

Ysgol Aberconwy



Family Leave of Absence : Support Staff

Policy Document No : 67 (b)

ISSUE NO: 1

THIS POLICY HAS BEEN APPROVED BY THE FULL GOVERNING BODY

Signed:

Date: 10/12/24

Review due date : 01/12/26 LT Link : IG

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1.0 Maternity Provision – Support Staff

This policy and guidance document sets out the maternity scheme for school support staff and explains the statutory rights in relation to maternity leave. Entitlements can vary based on individual circumstances, therefore employees are encouraged to seek advice from the Education HR team.

To simplify these guidance notes, abbreviations have been used as follows:

EWC	Expected week of childbirth (beginning on a Sunday, this is the 7 day period which includes the EDC)
EDC	Expected date of childbirth (your due date)
Qualifying Week	This is the 15 th week before the EWC
Average Weekly Earnings	For maternity pay purposes, this is assessed as the gross weekly earnings (liable for national insurance contributions) in the 8 week period immediately before the qualifying week and includes payments made during this time, including overtime payments.
SMP	Statutory Maternity Pay
OMP	Occupational Maternity Pay (Enhanced maternity provisions under the burgundy book)
MPP	Maternity Pay Period
MATB1	Maternity certificate issued by a doctor or midwife showing the expected date of childbirth

1.1 Principles

- No employee or potential employee of Conwy County Borough Council shall be treated less favourably because she is pregnant, absent on maternity leave or for any other reason connected with her pregnancy or maternity.
- No employee of Conwy County Borough Council shall be discriminated against or victimised on grounds of pregnancy, childbirth or maternity in any terms and condition of employment.
- Employees have the right not to suffer any unfair treatment or to be dismissed or to be selected for redundancy on any grounds related to their pregnancy or maternity
- Special consideration under current health and safety legislation will be given to the employee including those employees who are pregnant, those who have recently given birth and those who are breast feeding
- Nothing in the provisions included in this policy shall be taken as providing rights less favourable than statutory and other employment rights applied within the employment of Conwy County Borough Council.
- The NJC green book occupational maternity scheme will apply to all pregnant employees on NJC terms and conditions of service. The Policy will apply equally to full-time, part-time, fixed term and temporary employees, regardless of the hours worked.
- Regardless of an employee's length of service or their hours of work, they will be entitled to 52 weeks maternity leave (26 weeks ordinary maternity leave and 26 weeks additional maternity leave), provided you give the correct notice.

- The policy also applies to women who have a stillbirth after a pregnancy lasting at least 24 weeks.
- Continuity of employment is preserved during maternity leave so any period of maternity leave will be regarded as service.
- The maternity scheme is conditional upon the employee continuing to be employed by Conwy County Council until immediately before the start of her absence.
- An employee entitled to maternity leave shall not return to work within 2 weeks of giving birth. (Maternity (Compulsory Leave) Regulations, 1994.)

1.2 Health and Safety

- An employee should notify her line manager as soon as possible of her pregnancy, in order that a risk assessment can be undertaken in relation to her current post and working conditions.
- Line managers should complete the “New and Expectant Mothers Risk Assessment” (Appendix 1) as soon as they are aware that an employee is pregnant. The risk assessment will assess any substances, processes or working conditions which could jeopardise the health and safety of a new or expectant mother.
- The risk assessment process is a continuous one and should be reviewed as a minimum at 12 weeks, 24 weeks and 36 weeks of pregnancy.

1.3 Antenatal Care

- All pregnant employees are entitled to paid time off to attend appointments (this includes travel time) for ante-natal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor.
- Except in the case of the first appointment, employees must be prepared to provide a certificate from a registered medical practitioner, registered midwife or registered health visitor confirming that they are pregnant and an appointment card or some other document showing that an appointment has been made.
- The entitlement for time off for antenatal care ends once maternity leave has commenced.

