



# Maternity Policy

01 September 2019

## Version Control

<b>Current version</b>	<b>Previous version</b>	<b>Summary of changes made</b>
01 Sep 19	26 Jul 17	Amended paragraph 2.2 to reference maternity leave.
26 Jul 17	04 Nov 14	Updates regarding shared parental leave and statutory maternity payments. Formatting of paragraphs, headings and appendices standardised.

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### Links

[Risk Assessment for New and Expectant Mothers](#)

# 1 Introduction

1.1 This document gives employees information about these rights:

- Notification of maternity
- Maternity leave
- Maternity pay
- Links to shared parental leave
- Keeping in touch ('KIT') days
- Return to work

## 2 Employee rights

2.1 Continuous service rights accrue during maternity leave.

2.2 All contractual benefits, apart from remuneration, continue throughout maternity leave. In accordance with HM Revenue and Customs guidance, non-cash benefits (such as childcare vouchers) will continue whereas cash benefits (such as first aid allowances) will not be paid. Essential car user allowance provided under the NJC for Local Government Services is not considered as simply cash that is a transferrable benefit (i.e. insurance, road tax) and therefore will continue to be paid.

2.3 A pregnant employee is entitled to reasonable time off for antenatal care.

2.4 From 1 October 2014 an expectant father or the partner of a pregnant woman can take unpaid time off to attend up to two antenatal appointments (up to six and a half hours per appointment).

2.5 The school will assess the risks to pregnant and breastfeeding employees and do what is reasonably practicable to control these risks.

2.6 An employee who returns during or at the end of ordinary maternity leave is entitled to return to the same job on the same terms and conditions.

2.7 On their return during or at the end of additional maternity leave, they have the right to return to the same job on the same terms and conditions, or, if this is not reasonably practicable (for a reason other than redundancy) to a job that is both suitable and appropriate for the employee. The new job must itself be on terms and conditions no less favourable than those which would have applied had they not been absent.

2.8 A mother may choose to exchange up to 50 weeks maternity leave and up to 37 weeks Statutory Maternity Pay ('SMP') for shared parental leave and pay. They will need to give the council a leave and pay curtailment notice giving eight weeks' notice of the date on which maternity leave and pay is to end; or 21 days' notice of a return to work. Further information, the curtailment notice and Shared Parental notification form is contained within the [Shared Parental Leave Pay Policy](#).

2.9 Employees may request flexible working arrangements on their return to work.

- 2.10 An employee loses the right to maternity leave if they resign or are dismissed before the pre-notified start date. They will still be entitled to SMP if they are employed after the 15th week before the Expected Week of Childbirth ('EWC').
- 2.11 Should a redundancy situation arise during the maternity leave, the employee should be consulted, along with other employees in their team. The Head Teacher should be aware that, under [The Maternity and Parental Leave etc. Regulations 1999](#) women who are on maternity leave and who are made redundant have the right to an offer of a suitable alternative post, where one is available, without competition, even if there are other suitably qualified or better qualified candidates.

### **3 Maternity leave**

- 3.1 All pregnant employees are entitled to up to 52 weeks maternity leave regardless of length of service. This leave consists of;
- 26 weeks ordinary maternity leave ('OML'); and
  - 26 weeks additional maternity leave ('AML')
- 3.2 An employee may decide how much maternity leave they wish to take up to the maximum of 52 weeks. The assumption will be made that an employee will take the full 52 weeks unless they inform the Head Teacher otherwise.
- 3.3 The law requires a two week minimum period of compulsory maternity leave is taken immediately after the baby is born.
- 3.4 AML, if taken, must follow immediately after OML.

### **4 Notification of maternity leave**

- 4.1 To claim maternity leave, an employee should inform the Head Teacher at least 28 days before their absence begins or as soon as is reasonably practicable;
- that they are pregnant
  - the expected week of childbirth
  - when they want the maternity leave to start
- 4.2 This notification should be done using the form at [Appendix A](#). The Head Teacher should send this notification to School's HR as soon as possible after receipt, as HR has to notify the employee of the end date of their maternity leave within 28 days of the original notification.
- 4.3 If the employee decides to start their maternity leave earlier than originally notified, they must give as much notice as is reasonably practicable.
- 4.4 An employee could lose their right to start maternity leave on their chosen date if they do not give the Head Teacher the proper notice of their preferred start date. The school will consider each case individually should it not be reasonably practicable for the employee to give notice any earlier.

- 4.5 Maternity leave can start no earlier than the beginning of the 11th week before the EWC. It starts automatically the day after the birth if the employee gives birth early.
- 4.6 Maternity leave and maternity pay start on the same day which can be any day of the week.
- 4.7 An employee should provide the original certificate ('MATB1') from their healthcare provider which states the EWC. The MATB1 is invalid if issued before the 20th week before the EWC.

