



Dated 14th November 2016

St Hilda's C of E Primary School

Maternity Policy



1 SCOPE AND PURPOSE

- 1.1 This policy outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave.
- 1.2 No-one will be discriminated against or subjected to a detriment for taking leave in accordance with this policy.
- 1.3 This policy does not form part of any employee's contract of employment and may be amended at any time.

2 WHO IS COVERED BY THE POLICY?

- 2.1 This policy covers all employees at all levels and grades including senior managers, employees, trainees, part-time and fixed term employees (referred to as employees in this policy).
- 2.2 It does not apply to agency staff and self-employed contractors.

3 WHO IS RESPONSIBLE FOR THE POLICY?

- 3.1 The Governing Body has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The School has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Head Teacher.
- 3.2 The Senior Leadership Team has a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.



4 DEFINITIONS

The definitions in this paragraph apply in this policy.

Expected Week of Childbirth means the week, starting on a Sunday, in which the employee's doctor or midwife expects her to give birth;

Qualifying Week means the fifteenth week before the Expected Week of Childbirth.

Intended Start Date means the date on which the employee would like to start her maternity leave.

5 NOTIFICATION

5.1 An employee must inform Head Teacher (in the case of the Head Teacher all references to Head Teacher when reading this policy should be replaced with Chair of the Governing Body) as soon as possible that she is pregnant. This is important as there may be health and safety considerations.

5.2 Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, an employee must tell the Head Teacher:

5.2.1 that she is pregnant;

5.2.2 the Expected Week of Childbirth; and

5.2.3 the Intended Start Date.

5.3 An employee must provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming her Expected Week of Childbirth.

6 TIME OFF FOR ANTE-NATAL CARE

6.1 If an employee is pregnant, she may take reasonable paid time off during working hours for ante-natal care. This may include any relaxation or parenting classes that the employee's doctor, midwife or health visitor has advised her to attend. The employee should try to give her establishment as much notice as possible of the appointment.

6.2 The Senior Leadership Team may ask for the following, unless it is the first appointment:

6.2.1 a certificate from the doctor, midwife or health visitor stating that the employee is pregnant; and an appointment card.

7 SICKNESS

7.1 Periods of pregnancy-related sickness absence shall be paid in accordance with the contract of employment in the same manner as any other sickness absence.

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- 7.2 Periods of pregnancy-related sickness absence from the start of an employee's pregnancy until the end of her maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions.
- 7.3 If an employee is absent for a pregnancy-related reason during the four weeks before her Expected Week of Childbirth, the maternity leave will usually start automatically on the day following the first day of absence.

8 HEALTH AND SAFETY

- 8.1 The Governing Body has a general duty to take care of the health and safety of all employees. The Head Teacher, through his/her delegated authority, is therefore required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.
- 8.2 The Head Teacher will provide an employee with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If the Head Teacher considers that, as a new or expectant mother, an employee would be exposed to health hazards in carrying out her normal work he/she will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:
- 8.2.1 changing an employee's working conditions or hours of work;
 - 8.2.2 offering an employee suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
 - 8.2.3 suspending an employee from duties, which will be on full pay unless she has unreasonably refused suitable alternative work.

9 ENTITLEMENT TO MATERNITY LEAVE

- 9.1 All employees who give birth are entitled to up to 52 weeks' maternity leave which is divided into:
- 9.1.1 Ordinary maternity leave of 26 weeks (**OML**).
 - 9.1.2 Additional maternity leave of a further 26 weeks immediately following OML (**AML**).
- provided they comply with the notification requirements set out below.
- 9.2 Employees are also entitled to paid time off during working hours for antenatal appointments. For more information see the School's Time Off for Antenatal Appointments Policy.