1.4 Notification Procedure and obligations on the employee

- The scheme is conditional upon the employee continuing to be employed by the School/Authority (whether or not she is at work) until immediately before the start of her absence
- The employee must notify her Headteacher as soon as practicable but not later than the end of the 15th week (unless there is a good cause) before the expected date of childbirth (EDC) that she wishes to be absent for maternity.
- The employee must then notify her Headteacher on the ML1 application form (see Appendix 2) at least 28 days before she wishes to start maternity leave, or as soon as is reasonably practicable as follows:

- that she is pregnant, and the expected week of childbirth (childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks);
 - to submit a certificate of pregnancy (MAT B1 Form), normally given by the woman's Doctor or midwife no earlier than 20 weeks before the week the baby is due, confirming she is pregnant and stating the week the baby is due;
 - the date her maternity leave is to start **(this can be any day of the week)**. This cannot be earlier than the 11th week before the week the baby is due.
- Declare that she intends to return to work with the employer (if that is her intention and if she is able to return to work with her employer). The Education HR team will write within 28 days of receiving notification of pregnancy to tell the employee of their expected date of return. This will be 52 weeks from the start of the leave. This will be calculated with reference to the number of week's maternity leave you have requested up to a total of 52 weeks from the start of your leave.
 - The employee may change the start of her period of ordinary maternity leave provided she gives 28 days' notice before the original start date or the new date whichever is earlier. The Education HR team will confirm the new date in writing.

1.5 Maternity and the Sick Pay Scheme

- Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness leave.
- Where a pregnancy-related absence occurs after the beginning of the 4th week before the week the baby is due this will automatically trigger maternity leave and maternity pay.
- A pregnant employee will be entitled to receive statutory sick pay where she falls sick after the 4th week before the week the baby is due provided the sickness is unrelated to pregnancy. Statutory Maternity Pay will then be triggered from the notified date of commencement of her maternity leave.
- Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity shall be treated as ordinary absence on sick leave and shall be subject to the conditions normally governing such leave, provided it is covered by a doctor's statement.
- Where an employee reports sick on any day following the day on which her maternity pay expires, her maternity leave period will be considered to be at an end.
- If the baby dies or is stillborn after 24 weeks of pregnancy the Maternity Scheme will apply. Where this occurs before 24 weeks (miscarriage) the Maternity Scheme will not apply. In this case the NJC Sickness Scheme will apply and medical certificates should be submitted in accordance with the attendance management policy. Headteachers should handle such cases sympathetically and offer support to the employee such as advising the employee of the Council's counselling service.

1.6 Maternity Leave

- Provided they comply with the notification procedures all female employees (regardless of length of service or hours of work) will be entitled to 52 weeks' maternity leave. (26 weeks Ordinary Maternity leave and 26 weeks Additional Maternity Leave). Additional Maternity Leave follows Ordinary Maternity Leave and there must be no gap between the two.
- Maternity leave shall commence no earlier than 11 weeks before the week the baby is due or from the time of childbirth if that is earlier.
- If an employee's maternity leave has not already started it will be triggered by the birth of the child in which case the maternity leave will begin the day that follows the day on which childbirth occurs, or a pregnancy-related absence from the beginning of the 4th week before the week the baby is due, in which case the maternity leave will be automatically triggered on the day that follows the first day (after the beginning of the 4th week before the EDC) on which she is absent from work.
- In both these situations the employee must notify her Headteacher as soon as reasonably practicable, that she has given birth or that she is absent wholly or partly because of pregnancy.