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

- 4.8 The start date of maternity leave can be changed as long as the employee notifies the Head Teacher either 28 days before the original start date or 28 days before the new start date, whichever is the earlier.
- 4.9 The employee does not have to give this much notice if it is not reasonably practicable, for example if the baby is born early. In these circumstances the employee should give as much notice as possible. The notification should be in writing if requested by the Head Teacher.

### **Confirmation by the employer of the end date of maternity leave**

- 4.10 After receiving notice of the intended start date, the Head Teacher should inform the School's HR team who will arrange to write to the employee to notify them of the date on which the maternity leave will end. This must be done within 28 days. Unless otherwise notified the end date is normally the first working day 52 weeks from the start of maternity leave.
- 4.11 An employee should provide eight weeks written notice of the date in which they intend to return to work.
- 4.12 If an employee does not receive notification of the end date and subsequently does not return to work on time, they may be protected from victimisation and dismissal. In addition, if they wish to change their return dates they may not be obliged to comply with the notice requirements if the employer had not told them when the leave should end.

## **5 Maternity pay**

- 5.1 Statutory maternity pay ('SMP') and occupational maternity pay ('OMP') are payable subject to qualifying conditions, described below.
- 5.2 Employees are advised to contact Exchequer Services for advice on the implications for their pensions.

### **Statutory maternity pay**

- 5.3 SMP is paid for up to 39 weeks.
- 5.4 To qualify for Statutory maternity pay ('SMP') an employee must have;

- At least 26 weeks continuous Bolton Council service up to the end of the 15th week before the EWC.
  - Average earnings at least equal to the lower earnings limit in the eight weeks prior to the end of the 15th week before the EWC.
- 5.5 If you do not qualify to receive SMP from Bolton Council you may wish to contact your previous employer to check if you met the eligibility criteria whilst working for them.
- 5.6 Employees who are not entitled to SMP but meet qualifying conditions based on their recent employment and earnings may claim up to 39 weeks' maternity allowance ('MA') which is paid directly by the Department for Work and Pensions.
- 5.7 SMP is;
- 90% of average weekly earnings for the first six weeks followed by 33 weeks at the current rate; or
  - 90% of average weekly earnings for 39 weeks, if less than the current rate of SMP.
- 5.8 Only SMP is paid if an employee does not intend to return to work.
- 5.9 An employee is not required to repay SMP if they decide not to return to work at the end of their maternity leave.

## **Occupational maternity pay**

- 5.10 To qualify for OMP an employee must;
- Have at least one year's continuous local government service at the beginning of the 11th week before the EWC.
  - Declare in writing that they intend to return to work for at least three months following the end of the maternity leave or parental leave if this follows on immediately after maternity leave. If they subsequently decide not to return to work, they must repay the half pay period of occupational maternity pay.
- 5.11 For officers or support staff, the total amount of OMP payable is;
- Weeks 1 to 6: 90% of normal weekly earnings inclusive of SMP
  - Weeks 7 to 18: Half normal pay plus SMP or MA (up to a maximum of full pay)
  - Weeks 19 to 39: SMP only
- 5.12 For teaching staff, the total amount of OMP payable is;
- Weeks 1 to 4: Full pay
  - Weeks 5 to 6: 90% of normal weekly earnings
  - Weeks 7 to 18: Half normal pay plus SMP or MA (up to a maximum of full pay)
  - Weeks 19 to 39: SMP only

## **6 Keeping in touch days**

- 6.1 An employee can work for up to ten days during their maternity leave, subject to agreement with the Head Teacher. These are known as Keeping in Touch ('KIT') days. Working for part of a day counts as one day.
- 6.2 There is no obligation or automatic right for an employee to work these days.
- 6.3 The KIT days can be worked at any stage during the maternity leave apart from during the first two weeks after the baby is born.
- 6.4 The type of work undertaken during KIT days should be agreed between the Head Teacher and the employee and should be work normally carried out under the terms of the contract. These days can be particularly useful, for example when they involve training or attendance at a team meeting.
- 6.5 The employee will be paid at their hourly rate (or at an average based on the most recent 12 weeks' pay if the rate of pay varies) for the hours actually worked. The employee is still entitled to SMP, if applicable, for the week in which any KIT day is worked.
- 6.6 Working KIT days does not extend the maternity leave period.
- 6.7 If more than ten KIT days are worked, the employee will lose SMP for the week in which they do the additional work.

## **7 Return to work**

### **Returning to work early**

- 7.1 An employee is entitled to change their original return to work date. They must however return to work no later than 52 weeks after the start of the maternity leave.
- 7.2 If an employee wishes to change their return to work date, they are required to give 21 days' notice to the Head Teacher.
- 7.3 The Head Teacher may postpone the return for 21 days or until the pre-notified end date, whichever is the earlier, if the employee attempts to return to work earlier than expected or if they have not given 21 days' notice of their return.

