Maternity scheme - support staff

Formally adopted by the Governing Board of:-	**Hillside Primary**
On:-	**9.12.25**
Chair of Governors:-	**Trevor Wainwright**
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Maternity scheme - support staff P208c

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We, the Governing Board, have adopted this scheme.

1. Introduction and scope

1.1 The purpose of this scheme is to outline maternity leave and pay provisions for support staff. Depending on whether employees meet the applicable eligibility criteria, they may have entitlement to statutory (SMP) and/or occupational maternity pay (OMP). If the employee does not have entitlement to SMP or OMP, they would have access to statutory maternity allowance through the Job Centre Plus.

1.2 Governing boards and trusts must comply with the statutory maternity scheme. All governing boards must comply with the nationally agreed schemes and all trusts, other than those who have formally moved away from the Green Book provisions, must also follow the national schemes. All governing boards must follow locally agreed provisions.

1.3 The Headteacher will ensure that employees are made aware of the provisions of this scheme and that they are applied in a consistent manner.

2. Equalities and support

2.1 The Headteacher will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.

2.2 Through the implementation of this scheme, the Governing Board will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.

2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Governing Board understands the employee may require extra support in relation to the application of this policy. Where reasonable adjustments are necessary and can be accommodated, the Headteacher will support these.

3. Initial obligations on the employee

3.1 To benefit from the scheme the employee must notify the employer, at least 28 days before their absence begins or as soon as is reasonably practicable:

i. that they are pregnant
ii. of the expected week of childbirth, by means of a medical certificate MATB1
iii. of the date of the beginning of maternity absence.

The employer can request that the notification of the beginning of maternity absence is given in writing by completing the Maternity leave and pay form (MP1) – support staff F208.

4. Antenatal care

4.1 All pregnant employees have the right to paid time off for antenatal care and must produce evidence of appointments if requested to do so by the employer. Antenatal care is defined as visits to a registered Medical Practitioner, Midwife or Health Visitor.

4.2 Except for the first appointment, the employee must provide a certificate from a registered practitioner, midwife or health visitor confirming an appointment has been made.

4.3 Partners of pregnant employees wishing to take time off to attend antenatal appointments have different entitlements, which are detailed in the Leave and time off policy.

4.4 Maternity support leave is available to eligible partners and employees who are nominated by the expectant employee to assist in the care of the child and to provide them with support (paragraph 14).

5. Entitlement

5.1 Leave

All pregnant employees, working under a contract of employment, regardless of their length of service, are entitled to take up to 52 weeks statutory maternity leave (SML) around the birth of their child, regardless of their hours of work or length of service, where the appropriate notice has been given. This includes surrogate birth parents.

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SML is made up of 26 weeks' ordinary maternity leave (OML) followed immediately by 26 weeks' additional maternity leave (AML). An employee must take a minimum of two weeks' leave after the birth of the child (compulsory maternity leave).

5.2 Pay

There are two maternity pay schemes - both will total a 39 week pay period. The actual amount of pay will vary depending on whether the employee is entitled to maternity allowance (MA) or statutory maternity pay (SMP) and/or occupational maternity pay (OMP):

Statutory Maternity Pay (SMP)

This is paid on behalf of the Department for Work and Pensions. There are two weekly rates of SMP:

- The higher rate is 9/10 of the employee's average weekly earnings and is payable for the first six weeks of the period for which SMP is due (known as the maternity pay period).
- The lower rate is a set rate payable for the remaining 33 weeks of the maternity pay period or 9/10 of the employee's average weekly earnings where this is less than the SMP rate. SMP is subject to pension, tax and NI contributions.

The current rate for SMP is available on gov.uk

The Payroll provider will calculate average weekly earnings but broadly they are an average of the gross earnings paid in the 8 weeks before the end of the qualifying week.

Occupational Maternity Pay (OMP)

This is paid in accordance with the National and Local Conditions of Service. The amount of OMP the employee receives will depend on whether they wish to reserve the right to return to work after the birth of the baby.

If the employee **is not intending** to return to work**,** they will receive 9/10 of a week's contractual pay for the first six weeks of maternity leave offset against payments by way of SMP or MA. For the subsequent 33 weeks, they will receive the lower rate SMP if they fulfil the eligibility criteria.