1.7 Maternity Pay

- The maternity pay period lasts for up to 39 weeks and can start on **any day of the week**. However, if the baby is born early the maternity pay period starts automatically on the day after the date of birth.
- An employee who has less than 1 year's continuous local government service at the beginning of the 11th week before the week the baby is due may be entitled to statutory maternity pay. Statutory Maternity Pay is payable by the Authority under Department for Work and Pensions rules. Statutory Maternity Pay will be 6 weeks at 9/10ths normal pay followed by 33 weeks at the current standard rate of Statutory Maternity pay or 9/10ths normal pay if this is less.
- To qualify for Statutory Maternity Pay, employees must have been employed for a continuous period of at least 26 weeks up to and including the qualifying week which is the 15th week before the week the baby is due. Employees should also have average earnings in the 8 weeks ending with the 15th week before the week the baby is due that are equal to the lower earnings limit for National Insurance purposes.
- Employees who do not qualify for Statutory Maternity Pay may be entitled to maternity allowance from the Department for Work and Pensions. If an employee is not entitled to statutory maternity pay, payroll will issue an SMP1 form so that the employee can claim maternity allowance directly from the Department for Work and Pensions. Employees in receipt of maternity allowance must inform payroll of the amount of allowance as it will affect any occupational maternity pay they may be entitled to.
- Employees who have completed not less than 1 year's continuous local government service at the beginning of the 11th week before the week the baby is due shall be entitled to Occupational Maternity pay as follows:
- For the first 6 weeks of absence an employee shall be entitled to 9/10ths normal pay offset against payments made by way of statutory maternity pay (lower or higher rate statutory maternity pay as applicable) or maternity allowance for employees not eligible for statutory maternity pay.

- For employees who have declared their intention to return to work for the purposes of claiming occupational maternity pay then for the subsequent 12 weeks of the absence they shall be paid half a week's pay plus SMP, where eligible, without deduction except by the extent to which the combined pay and statutory maternity pay (or maternity allowance and any dependent's allowance if the employee is not eligible for statutory maternity pay) exceeds full pay.
- For employees not intending to return to work, payments during the subsequent 12 weeks shall be the employee's entitlement to statutory maternity pay. An employee who does not wish to return after ordinary maternity leave must give the notice required by her contract of employment. Confirmation of an employee's intention to terminate employment should be made in writing to her Headteacher / Governing Body.
- For the remaining 21 weeks the employee will receive their statutory maternity pay entitlement which is either the current standard rate of Statutory Maternity pay or 9/10ths of a week's pay whichever is less
- Payments made by the Council during ordinary maternity leave shall be made on the understanding that the employee will return to local authority employment (not just the current authority) for a period of at least 13 weeks (including periods of school closure and, in the event of her not doing so, she shall refund the monies paid, or such part thereof, if any, as the Council may decide. Payments made to the employee by way of statutory maternity pay are not refundable. The 13 week period (or part time equivalent) starts from the date the employee returns to work.
- Where parental leave is taken as a block of leave following maternity leave, an employee shall not be required to refund monies unless she does not return to local authority employment for a period of at least 13 weeks after the end of the parental leave period.

1.8 Contractual Benefits

- Pregnant employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to remuneration, throughout the ordinary maternity leave period.
- The reckonable employment prior to her absence on ordinary and additional maternity leave will be regarded as continuous with her employment following that period of absence.
- Absence **during paid** Maternity Leave is treated as pensionable service and pension contributions will continue to be deducted from the employee's remuneration up to the end of the **paid** period of Ordinary Maternity Pay.
- During additional maternity leave, the employment contract continues and all contractual benefits and obligations remain in force, for example, contractual redundancy rights and notice, and for the purposes of the sickness scheme.
- For the purposes of entitlements regarding the occupational maternity scheme continuous service will include continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.

1.9 During Maternity Leave

- During the maternity leave period the Headteacher may make reasonable contact with an employee, and in the same way an employee may make contact with her employer.
- Employees on maternity leave should be kept in touch with changes in their school in their absence. This could include reorganisations, changes to working practices, job vacancies, training opportunities, etc. In addition Headteachers should ensure that they send copies of all vacancies advertised to employees on maternity leave. It is important that contact is maintained between the employee and the school and this is discussed and agreed before going on leave.
- Headteachers should ensure that there is an opportunity to discuss the return to work with the employee prior to her resuming her duties. It is important to allow time for re-induction, especially if there have been significant changes in her absence.
- An employee may wish to discuss any special arrangements with her Headteacher to ease her return to work for example if she wishes to return in a job share capacity or take up her right to request flexible working. Any such discussions need to take place in good time before her planned return to work date.