### **Employees not wishing to return to work or not returning for three months**

- 7.4 An employee who does not wish to return to work after their maternity leave should give the Head Teacher the notice specified in their contract of employment.
- 7.5 If they have been paid OMP and does not return to work, the employee will be required to repay the half pay period of OMP in full.
- 7.6 If the employee returns for part of the three month period, they will be required to repay the appropriate proportion of OMP.

## 8 Relationship between maternity leave and sickness or annual leave

- 8.1 An employee's maternity leave can only be triggered by pregnancy-related absence from the beginning of the fourth week before the expected week of childbirth. Where pregnancy-related sickness occurs during this period, maternity leave will start on the day following the first day of the absence. SMP also starts on this day. Employers do not have to trigger the start of maternity leave, for example if the absence is short term and the employee wishes to continue working.
- 8.2 For a non-pregnancy related illness the maternity leave will not start until the date the baby is born, unless the employee has notified you that they wish their maternity leave to commence earlier.
- 8.3 OML and AML are regarded as continuous service. Annual leave and bank holidays continue to accrue during both OML and AML.
- 8.4 If an employee is unable to return to work on the pre-notified day because of sickness, their absence will be covered by the schools sickness scheme in the normal way.
- 8.5 Annual leave can be taken before maternity leave or after it has ended. If a baby is born while the employee is taking annual leave then the maternity leave starts the day after the baby is born. The employee must notify the school that their baby has been born early.
- 8.6 Annual leave and bank holidays accrued during maternity leave may be carried over from one leave year to the next. They can be added to the beginning or end of the maternity leave period or used in a phased return to work. It may be helpful to plan in advance when the employee will take this leave.

## 9 Health and well-being

- 9.1 A pregnant employee is entitled to time off to attend antenatal appointments made on the advice of a healthcare provider.
- 9.2 The Head Teacher may ask for evidence of antenatal appointments, such as appointment cards.
- 9.3 Employers must conduct a specific risk assessment on receipt of written notification from an employee that they are pregnant, has given birth in the last six months or is breastfeeding. The Head Teacher is responsible for providing the employee with the [Risk Assessment for New and Expectant Mothers](#), ensuring it is completed, then undertaking a review.
- 9.4 If any risks are identified then the Head Teacher must take action to remove, reduce or control the risk. Advice may be sought from the Occupational Safety and Health or another health professional involved in the employee's care.
- 9.5 If the risk cannot be removed the Head Teacher must discuss the matter with a School's HR Adviser before deciding on one of the following courses of action;

- Temporarily adjust the working conditions or hours of work; or if not possible
- Offer suitable alternative work (at the same rate of pay) if available; or if not feasible
- Suspend the employee from work on paid leave for as long as necessary to protect their health and safety and that of their child. The employee will be kept in regular contact if this is a necessary action.

9.6 The Head Teacher will be able to provide information about available facilities should an employee wish to return to work whilst breastfeeding. Any time off required may be accommodated within the [Flexible Working Policy](#).

## 10 Maternity support leave

10.1 The purpose of maternity support leave is to allow an employee leave where they are the main support for the mother, as a 'nominated carer'. The role of the nominated carer is to assist in the care of the child and to provide support to the mother at or around the time of the birth.

10.2 Maternity support leave is five days (one working week) with pay granted at or around the time of birth.

10.3 Maternity support leave is not granted in addition to paternity leave.

10.4 If the mother is not a Bolton Council employee, the council may ask for a confirmation letter from the mother that they have requested the support of the Bolton Council employee, along with a copy of the MATB1.

APPENDIX A  
**Maternity notification form**



Employee details				
Name			Assignment Number	
Address	Line 1		Line 2	
	Line 3	Town or City		Postcode
Telephone	Home		Work	Mobile
	School			Job Title
Continuous Service Dates		Bolton Council		Local Government

Maternity information	
1. The expected week of my baby's birth is the week beginning Sunday	(date)
2. I wish to start my maternity leave on the following day	(date)
3. I enclose my Maternity Certificate ('MATB1') <input type="checkbox"/> or MATB1 to follow <input type="checkbox"/> (tick appropriate)	
4. I wish to return to work following maternity leave and I wish to be paid Occupation Maternity Pay	<input type="checkbox"/>

Declaration	
<p>I understand that if I subsequently decide not to return to work, or if after returning to work I do not complete three months service, then I will be liable to repay part or all of the payments made to me under the Occupational Maternity Pay scheme.</p> <p>Payments made to you under the Statutory Maternity Pay scheme will not have to be repaid.</p>	
Signed	Date