

Maternity Policy

Date	Review Date	Endorsed by	Approved by	Link Governor
Dec 2016	Dec 2017	Resources Committee	Governing Body	Michelle Knott

1. Introduction

- 1.1 The purpose of maternity leave is to allow employees to give birth and to recover from giving birth to their baby, as well as to bond with and care for their new child.

2. Maternity leave

- 2.1 Maternity leave is a single continuous period, made up of 26 weeks' **ordinary maternity leave** and 26 weeks' **additional maternity leave**. Additional maternity leave follows ordinary maternity leave and there must be no gap between the two.
- 2.2 While it is up to each employee to decide how much maternity leave they wish to take, up to the 52 weeks' maximum, the law requires that **a minimum of two weeks' leave must be taken**, this is known as compulsory maternity leave.

3. Eligibility for maternity leave

- 3.1 Maternity leave is available to all pregnant employees regardless of the hours worked. The amount of maternity pay awarded is dependent upon the employee's length of service.
- 3.2 All pregnant employees are entitled to 52 weeks' maternity leave, or as much of that period as they wish to take, regardless of their length of service.

4. Statutory Maternity Pay

- 4.1 To qualify for Statutory Maternity Pay (SMP) an employee must have been employed without a break for at least 26 weeks by the 15th week before the expected week of childbirth and have average weekly earnings at least equal to the weekly lower earnings limit for National Insurance contributions. SMP is paid for a period of 39 weeks.
- 4.2 The following link provides DirectGov guidance on [Statutory Maternity Pay](#)¹.

5. Maternity Allowance

- 5.1 Maternity Allowance (MA) may be available to help an employee take time off to have their baby if they are not eligible to receive SMP (see paragraph 4) from an employer. MA can be paid for up to 39 weeks. The important date for working out MA entitlement is the date the baby is due rather than when the baby is actually born.
- 5.2 The following link provides DirectGov guidance on [maternity allowance](#)².

¹ www.gov.uk/maternity-pay-leave/pay

² www.gov.uk/maternity-allowance/overview

6. Occupational Maternity Pay

6.1 Occupational Maternity Pay – Teachers

Qualification for occupational maternity pay entitlements: If a teacher leaves their school/Haringey employment after the start of the 15th week before the week the baby is due, they will not be entitled to Occupational Maternity Pay and will qualify for SMP only.

The teacher must return to work after maternity leave for the relevant qualifying period (i.e. 13 weeks). Absences from work of one week or more, excluding school closures, will not count towards the qualifying period.

6.1.1 For teachers who joined Haringey Council or a Haringey School before 1 April 1993, local conditions of service apply:

- Either, 28 weeks full pay plus 11 weeks at the standard rate of SMP; or
- 16 weeks full pay plus 24 weeks at half pay (the standard rate of SMP will be paid in addition to 23 weeks of the 24 week half pay period).

6.1.2 For teachers who joined Haringey Council or a Haringey school on or after 1st April 1993 and who have been employed continuously by Haringey or an Haringey school for one year at the beginning of the 11th week before the week in which the baby is due, local conditions of service apply:

- Either 14 weeks full pay plus 25 weeks paid at the standard rate of SMP; or
- 8 weeks full pay plus 12 weeks half pay and the standard rate of SMP followed by 19 weeks at the standard rate of SMP

6.1.3 For teachers who do not have one year's continuous service with Haringey or an Haringey school but do have one year's continuous service in Local Government at the beginning of the 11th week before the week in which the baby is due, national conditions of service apply:

- 4 weeks' full pay followed by 2 weeks at 90% of the weekly salary followed by 12 weeks at half pay and the standard rate of SMP then 21 weeks at the standard rate of SMP

6.2 Occupational Maternity Pay - Support Staff

Qualification for occupational maternity pay entitlements: Employees must return to work after their maternity leave for the relevant qualifying period (i.e. 3 months).

6.2.1 For employees who joined the Council before 1 April 1993, local conditions apply:

- Either 28 weeks full pay followed by 11 weeks SMP; or
- 16 weeks full pay and 24 weeks at half pay.