1.10 Keeping in Touch Days (KIT Days)

- An employee can work for up to 10 “keeping-in-touch” days (KIT days) during her maternity leave period without bringing the maternity leave period to an end or losing her Maternity Pay (Statutory or Occupational). This is to enable the employee and her Headteacher to keep in touch during the maternity leave.
- An employee may work a KIT day during Ordinary or Additional Maternity Leave, with the provision that she cannot work during the 2 weeks of compulsory maternity leave immediately after the birth of her baby.
- The keeping-in-touch days do not have to be consecutive. They can be used for training or any other activity, such as a team meeting, that enables the employee to keep in touch with her workplace.
- Any work done during maternity leave must be by agreement and neither the employee nor the Headteacher can insist on it. Keeping-in-touch days will not extend the maternity leave period.
- Working for part of a day will count as 1 day’s work, in the sense of using up 1 of the 10 KIT days, not from the point of view of payment.
- An employee will be paid for working any keeping-in-touch days. Payment will be made at an hourly rate for the hours worked on each of the KIT days. An employee’s normal hourly rate will be applied.
- If an employee is in receipt of maternity pay, either Statutory or Occupational, these payments will be offset against any payment made for KIT days. However, the amount of pay for a KIT day should not result in you receiving a weekly payment that is lower than the weekly rate of maternity pay to which she is entitled.
- To arrange payment, the Headteacher should inform the Education HR team after each KIT day, to notify them of the hours worked.

1.11 Right to return to work

- After a period of Ordinary Maternity leave, the employee has the right to return to the job in which she was employed under her original contract of employment, and under terms and conditions not less favourable than those which would have been applicable to her if she had not been absent (and had not been pregnant or given birth to a child). A job is defined as the nature of the work which the employee is employed to do and the capacity and place in which she is so employed.

- After Additional Maternity leave, an employee is entitled to return either to the job she occupied before her absence or, if impracticable, the Authority has the right to have her return to another job which is both suitable and appropriate in the circumstances.
- Where it is not practicable by reason of redundancy for the School to permit her to return to work in her job the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return in the job in which she was originally employed. The usual rules governing suitable alternative employment will apply.
- Employees who wish to return to work on a part time or job share basis should make a request in writing to the Headteacher / Governing Body under the Right to Request Flexible Working procedure at least 2 months before they plan to return to work (Please see the Schools Flexible Working Policy).
- Where a woman has advised, before a miscarriage, stillbirth or death of the baby that she does not intend to return to work after the birth, she should be given an opportunity to reconsider. Headteachers should adopt a sympathetic approach and offer support and assistance to the employee.

1.12 Exercise of Notification to return to work

- The employee's date of return, must be the day after the last day of the 52 week period (or the number of weeks she has opted to take on the ML1 form up to a total of 52 weeks). No notice will be necessary when an employee returns to work at the expiry of the 52 week maternity leave period. The Authority will assume that the employee is returning at the end of her period of entitlement.
- An employee may exercise her right to return at any time before the end of her maternity leave period. Where an employee wants to return to work early from ordinary maternity leave or from additional maternity leave must give 28 days' notice. Where this notice is not given, the employer may postpone return for up to 28 days from the date when the employee informs the employer of the early return or until the end of the relevant maternity leave period if this is sooner.
- An employee who changes her mind about the date she intends to return and wants to return even earlier than notified shall have to give 28 days' notice before the new date. If she wants to postpone her early return she will have to give 28 days' notice before the original early return date.

1.13 Maternity FAQs

When should I tell my manager of my pregnancy?	As soon as practicable, but no later than 14 weeks before the expected week of childbirth.
What date will I receive my MATB1	The MATB1 is a certificate issued by your GP or midwife after you reach the 20 th week before the week in which your baby is due (generally the 21 st week of pregnancy)
What notice do I have to give my line manager of the date I wish to start my maternity leave?	You are required to give at least 28 days' notice if the date you wish to start your maternity leave.
What is the earliest date I can start my maternity leave?	Maternity leave can start any week after the 11 th week before the expected week of childbirth (EWC). Where an employee has not started her maternity leave when she gives birth, it will start on the day following the birth.