If the employee **is intending** to return to work, OMP will be paid for 18 weeks (but the SMP total payment period extends to 39 weeks). Payments will be calculated as follows:

- for the first six weeks of absence, the employee will receive SMP at 9/10 of a week's average contractual pay.
- for the same six week period described above, the employee will receive 1/10 of their weekly contractual pay as OMP.
- for the next 12 weeks, the employee will also receive half a week's contractual pay as OMP (in addition to any entitlement to SMP or MA, provided the two combined do not exceed full pay).

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- this is followed by a further 21 weeks at the lower rate SMP, provided the eligibility criteria is fulfilled.
- the final 13 weeks are unpaid.

OMP will be calculated on contractual weekly pay. If the employee qualifies for both OMP and SMP, they will be paid whatever amount is the greater for the first six weeks.

As a qualifying condition for OMP, (irrespective of whether there have been any agreed changes in working hours) the employee will be required to return to Local Authority/Trust employment for a period of at least 12 weeks. Any unpaid leave taken following maternity leave does not count towards this qualifying period. If they do not return, they will be asked to repay the 12 weeks half pay and 6 weeks at 1/10 of pay. However, in cases of involuntary termination, repayment of OMP will be considered on a case by case basis. Arrangements to have OMP payments of 12 weeks at half pay and 6 weeks at 1/10th paid over the 33 week SMP period or as a one off lump sum, may be made where this is mutually agreed between the school and the employee. Alternatively, it is possible, if the employee wishes, to ask for the OMP payments of 12 weeks half pay and 6 weeks at 1/10th to be held until their return to work.

Funding consideration – There are centrally held funds to support maintained schools with costs relating to maternity. Academies and Free schools will need to fund this from their own budget.

6. Eligibility

6.1 Leave

To qualify for maternity leave, the employee needs to notify the Headteacher that they wish to take maternity leave. This needs to be done no later than the end of the 15th week before the expected week of childbirth (EWC) by completing the *Maternity leave and pay form (MP1) for support staff F208*.

6.2 Pay

Statutory Maternity Pay (SMP)

To receive SMP, an employee must satisfy the following conditions:

- have been continuously employed by their current employer for at least 26 weeks[1], at the start of the 15th week before the baby is due. This 15th week is known as the qualifying week.
- have average earnings of not less than the lower earnings limit for payment of National Insurance contributions between the last normal pay day before the 15th week before the EWC and 8 weeks prior to this.
- still be pregnant at the 11th week before the week the baby is due or have had the baby by that time.

[1] If a baby is born early, before or during the qualifying week and they would have completed 26 weeks employment but for the early birth, the continuous employment rule is satisfied.

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- have provided the MATB1[2] showing the date the baby is due at least 28 days before the maternity leave is due to start and have stopped work.

Payroll will not pay SMP until documentary evidence is received.

If the employee does not qualify, the original MAT B1 must be returned by the Payroll provider with form SMP1 explaining why SMP in not payable and how the employee can claim maternity allowance (MA) from the Jobcentre Plus. Headteachers will need to check if the employee receives this, because any entitlement to SMA is offset against the amount of any occupational maternity pay they may qualify for.

If any of the circumstances outlined below apply to an employee, they will cease to be entitled to SMP if:

- the employee does not give 28 days' notice of the date they intend to start maternity leave and the reason given for the delay is unacceptable,
- the employee is taken into legal custody during the maternity pay period,
- the employee starts working after the birth for someone who did not employ them in the 15th week before baby due.

Employees must inform their Headteacher, who will notify the payroll provider if the circumstances outlined above become applicable.

Occupational Maternity Pay (OMP)

Strategy consideration – this is applicable to schools and academies following Green Book provisions:

The occupational maternity scheme applies to pregnant employees regardless of the number of hours worked per week. To qualify for OMP the employee must have:

- completed at least 1 years' continuous Local Government service by the 11th week before the date the baby is due.

Continuous service does not have to be with their current employer but can include other employment covered under the redundancy modification order. Therefore, previous continuous service with other local authorities and organisations will count towards local government service.

