

Maternity Leave Policy and Procedures

Introduction

The Maternity Leave Policy is part of our suite of Family Friendly policies, designed to explain the School's positive approach to helping colleagues balance their family and work commitments, and aligned to the core principle of the School, *ex corde caritas*.

Policy Aim and Statement

This policy, and the associated procedures, aims to provide clear guidance in relation to maternity leave, including eligibility, entitlement to leave and pay, and the processes associated with requesting and taking this leave.

The purpose of Maternity Leave is to give new mothers time to give birth, recover, care for, and bond with their baby before returning to work.

Scope

The policy applies to all pregnant employees of the School who meet the eligibility criteria for maternity leave and/or pay.

General Principles

In managing any family friendly leave, the School is committed to ensuring that:

- colleagues are supported before, during, and after a period of family leave
- we uphold the principles of our Equality, Diversity and Inclusion Policies, Guidance and Procedures at all times
- colleagues are never treated unfavourably, or dismissed, because they are reasonably taking, or wish to take, any family leave (i.e. maternity, paternity, adoption and surrogacy, parental or shared parental leave)

Data Protection

When managing an employee's family leave and/or pay, the School processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which an employee informs the School that they plan to take any such leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their family leave and/or pay.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the School's Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the School's disciplinary procedure.

Relevant Legislation

The following legislation is relevant in relation to the School's suite of Family Friendly policies:

- Employment Rights Act 1996 (and subsequent amendments)
- Equality Act 2010
- Maternity and Parental Leave etc. Regulations 1999 (and subsequent amendments)
- Paternity and Adoption Leave Regulations 2002 (and subsequent amendments)
- Protection from Redundancy (Pregnancy and Family Leave) Act 2023

Other Relevant Policies

Adoption, Surrogacy and Fostering Policy

Paternity Leave Policy

Parental Leave Policy

Shared Parental Leave Policy

Special Leave Policy
Pregnancy and Baby Loss Policy
Equality, Diversity and Inclusion Policies, Guidance and Procedures
Grievance Policy and Procedures

Effective Date

The Maternity Leave Policy and associated procedures are effective from **June 2024**. This policy supersedes any previous policies or procedures relating to maternity leave and pay.

Approval and Review

The Head of Human Resources is the owner of this policy.

The Maternity Policy has been approved by the Staff Committee of the Governing Council, following endorsement by the Principal's Leadership Team and ICE Committee.

In line with the agreed schedule, the School will review the Maternity Policy at least every two years, or as soon as practicable after any change of relevant legislation, to ensure that the policy and associated procedures continue to comply with current employment legislation and to meet the School's operational needs.

Date of next review: Summer 2026

Appendices

Appendix 1 Maternity Leave Procedures

Version 4/Issue 1/June 2024

Appendix 1

Maternity Leave Procedures

Introduction

The following information clarifies the procedures associated with **Maternity Leave**, including eligibility and entitlement, and the various processes associated with requesting and taking this leave.

If you have any questions regarding any of this information, please do not hesitate to contact the HR Team.

Definitions

- Throughout this policy all references to the singular word 'child' also apply in instances of multiple birth. A multiple birth does not entitle the employee to multiple periods of leave or payment.
- A partner is defined as the father of the child, or the person who, at the date of the child's birth, is married to or is the partner or civil partner of the mother. This includes someone of either sex, who lives with the mother and the child in an enduring family relationship but is not a blood relative of the mother.
- The week in which the baby is due to be born is referred to as the Expected Week of Childbirth (EWC).
- The 15th week (Sunday to Saturday) before the EWC is referred to as the Qualifying Week (QW).
- An employee's earnings for the eight week period up to and including the QW are referred to as Average Weekly Earnings (AWE).
- The term 'line manager' refers to the employee's immediate manager.

Employment Rights

Employment rights are protected when colleagues are on various forms of family leave, and so normal contractual terms and conditions generally remain in force, e.g. entitlement to any pay awards and increments due during the leave, accruing annual leave etc. Employment rights applicable to contractual remuneration and pension contributions will be affected during unpaid family leave. The HR Team is available to answer any questions employees may have regarding their employment rights and contractual entitlements.

Notification of pregnancy

The employee is required to advise her line manager and the HR Department as soon as reasonably practicable of her pregnancy.

Health and Safety Risk Assessment

As soon as practicable after receiving confirmation of pregnancy, a risk assessment will be carried out by the line manager in conjunction with the Health and Safety Officer.