What is the sickness related date?	If you are absent from work for a pregnancy related reason at any time after the 4 th week before the EWC, your maternity leave will commence from the following day.
How much maternity leave am I allowed	All pregnant employees will be entitled to 52 weeks maternity leave, regardless of their length of service. This consists of: a) Ordinary Maternity Leave (OML) – 26 weeks b) Additional Maternity Leave (AML) – 26 weeks
When do I need to let you know my return to work date by?	You are required to give 28 days' notice of the date you wish to return to work.
How do I request flexible working on my return to work?	Should you wish to make an application for flexible working, you will need to complete the flexible working application form (see the schools flexible working policy)

2.0 Paternity Leave – Support Staff

Ordinary Paternity Leave (OPL) allows employees who satisfy the qualifying conditions to take up to a maximum of 2 weeks off to care for their child.

2.1 Eligibility

To qualify, the employee will have worked continuously for Conwy County Council for 26 weeks by the 15th week before the baby is due, or the end of the week in which the baby's adopter is notified of being matched with the child. To qualify, the employee must be:

- The baby's biological father; or
- A partner, husband or civil partner that is not the baby's biological father.
- The child's adopter
- The intended parent (if you are having a baby through a surrogacy arrangement)

2.2 Entitlement

Up to 2 weeks leave at full pay.

2.3 When must the leave be taken?

Paternity leave cannot be started before the baby is born or placed for adoption. Employees can choose to take one or two whole weeks leave, which must be taken before the end of the 8th week after the date of birth.

2.4 Fathers and Partners Rights to Time off for Ante-Natal Appointments

From 1st October 2014, the Children and Families Act allows a mother's husband, partner or civil partner to have the right to **unpaid** time off to attend two ante-natal appointments. This time off is capped at six and half hours for each appointment.

2.5 Operational Procedure

Line Managers/Headteachers must be advised of plans for paternity leave by the 15th week before the baby is due.

Employees should complete the application for Paternity Leave (PL1 Form) providing a copy of the MATB1 or matching certificate. (See Appendix 3)

3. Adoption Leave – Support Staff

3.1 Eligibility

To be eligible for statutory adoption leave, the applicant must be:

- An employee of Conwy County Council
- Be newly matched with a child by an adoption agency ('matched' means that the adoption agency gives an employee the details of the child they think is suitable for them to adopt).

Adoption leave becomes a 'day one' right for employees adopting a child, however please see section below on entitlements to statutory adoption pay.

Documentary proof to show that the employee has the right to paid statutory adoption leave must be provided by the employee. This is usually a matching certificate from the adoption agency. The adoption agency must be recognised by the UK.

Where a couple are adopting jointly, they must decide which parent will take adoption leave; the other parent may be able to take paternity leave or shared parental leave.

Parents using a surrogate will also be eligible for Adoption Leave.

3.2 Adoption Leave Entitlement

Parents of newly adopted children are allowed to take adoption leave as below. Please note parents will need to decide who is going to take the leave as only one parent can be eligible at a time.

Ordinary Adoption Leave (OAL)	26 Weeks
Additional Adoption Leave (AAL)	26 Weeks

Statutory Adoption Leave can start either;

- From the date the child starts living with the employee
- Up to 14 days before the date it is expected the child will start living with the employee.

Statutory adoption leave can start on any day of the week.

Employees need to inform their headteacher that they intend to take Statutory Adoption Leave within 5 working days of being told that they have matched with a child for adoption. They will need to provide documentary evidence from the adoption agency, usually a matching certificate.

