



62. Maternity Scheme for Teaching Staff Employed by Schools.

Headteachers' Guide

**Produced by Human Resources
Implementation – January 2009
Revised: December 2009**

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INTRODUCTION

1. The City Council has adopted the nationally agreed Maternity Scheme for local authority employees which is also applicable to schools. The Local Authority is responsible for applying the Maternity Scheme on behalf of schools.
2. The national Scheme differs from the government's statutory scheme in several respects, but these are improvements on the statutory scheme.
3. Schools have a joint responsibility in terms of managing an employee who is pregnant and this guide aims to explain what pregnant employees are entitled to and the procedures you should follow as a Headteacher. You will need to check if the School has adopted the following policies on career breaks, job sharing etc. and if this is not the case then legalisation must be followed.

PROVIDING THE EMPLOYEE WITH INFORMATION

4. When a member of your staff informs you that she is pregnant, you must arrange for yourself, or nominated representative, to meet the employee to discuss maternity provisions, in order to make sure that she is fully aware of her rights and responsibilities and the benefits to which she will be entitled. Some women prefer to discuss the matter with another woman and their preference should be accommodated where possible. The Maternity Meeting Checklist (Appendix A) should be used at the meeting to ensure that all the information is covered.
5. You must also ensure that the employee is given a copy of the School's Maternity Information Pack. Giving the employee an information pack is not sufficient in itself; a meeting with the employee must still take place to ensure that she understands all the provisions of the Scheme.
6. If you require any advice on maternity provisions please contact your School's Business Support Team.

ANTENATAL CARE

7. All pregnant employees, whatever their length of service, have the right to paid time off to attend for antenatal care. After the first appointment you can ask the employee to produce evidence of her appointments. Antenatal care does not usually include "Parentcraft" classes or keep fit classes for pregnant women, unless attendance at these has been advised, on medical grounds, by a registered medical practitioner.
8. Pregnant employees should try to obtain appointments which cause the least disruption at the school (e.g. avoiding known busy periods) and which, where possible, should be out of school hours.

RIGHT NOT TO BE DISMISSED

9. It is automatically unfair to dismiss a woman just because she is pregnant or for a reason connected with her pregnancy. All women are entitled to this protection, whatever their length of service.
10. Due consideration needs to be given to pregnancy-related illness, both before and after childbirth (for example post natal depression), when managing sickness absence. Where long term absence/illness is involved and dismissal or ill health retirement is

likely to be considered, you must seek advice from your School's Business Support Team to ensure that any action you take is fair and non-discriminatory.

IMPORTANCE OF DATES – FOR INFORMATION

11. A woman's entitlement to maternity leave and pay depends on her length of service. In this context, "service" means continuous service with any employer to whom the Redundancy Payments Modification Order 1983 (as amended) applies.
12. You should check dates very carefully as they are critical in this area of conditions of service.
13. For example, where the local authority Maternity Scheme mentions 1 year's service at the beginning of the 11th week before the week the baby is due, this is a full calendar year's service at the 11th week before the week in which the baby is due. For advice please contact the School's Business Support Team.

MATERNITY LEAVE

14. All pregnant employees are entitled to a total of 52 weeks maternity leave regardless of their length of service. This will consist of 26 weeks Ordinary Maternity Leave followed by 26 weeks Additional Maternity Leave.

15. **Minimum 2 weeks leave following the birth**

Under the Management of Health and Safety Regulations 1992, women must not work for 2 weeks after the baby's birth. If they work in an area which can be classed as a "factory" under the Factories Act, this period is extended to 4 weeks. Although it is unlikely that any woman will want to return to work as soon as this, you must keep this in mind.

MATERNITY PAY

16. The amount of statutory maternity pay to which a woman is entitled depends firstly on how much continuous service she has with one or more Local Authorities at the Qualifying Week (QW), which is the 15th week before the week in which the baby is due. However, contractual maternity pay is dependent on how much continuous service the employee has at the beginning (Sunday) of the 11th week before the week in which the baby is due.

17. **Less than 26 weeks' service**

Women who have less than 26 weeks' service at the QW (i.e. 15th week before the expected week of childbirth) are not entitled to Statutory Maternity Pay (SMP) during maternity leave, although they may be entitled to Maternity Allowance. The rate for Maternity Allowance is set by the Government and is revised each year in April. The rate from April 2010 is £124.88 per week or 9/10 of average weekly earnings, whichever is the lower. Maternity Allowance, if applicable, is paid directly to the woman through her Jobcentre Plus office. Maternity Allowance is paid for 39 weeks although the maternity leave entitlement is 52 weeks. Further information can be obtained via www.direct.gov.uk.

18. **26 weeks' but less than 1 year's service**

If the woman has 26 weeks' service at the QW but less than 1 year's service at the beginning of the 11th week before the week the baby is due and has been regularly paying National Insurance Contributions, she will be entitled to up to 39 weeks' SMP whilst on maternity leave.

19. The first 6 weeks' SMP will be equivalent to 9/10ths pay, the next 33 weeks will be at the current rate of SMP. This latter amount is set by the government and is revised in April each year. The rate of SMP from April 2010 is £124.88 per week. If 9/10ths pay works out at less than the current rate of SMP then the employee will be paid 9/10ths of pay for the full 39 weeks.

20. **At least 1 year's service**

If the woman has a full year's service at the beginning of the 11th week before the Expected Week of Childbirth (EWC), she will be entitled to the following payments whilst on maternity leave:-

- (a) Weeks 1-4: full pay including SMP
- (b) Weeks 5 -6: 9/10ths pay including SMP
- (c) Weeks 7-18: SMP at the current rate (or 9/10ths of pay if this is less)

plus (provided she returns to her position for at least 13 weeks)

12 weeks at half pay (if this plus (c) exceeds her normal contractual pay, then an adjustment will be made for the excess).

- (d) Weeks 19-39: For the remaining 21 weeks the employee will receive SMP at the current rate (or 9/10ths of pay if this is less)

The 12 weeks half pay (or equivalent amount) may be spread over any other mutually agreed distribution or paid in full when the employee returns to work.