6.2.2 For employees who joined the Council on or after 1 April 1993 and who have been employed continuously by Haringey for one year at the beginning of the 11th week before the week in which the baby is due:

- Either 14 weeks full pay, and 25 weeks SMP; or
- 8 weeks full pay, 12 weeks half pay and 19 weeks SMP.

6.2.3 For employees who do not have one year's continuous service with Haringey but do have one year's continuous service in Local Government at the beginning of the 11th week before the week

in which the baby is due, national conditions apply:

- 6 weeks at 9/10ths of a week's pay, plus 12 weeks at half pay, and 18 weeks SMP

7. Other contractual payments and deductions

- 7.1 Employees continue to be paid all contractual payments and allowances for the paid (occupational and statutory) part of their maternity leave and all standard deductions will continue to apply.
- 7.2 If an employee has automatic deductions taken out of their salary they will need to contact the relevant body to arrange for alternative pay methods during any period of unpaid leave i.e. Additional Voluntary Contributions (AVCs) for pension purpose or County Court Judgements.
- 7.3 Contributions to the Teachers' Pension/Local Government Pension fund will cease during unpaid periods of maternity leave. If an employee wishes to continue to pay into the fund during a period of unpaid leave they may elect to pay contributions so that the period of absence will count for pension purposes. For further details, employees should contact their pension provider directly.

8. Notification of pregnancy

- 8.1 Although by law employees are only required to notify their school that they are pregnant and will take maternity leave by the end of the 15th week before the expected week of birth, the employee, the line manager, and the school will benefit if the employee shares the news as early as possible before then.
- 8.2 The school has a duty of care to all employees, and early notice will mean that the line manager will know that the employee is entitled to paid time off for antenatal care and that particular health and safety rules apply, including a risk assessment being undertaken.
- 8.3 The employee must formally notify the school of her intention to take maternity leave by the end of the 15th week before her expected week of childbirth, unless this is not reasonably practicable. She must confirm in writing:
- That she is pregnant;
 - The expected week of childbirth;
 - The date that she wants to start maternity leave; this date cannot be any earlier than 11 weeks before the expected week of childbirth.
- 8.4 The employee must also provide a certificate (usually a MATB1) from a registered medical practitioner or a certified midwife, confirming the expected week of childbirth.
- 8.5 Once notification has been received, the school must write to the employee, within 28 days of the notice, confirming the expected date of return if she takes her full entitlement. The 28-day timescale is counted from receipt of the notification described in 7.3 above.

9. Changing the start date of maternity leave

- 9.1 Once an employee has notified their school of the date that they wish to start their maternity leave, this date may be changed as long as the school is notified of the new start date by whichever is the earlier of either 28 days before the date the employee originally intended to start maternity leave or 28 days before the new date the employee wants to start maternity leave.
- 9.2 However, if it is not reasonably practicable (for example if the baby is born early and the employee has to start maternity leave immediately) then the employee is not required to give 28 days notice. In these circumstances the employee should give the school as much notice as possible.

notification should be in writing.

10. Antenatal care

- 10.1 Any pregnant employee has the right to paid time off to attend antenatal care arranged on the advice of a registered medical practitioner, midwife or health visitor. This is subject to the production of an appointment card or other such documentation confirming that an appointment has been made. Time off must take account of any necessary travelling arrangements.
- 10.2 There is no requirement to give paid leave to an employee who wishes to accompany their partner attending antenatal care, though sympathetic consideration should be given to allow employees to use annual leave or flexi leave for example. Expectant fathers, and partners of pregnant women, have a statutory right take unpaid time off to attend up to two ante-natal appointments with the expectant mother. A request to attend the appointment should be put in writing, confirming that the purpose of the time off is to attend the ante-natal appointment and that they qualify on the basis of their relationship with the mother or child.

11. Risk Assessment

- 11.1 During the employee's pregnancy, the school is required to carry out an initial risk assessment of the employee's job and working environment, examining any risks that might affect the employee's unborn child.
- 11.2 The employee should be given a copy of the risk assessment and where a potential risk is identified, reasonable temporary adjustments will be considered as appropriate. Further assessments should be undertaken if the employees job or working environment changes.