3.3 Adoption Pay

To qualify for Statutory Adoption Pay (SAP) an employee must have been:

- *Matched with a child for adoption by an adoption agency and provide proof of this.*
- *Earning at or above the lower earnings limit for National Insurance contributions in an 8 week period – the 'relevant' period.*
- *Have given the correct notice*
- *Have been continuously employed with the school for at least 26 weeks up to any day in the week they were matched with a child.*
- The Adoption pay period lasts for up to 39 weeks and can start on **any day of the week**.
- An employee who has more than 1 year's continuous local government service may be entitled to statutory adoption pay. Statutory Adoption Pay is payable by the Authority under Department for Work and Pensions rules. Statutory Adoption Pay will be 6 weeks at 9/10ths normal pay followed by 33 weeks at the current standard rate of Statutory Adoption pay or 9/10ths normal pay if this is less.
- To qualify for Statutory Adoption Pay, employees must have been employed for a continuous period of at least 26 weeks. Employees should also have average earnings in the 8 weeks ending with the 15th week before the week the baby is due that are equal to the lower earnings limit for National Insurance purposes.
- Employees who have completed not less than 1 year's continuous local government service at the beginning of the adoption shall be entitled to Occupational Adoption pay as follows:
- For the first 6 weeks of absence an employee shall be entitled 90% of a week's salary offset against payments made by way of statutory Adoption pay
- For employees who have declared their intention to return to work for the purposes of claiming occupational adoption pay then for the subsequent 12 weeks of the absence they shall be paid half a week's pay plus SAP without deduction except by the extent to which the combined pay and statutory adoption pay exceeds full pay.
- For employees not intending to return to work, payments during the subsequent 12 weeks shall be the employee's entitlement to statutory adoption pay. An employee who does not wish to return after ordinary adoption leave must give the notice required by their contract of employment. Confirmation of an employee's intention to terminate employment should be made in writing to their Headteacher / Governing Body.
- For the remaining 21 weeks the employee will receive their statutory adoption pay entitlement which is either the current standard rate of Statutory adoption pay or 9/10ths of a week's pay whichever is less
- Payments made by the Council during ordinary adoption leave shall be made on the understanding that the employee will return to local authority employment (not just the current authority) for a period of at least

13 weeks (including periods of school closure and, in the event of her not doing so, shall refund the monies paid, or such part thereof, if any, as the Council may decide. Payments made to the employee by way of statutory adoption pay are not refundable. The 13 week period (or part time equivalent) starts from the date the employee returns to work.

- Where parental leave is taken as a block of leave following adoption leave, an employee shall not be required to refund monies unless they do not return to local authority employment for a period of at least 13 weeks after the end of the parental leave period.

3.4 Adoption KIT days

Please see section 1.10 above

3.5 Operational Procedure

You must notify the Education HR team by completing an AL1 form (Appendix 4) to inform them that you are intending to take Adoption Leave and when you expect the child to be living with you and when you would like your adoption leave to start.

You will be required to provide documentary evidence from the adoption agency, which is usually a matching certificate.

You must inform the Education HR team of your intention to return to work or not, in writing at least 3 weeks before your return to work date.

4. Unpaid Parental Leave

The Maternity and Parental Leave (Amendment) Regulations 2002 provides entitlement to parental leave for those with parental responsibility for a child. This includes the father (including where a parental responsibility has been acquired under the Children Act 1989), the mother, a guardian and adoptive parents.

Parental Leave applies to **each** child up to their 18th birthday and not to an individual job.

The employed parents of a child under the age of 18 each have a legal right to take up to 18 weeks unpaid parental leave until the child's 18th birthday. The right to ordinary parental leave arises in respect of each child.

4.1 Eligibility

In order to be eligible for parental leave, the employee must:

- Be an employee of the School/Council
- Have at least 1 years continuous service
- Be the parent of a child under the age of 18
- Named on the child's birth certificate
- Names on the child's adoption certificate
- Have legal responsibility for the child

Foster parents do not have the rights to parental leave (unless they have secured parental responsibility through the courts).

The school/Conwy County Council reserve the right to ask for evidence that an employee is entitled to parental leave, which could be a birth certificate or papers confirming a child's adoption.