21. If the employee does not return to her position at the end of her maternity leave (or maternity leave followed by Parental Leave) or if she returns, but works for less than 13 weeks, she will have to repay the 12 weeks' half pay (or equivalent alternative) (see paragraphs 86 - 87 concerning "Failure to Return to Work"). If the employee returns to work for another school within the local authority she will not need to repay the 12 weeks half pay. However, if she moves to another school in a different local authority she will need to repay the amount. The return to work period of 13 weeks required to avoid repayment of the 12 weeks at half pay can include school holidays
22. An employee can just return for 13 weeks in order to keep her 12 weeks' half pay, (or equivalent alternative) but she must follow normal procedures concerning giving notice.
23. The current rate of SMP – from April 2010 is £124.88 per week or 9/10 of average weekly earnings, whichever is the lower.
If the employee is eligible for Statutory Maternity Pay and also participates in a salary sacrifice scheme e.g. childcare vouchers, the 9/10 of pay calculation will be based on

her adjusted, reduced salary level

Appendix B gives a checklist of actions regarding maternity. Appendix C helps you determine entitlement to maternity leave and pay.

24. If The Employee Leaves Work For Reasons Unconnected With Her Pregnancy

Where a woman's employment ends, for whatever reason, after the 15th week before the EWC she retains her entitlement to SMP.

TEACHERS' PENSION SCHEME (TPS)

25. She will pay pension contributions on any contractual or statutory maternity pay she receives, unless she opts out of the Teachers' Pension Scheme as soon as she goes on maternity leave.
26. If she intends to opt out of the Teachers' Pension Scheme, she should advise the School's Business Support Team as early as possible before her maternity leave actually starts. An opting out form must be completed if the teacher does not want to make contributions during her maternity leave. If she had completed a form to opt out of the Teachers' Pension Scheme she will need to complete an opting in form on her return to work if she wishes to contribute into the Teachers' Pension Scheme after her maternity leave. These forms can be downloaded from www.teacherspensions.co.uk or are available from the School's Business Support Team.
27. If she does not opt out of the Teachers' Pension Scheme she will pay contributions on all contractual and statutory maternity pay that she receives, whether she returns to work or not, and pensionable service will accrue at the same proportion as her teaching post.
28. She will be credited with paying full contributions during the 26 weeks ordinary maternity leave period and 13 weeks of the additional maternity leave period even though she is actually paying at a reduced rate.
29. She is eligible for tax relief on her pension contributions.
30. Teachers' Pensions will give guidance to teachers on the procedure of how to increase their pension due to unpaid maternity leave and non pensionable service. The Teachers' Pensions website address is www.teacherspensions.co.uk
31. Paying pension contributions (for 39 weeks) will mean that her service in the TPS will be counted in full, as though she had been at work without any absence for maternity. However, if a teacher goes into no pay then this service will not be counted towards her pension.
32. Keeping in touch days which are worked during the paid period of maternity leave will not be counted as pensionable as this service is already counted as pensionable service. However keeping in touch days worked during the unpaid part of maternity leave will count as pensionable when paid in accordance with the School Teacher's Pay and Conditions Document.

START OF MATERNITY LEAVE

33. The earliest any employee can take maternity leave is 11 weeks before the week in

which her baby is due i.e. when she is 29 weeks pregnant.

34. She can work as long after this date as she wishes, up to the birth of the baby, provided she feels fit and able to continue and her doctor does not advise her to stop. This decision will obviously depend on her state of health and the type of work she does.
35. In cases of doubt, for example where the employee has had periods of sickness absence during her pregnancy, or where the job is fairly strenuous, please liaise with your School's Business Support Team and Occupational Health Unit.
36. If the employee's baby is born early and she has not yet started her maternity leave then her maternity leave and maternity pay period will automatically commence on the following day (even if this is before the beginning of the 11th week before the expected week of childbirth).
37. If the employee is still working at the 4th week before her baby is due and she goes off sick with a pregnancy-related illness, her statutory maternity leave and statutory maternity pay period start automatically the following day. Contractual maternity leave (and contractual maternity pay, if the employee is eligible) normally follow suit.
38. However, if she becomes fit enough to return to work again within this 4-week period and wishes to do so, she can, provided her doctor certifies her fit to return to work. In such cases, the statutory maternity pay period continues to run and she will lose any entitlement she might have to a statutory maternity payment for any week in which she works. This is, therefore, most likely to be of interest to employees who are not entitled to any statutory maternity payments and who would prefer to work until nearer the birth of their baby and receive their normal pay. If they do decide to do this, they will not lose any of their contractual maternity entitlements. You will need to see the doctor's certificate stating the employee is fit to resume work. You will also need to let the School's Business Support Team know the employee has returned to work, so they can make the necessary adjustments.

HEALTH AND SAFETY

Risk Assessments

39. For Health and Safety reasons, women are required to inform their Headteacher as soon as they know they are pregnant, so that Risk Assessments can be carried out and, if necessary, adjustments made to their work activities. A copy of the New or Expectant Mothers Risk Assessment form is attached at Appendix D.
40. The Management of Health and Safety at Work Regulations 1999 require you (the Headteacher or nominated responsible officer) to undertake a Risk Assessment once the employee has informed you in writing that she is pregnant. You should therefore ask for a letter from the employee stating that she is pregnant. The standard letter at Appendix E can be used by the employee for this purpose. You will also need to ask the employee for a copy of her MATB1 when this is available.
41. If you have not already carried out a Risk Assessment on the employee's post, in relation to the particular risks posed for a new or expectant mother, you must arrange to do this as soon as possible. This initial Risk Assessment must be carried out in conjunction with your Safety Officer.

42. Risk Assessments must be carried out at least on a monthly basis during the pregnancy, as the employee's physical condition changes. You are also required to carry out a new Risk Assessment and review this for any new mother who has given birth within the previous 6 months or who is breast feeding. Account will also have to be taken when a still born child is delivered. Please contact your Safety Officer for advice, when any health and safety issue has been identified during the Risk Assessment. Your Safety Officer will monitor all New and Expectant Mothers Risk Assessments.
43. If a risk has been identified which cannot be eliminated by adjustments to the employee's working activities, the employee may have to be moved to other duties for the duration of her pregnancy. For example, women whose posts involve duties which are particularly strenuous and have been identified as posing a risk, may have to be moved to lighter duties. If alternative duties are not available, the employee may, as a last resort, have to be suspended on full pay until she starts her maternity leave. Any issues arising from a Risk Assessment must be discussed with the employee and, if she wishes, her trade union representative, prior to any action being taken. The employee should also receive a copy of her Risk Assessment form.
44. If an employee does have to be moved and is offered suitable alternative work, but she unreasonably refuses to carry out that work, she will have to be suspended on health and safety grounds and will lose her right to be paid during the period of suspension. Your School's Business Support Team and Safety Officer will need to be involved in all cases where suspension is a possibility.