10 STARTING MATERNITY LEAVE

- 10.1 The earliest date an employee can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless the child is born prematurely before that date).
- 10.2 An employee must notify the Head Teacher of her Intended Start Date in accordance with this policy. The Head Teacher will then write to the employee within 28 days to inform her of the date she is expected to return to work if she takes her full entitlement to maternity leave (**Expected Return Date**).
- 10.3 An employee can postpone her Intended Start Date by informing the Head Teacher in writing at least 28 days before the original Intended Start Date, or if that is not possible, as soon as reasonably practicable.
- 10.4 An employee can bring forward the Intended Start Date by informing the Head Teacher at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.
- 10.5 Maternity leave shall start on the earlier of:
- 10.5.1 the Intended Start Date (if notified to the Head Teacher in accordance with this policy); or
 - 10.5.2 the day after any day on which an employee is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or
 - 10.5.3 the day after an employee gives birth.
- 10.6 If an employee is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth, she must let Head Teacher know as soon as possible in writing. Maternity leave will be triggered under paragraph 10.5.2 unless the Head Teacher agrees to delay it.
- 10.7 If an employee gives birth before the maternity leave was due to start, she must let the Head Teacher know the date of the birth in writing as soon as possible.
- 10.8 The law prohibits an employee from working during the two weeks following childbirth.
- 10.9 Shortly before an employee's maternity leave starts the Head Teacher will discuss with her the arrangements for covering her work and the opportunities for her to remain in contact, should she wish to do so, during the maternity leave. Unless an employee requests otherwise, she will remain on circulation lists for internal news, job vacancies, training and work-related social events



11 STATUTORY MATERNITY PAY

- 11.1 Statutory maternity pay (**SMP**) is payable for up to 39 weeks. SMP will stop being payable if an employee returns to work (except where she is simply keeping in touch) or make a declaration to receive Shared Parental Leave (SPL). An employee is entitled to SMP if:
- 11.1.1 She has at least 26 weeks continuous local government service up to the end of the Qualifying Week and are still employed by the School during that week;
 - 11.1.2 her average weekly earnings during the eight weeks ending with the Qualifying Week (the **Relevant Period**) are not less than the lower earnings limit set by the Government;
 - 11.1.3 she provides the School with a doctor's or midwife's certificate (MAT B1 form) stating her Expected Week of Childbirth;
 - 11.1.4 she gives at least 28 days' notice (or, if that is not possible, as much notice as she can) of her intention to take maternity leave; and
 - 11.1.5 she is still pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.
- 11.2 SMP is calculated as follows:
- 11.2.1 First six weeks: SMP is paid at the **Earnings-Related Rate** of 90% of an employee's average weekly earnings calculated over the Relevant Period;
 - 11.2.2 Remaining 33 weeks: SMP is paid at the **Prescribed Rate** which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower.
- 11.3 SMP accrues from the day on which an employee commences her OML and thereafter at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.
- 11.4 An employee shall still be eligible for SMP if she leaves employment for any reason after the start of the Qualifying Week (for example, if she resigns or is made redundant). In such cases, if an employee's maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:
- 11.4.1 the week following the week in which employment ends; or
 - 11.4.2 the eleventh week before the Expected Week of Childbirth.



- 11.5 If an employee becomes eligible for a pay rise before the end of her maternity leave, she will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that an employee's SMP will be recalculated and increased retrospectively, or that she may qualify for SMP if she did not previously qualify. The School shall pay an employee a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

12 OCCUPATIONAL MATERNITY PAY

THE RIGHT TO OCCUPATIONAL MATERNITY LEAVE COMES FROM THE BURGUNDY AND GREEN BOOKS. ACCORDINGLY ACADEMIES, FREE SCHOOLS AND PRIVATE SCHOOLS YOU ARE NOT REQUIRED TO PROVIDE SUCH ADDITIONAL BENEFITS (UNLESS STAFF HAVE SUCH RIGHTS PROTECTED UNDER TUPE). HOWEVER, THIS MAY BE A USEFUL PROVISION FOR ALL SUCH SCHOOLS TO CONSIDER SHOULD THEY BE CONSIDERING PROVIDING A COMPARATIVE PROVISION

- 12.1 To qualify for Occupational Maternity Pay an employee must:

12.1.1 Have at least one year's continuous local government service at the beginning of the 11th week before the EWC.

12.1.2 Declare in writing that she intends to return to work for following maternity leave for a period of 13 weeks if she is a member of teaching staff and 3 months if she is a member of support staff. If an employee subsequently decides not to return to work, she must repay all of the Occupational Maternity Pay she has received.