4.2 Parental Leave Entitlement

Parental leave of up to 18 weeks in total may be taken. Only 4 weeks can be taken per child in a year. Parental leave is taken **without pay**. Leave may be taken as a single block of 4 weeks to a minimum of half days at a time or in a pattern providing a reduced working week for a set period.

Leave entitlement is pro rata for part time workers.

Parental Leave may be postponed if the operation of the school would be unduly disrupted, but the Headteacher must agree to it within 3 months of the request.

4.3 Notice Requirements

Employees are required to request parental leave on the Parental Leave Application Form (Appendix 5) 21 days prior to the intended start date of leave. The School/Authority may postpone the leave if the notice given is insufficient to plan for the absence or if the operation of the school would be unduly disrupted.

In special circumstances, parental leave may be granted to employees who have not given the required notice, at the discretion of the Headteacher/manager. Such discretion shall not be unreasonably withheld.

5. Shared Parental Leave

Shared parental leave is a type of leave that is available to parents with babies due to be born or placed for adoption. Shared Parental Leave allows employees with caring responsibilities for babies or newly adopted children, the opportunity to share up to 52 weeks leave should they wish to do so. It enables mothers to commit to ending their maternity 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, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date.

As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, he/she should clarify the relevant procedures with Education Human Resources to ensure that they are followed correctly.

5.1 Amount of shared parental leave available

The amount of shared parental leave to which an individual is entitled will depend on when the mother brings her maternity leave period to an end and the amount of leave that the other parent takes in respect of the child. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the school is obliged to accept the request as long as the employee meets the eligibility and notice requirements), or alternatively, as a number of discontinuous blocks of leave (in which case the

employee needs the school's agreement). A maximum of three requests for leave per pregnancy can normally be made by each parent.

The first two weeks following birth is the compulsory maternity leave period and is reserved for the mother of the child only. This means that the mother cannot curtail her maternity leave to take shared parental leave until two weeks after the birth and the maximum period that the parents could take as shared parental leave is 50 weeks between them.

However, the mother's partner can begin a period of shared parental leave at any time from the date of the child's birth - but the partner should bear in mind that he/she is entitled to take up to two weeks' ordinary paternity leave following the birth of his/her child, which he/she will lose if shared parental leave is taken first - the mother and partner must take any shared parental leave within 52 weeks of birth.

5.2 Eligibility for shared parental leave

For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements as outlined in law.

5.2.1 Mother's eligibility for shared parental leave:

The mother is eligible for shared parental leave if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the school until the week before any period of shared parental leave that she takes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory maternity leave in respect of the child; and
- complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, **the partner must:**

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks; and
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

5.2.2 Partner's eligibility for shared parental leave:

The partner is eligible for shared parental leave if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the school until the week before any period of shared parental leave that he/she takes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, **the mother must:**

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

5.3 Notice requirements for shared parental leave

The notices that the parents must give to the school to be able to take shared parental leave are made up of three elements. They are:

- a "maternity leave curtailment notice" from the mother setting out when she proposes to end her maternity leave (unless the mother has already returned to work from maternity leave);
- a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting; and
- a "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

The notice periods set out below are the minimum required by law. However, the earlier the employee informs their line manager of his/her intentions, the more likely it is that the school will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.

Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

5.4 Mother's notice curtailing maternity leave

Before the mother or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave (by giving the required three weeks' notice of her planned return) or provide her employer with a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which maternity leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks after birth;
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her employer; and
- at least one week before what would be the end of the additional maternity leave period.

The mother must provide her maternity leave curtailment notice at the same time she provides either her notice of entitlement and intention or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer (which may be the Council or another employer) a notice of entitlement and intention.

5.5 Revocation of maternity leave curtailment notice

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

5.6 Employee's notice of entitlement and intention

The employee, whether the mother or the partner, must provide the school with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing (see Appendix 6) and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information:

If the employee is the mother, the notice of entitlement and intention must set out:

- the mother's name;
- the partner's name;
- the start and end dates of any statutory maternity leave taken or to be taken by the mother;
- the total amount of shared parental leave available;

- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
- how much shared parental leave the mother and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's notice of entitlement and intention must include a declaration signed by her that:

- she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information she gives in the notice of entitlement and intention is accurate; and
- she will immediately inform the organisation if she ceases to care for the child.