Display Screen Equipment (DSE)

45. The Display Screen Equipment Regulations 1992 require that assessments are made of DSE workstations, that suitable control measures are implemented and that employees are adequately trained.
46. If you have not already carried out an assessment of the employee's workstation in relation to the particular risks posed to the new or expectant mother then you must arrange to do this as soon as possible.
47. The assessment must be reviewed at least monthly throughout the pregnancy, as the employee's physical condition changes.
48. There is no definitive evidence that operating DSE harms pregnant women or their babies. However, if a woman works with DSE and she is worried about this, alternative work should be found wherever possible. If this situation arises and the School has not adopted the Council's DSE policy, please contact the Occupational Health and Safety Service for further guidance.
49. On receiving a request from a pregnant employee for release from duties involving DSE, you should arrange a meeting with the employee to discuss this matter.
50. You should then decide whether it is possible to allocate alternative duties to the employee on a temporary basis within the School wherever possible. In the event of no suitable alternative employment she will continue in her existing job.
51. You should also ascertain whether the release of the employee from DSE duties will

have a detrimental effect on the workload of her section, and whether it is necessary to request permission to appoint a temporary replacement.

52. If the employee expresses dissatisfaction with the alternative employment available either before or after commencing alternative duties, other options should be investigated and offered to the employee where possible.

RUBELLA AND OTHER INFECTIOUS DISEASES

53. Teachers are entitled under the Burgundy Book maternity scheme to absent themselves from school during the early months of pregnancy if advised to do so by medical practitioners because of the risk of rubella. Leave with full pay will be granted provided that the teacher does not unreasonably refuse to serve in other schools where there is no undue risk of rubella. In addition, where medical practitioners advise teachers not to attend school for precautionary measures due to infectious disease at their workplace, e.g. chickenpox, the Burgundy Book sick pay scheme allows full sick pay during this period which is not reckoned against other sick leave entitlement under that scheme.

NOTIFICATION OF STARTING MATERNITY LEAVE

54. To help schools to plan, pregnant employees have been asked to let their Headteacher know well in advance when they intend to start their maternity leave. The legal limit for notification is 15 weeks before the expected week of childbirth.
55. As a minimum, however, they must write to you at least 28 days before they finish work, giving you the date the baby is expected and the date on which they intend to commence maternity leave. You must obtain a MATB1 form or equivalent medical evidence at this stage.
56. This notice can be given on any day of the week, and so absence can start on any day of the week. However, unless the maternity leave is triggered by sickness or the birth (see paragraphs 36-37), payment for SMP can start on any day of the week. With the exception of these circumstances, if an employee works any part of a week she is not entitled to receive SMP for that week.
57. It is possible for the employee to change her mind about the date on which she intends to start her maternity leave providing she gives 28 days notice of the new date.
58. If it is not possible for an employee to give 28 days notice because her maternity leave is triggered by birth or sickness absence then she must give notice as soon as it is reasonably practicable that she is absent from work because of a pregnancy related illness and the date her absence for this reason began or that she has given birth and the date the child was born.

ACKNOWLEDGING THE EMPLOYEE'S NOTIFICATION

59. It is a statutory requirement that the School writes back to the employee within 28 days of receiving this notification specifying the end date of her maternity leave. It is very important that this timescale is complied with. The expected return date from maternity leave is 52 weeks after it has started. Attached at Appendices F - H are standard letters which will be sent out to pregnant employees by the School's Business Support Team once they have notified you of the start date of their maternity leave. There are different letters for employees with differing lengths of service.

KEEPING THE JOB OPEN

60. An employee has the right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. "Job" refers to the nature of work which she is employed to do and the capacity and place in which she is so employed
61. Where it is not practicable due to redundancy for her to return to her job, she shall be entitled to be offered a suitable alternative vacancy where one exists - provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was previously employed.
62. Unless the employee has actually resigned, (see paragraphs 88-91 concerning resignation), all replacements must be made on a temporary basis. Headteachers have powers to do this.

MAINTAINING CONTACT WITH THE EMPLOYEE

63. In order not to treat an employee less favourably because of her maternity leave and to ensure compliance with the principles of the Sex Discrimination Act, 1975, it is important that contact with an employee is maintained during her maternity leave.
64. The employee should be notified of any changes taking place within the school which affect the employee. The employee should also be made aware of any vacancies or training opportunities that arise within the school.
65. Arrangements should be made for any newsletters, appropriate circulars and details of any training opportunities to be sent to the employee throughout her maternity leave.

KEEPING IN TOUCH (KIT) DAYS

66. The employee is allowed to work up to 10 days during ordinary or additional maternity leave without bringing the maternity leave period to an end, with the proviso that an employee cannot work during the two weeks of compulsory leave immediately after the birth.
67. The keeping in touch days do not have to be consecutive and can be used for training, staff meetings or any other activity that enables the employee to keep in touch with the workplace.
68. If the employee works part of the day this will count as a full days work. Any work carried out during maternity leave must be done by mutual agreement of the employee and the Headteacher. Neither the employee nor the School can insist that these days are taken. The number of keeping in touch days will not extend the maternity leave period. Once the keeping in touch days have been used up, if she is still receiving SMP, the employee will lose a weeks SMP for any week in which she does any further work under her contract for the employer paying her SMP.

PAYMENT OF KEEPING IN TOUCH DAYS

- 69. There is no statutory right to be paid for keeping in touch days but the School has agreed that if employees are requested to attend keeping in touch days, they will be paid.
- 70. If the employee does some work under her contract of employment for the School who will be paying her SMP she will receive contractual pay for work done. The amount of contractual remuneration above the weekly SMP rate needs to be agreed before the work is carried out. The employee will receive a pro rata amount of her normal pay for the work done.
- 71. The minimum that must be paid is the SMP rate (pro rata for part time employees) to which the employee is entitled for that SMP week. The School will be able to reclaim the SMP due for a week against its contractual pay obligations for the same week unless the days are taken and paid during the unpaid part of the maternity leave period.