- If the employee is employed in a position which has been identified as posing a risk to their health or the health of the unborn child, the employee will be notified immediately and arrangements made to eliminate the risk.
- These arrangements may include a change of working conditions e.g. reallocation of lifting duties, or if this is not possible, a suitable alternative job will be offered for the duration of the pregnancy.
- The initial risk assessment is usually reviewed at around 26 weeks in the pregnancy.
- If there is no suitable alternative work, for the benefit of the employee's health, the School may take the decision to suspend the employee on full pay until they are no longer at risk.
- These alternative arrangements may continue for up to six months after the birth, or if still breastfeeding, if the employee is still considered to be at risk.

Any health and safety or wellbeing concerns should be raised immediately with the line manager in the first instance.

Antenatal Care

All pregnant employees are entitled to reasonable paid time off to travel to and attend antenatal appointments, once they have notified the School of their pregnancy. This includes relaxation and parent craft classes which the employee attends on the advice of a midwife, doctor or health visitor.

The employee should provide as much notice of her appointment as possible to her Line Manager and may be required to show evidence of the appointment. She should also complete the Authorised Absence form to ensure that cover is arranged if required.

The employee should make every effort to avoid unnecessary disruption to her working day; this could mean, for example, attending an evening appointment, if available.

Eligibility for maternity leave

All pregnant employees are entitled to up to 52 weeks' Maternity Leave, regardless of length of service. The first 26 weeks are referred to as Ordinary Maternity Leave (OML) and the remaining 26 weeks are referred to as Additional Maternity Leave (AML).

Timing of maternity leave

The earliest Maternity Leave can commence is 11 weeks prior to the EWC and the latest is the day after the baby is born. The employee may choose to start her leave on any day of the week. If the baby is born earlier than the date the leave was due to commence, Maternity Leave will begin automatically on the day after the baby is born.

There is a minimum **compulsory** period of Maternity Leave following the birth of the baby of **two weeks**, but the duration of subsequent leave will be decided by the employee.

Sickness Absence during pregnancy

If the employee is absent from work wholly or partly due to a pregnancy related matter within the period of four weeks before the EWC, Maternity Leave will begin automatically on the first day of absence.

Maternity Pay

Statutory Maternity Pay

Statutory Maternity Pay (SMP) is a state benefit for women on maternity leave. SMP conditions and weekly value are determined by the Government and are reviewed annually. More information can be found on the [GOV.UK Maternity Pay and Leave](https://www.gov.uk/maternity-pay-and-leave) webpages.

To qualify for SMP an employee must fulfil the following conditions:

- she must have been in continuous employment with the School for at least 26 weeks at the end of the QW;
- she must still be pregnant 11 weeks before the start of the EWC (or have already given birth);
- she must have provided a MATB1 form stating the expected week of childbirth; and
- her AWE during the 8 week period up to and including the QW must be above the lower earnings limit for National Insurance contributions.

SMP is payable for up to 39 weeks as follows:

- the first 6 weeks of Maternity Leave are paid at 90% of the employee's average weekly earnings
- the remaining 33 weeks are paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings if this is less than the Government's set weekly rate

Employees who do not meet the qualifying criteria may be entitled to Maternity Allowance or other benefits. More information can be found at www.gov.uk/maternity-allowance.

Occupational Maternity Pay

Occupational Maternity Pay (OMP) is paid by the School to provide enhanced benefits to colleagues. Employees who meet the qualifying criteria for SMP are also entitled to OMP, whereby the School tops up SMP for the first 13 weeks of Maternity Leave to 100% of their contractual salary as at the date of maternity leave starting.

SMP and OMP are payable whether or not the employee intends to return to work after maternity leave. If the employee returns to work before the end of the 39th week, SMP and OMP payments will cease with effect from the date of return. SMP and OMP are weekly benefits, paid in line with the School's normal monthly pay dates and are subject to tax and national insurance deductions.

Starting Maternity Leave and MATB1 Form

The employee is required to advise the HR Department, in writing, by the end of the Qualifying Week:

- the date the baby is due; and
- the date on which she would like to start her Maternity Leave.

She should also provide her MATB1 form (supplied by her doctor or midwife) to HR to confirm the pregnancy and EWC. Although not absolutely essential, it would be useful at this time if the employee could let the School know whether she intends to return to work following her Maternity Leave, and if so, provide an indication of the date she expects to return.

The School will acknowledge this letter, in writing, within 28 days of receipt and will confirm the expected date of return to work. This date will be based on the full entitlement to 52 weeks' Maternity Leave unless the employee has already specified a different date.

Once a Maternity Leave start date has been agreed, the employee may amend this date providing she gives at least 28 days' notice based on the earlier of the original or the revised date.

Notification of Birth

The employee should notify the School as soon as reasonably practicable of the birth.

Premature or early births

If a child is born early or prematurely before or after the Qualifying Week (QW), the employee must give evidence of the date the child was born as soon as possible. The School will then write to the employee confirming the arrangements for maternity leave and pay. The maternity leave and SMP pay period starts the day after the child is born provided that the qualifying conditions are met.