If an employee has less than 1 years' continuous Local Government service at the 11th week before the date baby is due, then they will not qualify for OMP, but will still get SMP or SMA (statutory maternity allowance) as appropriate.

7. Commencement of maternity leave

7.1 The starting date of the maternity leave period should normally be agreed between the employee and the Headteacher, however, the final decision is the employee's. The earliest they can start maternity leave is 11 weeks before the baby is due, or

[2] The earliest the MATB1 is available is the 14th week before the baby is due (i.e. the 26th week of pregnancy). This means that at the time when the qualifying week should be established (i.e., the 15th week before the baby is due) the MATB1 may not be available.

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from the time of childbirth if that is earlier, but they can, if they want to and they are fit enough, work right up to the time the baby is due.

7.2 Normally maternity leave will commence on the day specified by the employee, but this can be triggered by absence due to pregnancy or the birth of the baby. When this happens the maternity leave and maternity pay period is deemed to have begun on the day following the first day of absence or childbirth.

7.3 If the employee is absent from work because of a pregnancy related illness on or after the start of the 4th week before the baby is due this should be treated as the start of their maternity leave unless it is a very minor illness and they are expected to return within one or two days.

7.4 If the employee is ill for a non-pregnancy related reason, they will be regarded as being on sick leave until either the baby is born, or the date that they gave as the start date of their maternity leave, when they will start receiving maternity pay.

7.5 It follows that if an employee is off sick during or after the 4th week before the baby is due and they have not started maternity leave, it is essential the reason for absence is immediately discovered. Normally the employee's certificate from the GP will state if the sickness is pregnancy related. For illnesses where it is not possible to decide if the absence is due to pregnancy, then the advice of the school medical adviser should be sought.

7.6 The date that an employee wishes to start maternity leave can be changed but 21 days' notice needs to be provided prior to when the maternity leave was originally due to start.

8. Notification

8.1 The employee must notify the Headteacher that they wish to take maternity leave. This needs to be done no later than the end of the 15th week before the EWC. This can be done by completing the *Maternity leave and pay form (MP1) - support staff F208.*

8.2 If the employee does not give the required notification, they lose their right to start maternity leave on their chosen date. The only exception to this is where it is not reasonably practicable for the employee to give notice any earlier e.g., if the baby is born much earlier than expected, i.e., well before the qualifying week.

It should be noted that the qualifying week for SMP is the 15th week before the week the baby is due and the qualifying week for OMP is the 11th week before the week the baby is due.

8.3 The Headteacher will confirm the end date of maternity leave, which will normally be assumed to be 52 weeks from the intended start of maternity leave, unless the employee has notified otherwise. The statutory requirement is for confirmation to be sent to the employee within 28 days of the employee's notification. Failure to confirm within this timescale may result in the employee having protection against dismissal if they fail to return to work on time, and they also may not be obliged to give 21 days' notice of changing their return to work date.

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9. Keeping in touch (KIT) days

9.1 KIT days are a statutory entitlement where the employee may work for up to 10 days during their maternity leave without the loss of statutory maternity payments for that week, or their maternity leave being terminated.

9.2 Both parties must be in agreement of any such work - the employee cannot be required to attend a KIT day, nor is the employee entitled to a KIT day if there is no reason for them to attend the workplace.

9.3 A KIT day cannot take place during the first two weeks following the birth of a child (compulsory maternity leave). KIT days do not have to be consecutive and can be used for work activities, training or any other activity such as a staff meeting or INSET day that enables the employee to keep in touch with the workplace. Working for part of a day will count as one of the 10 KIT days.

9.4 Employees who attend a KIT day will claim for the actual hours that they have worked on each KIT day taken to a maximum of the employee's normal pay for a day's workKIT day payments will be paid at the employee's normal hourly rate, offsetting any OMP for that day, SMP is not affected. *Keeping in touch (KIT) day claim form F208b* on should be completed.

Funding consideration - KIT days in schools are funded by the central maternity budget, managed by the Local Authority. Academies and Free schools must fund KIT days from their own budget.