RETURN TO WORK

- 72. As mentioned earlier, under the Management of Health and Safety Regulations 1999, women must not work for 2 weeks after the baby's birth. If they work in an area which can be classed as a 'factory' under the Factories Act, this period is extended to 4 weeks. Although it is unlikely that any woman will want to return to work as soon as this, you must keep this in mind.
- 73. Employees must normally return to work at the end of their 52 week maternity leave period unless they have decided to return early.

If she decides she wants to come back earlier than the end of her maternity leave, she must give you at least 21 days' written notice of the date she intends to return. You should pass any notice of return that you receive to your School's Business Support Team.
- 74. Legislation no longer allows employers to write to employees who are entitled to the longer maternity leave, asking them to confirm that they still intend to return to work. You must assume that the employee will return at the end of their ordinary maternity leave (if they have less than 26 weeks service at the QW) or at the end of their additional maternity leave (if they have more than 26 weeks service at the QW) unless the employee has given you notice that they intend to return earlier.
- 75. If the employee does not give the required notice you may postpone her return to work to a date that will secure the full notice. However, you do have the discretion to agree to a mutually acceptable earlier return date where the required notice has not been given.

PLANNED RE-INDUCTION

- 76. Irrespective of the length of an employee's maternity leave, you are required to

arrange a planned re-induction for the employee. The length of the re-induction programme is likely to reflect how long the employee has been away on maternity leave. Employees returning from maternity leave are usually under emotional strain in adjusting to being separated from their babies and they may also be feeling less confident than before, especially where they have been away from work for a long period. The re-induction should include an opportunity for the employee to discuss any concerns she may have about returning to her work and any changes that have occurred whilst she has been on maternity leave.

EMPLOYEE UNABLE TO RETURN DUE TO SICKNESS

77. Irrespective of her length of service, if the employee is not well enough to return to work on the date she is expected to return, her absence will be classed as sickness absence. The employee should notify this in the usual way and obtain a certificate, in line with the School's procedure for reporting sickness absence. In such cases, you must advise the School's Business Support Team that the employee's maternity leave has ended, but she has reported sick.
78. If the employee's sickness absence continues, the School's normal sickness reporting procedures apply and the sickness absence must be managed in accordance with the School's normal procedures. Due consideration needs to be given to pregnancy-related illness (for example post natal depression), when managing sickness absence. Where long term absence/illness is involved and dismissal or ill health retirement is likely to be considered, you must seek advice from your School's Business Support Team to ensure that any action you take is fair and non-discriminatory.

ACCRUAL OF ANNUAL LEAVE UNDER THE WORKING TIME REGULATIONS DURING MATERNITY LEAVE

79. Teachers do not have a contractual entitlement to paid annual leave nor a specified annual leave year however under the Working Time Regulations they are entitled to statutory annual leave –28 days (pro rata for part time employees).
80. An employee taking maternity leave must be able to take the 28 days (pro rata for part time employees) at a time outside of her ordinary or additional maternity leave.
81. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the maternity leave period.
82. Prior to starting maternity leave an employee should be advised of her statutory entitlement to 28 days annual leave (pro rata for part time staff) and that this should be taken either before or after the maternity leave period during school closure periods. On her return from maternity leave the employee must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate her leave in that leave year.
83. Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all annual leave entitlement, the employee must be allowed to carry over any balance of her leave to the following leave year. This can be taken during the remaining periods of school closure after the 28 days (pro rata for part time employees) for that leave year has been accommodated.
84. It is not possible to carry over the annual leave into the next leave year if there is time

to take the leave in the current leave year i.e. in school closures or in term time.
It is not usually possible to pay in lieu of untaken annual leave.

85. The accrual of leave under the Working Time Regulations is not affected by the stage of maternity leave an employee is at or whether they are receiving pay.

FAILURE TO RETURN TO WORK

86. If the employee does not return to work on the due date, and no alternative arrangement has been agreed with her you must investigate her absence. If, on contacting the employee, she tells you that she does not wish to return to work, then her employment will terminate on the last day of her maternity leave. You must confirm this in writing to the employee. You can then follow the normal procedures for filling the post.
87. The School's Business Support Team must also be informed immediately, so that steps can be taken to recover any maternity pay to which the employee is no longer entitled, through her failure to return. This action will also be necessary if the employee returns to work but leaves within 3 months or equivalent period if part time.

RESIGNATION

88. Although the employee has a statutory right to return it does not prevent her from resigning whenever she pleases and her date of termination will be the date she gives in her letter of resignation. This date should be given in response to any enquiries from Job Centre Plus. If a date is not given in her letter then the date on which the letter is received should be the date given to Job Centre Plus..
89. However, women are advised not to resign when going on maternity leave, as their circumstances may change over the leave period and they may have to return to work, even if they had not intended to do so. For example, their partner could be made redundant. However, if an employee has no intention of returning to work under any circumstances and you are certain that she is fully aware of her rights and the advantages of keeping her options open, she can resign with notice in the normal way as she would for any other reason. To qualify for SMP, however, she must work until the beginning of the 15th week before the expected week of childbirth.
90. Because of the complexities of the law, it is possible that, even when a woman resigns and her resignation is accepted she would still have a statutory right to return despite her resignation. You should attempt to persuade any woman who resigns when going on maternity leave to consider leaving her options open until later in her maternity leave period.
91. If the employee resigns before the end of her maternity leave you should send the letter at Appendix I to double check that the employee really does wish to resign and thus forfeit her right to return.

PATERNITY LEAVE/MATERNITY SUPPORT LEAVE

92. Under the School's Paternity Leave Policy, if the prospective father of the child, or partner of the mother (including same sex partners) works for the School, he/she is entitled to up to 2 weeks' paid leave to attend the birth and/or support the mother/care

for the child afterwards. (See the Paternity Policy for full details and the necessary application form available from the School's Business Support Team)

93. Alternatively, if the father of the child or the mother's partner are not available and someone else is to be the main person who provides support for the woman and that person works for the School, he/she is entitled to maternity support leave. This leave is only available when that person is the main support for the mother.
94. If maternity support leave is required, you should arrange for the woman to nominate who will be her main carer, so that he/she can apply for maternity support leave. (See the School's Family Leave Policy for full details and the necessary form(s)).
95. You must check as far as possible, that the person nominated is going to be the main carer. Disciplinary action can be taken where you suspect an abuse of the Family Leave Policy. Please contact your School's Business Support Team for advice in such cases.