Stillbirths

In the sad event that a child is stillborn 24 weeks or more into the pregnancy, the right to maternity leave and Statutory Maternity Pay (SMP) remains. If a child is born early and lives for a short period of time only, again the employee is entitled to maternity leave and SMP, provided that the qualifying conditions are met. The employee will also be entitled to take statutory Parental Bereavement Leave (as referenced in both the [Pregnancy and Baby Loss Policy](#) and the [Special Leave Policy](#)) after the end of the maternity leave period, subject to eligibility criteria.

If a stillbirth occurs **prior** to the 24 week period, the employee does not have the right to maternity leave or pay. The School will give paid special leave of 2 weeks to parents who suffer a stillbirth. Thereafter, the employee will be entitled to sick pay, provided that the relevant qualifying conditions are met.

Parental Bereavement Leave must be taken within 56 weeks of the stillbirth or child's death. Additional information about statutory Parental Bereavement Leave is available on the GOV.uk website:

<https://www.gov.uk/parental-bereavement-pay-leave>

The School will do all it reasonably can to provide support to the employee during this time.

Sharing Maternity Leave with a Partner

Shared parental leave enables mothers or adopters to commit to ending their maternity or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner.

Further details about this can be found in the [Shared Parental Leave Policy](#).

Contact during Maternity Leave

The School reserves the right to maintain reasonable contact with employees during Maternity Leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence. The way in which this will be done will be agreed with the employee before their maternity leave begins.

Keeping in Touch

The employee is allowed to attend work for up to 10 days during Maternity Leave without affecting the maternity arrangement. These days are known as Keeping in Touch (KIT) days. KIT days may be used for normal work, training or any other activity that allows the employee to keep in touch or up to date for the purpose of her role. Where OMP payments are still being made, no additional payment for a KIT day will be made in addition to this. Where SMP is being paid, the difference between the employee's actual daily salary and the daily SMP rate will be paid for KIT days worked.

There is no obligation for an employee to undertake KIT days, or for the School to agree to a request by the employee for a KIT day.

Rights on Returning to Work

All employees who take maternity leave have the right to return to work at any time during either Ordinary Maternity Leave or Additional Maternity Leave (except during the first two weeks from the date of childbirth), subject to them following the notification procedures as stated.

If the employee returns to work during or at the end of the OML period, she will be entitled to return to work to the same position she held before commencing Maternity Leave and her terms and conditions of employment will be the same as they would have been had she not been absent.

If the employee returns to work during, or at the end of her AML period, or takes parental leave following the end of her OML period, and it is not reasonably practicable for the School to allow the employee to return to the same position, the employee is entitled to be offered another position that is both suitable and appropriate in the circumstances, on terms and conditions which are not less favourable than those of her original position.

During Ordinary Maternity Leave the employee has a statutory right to continue to benefit from the terms and conditions of their employment which she would normally receive, except for the terms providing for remuneration.

Holiday Entitlement

The employee will accrue holiday entitlement whilst on Maternity Leave. Accrued holidays will be based on the employee's annual contractual entitlement, except for teachers, for whom holidays are capped at 40 days per annum (in line with the 2011 COSLA agreement). In agreement with the ICE Committee, the following days are deemed to be paid holiday days for teachers on maternity leave:

- October – first week (5)
- Christmas – first week (5)
- February – full week (5)
- Easter – first week (5)
- Summer – first 10 days and last 10 days (20)

For part-time and sessional colleagues, annual holiday entitlement will be prorated accordingly.

The School reserves the right to manage holidays accrued during Maternity Leave, and will in accordance with the needs of the School, require the employee to take all or part of accrued leave as time off, or may agree to make payment for all or part of this.

The employee may also be entitled to accrued holidays calculated up to the date Maternity Leave starts. This entitlement is offset against holidays already taken in the holiday year and if a positive balance remains, the employee will be required to take these holidays (e.g. at the end of their maternity leave period), or the School may agree to make payment for all or part of any untaken leave.

It is important to note that annual leave cannot be taken at the same time as maternity leave.

Pension Contributions

If the employee is a member of a pension scheme provided through the School, they will continue to make contributions to this at their normal percentage rate, based on SMP and OMP payments. Payments made in lieu of accrued leave are not pensionable. Employer contributions will continue to be made at the normal percentage rate, based on annual salary, as though the employee is not on Maternity Leave. During any unpaid AML the employee will no longer be receiving pensionable pay and employer contributions will also stop.

Teachers who take unpaid AML have the option of purchasing additional pension should they desire on their return to work. It may also be possible for employees who are members of other pension schemes to make up lost contributions. Further details are available from HR.