10. Returning to Work

10.1 An employee is expected to return to work at the end of their maternity leave period on the date notified by the employer. Specific notification, to the employee's Headteacher, of the return date is only required from the employee where it is to be before the natural end of the 52 week (one year) period. An employee wishing to return before the end of the maternity leave period is required to give 21 days' notice of the earlier date that they propose to return. If an employee changes their mind about the day they propose to return, they must give the employer 21 days' notice of the new date, if this is earlier than the original date they notified or if they are proposing to return later than the original date, they must give notice of the new return date, 21 days before the original return date.

10.2 In cases where the notice given is less than this, management can postpone the return to ensure the minimum notice period above, as long as this does not go beyond the end of the maternity leave period. Any postponement is conditional upon the employee having been issued with the required notice of expected date of return within the 28 day limit. Where no early or prior notice of a date of return is given the employee will be expected to return to work at the end of the 52 weeks leave period.

10.3 The Headteacher will inform the payroll provider when an employee's maternity leave ends, even if they are not returning to work straight away e.g., due to taking annual leave.

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[Customers whose payroll provide is Norfolk County Council can do this by email. It will ensure the employee is paid correctly.

Schools should email Hrschoolspayroll@norfolk.gov.uk
Academies should email hrnccexternals@norfolk.gov.uk

Please include the date of return from maternity leave and if there are any changes e.g., changes to hours.]

10.4 When the employee returns to work at the end of their maternity leave, they are entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those that would have applied had they not been absent. In the event of this position being no longer available through reason of redundancy, the employee will be entitled to be offered alternative employment, where available, in accordance with the terms and conditions of the Schools' Staffing Adjustment Procedure.

10.5 As a matter of good practice, Headteachers are advised to maintain reasonable contact with their employees throughout their maternity leave, to let them know of changes occurring in the workplace and to keep informed about changes to the employee's plans. This contact does not count towards the 10 KIT days.

10.6 An employee is able to return from maternity leave during a school holiday period, providing they have met any conditions as outlined in this scheme and they are deemed medically fit to do so.

10.7 **Returning to work on a part-time basis**

Some employees wish to return to work on reduced hours after their period of maternity leave. There is no automatic right to do this but employees do have a right to request it. Employers have a statutory duty to give such requests full consideration and have an obligation to formally respond to the request. It follows that the Headteacher should assess the practicalities of allowing a return on this basis and not unreasonably refuse it. The Headteacher will be required to justify any decision not to allow such a return.

Strategy consideration – *Flexible working guidance G204* on InfoSpace provides further information.

10.8 **Delaying return to work**

If the employee is unable to return to work on the expected day due to sickness, the absence will be covered by the sickness scheme in the normal way.

11. Resigning from work or not returning by the expected date

11.1 **Resignation before maternity leave**

If the employee states, before they leave work to have a baby, that they will not be returning to work and gives their resignation date as their last day of service, then their contract of employment ends with effect from the day after that date. They will

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still be entitled to SMP or SMA provided they fulfil the eligibility criteria but they will not be entitled to any OMP payments.

If they do not give a resignation date, an appropriate date should be agreed. This will normally be their last day of service or the last day of the 39-week maternity pay period. In the latter case, the employee will be entitled to receive all contractual benefits for the maternity pay period (except remuneration) as described in section 12.

11.2 Resignation during maternity leave

If, during a period of maternity leave, an employee tenders their written resignation, their last date of service would be the date of the letter. As described above, the employee will be entitled to receive all contractual benefits up to their resignation (except remuneration).

An employee who has received the full OMP entitlement and subsequently resigns from their post will be required to repay twelve weeks half pay and 6 weeks at 10% of weekly contracted pay.

11.3 Employees who do not return by the expected date

Failure to inform an employee of their expected date of return within the specified 28-day period can have the following implications for the employer:

- If the employee does not give the required 21 days' notice of intention to return on a date earlier than the end of the maternity leave, the employer is not able to postpone their return to work. The employee becomes protected from suffering a detriment or being dismissed if they fail to return after the end of maternity leave and they reasonably believe that it had not ended.

