible after notification of your intended start date. The options the School will consider with you may include:

- Arrangement to take the period of holiday entitlement that you would have accrued but been unable to take during that holiday year by reason of proposed maternity leave prior to the commencement of maternity leave;
- Arrangement to allow for an exceptional carry-over of such holiday entitlement to the following year to be taken at such time or times as the School's operational needs and requirements dictate;
- Discussion regarding the possibility of changing the intended start date of your maternity leave voluntarily to enable you to take your holiday entitlement prior to commencing your maternity leave. If you wish to choose this option, you will be required to submit notification of intention to delay the start of your maternity leave as above within 28 days of the originally intended start date;
- Discussion regarding the possibility of changing your intended maternity leave dates, voluntarily, by substituting days of AML which are unremunerated for holiday days which will be paid at your normal rate of pay. If you wish to choose this option, you will be required to submit notification of intention to alter your intended return date.

The School must in considering the alternatives with you have regard to its operational requirements, needs and demands throughout the academic term to ensure that a mutually satisfactory arrangement can be reached.

### **Pension entitlement during maternity leave**

During OML and any further period of paid maternity leave, the School will continue to make any employer contributions that we usually make into the Teachers' Pension Scheme or the Local Government Pension Scheme, if applicable, based on the actual pay you receive during this period. If you wish to increase your contributions to make up any shortfall from those based on your normal salary, then please contact the relevant Pensions Administrator directly.

The period of unpaid maternity leave will not count towards your membership of the Teachers' Pension Scheme or the Local Government Pension Scheme. Members of the Teachers Pension Scheme are not obliged to make up for any missed contributions at a later date but may do so if they wish. Staff who are members of the Local Government Pension Scheme may pay back their pension contributions for the period of unpaid maternity leave following their return to work and must inform the School if they intend to do this within 30 days of returning to work. If pension contributions are not paid during the unpaid period of maternity leave, this period will not count in the calculation of pensionable service.

For the avoidance of doubt, the School shall not make any payments into the Teachers' Pension Scheme or the Local Government Pension Scheme during periods of unpaid maternity leave.

### **Statutory Maternity Pay**

Statutory maternity pays (**SMP**) is payable for up to 39 weeks. SMP will stop being payable if you return to work (and this excludes keeping in touch or KIT days as below).

You are entitled to SMP if:

- you have been continuously employed for at least 26 weeks at the end of your Qualifying Week and are still employed by us during that week;
- your average weekly earnings during the eight weeks ending with the Qualifying Week (the **Relevant Period**) are not less than the lower earnings limit set by the government;
- you provide us with a doctor's or midwife's certificate (MAT B1 form) stating your EWC;
- you give at least 28 days' notice (or, if that is not possible, as much notice as you can) of your intention to take maternity leave; and
- you are still pregnant 11 weeks before the start of the EWC or have already given birth.

SMP is calculated as follows:

First six weeks: SMP is paid at the **Earnings-Related Rate** of 90% of your average weekly earnings calculated over the Relevant Period;

Remaining 33 weeks: SMP is paid at the **Prescribed Rate** which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower. This prescribed figure is updated annually. You should contact your Line Manager/Head of Department or the Principal for details of the current rate applicable to you.

SMP accrues from the day on which you commence your OML and thereafter at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.

You shall still be eligible for SMP if you leave employment for any reason after the start of the Qualifying Week (for example, if you resign or are made redundant). In such cases, if your maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

- the week following the week in which employment ends; or
- the eleventh week before the EWC.

If you become eligible for a pay rise before the end of your maternity leave, you will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that your SMP will be recalculated and increased retrospectively, or that you may qualify for SMP if you did not previously qualify.

We shall pay you a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

### Maternity Allowance

If you do not qualify for Statutory Maternity Pay you may be entitled to Maternity Allowance, paid by the Benefits Agency, for up to 39 weeks. To qualify, you must have been employed or self-employed for 26 weeks out of the 66 weeks before the expected week of childbirth.

### Occupational Maternity Pay Scheme

#### Support staff

For the first six weeks of absence:	90% of weekly pay offset by any payments made by way of SMP or Maternity Allowance (MA).
For the seventh to eighteenth week of absence inclusive (where the employee has declared in writing of her intention to return to work) *:	50% of weekly pay without deduction, unless combined wage and SMP (or MA if not eligible for SMP) exceeds full pay. Alternatively the equivalent

*where the employee will return for not less than 3 months	amount (6 weeks' pay) may be paid on any other mutually agreed distribution.
For the nineteenth to thirty-ninth week of absence, where the employee does not intend to return to work:	SMP.
For the fortieth to fifty-second week of absence:	No entitlement to pay.

### Teaching Staff

Teaching staff have an obligation to return to their job for at least 13 weeks (including periods of School closure) as a qualifying condition to occupational maternity pay. In the event of the teacher not being available, or being unable, to return to her job for the required period, she shall repay such sum after the first six weeks' payment as the School (the employer), at its discretion may decide. Payments made by way of SMP are not refundable.

First 4 weeks' of absence:	Full pay, offset against payments made by way of SMP or Maternity Allowance (MA).
5 <sup>th</sup> and 6 <sup>th</sup> week of absence:	90% of weekly pay offset against payments made by way of SMP or MA, if not eligible for SMP.
7 <sup>th</sup> to 18 <sup>th</sup> week of absence:	50% of pay without deductions except by the extent to which combined pay and SMP (or MA if not eligible for SMP) exceeds full pay.
19 <sup>th</sup> to 39 <sup>th</sup> week of absence:	SMP.
40 <sup>th</sup> to 52 <sup>nd</sup> week of absence:	No entitlement to pay.