PARENTAL LEAVE

96. An employee is entitled to up to 13 weeks' unpaid parental leave as soon as her child is born. She may want to take her parental leave in one block at the end of her maternity leave or, alternatively, she can take it in blocks of not less than one week up to her child reaching the age of 8 years. (See the Policy on Parental Leave for full details.)

DEATH/STILL-BIRTH

97. If a baby dies or is still-born after 24 weeks' pregnancy, the Maternity Scheme still applies and the employee can take her full entitlements under the Scheme if she so wishes.
98. Before the 24th week of pregnancy, the School's Policy on Sickness Absence should be used.
99. In either of these circumstances, you must make arrangements to contact the employee and discuss her needs with her, sensitively.

CONTINUOUS SERVICE

100. Provided that she returns to work, a woman's paid maternity leave and any authorised unpaid maternity leave will count as continuous service for the purpose of annual leave and sick pay entitlement etc.

CONTRACTUAL RIGHTS DURING MATERNITY LEAVE

101. For employees whose expected week of childbirth is after 5th October 2008, their contract continues in force, (except for the right to remuneration) for the full period of maternity leave.
102. For employees whose expected week of childbirth is before the 5th October 2008, during the ordinary maternity leave period, all contractual rights (apart from remuneration) continue as if she was still at work and has the right to return to the same job afterwards. However during additional maternity leave, the employee is entitled to terms and conditions relating to notice, redundancy pay and discipline and grievance procedures and has the right to return to the same job or if it is not reasonably practicable, to a suitable alternative job. The employee is bound by any terms and conditions relating to notice, disclosure of confidential information, acceptance of gifts or other benefits and participation in any other business.

INCREMENTAL PROGRESSION

103. Incremental progression will not be interrupted for any employee entitled to maternity leave who returns to work.

TRADE UNION SUBSCRIPTIONS

104. If the employee is a member of a trade union and usually has her subscriptions deducted from pay, the deductions will continue whilst the employee continues to be paid, unless she instructs the payroll provider not to make the deductions.

NQT INDUCTION PERIODS

105. For Newly Qualified Teachers, an individual may choose whether or not to have their induction extended by the equivalent of the part of their absence due to statutory maternity leave. Individuals in this situation are recommended to seek advice from their Headteacher. For further information please refer to DfE Statutory Guidance.

JOB SHARE/REDUCED HOURS

106. A woman can request to job share her post or to reduce her hours for child care reasons.
107. Women have been asked to give you as much notice as possible when making such requests and these must be accommodated wherever possible.
108. Job share requests should be considered in line with the School's Job Share Scheme. In the main, posts are shared on an even split basis, e.g., 50% each. However, this may be varied by agreement and following consultation with the trade unions. (See the Job Share Scheme for details.) Applications made by an employee prior to the birth of the baby can be agreed in principle, subject to the employee confirming that she wishes to proceed with her application, when she has had her baby and is in a position to make a definite decision.
109. In the event of there being a difficulty in granting a request to job share or to reduce an employee's hours, you must contact your School's Business Support Team for advice

to ensure the School is acting reasonably and that sex discrimination does not occur. Women who return to work on a part time basis AND who were entitled to full occupational maternity pay including 12 weeks half pay are still required to complete the equivalent of 13 weeks at their former hours of work.

CAREER BREAK SCHEME

- 110. Women may wish to take a Career Break following on from their maternity leave.
- 111. You should consider the request in line with the School's Career Break Scheme if applicable. Please contact your School's Business Support Team.
- 112. If an employee is on a career break when she finds out she is pregnant, the Maternity Scheme still applies. If her maternity leave interrupts her career break, the career break will resume at the end of her maternity leave, unless she agrees alternative arrangements with you in the light of her pregnancy.

GOOD PRACTICE – BREAST FEEDING FACILITIES

- 113. If the employee intends to breast feed her baby, and, on returning to work has any special requirements, they will need to discuss these with their Headteacher. Every effort will be made to accommodate reasonable requests.

FLEXIBLE WORKING This section needs updating to include details of 8 business reasons for rejection, need to give an explanation of reasons for rejection, eligibility for statutory request, employer's ability to extend 28 day time limit and 14 day limits for making an appeal, conduct an appeal or notifying the decision – to enable a headteacher to deal effectively with flexible working requests. Also consider separate Flexible working policy covering statutory scheme

- 114. Women returning from maternity leave have the right to request flexible working arrangements in accordance with the Employment Act 2002 if they have worked for their employer continuously for 26 weeks at the time the application is made. Eligibility rules also require that the employee has not made a flexible working application during the previous 12 months.
- 115. Whilst employees have the right to request to work flexibly it does not provide an automatic right to flexible working as there may be circumstances when the School is unable to accommodate the desired work pattern and the request may be refused on one of a number of business grounds. The law requires meeting with the employee within 28 days and notifying them of the outcome within 14 days. The employee has the right to be accompanied at the meeting and also a right of appeal.
- 116. However, particularly in the case of women returning from maternity leave, you should give very serious consideration to their request and endeavour to find a solution which suits both the employee and the needs of the School. In the event of there being a difficulty in granting a request for flexible working you must contact your School's Business Support Team for advice to ensure the School is acting reasonably and that sex discrimination does not occur.

Women who return to work on reduced hours AND who were entitled to full occupational maternity pay including 12 weeks half pay are still required to complete

the equivalent of 13 weeks at their former hours of work.