- 12.2 Occupational Maternity Pay is as provided for in the Burgundy Book or the Green Book as applicable to an individual's employment from time to time.

13 TERMS AND CONDITIONS DURING OML AND AML

All the terms and conditions of an employee's employment remain in force during OML and AML, except for the terms relating to normal pay.

14 ANNUAL LEAVE

- 14.1 During OML and AML, annual leave will accrue. Annual leave cannot usually be carried over from one holiday year to the next.

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14.2 This entitlement applies to all employees including term time only and teachers.

14.2.1 Term Time Only Workers – In order to calculate the entitlement to annual leave it is necessary to carry out a 'Balance of Salary' calculation at the start of the maternity leave period and a second calculation at the end of an employee's leave period. This calculation takes into account an employee's start date with the School and the number of completed weeks of the academic year up to the point she starts maternity leave. The proportion of completed weeks will then be compared to the salary an employee has been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary. Once an employee returns to work, a second calculation is carried out to identify whether an employee is entitled to a payment in respect of annual leave she has accumulated whilst on maternity leave. (Please note: The date on which an employee starts and ends her maternity leave can significantly affect the balance of salary calculation. Please contact the School's Office Manager to establish the likely effect of this.)

14.2.2 Teachers - The School Teacher's Pay & Conditions Document makes no specific reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days leave per annum (based on an employee working 5 days a week 52 weeks a year) under the Working Time Regulations 1996. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of maternity leave will have acquired a right to additional annual leave. It is possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

14.3 The School's holiday year runs from 1 September to 31 August.

15 **PENSIONS**

For details of the implication of OML and/or AML on pensions please contact the School's Office Manager who will provide further advice.

16 **KEEPING IN TOUCH**

16.1 An employee's Senior Leadership Team may make reasonable contact with her from time to time during the maternity leave.

16.2 An employee may work (including attending training) for up to ten days during maternity leave without bringing her maternity leave or SMP to an end. The arrangements, including pay, would be set by agreement with the Head Teacher. Employees are not obliged to



undertake any such work during maternity leave. In any case, an employee must not work in the two weeks following birth.

17 SHARED PARENTAL LEAVE (SPL)

- 17.1 SPL will be available to eligible parents of babies born on or after 5 April 2015. It will allow eligible women to curtail their entitlement to maternity leave in order to enable them or their partner to take SPL. Eligible parents can share up to 50 weeks leave and 37 weeks statutory pay. Full details of this entitlement and the procedure eligible parents are required to follow are contained in the School's Shared Parental Leave (Birth) Policy.
- 17.2 However, in brief if an employee wishes to opt into the SPL scheme, she must give the Head Teacher at least eight weeks' written notice to end her maternity leave (a curtailment notice) before she can take SPL. The notice must state the date the maternity leave will end. An employee can give such notice before or after she gives birth, but she cannot end her maternity leave until at least two weeks after birth (the compulsory maternity leave period).
- 17.3 An employee must also give the Head Teacher, at the same time as the curtailment notice, a notice to opt into the SPL scheme in accordance with the procedure set out in the School's Shared Parental Leave (Birth) Policy or a written declaration that the other parent has given their employer an opt-in notice and that the employee has given the necessary declarations in that notice.
- 17.4 The other parent may be eligible to take SPL from their employer before the maternity leave ends, provided the employee has given the curtailment notice.
- 17.5 The curtailment notice is binding and cannot usually be revoked. An employee can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:
- 17.5.1 she realises that neither her nor the other parent are in fact eligible for SPL or Shared Parental Pay, in which case an employee can revoke the curtailment notice in writing up to eight weeks after it was given;
 - 17.5.2 if an employee has given the curtailment notice before giving birth, she can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
 - 17.5.3 if the other parent has died.
- 17.6 Once an employee has revoked a curtailment notice she will be unable to opt back into the SPL scheme, unless she revoked it in the circumstances in paragraph 17.5.2.