### Keeping in touch during maternity leave

The School may make reasonable contact with you from time to time during your maternity leave and will continue to send you all internal information relating to School social events, internal changes and job opportunities unless you expressly ask us not to.

Under recent legislation, you may now work (including attending training) for up to 10 days during maternity leave without bringing your maternity leave or SMP to an end. These days are called Keeping in Touch or KIT days.

The arrangements for any KIT days you wish to have, including pay, would be set by agreement with your Line Manager/Head of Department or the Principal.

You are not obliged to undertake any such work during maternity leave. In any case, you must not work in the two weeks following birth and KIT days may not therefore be arranged during that time.

Shortly before you are due to return to work, we may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return to work with your Line Manager/Head of Department or the Principal.

This may include:

- updating you on any changes that may have occurred;
- discussing any necessary training;
- discussing any changes to working arrangements (for example, if you have made a request to work flexibly).

### Shared Parental Leave (SPL)

Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed.

The option to 'opt in' to Shared Parental Leave applies for parents who meet the eligibility criteria, where a baby is born on or after 5 April 2015.

SPL allows parents to take up to 52 weeks leave in total on the birth of their child, less the two weeks' compulsory maternity leave. Your partner will not have an autonomous right to SPL; this right will only arise if you choose to curtail your statutory maternity leave and share your remaining entitlement.

You should refer to the schools Shared Parental Leave (Birth) Policy for further guidance and eligibility criteria.

### **Your Expected Return Date**

Once you have notified us in writing of your intended start date, we shall send you a letter within 28 days to inform you of your Expected Return Date.

If your start date has been changed (either because you gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected Return Date.

We expect you to return on the Expected Return Date unless you tell us otherwise. It is helpful to us if you confirm during your maternity leave that you will be returning to work as expected.

If you wish to return to work earlier than the Expected Return Date, you must give us eight weeks' prior notice. It is helpful if you give this notice in writing.

If you give insufficient notice, we may postpone your return date until 4 weeks (or 8 weeks if appropriate) after you gave notice, or to the Expected Return Date if sooner.

If you wish to return later than the Expected Return Date, you should either:

- request unpaid parental leave in accordance with our Parental Leave Policy, giving us as much notice as possible but not less than 21 days; or
- request paid annual leave in accordance with your contract, which will be at our discretion.

If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and our usual sickness policy will apply.

In any other case, late return will be treated as unauthorised absence and may depending on the circumstances result in disciplinary action in accordance with our Disciplinary Policy and Procedure.

In addition to the above requirements, non-teaching employees entitled to the occupational maternity scheme are required to confirm in writing to the School their intention to return to work for a period of at least 3 months following the end of maternity leave.

Teaching staff are under an obligation to return to their job for at least 13 weeks (including periods of School closure) as a qualifying condition to occupational maternity pay.

Any non-teaching employee taking the occupational maternity package who does not return to work for at least three months may be required to repay all or a proportion of the maternity pay received. Where the School makes an employee redundant within the three-month period the requirement to repay maternity pay shall not apply.

Teaching staff who are not available, or are unable, to return to their job for the required period, shall repay such sum after the first six weeks' payment as the School (the employer), at its discretion may decide. Payments made by way of SMP are not refundable.

## **Deciding not to return to work**

If you do not intend to return to work, or are unsure, it is helpful if you discuss this with us as early as possible. You are encouraged to book an informal meeting with your Line Manager/Head of Department or the Principal to discuss this and obtain any information you may require as soon as you are able to do so.

If you decide not to return you should give notice of resignation in accordance with your contract. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period; otherwise we may require you to return to work for the remainder of the notice period.

Employees are reminded that once you have given notice that you will not be returning to work, you cannot change your mind without our agreement and your contract of employment with the School will be terminated accordingly by reason of resignation.

A decision not to return to work does not affect your right to receive SMP.

## **Rights on return to work after maternity leave**

You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been if you had not been absent.

However, if you have taken any period of AML, or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position; we may provide you with another suitable and appropriate position on terms and conditions that are not less favourable.

## **Requests to change working patterns on return**

The School will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on a case-by-case basis. However, employees should note that there is no absolute right to insist on working part-time, only a statutory right to request flexible working.

The School will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the business. It is helpful if requests are made as early as possible. Employees should refer to the School's Flexible Working Policy for further information and practical guidance about making an application to work flexibly.

## **Equality Impact Assessment**

Under the Equality Act 2010 we have a duty not to discriminate against people on the basis of their age, disability, gender, gender identity, pregnancy or maternity, race, religion or belief and sexual orientation.

This policy has been equality impact assessed and we believe that it is in line with the Equality Act 2010 as it is fair, it does not prioritise or disadvantage any pupil and it helps to promote equality at this school.

## **Monitoring the Effectiveness of the Policy**

The practical application of this policy will be reviewed annually or when the need arises by the coordinator, the Headteacher and the nominated governor.

A statement of the policy's effectiveness and the necessary recommendations for improvement will be presented to the Governing Body for further discussion and endorsement. (See Policy Evaluation).

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**This policy was reviewed and endorsed by the Full Governing Body of The Devonshire Hill Nursery and Primary School on Wednesday 9<sup>th</sup> December 2015.**