APPENDIX A

HULL CITY COUNCIL MATERNITY MEETING CHECKLIST

To be completed by the Headteacher

Date of Meeting: _____

Employee's Name: _____

Manager's Name: _____

- | | |
|---|--------------------------|
| 1. Issue Pack | <input type="checkbox"/> |
| 2. Discuss the following: | |
| Time off for Ante-Natal Care | <input type="checkbox"/> |
| Maternity Pay Entitlements | <input type="checkbox"/> |
| Maternity Leave Entitlements | <input type="checkbox"/> |
| Payment of Maternity Pay | <input type="checkbox"/> |
| Health and Safety | <input type="checkbox"/> |
| Pension Options (if applicable) | <input type="checkbox"/> |
| Trade Union Subscriptions (if applicable) | <input type="checkbox"/> |
| Starting Maternity Leave and Notice Required | <input type="checkbox"/> |
| Accrual of annual leave during maternity leave under Working Time Regulations | <input type="checkbox"/> |
| Council Maintaining Contact with Employee | <input type="checkbox"/> |
| Keeping in Touch Days | <input type="checkbox"/> |
| Returning to work - including minimum 3-month period | <input type="checkbox"/> |
| Applying for Other Jobs | <input type="checkbox"/> |
| | _____ |

Continuous Service	<input type="checkbox"/>
NQT Induction Period (if applicable)	<input type="checkbox"/>
Incremental Progression	<input type="checkbox"/>
Paternity/Maternity Support Leave	<input type="checkbox"/>
Job Share Policy	<input type="checkbox"/>
Career Break Scheme	<input type="checkbox"/>
Flexible Working	<input type="checkbox"/>
Family Leave Policy	<input type="checkbox"/>
Child Care Options	<input type="checkbox"/>
Forms to be submitted:	<input type="checkbox"/>
Mat B1	<input type="checkbox"/>
M2	<input type="checkbox"/>
M3	<input type="checkbox"/>
Employee's Action Checklist	<input type="checkbox"/>

Duration of discussion: _____

Manager's Signature: _____

Date: _____

To be placed on employee's personal file

MATERNITY CHECKLIST

1. Initial risk assessment.
2. Determine entitlement to maternity leave and pay
3. Meeting with employee to discuss maternity provisions and go through the Maternity Information Pack with her.
4. Ongoing risk assessments, as required.
5. Pension contributions – action as required.
6. Temporary cover for post or replacement if employee not returning.
7. Letters F - I to employee, as required.
8. Maintain contact with employee,:
 - Sending notification of any changes which affect her which are taking place in her School
 - details of how to access job vacancies
 - Newsletters or relevant circulars
 - details of any training opportunities
- 9 Keeping in Touch Days
- 10.. NQT Induction period – extend if necessary.
- 11 . Job Share/reduced hours – action, if requested.
12. Career Break – action, if requested
13. Flexible Working - consider if requested
14. Planned re-induction

APPENDIX C

CHART TO DETERMINE ENTITLEMENT TO MATERNITY LEAVE AND PAY

CONTINUOUS SERVICE	MATERNITY LEAVE	MATERNITY PAY
Women with less than 26 weeks' service at the end of the 15 th week before the expected week of childbirth (EWC)	26 weeks Ordinary Maternity Leave plus 26 weeks Additional Maternity Leave (Total 52 weeks)	Not entitled to Statutory Maternity Pay (SMP) or contractual maternity pay. May be entitled to Maternity Allowance payable for 39 weeks
Women with more than 26 weeks' service at the end of the 15 th week before the EWC but less than 1 year's service at the beginning of the 11 th week before the EWC who pay National Insurance contributions	26 weeks Ordinary Maternity Leave plus: 26 weeks Additional Maternity Leave (Total leave: 52 weeks)	Not entitled to contractual maternity pay. Entitled to 39 weeks SMP: 6 weeks at 9/10 pay 33 weeks at the current rate of SMP <u>or</u> 39 weeks at 9/10 of pay if this is less
Women who have at least 1 year's service at the beginning of the 11 th week before the EWC who pay National Insurance contributions	26 weeks Ordinary Maternity Leave plus: 26 weeks Additional Maternity Leave (Total leave: 52 weeks)	Entitled to contractual maternity pay and SMP Payments as follows: Weeks 1-4 – full pay Weeks 5 – 6 - 9/10 pay Weeks 7-18: SMP (or 9/10 pay if less) Weeks 19-39: SMP (or 9/10 pay if less) <u>Plus</u> (provided they return to their post for at least three months) 12 weeks at half pay (or equivalent amount)

The current rate of Statutory Maternity Pay (SMP) is £124.88 per week – or 9/10 of average weekly earnings, whichever is the lower.

If you are eligible for Statutory Maternity Pay and also participate in a salary sacrifice scheme e.g. childcare vouchers, the 9/10 of pay calculation will be based on your reduced salary level.

APPENDIX D

New or Expectant Mother's Risk assessment Form Staff in confidence when completed

1. Introduction

Employers must ensure a safe and healthy work environment for their pregnant or breastfeeding employees. They must also identify hazards in the workplace that could pose a health and safety risk. This document should be completed on a one to one basis between the Manager and the employee and treated in confidence.

Name of Employee:	
Place of Work:	
Name of Manager / Supervisor	

2. Working Practice

It is important to discuss current working conditions. This is to help identify any potential risks that may cause health problems for the new or expectant mother. The Manager should highlight existing control measures as well as any additional control measures they are putting in place.

Workplace hazards	Control measures
--------------------------	-------------------------

--	--

The Manager completing this risk assessment should discuss with the employee their current workplace activities and arrangements in order to determine their suitability.

Are any adjustments required to current working conditions or hours? **Y** **N**

If Yes, what has been agreed?

.....

.....

Are alternative work arrangements required? **Y** **N**

Agreed Action:

.....

.....

Note: - As the pregnancy progresses the employee may suffer from any of the following. These issues should be considered as they may have a health, safety and welfare impact on the employee [and other work colleagues?]

Is the employee experiencing any of these symptoms at present?

	Y	N
a. Morning Sickness	<input type="checkbox"/>	<input type="checkbox"/>
b. Feeling of dizziness or balance	<input type="checkbox"/>	<input type="checkbox"/>
c. Backache	<input type="checkbox"/>	<input type="checkbox"/>
d. Tiredness / fatigue	<input type="checkbox"/>	<input type="checkbox"/>
e. Discomfort	<input type="checkbox"/>	<input type="checkbox"/>
f. Other	<input type="checkbox"/>	<input type="checkbox"/>

If 'Yes' to any of the above, please provide details of the provisions that will be made to accommodate the employee now and in the future if these conditions are not already presenting.

.....

.....

.....