12. Commencement of maternity leave

- 12.1 Employees may not commence maternity leave earlier than 11 weeks before the expected week of childbirth. If the baby is born prematurely maternity leave begins the day after the birth.
- 12.2 Maternity leave will normally commence on the date confirmed by the employee in their notification. However, if she has not already started her leave, this will be triggered by the birth of her child or a pregnancy related absence from the beginning of the 4th week before the expected week of childbirth. Maternity leave and maternity pay will start on the following day.

13. Premature births and miscarriages

- 13.1 Where a baby is born prematurely, special paid leave arrangements will be granted to cover the period up to the 11th week before the expected date of childbirth. The school's normal maternity conditions will apply thereafter.
- 13.2 If the baby dies or is still born after 24 weeks' pregnancy the maternity scheme applies, as noted above. Where this occurs before the 24 weeks, (miscarriage), sympathetic consideration should be given to the award of special leave.
- 13.3 If the mother dies before the end of her maternity leave or pay period, then her partner will still be able to access shared parental leave in the same way that they would have been able to had the mother curtailed her maternity leave and pay/allowance before her death. The full amount is available (up to 50 weeks shared parental leave and up to 39 weeks shared parental pay) less the number of weeks of maternity leave (or statutory maternity pay or maternity allowance) taken by the mother prior to her death.

14. Contact during maternity leave

14.1 Reasonable contact

14.1.1 An employer and employee are encouraged to maintain reasonable contact during maternity leave to discuss issues such as the return to work. The employee should also be informed of other issues such as job vacancies, significant workplace developments and training opportunities. This degree of contact would not constitute 'work'.

14.2 Keeping in touch days

14.2.1 A woman can take up to ten days' work during her maternity leave without bringing her maternity leave to an end, these are referred to as "keeping in touch" or "KIT" days. Working for part of the day will count as one day towards this entitlement.

14.2.2 Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace. An employer cannot insist that a woman carries out any work and she is protected from suffering a detriment for refusing to do so. Equally, a woman cannot insist on being given any work to do.

14.2.3 Maternity Pay regulations state that maternity leave and entitlement to Statutory Maternity Pay must end if a woman works any more than the ten days allowed.

14.3 Establishing keeping in touch days

14.3.1 An employee cannot carry out any work during the first two weeks following the birth of the child. However, at any other point during a period of maternity leave the employee and line manager may wish to reach an agreement that keeping in touch days will be worked. The ten-day entitlement can be broken up and taken as individual days, or split into a period of days depending on the activity to be completed and local arrangements. It should be noted that a woman's maternity leave would not be extended due to the fact that she has carried out some work during this period.

14.3.2 Keeping-in-touch days help to maintain contact during maternity leave and facilitate an effective re-induction to the workplace.

14.4 Pay for work undertaken during maternity leave

14.4.1 An employee will be paid normal pay for the hours worked during keeping in touch days and this will offset against any remaining entitlement to maternity pay for that period.

14.4.2 Any work done on a particular day is counted as using one KIT day. For example, if an employee agrees to attend a training course and the course lasts two hours, this is counted as having used one KIT day.

15. Re-organisation during maternity leave

15.1 If, whilst an employee is on maternity leave, the school is involved in any re-organisation, the employee will be informed and given the opportunity to become involved in the process.

15.2 In cases of redundancy, where an employee on maternity leave cannot return to her former job, she is entitled to be offered (before that contract ends) a suitable alternative vacancy, where one is available.

- 15.3 A woman on maternity leave has a special right to be offered a suitable alternative post. Where a group of employees are facing redundancy, a woman taking maternity leave will be offered any suitable vacancy in priority to other employees.
- 15.4 If an employee is offered a suitable alternative vacancy, a trial period will apply, in which she may decide whether the employment is suitable. This period may be extended by written agreement. For further details see the school's policy on restructures.

16. Annual leave and maternity leave

- 16.1 Entitlement to contractual (in the case of support staff) and statutory annual leave (in the case of support staff and teachers) accrues over the whole of the employee's maternity leave period, i.e. during both the paid and the unpaid leave. Statutory annual leave is the employee's entitlement to annual leave under the Working Time Regulations 1998. If the employee is intending to return to work, she may be allowed to take immediately following the end of her maternity leave a proportion of her contractual/ statutory annual leave entitlement for that leave year, subject to the needs of the service.