Unpaid Parental Leave

All employees are entitled to up to 18 weeks' unpaid Parental Leave per child if they are the birth or adoptive parent of a child who is under 18 years of age. To qualify for Parental Leave, employees must have completed at least one year's continuous service with the School. Further details can be found in the [Parental Leave Policy](#).

Notification of Return to Work

If the employee's date of return is the same as that indicated by the School in our acknowledgement letter, there is no further obligation on the employee to confirm the date of return. The employee should arrive at work as normal on the date specified.

If the employee wishes to return to work on a date earlier than that specified, she must notify the School in writing of the amended date at least 8 weeks in advance of the new return date.

If the employee wishes to return to work on a date later than that specified, she must notify the School in writing of the amended date at least 8 weeks in advance of the original specified date of return.

If the employee does not provide the minimum 8 weeks' notice of an amended date of return, the School may delay the return or require the employee to return on the specified date, as appropriate.

The School will acknowledge the employee's notification of the amended return date, in writing, within 28 days of receipt.

Notification of Sickness Absence on First Day of Return to Work

If the employee is unable to attend work on her first day back due to illness, she should notify the School immediately in line with normal absence reporting procedures. The employee will be required to provide a Statement of Fitness for Work (Form Med 3) from the first day of absence; the normal period of self-certification does not apply in this case.

Notification of Resignation following Maternity Leave

If the employee decides that she does not wish to return to work following Maternity Leave, she must give the School written notice of this in accordance with the terms of her contract. If the required notice period is greater than the remaining leave period, the employee may be required to return to work and serve out the remaining notice period.

Redundancy protection for parents

The Protection from Redundancy (Pregnancy and Family Leave) Act 2023 extends the previous redundancy safeguards to give pregnant women and new parents greater protection from being made redundant by giving them priority in being offered a suitable available vacancy.

The protections apply to parents as summarised in the following table:

	Start of protection	End of protection
Pregnancy which is followed by maternity leave	The date the School is informed of the pregnancy	The date the employee's maternity leave starts. <i>(NB: protection then continues in line with maternity leave, below)</i>
Pregnancy with baby loss before 24 weeks <i>(NB: employees who experience the loss of a baby after 24 weeks are entitled to maternity leave)</i>	When the School is informed of the pregnancy	Two weeks after the end of the pregnancy
Maternity Leave	Start of Maternity leave	18 months after the expected week of childbirth or the child's actual birth date (if the employee notifies the School of this before the end of the maternity leave period)
Adoption Leave	Start of Adoption leave	18 months after the child is placed with the employee for adoption or enters the country in the case of an overseas adoption
Shared Parental Leave	Start of Shared Parental Leave (ShPL)	18 months after the child was born or placed for adoption provided the employee has taken six or more consecutive weeks of Shared Parental Leave. If they have not, the protection applies only to the period they are on ShPL Leave. <i>(NB: if the employee has also taken maternity or adoption leave, those protection periods apply, rather than the ShPL one)</i>

Breastfeeding

The School recognises the legal protections that breastfeeding mothers have under health and safety and discrimination laws, and is committed to supporting employees who choose to do so as much as possible. If the employee wishes to continue breastfeeding her baby after her return to work, she should advise the school of this at the earliest opportunity so that suitable arrangements to support her can be discussed, risk assessed (if required), and put in place in time for her return to work.

Additional information can be found in the NHS Health Scotland booklet [Breastfeeding and returning to work](#)

The right to be treated fairly

Employees have the right not to be treated unfavourably or to be dismissed because they are reasonably taking, or wish to take, maternity leave.

If an employee feels they have been treated unfavourably, or the policy has not been applied appropriately, they should first consider raising the issue informally with their line manager, PLT member or Human Resources. If the matter cannot be addressed or resolved informally, the School's **Grievance Policy and Procedure** should be used.

Additional Information

The School is committed to supporting our colleagues to achieve a successful work-life balance that works for them. We have therefore provided links to some other information and agencies that may be useful for parents.

- **UK Government:** Information on benefits and financial support for families: <https://www.gov.uk/browse/benefits/families>
- **Parenting across Scotland:** partnership of charities (with funding from the Scottish Government) offering support for parents and families in Scotland through their information service and partners' helplines: <https://www.parentingacrossscotland.org/>
- **NHS Inform: Ready Steady Baby:** NHS Scotland website giving advice relating to pregnancy, labour and birth, and early parenthood up to 8 weeks <https://www.nhsinform.scot/ready-steady-baby>
- **ParentClub:** Scottish Government website giving tips and advice to help with the highs and lows of parenting, information about baby boxes, as well as a directory of other trusted organisations offering health and wellbeing support (searchable by topic or child's age) <https://www.parentclub.scot/>

Although we try only to give useful sources of support and information, this is not a recommendation or endorsement by the School. We take no responsibility for the content of other websites and the services other organisations or agencies provide.