Maternity Certificate (MAT B1) received? **Y** **N**

Has the employee notified the employer **in writing** that she is pregnant? **Y** **N**

Manager's Guidance – What to Consider?

1. Physical Job Demands **Y** **N**

Is the employee involved in manual handling operations? ☐ ☐

Does the work involve standing or squatting for long periods of time? ☐ ☐

Does the role involve a lot of walking? ☐ ☐

Does the work involve working at height? ☐ ☐

Is the employee working in a confined space? ☐ ☐

Will any tasks become more hazardous later on in the pregnancy? ☐ ☐

Does the role involve shift work / working at night? ☐ ☐

2. Mental Job Demands **Y** **N**

Does the job involve meeting tight deadlines? ☐ ☐

Does the role involve rapidly changing priorities and demands? ☐ ☐

Does the role require a high degree of concentration? ☐ ☐

3. Working Conditions – general **Y** **N**

Does the work involve lone working or working in remote locations? ☐ ☐

Are toilet facilities easily accessible? ☐ ☐

Does the work involve dealing with members of the public? ☐ ☐

Is the employee exposed to any risks of violence at work? ☐ ☐

Does the work involve contact with young children or sick people? ☐ ☐

Is the temperature in the working environment comfortable? ☐ ☐

4. Specific Hazards **Y** **N**

Does any part of the job involve the use of chemicals? ☐ ☐

If so, are there any risks to the employee whilst she is pregnant? ☐ ☐

Is there regular exposure to shock, vibration or movement? ☐ ☐

Is there exposure to ionising radiation? ☐ ☐

Is there exposure to any chemical or biological agent? ☐ ☐

Is there exposure to mercury or mercury derivatives? ☐ ☐

Is there exposure to chemical agents which can be absorbed through the skin? ☐ ☐

Is there exposure to lead or lead derivatives? ☐ ☐

Is there exposure to Hepatitis B, Herpes, syphilis, Chickenpox, typhoid, rubella, Toxoplasma? ☐ ☐

5. Display Screen Equipment (DSE) **Y** **N**

Does the employee have any concerns when using Display
Screen Equipment (DSE)?

☐ ☐

Has the employee raised any issues in their DSE Assessment?

☐ ☐

If you have answered 'YES' to any of the above please provide comments / further action:

.....

.....

.....

.....

.....

Date of next review

The Manager will review the risk assessment and respective working environment of the employee at interim periods. Please specify the dates below:

Date of Review Meeting	Signature of Employee	Signature of Manager

A copy of this document, together with any additional Risk Assessment should be given to the employee.

APPENDIX E

Example of letter from employee to manager to advise the School she is pregnant, so a risk assessment can be carried out. On receipt of notification from the employee that she is pregnant the School must notify the School's Business Support Team

(Employee's address)

Dear *(Line Manager's Name)*

MATERNITY NOTIFICATION – (EMPLOYEE'S NAME)

In accordance with Health and Safety requirements, I am writing to inform the School that I am expecting a baby, so that you can arrange for a risk assessment to be carried out.

At present, the approximate date I am due to have my baby is *(date)*. I shall confirm the date and let you have my maternity certificate (MAT.B1) as soon as this is available.

Yours sincerely,

APPENDIX F

To be sent to employees with less than 26 weeks' service as at the Qualifying Week (15 weeks before the week in which the baby is due)

Dear

MATERNITY PAY AND LEAVE ENTITLEMENTS

Thank you for informing your Headteacher of your pregnancy and the date your baby is due.

The position regarding your maternity leave and pay entitlements is as follows:-

A. Maternity Leave

As we have discussed, you are entitled to up to 26 weeks' ordinary maternity leave followed by 26 weeks additional maternity leave.

You have told your Headteacher that you wish to begin your maternity leave on.....

If you want to change this date you must notify your Headteacher 28 days before the new intended start date, or if that is not possible, as soon as reasonably practicable.

In accordance with the provisions of the School's Maternity Scheme, I shall expect you to return at the end of your full leave entitlement.

Given your chosen start date, this will be.....

If you wish to return earlier than this date, you must give me 7 days' notice, in writing. Form M3 in your Maternity Information Pack can be used for this purpose.

You should note that for Health and Safety reasons, you cannot return to work within 2 weeks* of having your baby.

You can ask for a period of up to three months unpaid leave of absence. If you would like to do so, please write to me, saying how much leave you would like and I shall consider your request.

B. Contractual Maternity Pay/Statutory Maternity Pay

As we discussed, you do not have the required service for either Contractual Maternity Pay or Statutory Maternity Pay

The form SMP1 which you will receive from your Payroll Provider explains why you do not qualify for Statutory Maternity Pay. You may, however, be entitled to Maternity Allowance. If you take this form to your local Jobcentre Plus they will be able to tell you more.

I trust this clarifies the position. If you have any queries, please do not hesitate to contact me.

On behalf of the Headteacher, I should like to congratulate you on your forthcoming happy event and wish you good health during the next few months.

Yours sincerely

Schools' Business Support Service

* 4 weeks if the woman works in an area classed as a "factory" under the Factories Act.

To be sent to employees with at least 26 weeks' service as at the Qualifying Week (15 weeks before the week in which the baby is due) but less than 1 year's service at the beginning of the 11th week before the week the baby is due.

Dear

MATERNITY PAY AND LEAVE ENTITLEMENTS

Thank you for informing your Headteacher of your pregnancy and the date your baby is due.

The position regarding your maternity leave and pay entitlements is as follows:-

A. Maternity Leave

As we have discussed, you are entitled to up to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave.

You have told your Headteacher that you wish to begin your maternity leave on.....

If you want to change this date you must notify me 28 days before the new intended start date, or if that is not possible, as soon as reasonably practicable.

In accordance with the provisions of the School's Maternity Scheme I shall expect you to return at the end of your full leave entitlement.

Given your chosen start date, this will be.....

If you wish to return earlier than this date, you must give me 21 days' notice, in writing. Form M3 in your Maternity Information Pack can be used for this purpose.

You should note that for Health and Safety reasons, you cannot return to work within 2 weeks* of having your baby.

B Contractual Maternity Pay

Unfortunately, you do not have the required service for Contractual Maternity Pay.

A. Statutory Maternity Pay

You are entitled to receive Statutory Maternity Pay (SMP) for up to 39 weeks when you are on maternity leave.