16.2 Annual Leave Entitlement – All year round support staff

- 16.2.1 In addition to continuing to accrue contractual and statutory annual leave throughout the entirety of their maternity leave, these employees are also entitled to a substitute day's leave for each public holiday that falls during their maternity leave (pro-rata for part time employees). The number of substitute days' leave will be calculated by the school, and the employees are to be allowed to take such leave, either before or after their maternity leave.
- 16.2.2 Where there is not enough time on the employee's return to work before the end of her annual leave year for her to take her remaining annual leave and the leave due to her under clause 16.2.1, she must be allowed to carry over that leave to the next leave year. An employee can be required to take this carried over leave during the remaining periods of school closure after the employee's annual leave entitlement for that leave year has been accommodated. The employee should receive pay for the annual leave carried over.
- 16.2.3 However, outstanding leave should be taken in the leave year of the employee's return to work if there is sufficient time to take it in school closure periods or in term time. Under the Working Time Regulations leave should be taken in the leave year in which it accrues if possible.
- 16.2.4 Where employment is continuing, the employee cannot be paid in lieu of untaken statutory annual leave. In general, it is not possible to pay in lieu of statutory annual leave, except on termination of employment.

16.3 Annual Leave Entitlement – Term time only support staff

- 16.3.1 In addition to continuing to accrue contractual and statutory annual leave throughout the entirety of their maternity leave, these employees are also entitled to a substitute day's leave for each public holiday that falls during their maternity leave (pro-rata for part time employees). The number of substitute days' leave will be calculated by the school, and the employees are to be allowed to take such leave, either before or after their maternity leave.
- 16.3.2 Annual leave entitlement can be offset by any period of school closure that occurs in the leave year in question i.e. both before and after the maternity leave period.
- 16.3.2 A term-time only employee should be reminded of her annual leave entitlement and of the policy regarding how this is taken before her maternity leave commences.

- 16.3.3 If, on a term-time only employee's return from maternity leave, there are insufficient school closure periods to accommodate the employee's outstanding annual leave entitlement (including any leave due to her under clause 16.3.1), the employee must be allowed to take any remaining leave during term time.
- 16.3.4 Where there is not enough time on the employee's return before the end of her annual leave year for her to take her remaining annual leave and the leave due to her under clause 16.2.1, she must be allowed to carry over her leave to the next leave year. An employee can be required to take this carried over leave during the remaining periods of school closure after the employee's annual leave entitlement for that leave year has been accommodated. The employee should receive pay for the annual leave carried over.
- 13.3.5 However, outstanding leave should be taken in the leave year if there is sufficient time to take it in school closure periods or in term time. Under the Working Time Regulations leave should be taken in the leave year in which it accrues if possible.
- 13.3.6 Where employment is continuing, the employee cannot be paid in lieu of untaken statutory annual leave. In general, it is not possible to pay in lieu of statutory annual leave, except on termination of employment.

16.4 Annual Leave Entitlement – Teachers

- 16.4.1 In accordance with the School Teachers Pay and Conditions Documents, annual leave for teachers coincides with those days when the teacher is not required to be available for work (generally periods of school closure) Teachers do not have a contractual entitlement to paid annual leave. Their annual leave year for the purpose of the Working Time Regulations (WTR) runs from 1st September to 31st August.
- 16.4.2 Teachers are entitled to statutory annual leave under the Working Time Regulations (WTR), currently 28 days, to be taken either before or after the maternity leave period, during school closure periods.
- 16.4.3 Annual leave entitlement can be offset by any period of school closure that occurs in the leave year in question i.e. both before and after the maternity leave period.
- 16.4.4. A teacher should be advised prior to commencing her maternity leave, that she has a statutory entitlement to 28 days' annual leave and that this should be taken either before or after the maternity leave during school closure periods. On her return from maternity leave, a teacher must be allowed to take any outstanding statutory leave during term time during that leave year if there are insufficient school closures to accommodate her leave in that leave year.
- 16.4.3 Where the return from maternity leave is so close to the end of the leave year that there is not enough time for a teacher to take all her outstanding statutory annual leave entitlement, a teacher must be allowed to carry over any balance of her leave to the following leave year. A teacher can be required to take this during the remaining periods of school closure after the statutory 28 days' annual leave for that leave year has been accommodated.
- 16.4.4. Where employment is continuing, the teacher cannot be paid in lieu of untaken statutory annual leave. In general, it is not possible to pay in lieu of statutory annual leave, except on termination of employment.