- If the employee simply does not return at the end of the maternity leave, it should not be presumed they have resigned. Legislation and case law has confirmed that while an employee may lose their right to return to work, the contract of employment will still subsist until one of the parties brings it to an end e.g., by resignation or dismissal. In such cases, Headteachers are advised to find out the reason why the employee has not returned. If they do not intend to return to work then they should be asked to resign as described above. If they are experiencing difficulties e.g., problems with organising childcare, then they should be allowed a reasonable extension to their unpaid maternity leave. To dismiss an employee in these circumstances is likely to constitute unfair dismissal and sex discrimination

12. Contractual status during maternity leave

12.1 Contractual benefits

Entitlement to contractual benefits should be at least those which would apply had the employee been absent due to sickness. For the purpose of calculating a week's pay, this will include contractual allowances throughout the whole of the 52 weeks of maternity payments.

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12.2 Excess travel

If an employee is entitled to excess travel payments, these will be suspended for the duration of their maternity leave. However, the employee will still be entitled to the full 12 months of payments. Therefore, payments will restart once the employee returns to work and the payment period extended by the length of time the employee was on maternity leave.

12.3 Salary sacrifice arrangements

Employees need to be aware that if they are participating in a salary sacrifice arrangement e.g., for childcare vouchers, or thinking of doing so, payments for maternity pay may be affected due to reductions in national insurance contributions and income tax.

Childcare vouchers

Where the employee is in receipt of childcare vouchers via salary sacrifice, they can either:

- suspend their childcare vouchers during maternity leave - the employee will need to contact their childcare voucher provider to inform them of this.
- continue to receive childcare vouchers during maternity leave providing their occupational maternity pay covers the cost of the vouchers – this is the default position.

The provision of childcare vouchers will be suspended if an employee's occupational maternity pay does not cover the cost of providing their childcare vouchers. Statutory payments such as SMP cannot be exchanged for childcare vouchers

12.4 Annual leave (all year round staff)

Contractual annual leave entitlement, including Bank Holidays, continues to accrue throughout both OML and AML. Annual leave may not be taken during maternity leave. The employee should be encouraged to take all the annual leave they have accrued before starting maternity leave. The timing of this leave should be discussed with the employee as soon as possible after they inform the Headteacher that they are pregnant.

An employee who starts and finishes maternity leave during the same leave year is entitled to take all of their annual leave they would have had if they had been at work instead of on maternity leave.

An employee whose maternity leave crosses two leave years is entitled:

- in the first leave year to whatever leave they would have had, had they not been on maternity leave and,
- In the second leave year when they return to work, they are entitled to their full annual leave entitlement.

If the employee returns to work on a part-time basis, having previously been full-time, then their annual leave entitlement on return should be pro-rated to their new hours of work. However, the accrual of annual leave during maternity leave should be

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based on the contract of employment in existence at the start of the maternity leave (i.e., based on their former contracted hours). This can cause problems because it could, in effect, double the employee's leave entitlement. In such cases, appropriate arrangements should be made to ensure accrued annual leave is taken as paid leave at the end of the maternity leave period. It is therefore important that the employee remains on their previous contract of employment until their accrued annual leave has been taken.

Where an employee does not return to work after the birth of the baby and they have taken annual leave exceeding their pro-rata entitlement up to the point in the leave year when their employment ends, the cost should be recovered from the employee. Where this provision is applied generally to employees leaving the school and not just to those leaving after maternity leave, it is unlikely to amount to unlawful sex discrimination.

12.5 Sickness during maternity leave

If the employee is sick during paid maternity leave, it does not affect their maternity pay and they need not comply with the sickness notification procedures. If, however, they are sick during unpaid maternity leave, they should inform the Headteacher, who, in turn, will notify the payroll provider as soon as possible. They should also provide a medical certificate as they may be entitled to statutory sick pay. Payroll will be able to advise if they have any entitlement to this.

12.6 Pensions

If the employee is a member of the Local Government Pension Scheme, contributions will be deducted on all OMP and SMP payments made. Pensionable pay for calculating LGPS pensions during periods of paid maternity leave, is assumed to be equal to average pay before the leave commenced. During unpaid maternity leave, the employee will have the option of making up the "lost" pension. The cost of this is based on the employee's age at the time the option is made and can usually be paid in a lump sum or over a period of time.