The first 6 weeks will be at 9/10ths pay. The next 33 weeks will be paid at the current rate of SMP of £.....per week#

or You will be paid at 9/10ths of your average weekly earnings for 39 weeks#.

If you have any queries on your entitlements, please do not hesitate to contact me.

On behalf of your Headteacher, I should like to congratulate you on your forthcoming happy event and wish you good health during the next few months.

Yours sincerely

Schools' Business Support Service

*4 weeks if the woman works in an area classed as a "factory" under the Factories Act.

#Delete as appropriate - If 9/10ths pay works out at less than the current rate of SMP then the employee will be paid 9/10ths of pay for the full 39 weeks.

The current rate of Statutory Maternity Pay (SMP) is £124.88 per week – or 9/10 of average weekly earnings, whichever is the lower.

If you are eligible for Statutory Maternity Pay and also participate in a salary sacrifice scheme e.g. childcare vouchers, the 9/10 of pay calculation will be based on your adjusted, reduced salary level

APPENDIX H

To be sent to employees with 1 year's service or more as at the beginning of the 11th week before the week the baby is due

Dear

MATERNITY PAY AND LEAVE ENTITLEMENTS

Thank you for informing your Headteacher of your pregnancy and the date your baby is due.

The position regarding your maternity leave and pay entitlements is as follows:-

A. Maternity Leave

As we have discussed, you are entitled to up to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave.

You have told me that you wish to begin your maternity leave on.....

If you want to change this date you must notify your Headteacher 28 days before the new intended start date, or if that is not possible, as soon as reasonably practicable.

In accordance with the provisions of the School's Maternity Scheme I shall expect you to return at the end of your full leave entitlement.

Given your chosen start date, this will be.....

If you wish to return earlier than this date, you must give your Headteacher 21 days' notice, in writing. Form M3 in your Maternity Information Pack can be used for this purpose.

You should note that for Health and Safety reasons, you cannot return to work within 2 weeks* of having your baby.

B. Statutory and Contractual Maternity Pay

Provided you are still employed by the School at the beginning of 11th week before your baby is due, you will have completed at least 1 year's service. Providing you also remain at work until that time, you are entitled to receive the following which will be paid on the next normal pay day in the month following the date you start your maternity leave:

- a) Weeks 1-4 - full pay
- b) :Weeks 5-6 - 9/10ths of pay
- c) Weeks 7-18: SMP at the current rate of £.....per week#

or 9/10^{ths} of pay if less #

Plus (providing you return to work for at least 3 months)

12 weeks at half pay If this exceeds your normal contractual pay then an adjustment will be made for the excess)

- d) Weeks 19-39: for the remaining 21 weeks you will receive SMP at the current rate (or 9/10ths of pay if this is less)

Alternatively the 12 weeks half pay (or equivalent amount) may be spread over any other mutually agreed distribution or paid in full when you return to work after your maternity leave.

If you do not return to work by the required date and continue to work for 3 months you will have to repay the 12 weeks at half pay (i.e. the contractual pay only, not the statutory element of your pay).

I therefore give you the following options:-

- a) Receiving the 12 weeks of half pay in a lump sum after you have returned to work for 3 months.
- b) Receiving the 12 weeks of half pay at the time of, and in place of the wages/salary you would normally have received if you had not taken maternity leave (the half pay will be paid weeks 7-18 of your maternity leave).
- c) Receiving an amount equivalent to 12 weeks half pay spread over any other mutually agreed distribution.

Please complete and return the attached reply form to confirm which method of payment you would prefer. If you choose methods b) or c) you must also confirm that you will repay the 12 weeks at half pay to the School if you do not return to work and remain at work for a period of at least 3 months.

I trust this clarifies the position. If you have any queries about your entitlements please do not hesitate to contact me.

Would you please return the reply form to me by

On behalf of the Headteacher, I should like to congratulate you on your forthcoming happy event and wish you good health over the next few months.

Yours sincerely

Schools' Business Support Service

Enclosure

*4 weeks if the woman works in an area which is classed as a “factory” under the Factories Act.

#Delete as appropriate - If 9/10ths pay works out at less than the current rate of SMP then the employee will be paid 9/10ths of pay for the full 39 weeks.

The current rate of Statutory Maternity Pay (SMP) is £124.88 per week – or 9/10 of average weekly earnings, whichever is the lower.

If you are eligible for Statutory Maternity Pay and also participate in a salary sacrifice scheme e.g. childcare vouchers, the 9/10 of pay calculation will be based on your adjusted, reduced salary level

APPENDIX H - REPLY FORM

CONTRACTUAL MATERNITY PAY

PAYMENT OPTION FOR 12 WEEKS’ HALF PAY

I confirm that I wish my 12 weeks’ half pay

a) *to be paid in a lump sum after I have returned to work for 3 months

or

b) *to be paid at the time of, and in place of the wages/salary I would normally have received if I had not taken maternity leave (paid weeks 7-18)

or

c) *to be paid by the following distribution (give details):

I agree to repay the 12 weeks’ half pay (or equivalent alternative) in full if I do not return to work or return for less than 3 months and, in this event, I agree that monies due can be deducted from my pay

Signed: Date:

Name (Block Capitals):

*Please delete as appropriate

Return to:.....

Not later than:.....

To be sent to employees who resign before the end of their maternity leave

Dear

LETTER OF RESIGNATION

I hope you are well after the recent birth of your baby.

Thank you for your letter of informing me that you wished to resign.

Even though you have resigned from the School's employment, in order to finalise the matter, it is necessary for me to write this letter reminding you that at present you still have the right by law to return to your job on(state the date given for the end of maternity leave in the letter confirming their notification).

If you do want to change your mind about your resignation please complete and return the bottom part of this letter.

However, if I do not hear from you within 14 days, I shall assume that your resignation stands and you will lose your statutory right to return. In this case your resignation will be with effect from (the date given in her letter of resignation, or the date the letter was received if the letter does not specify a date).

Yours sincerely

Head teacher

.....

REPLY FORM

MATERNITY SCHEME

CONFIRMATION OF WITHDRAWAL OF RESIGNATION

I confirm that:-

In spite of my earlier resignation I now intend to return to work on.....

Signed: Date:

Name:

Return to:.....

Not later than:.....