17. Returning to work

17.1 The Right to Return

- 17.1.1 When returning to work after ordinary maternity leave (the first 26 weeks of Statutory Maternity Leave), the employee has the right to the same job and the same terms and conditions as if they had not been absent.
- 17.1.2 When returning to work after additional maternity leave, if it is not reasonably practical for the employee to return to the same job (for example, because the job no longer exists) employees do not have the same right. In that case, the employee should be offered alternative work with the same terms and conditions as if they had not been absent.

17.2 Returning to work before the end of maternity leave

- 17.2.1 If the employee wishes to return to work before the end of the full maternity leave period (this will normally be the end date the school confirmed to the employee before maternity leave commenced), the employee must give the school eight weeks' notice of the new return to work date. This notice requirement applies during both ordinary and additional maternity leave.
- 17.2.2 If the employee attempts to return to work earlier than the end of maternity leave without giving the school eight weeks' notice, the school may postpone the return to work until the full eight weeks' notice has been given. However, the school may not postpone the return to work to a date later than the end of the maternity leave period.

17.3 Returning to work later than expected

- 17.3.1 An employee who has notified the school that she wishes to return to work before the end of her maternity leave, as set out in the paragraphs above, is entitled to change her mind. However, in these circumstances she should give the school notice of this new, later, date of return at least eight weeks before the earlier date.
- 17.3.2 If an employee is not well enough to return to work on the expected date then sickness absence must be reported to the headteacher or manager and any necessary certificates provided in the usual way. Appropriate action will be taken in accordance with the School's sickness absence procedure in order to support you back to work as soon as possible.

17.4 Not returning to work after maternity leave

- 17.4.1 An employee who does not wish to return to work after her maternity leave must give the school the notice of termination required by her contract of employment. It will help the school and the manager if the employee gives as much notice as possible.
- 17.4.2 Absence on annual leave, public and privilege holidays, and sickness at full or half pay count towards the notice period.
- 17.4.3 If an employee is unable to return to work at the end of her entitlement to maternity leave because she is medically unfit to work, she should submit medical certification in the usual way and she will then transfer from maternity leave to sick leave. Subsequently, the normal sickness procedures will be followed.

17.5 Repayment of maternity pay

- 17.5.1 If an employee does not return to work or does not work the qualifying time period after her return to work as outlined in paragraphs 6.1, and she has received occupational maternity pay in excess

of her statutory entitlement, then she will be required to repay the school the occupational maternity pay element of her maternity pay to the school.

- 17.5.2 The employee will not be required to repay statutory maternity pay.
- 17.5.3 Repayment may be waived in exceptional circumstances at the discretion of the headteacher or other appropriate person.
- 17.5.4 An employee will not have to repay their maternity pay if they resign from your school and take up continuous employment with another Haringey school during the course of, or at the end of your maternity leave.

17.6 Breastfeeding Mothers

- 17.6.1 Where possible the school will make a room available for breastfeeding mothers to express milk. These arrangements must be made with the headteacher or other nominated person.

18. Appraisal

- 18.1 All employees participate in the school's performance appraisal scheme and the achievement of stated objectives by an individual over an agreed period might lead to reward, e.g. the award of an increment. It is essential that pregnant employees and those returning from maternity leave should not be disadvantaged. In applying the scheme therefore:
 - The period over which targets and objectives are assessed may be reviewed; with an assessment period of less than a year.
 - Where practical the manager and employee may complete an assessment immediately prior to commencement of leave where it is known that the absence will span the normal end of year assessment period.

19. Shared parental leave

- 19.1 If they choose to do so, an eligible employee can end her maternity leave early and, with her partner or the child's father, opt for Shared Parental Leave instead of Maternity Leave. If they both meet the qualifying requirements, they will need to decide how they want to divide their Shared Parental Leave and Pay entitlement. Further details are contained within the Shared Parental Leave Policy.

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 link 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.

This policy was reviewed and endorsed by the Full Governing Body of The Devonshire Hill Nursery and Primary School on Tuesday 20th December 2016.