[Customers whose payroll provider is Norfolk County Council - an option form will be sent to employees if they are going to be in a period of unpaid maternity leave.]

12.7 Pregnancy and unfair dismissal

It is automatically unfair to dismiss an employee:

- for a pregnancy or pregnancy related reason,
- at the end of their general maternity leave because they have given birth or a related reason,
- after their general maternity leave because they have availed themselves of maternity benefits,
- within 4 weeks from the end of their general maternity leave where they are covered by a medical certificate,
- where a requirement to suspend on health and safety grounds is the main reason for the dismissal,

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- where they are prevented from exercising their right to return because of redundancy and they are not offered a suitable alternative vacancy where it is available,
- where they are made redundant during their maternity leave and are not offered available suitable alternative employment.

In the above circumstances, employees will be entitled to bring unfair dismissal claims regardless of the hours they work or their length of service.

Where an employee is dismissed at any time during their pregnancy or maternity leave, they are entitled to be provided with written reasons for their dismissal (whether requested or not).

However, employers are not prevented from dismissing employees for reasons unconnected to their pregnancy (e.g., for redundancy or misconduct reasons). Where a dismissal would have occurred regardless of the fact that the employee is pregnant or on maternity leave, such a dismissal will not be automatically unfair. The fairness will be judged according to the reasonableness of the employer's actions. Employees will need two years' service to make an unfair dismissal claim in these circumstances.

Special considerations apply to redundancy during maternity leave, this is detailed in the Staffing adjustment policy and procedure (P318 for schools and P318a for MATs).

Where redundancy occurs during the period of paid maternity leave, the employee is entitled to be offered any existing suitable alternative employment. Suitable alternative employment means work that is suitable for the employee and appropriate for them to do in the circumstances and on terms and conditions which are not substantially less favourable, than those under their previous contract. The offer must be made before the existing contract comes to an end, to take effect immediately on the ending of the original contract. A trial period will be applicable where redeployment has occurred due to redundancy.

Where the redundancy would take effect in a period of unpaid maternity leave, employees retain their right to return within the 52-week period. It is the responsibility of Headteachers to ensure that employees who are absent from work on maternity leave are kept consulted on any restructuring. This means that regardless of whether the contract of employment continues, the employee can exercise their right to return. Where redundancy means there is no job for them to return to, the employee is entitled to be offered any existing suitable alternative to coincide with their date of return to work i.e., the end of the period of maternity leave or earlier if the employee gives 21 days' notice of the wish to return before this. As a result of this, it is advisable to delay any redundancy dismissal until the employee reaches the date of return. It is only where no suitable alternative vacancy exists at this time that notice is given and a redundancy payment made.

13. Health and Safety

13.1 Employers have a responsibility to assess the work activities of pregnant employees to determine if there are any risks to their health and safety, or that of their baby,

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while they are pregnant, a new parent (up to six months after giving birth), or breastfeeding. This applies to jobs that involve potential harm or danger from processes, working conditions, or physical, chemical, or biological agents in the workplace.

13.2 According to health and safety legislation, if a pregnant employee's job duties are likely to cause harm to them or their unborn child, reasonable steps must be taken to reduce or eliminate the risks. This may involve removing the employee from certain job duties that might pose a risk to their health or safety, transferring them to a temporary alternative role – which must be on terms and conditions not substantially less favourable than those of their normal job, or placing them on paid suspension until the start of their maternity leave if alternative work is not available.

13.3 The Headteacher will conduct a risk assessment with the pregnant employee. The assessment will be done using appropriate forms and in collaboration with the employee. Any necessary control measures or adjustments to the working environment should be implemented immediately.

13.4 It is important to review the risk assessment regularly, every 4-6 weeks, and more frequently as the pregnancy progresses, to ensure that the changing needs of the employee are considered. The risk assessment should be held locally by the employer for ongoing review during this period, and a copy of the assessment should be kept on file.

13.5 If a risk assessment results in the employee being suspended, their employment and maternity rights are not affected, and they are entitled to their normal salary and contractual benefits – unless they have unreasonably refused a temporary alternative role.