18 EXPECTED RETURN DATE

- 18.1 Once an employee has notified the Governing Body in writing of her Intended Start Date, Head Teacher shall send her a letter within 28 days to inform her of her Expected Return Date. If an employee's start date has been changed (either because she provided notice to change it, or because maternity leave started early due to illness or premature childbirth) the Head Teacher shall write to the employee within 28 days of the start of maternity leave with a revised Expected Return Date.
- 18.2 An employee will be expected to return to work on her Expected Return Date unless she tell the School otherwise. It will help the Head Teacher if, during a period of maternity leave, the employee is able to confirm that she will be returning to work as expected.
- 18.3 Shortly before the employee is due to return to work, the Head Teacher may invite her to have a discussion (whether in person or by telephone) about the arrangements for her return. This may cover:
- 18.3.1 updating the employee on any changes that have occurred during her absence;
 - 18.3.2 any training needs the employee might have; and
 - 18.3.3 any changes to working arrangements (for example if the employee has made a request to work part-time;).

19 CHANGING THE RETURN DATE

- 19.1 If an employee wishes to return to work earlier than the Expected Return Date, she must give the Head Teacher eight weeks' prior notice. It is helpful if this notice is given in writing.
- 19.2 If not enough notice is given, the Head Teacher may postpone the employee's return date until eight weeks after she gave notice, or to the Expected Return Date if sooner.
- 19.3 If an employee wishes to return to work later than the expected Return Date, she should either:
- 19.3.1 Request unpaid parental leave in accordance with the School's Parental Leave Policy, giving the Head Teacher as much notice as possible but not less than 21 days; or
 - 19.3.2 Request paid annual leave in accordance with her contract of employment, which will be at the School's discretion.
- 19.4 If an employee is unable to return to work due to sickness or injury, this will be treated as sickness absence in accordance with the School's Sickness Absence Policy.

20 DECIDING NOT TO RETURN

- 20.1 If an employee does not intend to return to work, she should provide notice of resignation in accordance with the terms of her contract of employment. Wherever possible the amount of



maternity leave left to run when an employee gives notice must be at least equal to her contractual notice period, otherwise the School may require her to return to work for the remainder of the notice period.

- 20.2 Once an employee has given notice that she will not be returning to work, she cannot change her mind without the Governing Body's agreement.
- 20.3 If an employee has received Occupational Maternity Pay and does not return to work she will be required to repay the half pay period of Occupational Maternity Pay in full.
- 20.4 If an employee returns for part of the 13 weeks or 3 month period required of the particular employee, she shall be required to repay the appropriate proportion of Occupational Maternity Pay.
- 20.5 This does not affect an employee's right to receive SMP.

21 **RIGHTS WHEN RETURNING**

- 21.1 An employee is normally entitled to return to work in the same position as she held before commencing leave. An employee's terms of employment shall be the same as they would have been had she not been absent.
- 21.2 However, if an employee has taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for the School to allow her to return into the same position, the Governing Body may give her another suitable and appropriate job on terms and conditions that are not less favourable.
- 21.3 In the event of a redundancy situation, an employee on maternity leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

22 **FLEXIBLE WORKING**

The Governing Body will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on a case-by-case basis. There is no absolute right to insist on working part-time, but an employee does have a statutory right to request flexible working and the Governing Body will try to accommodate an employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the School. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the School's Flexible Working Policy.

23 **MATERNITY SUPPORT LEAVE –SUPPORT STAFF ONLY**

- 23.1 Under the Green Book Support Staff also have an entitlement to 5 days paid maternity support leave for the nominated carer of an expectant mother at or around the time of the birth.
- 23.2 Part time employees have a pro rata entitlement. Maternity support leave is not granted in addition to paternity leave.



- 23.3 A nominated carer is the person nominated by the mother as their primary provider of support at or around the time of the birth, although usually the father, the role may be undertaken by a relative or someone who has a caring relationship with the mother and/or child but who is not the father.
- 23.4 The purpose of maternity support leave is to allow an employee leave where he/she is 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.
- 23.5 If the mother is not a School employee, the School may ask for a confirmation letter from the mother that she has requested the support of the School employee, along with a copy of the MATB1.
- 23.6 If an employee is requesting maternity support leave she/he should give as much notice as possible. The Head Teacher should satisfy him/herself through discussing the situation with the employee that he/she is the nominated carer.
- 23.7 The detail of when the leave will be taken should be mutually agreed with the Head Teacher. The 5 days may be taken together as one period or separately. Requests for maternity