In addition, the mother's notice of entitlement and intention must include a declaration signed by her partner:

- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
- declaring that the partner satisfies, or will satisfy, the conditions set out above;
- declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
- declaring that the partner consents to the amount of leave that the mother intends to take; and
- declaring that the partner consents to the mother's employer processing the information in the partner's declaration.

If the employee is the partner, the partner's notice of entitlement and intention must set out:

- the partner's name;
- the mother's name;
- the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner);
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

The partner's notice of entitlement and intention must include a declaration signed by the partner that:

- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information given by the partner in the notice of entitlement and intention is accurate; and
- he/she will immediately inform the school if he/she ceases to care for the child or if the mother informs him/her that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:

- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
- declaring that the mother satisfies, or will satisfy, the conditions set out above and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that the partner intends to take;
- declaring that she will immediately inform the employee if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
- declaring that the mother consents to the partner's employer processing the information in the mother's declaration.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, the school will request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the School the required information.

5.7 Variation or cancellation of notice of entitlement and intention

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides the school with written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

5.8 Employee's period of leave notice

To take a period of shared parental leave, the employee must provide the school with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

5.9 Variation or cancellation of period of leave notice

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides his/her employer (obviously including the School/Council in the case of an employee) with written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

5.10 Limit on number of requests for leave

The employee may provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy, although the school may waive this limit in some exceptional circumstances, such as if the baby or mother requires further and/or special medical attention that was not originally anticipated.

5.11 Continuous period of shared parental leave

If the employee submits a period of leave notice requesting one continuous period of leave, he/she will be entitled to take that period of leave.

5.12 Discontinuous periods of shared parental leave

The employee may submit a period of leave notice requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers (including the school/Council) that allows them to alternate childcare responsibilities.

If the employee submits a period of leave notice requesting discontinuous periods of leave, the school, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or

- refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify the school of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if the Council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given.

A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

5.13 Amount of shared parental pay available

Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner.

Any statutory shared parental pay due during shared parental leave will be 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 figure is lower than the Government's set weekly rate.

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

5.14 Eligibility for statutory shared parental pay

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

5.14.1 Mother's eligibility for statutory shared parental pay:

The mother is eligible for statutory shared parental pay if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that she gets;
- has normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay; and
- is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

In addition, for the mother to be eligible for statutory shared parental pay, the partner must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks.

5.14.2 Partner's eligibility for statutory shared parental pay:

The partner is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with his/her employer until the week before any period of shared parental pay that he/she gets;
- has normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay.

In addition, for the partner to be eligible, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child; and
- be entitled to statutory maternity pay or maternity allowance in respect of the child, but the maternity pay period or maternity allowance period has been reduced.

5.15 Rights during shared parental leave

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. The employee's salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, pension contributions will continue to be paid.

5.16 Contact during shared parental leave

The school reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their 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 (such as restructuring processes) during their absence.

An employee can agree to work for the school (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

The School has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between employees and the school.

In most cases however, the school will continue to pay the employee statutory shared parental pay for any week during which the employee attends work for SPLIT days and this will be paid in the usual way. In addition, we will also pay you for each hour that you work during a SPLIT day at the rate of your hourly payment rate.

5.17 Returning to work following shared parental leave

The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable.

In these circumstances, if it is not reasonably practicable for the school to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

Appendix 1 – New and Expectant Mothers Risk Assessment

Appendix 2 – ML1 Form (Maternity Leave)

Appendix 3 – PL1 Form (Paternity Leave)

Appendix 4 – AL1 Form (Adoption Leave)

Appendix 5 – Parental Leave Application Form

Appendix 6 – Shared Parental Leave Application Form