13.6 Employees on suspension should be aware they have the right to informally raise a concern with their manager if they believe suspension is not appropriate. If the response to the concern is not believed to be fair by employee, they should refer to the grievance policy.

Strategy consideration - NCC Health, Safety and Wellbeing customers can read *the New and expectant mothers compliance code P640* and *Guidance on addressing risks for new and expectant mothers G640* on InfoSpace.

14. Maternity Support Leave

Strategy consideration – this is applicable to schools and academies following Green Book provisions.

14.1 The National Conditions of Service for NJC for Local Government Services (Green Book) employees provide that the Maternity Support Leave scheme provides for 5 days' paid leave (pro rata for part time employees) at contractual pay for nominated carers, at or around the time of the birth of a child, or children.

14.2 In most cases, such care and support would be provided by the father, partner, civil partner/same sex partner and therefore their first week of statutory paternity pay will be 'topped up'. However, the role can otherwise be fulfilled by a relative or someone

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who has a caring relationship with the birth parent and/or child e.g., grandparent. If this is the case the *Maternity support leave form F208m* can be used. **Note**: the birth parent does not have to be an employee for the school employee to take MSL and only one nominated carer per expectant mother can take advantage of MSL.

15. Other/change in circumstances

15.1 Premature birth

If the baby is born early, but after the employee has gone on maternity leave, it will have no effect on the maternity pay they are entitled to.

If the employee's baby is born before the maternity pay period is due to start, they must, if reasonably practicable, give notice of the date they had the baby within 28 days. OMP and/or SMP should be paid from the day following the day of childbirth.

15.2 Stillborn birth

If a baby survives for only an instant, it is a live birth not a stillbirth.

If the baby is stillborn before the 24th week of pregnancy, i.e., earlier than the 16th week before the expected week of childbirth, SMP/OMP is not payable. Instead, the sick pay scheme applies.

If the baby is stillborn after the start of the 16th week before the expected week of childbirth, then SMP/OMP should be paid as it would for a live birth.

15.3 Entitlement to SMP/OMP if a baby dies after birth

In the event of the employee giving birth to a live baby which later dies during the maternity leave period, SMP/OMP should continue to be paid.

15.4 Employees working under more than one contract

If an employee works under two separate contracts of employment and the employer pays National Insurance Contributions separately for each contract, eligibility for the payment of SMP will be assessed separately.

If the pay from the contracts is added together before National Insurance contributions are calculated, then SMP is assessed on the total payment.

If the employee satisfies the qualifying rules with more than one employer, they can receive SMP from each of them.

16. Data protection

Personal data collected and processed for the purpose of this scheme will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply

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with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.

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Appendix 1 – Table of changes

Date of change	Paragraphs affected	Summary of update
15/05/2025	5	Updated to reflect that the central budget supports maintained schools with maternity costs.
01/10/2024	9.4	Updated to add that actual hours can be claimed, up to a maximum of the employee's normal pay for a day's work.
27/03/2024	All	Slight change to document title – previously Maternity model procedure – support staff P208c. Review of whole document and terminology to ensure consistency across all policies and procedures. Gender specific terms removed. Inclusion of the protection from redundancy legislative changes.
01/09/2023	9	Updated to reflect amended approach to KIT day payments – claims are now made for actual hours worked.
17/07/2023	13	Increased scope of health and safety to include suspension and appeal.
17/11/2021	2	Additional paragraph to include consideration for employees with mental health issues.
03/01/2019	15.4	Minor change - Para amended regarding employees working under more than one contract, to make it clearer. No changes to policy or procedure just clearer sentence structure.
07/12/2018		Updated to ensure the policy is fit for MAT's, as well as schools. Changes reflect terminology and MAT structure and set up.
11/05/2018	16	New para added to take account of the General data protection regulations in force from 25 May 2018.
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content
01/06/2017	12	Change to the payment of childcare vouchers during maternity leave.
13/06/2017	10	Updated to include information that support staff can return from maternity leave during a school holiday period.
01/08/2017	10	'A teacher is able to return from maternity leave.' updated to 'An employee is able to return from maternity leave..'

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