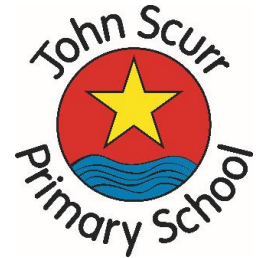


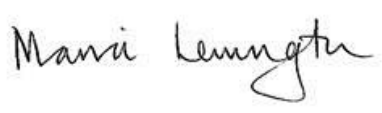
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Maternity Leave Policy

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1. INTRODUCTION

- 1.1. The aim of this procedure is to provide employees and Headteachers/Managers with information regarding contractual and statutory entitlements to maternity leave and maternity pay. It also gives details of the process the employee will need to follow when arranging their maternity leave.
- 1.2. The employee may be entitled to share their maternity leave and maternity pay with their partner by converting their maternity leave and pay to shared parental leave. Full details of this are in the Shared Parental Leave Policy and Procedure.
- 1.3. The term 'headteacher' has been used throughout this document, however depending on the size and structure of the school this role may be delegated to other members of the senior leadership team, school business managers or managers as appropriate. Where the headteacher is subject to this policy, this will be managed by the Chair of the relevant body or other nominated governor.
- 1.4. Teachers under the Burgundy Book (local authority employment) conditions of service, with 26 weeks continuous service with their current employer and at least one year or more continuous service within one or more LAs or any organisation recognised under the Modification Order 1999, will be entitled to the full statutory entitlements and the full entitlement under the Burgundy Book.
- 1.5. Continuous service is when an employee has worked for one employer without a break. For staff in maintained schools, continuous service for occupational maternity pay is recognised between maintained schools as the local authority is the ultimate employer and from one local authority to another and will be carried over in any transfer of employment under TUPE regulations, e.g. during academy conversion. However, if an employee voluntarily changes employer in the maternity qualifying period or during the period of maternity leave then their entitlement to maternity pay may be affected. Advice on individual circumstances is available from the school's HR provider.

2. SCOPE

- 2.1. This procedure applies to all employees who have a contract of employment with the school. It does not apply to agency workers or contractors.

3. MATERNITY LEAVE

3.1. All employees who give birth, regardless of the hours they work or length of service, are entitled to 52 weeks maternity leave, consisting of 26 weeks Ordinary Maternity Leave (OML) followed by 26 weeks Additional Maternity Leave (AML).

3.2. Ordinary Maternity leave can commence:

- On a date chosen by the pregnant employee which can be at any time after the beginning of the 11th week before the expected week of childbirth and up to the date the baby is born OR;
- If the baby is born early, maternity leave commences the day after the pregnant employee gives birth OR;
- If the pregnant employee is absent for a pregnancy related reason in the four weeks before the expected week of childbirth, maternity leave commences the day after the first sickness absence in that four week period. The Headteacher should discuss the reason and frequency of any absence sensitively with the staff and odd days of pregnancy related illness during the period may be disregarded if the employee is medically fit to continue working to their chosen maternity leave start date. The Headteacher should seek HR advice if required.

3.3. Due to health and safety regulations the employee who has given birth must take two weeks maternity leave immediately after the baby is born. This is a legal requirement.

4. NOTIFICATION TO START MATERNITY LEAVE

4.1. The pregnant employee may inform the Headteacher verbally but must confirm in writing no later than 15 weeks before the baby is due, that they are pregnant, the date the baby is due and the date they plan to start maternity leave.

4.2. The employee must provide medical evidence of the date the baby is expected. This will normally be a maternity certificate form MATB1 which will be provided by their doctor or midwife.

4.3. The employee should complete and submit the application for maternity leave form. The application must be authorised by the Headteacher.

4.4. Whilst the employee is not required by law to notify the Headteacher of the pregnancy until the timeframe out in 4.1, it is helpful if they inform the Headteacher at an early

stage to allow the Headteacher to put in place any health and safety protective measures as out in section 5.

- 4.5. If the pregnant employee wishes to change the start date, they should give 28 days' notice in writing to their Headteacher.
- 4.6. The school will write to the employee within 28 days to confirm the details of the maternity leave and maternity pay entitlements.
- 4.7. It is recognised that in some cases it is not possible to give the required notice of starting maternity leave (e.g. if the baby arrives early). In such a case, the employee must notify the Headteacher in writing as soon as reasonably practicable.

5. HEALTH AND SAFETY RISK ASSESSMENT

- 5.1 By law a Headteacher must carry out an individual risk assessment when an employee informs them in writing that they are pregnant, breastfeeding or have given birth in the last 6 months. The Headteacher is responsible for ensuring that this assessment is undertaken without delay.
- 5.2 A New and Expectant Mother's/Birth Parent's risk assessment should be completed by the Headteacher in consultation with the employee.
- 5.3 It is important that there is regular communication between the Headteacher and employee and the risk assessment should form part of that discussion.
- 5.4 The Headteacher must regularly review the individual risk assessment and make any necessary adjustments as the pregnancy progresses, if there are any significant changes to the employee's health, activity or workplace that could affect their work.
- 5.5 The employee may be medically suspended from work with full pay if their continued working is considered to be a breach of health and safety legislation. However, before this action is taken the Headteacher must, following the risk assessment, consider all reasonable options including changes to working conditions, working hours or offering suitable alternative work. During the period of medical suspension, the school will continue to search for alternative work. Should this not be possible, the employee will continue to receive their contractual salary until their maternity leave starts.
- 5.6 Prior to the employee returning to work, the Headteacher should also undertake a risk assessment.

- 5.7 If further advice is needed, the Headteacher can make a management referral to their Occupational Health provider.

6 ANTENATAL CARE

- 6.1 A pregnant employee is entitled to reasonable time off with full pay for pregnancy related (antenatal) appointments. This can also include antenatal or parenting classes if they have been recommended by a doctor or midwife. Paid time off includes travel time.
- 6.2 The employee should give as much notice as possible to the Headteacher for time off work.
- 6.3 Fathers, partners and civil partners of a pregnant woman are entitled to take unpaid time off during working hours to accompany her to up to two antenatal appointments. The maximum time off permitted for each appointment is up to 6.5 hours, but only the actual time required to attend the appointment (including reasonable travel time) should normally be taken.

7 MATERNITY PAY

- 7.1 Maternity pay consists of two elements, Statutory Maternity Pay (SMP) and Occupational Maternity Pay.
- 7.2 During the Maternity Pay Period, pay will be calculated on a weekly basis based on the day of the week on which the employee begins their maternity leave, for example, if maternity leave commences on a Tuesday and there are 5 Tuesdays in a month, the employee would receive 5 weeks of maternity pay; 4 Tuesdays in a month equals 4 weeks maternity pay.
- 7.3 Maternity pay is subject to tax and National Insurance deductions and will be paid in the normal way on the last working day of the month.

Statutory Maternity Pay (SMP)

- 7.4 Statutory Maternity Pay (SMP) is payable for a maximum of 39 weeks as set out below. The fixed rate is determined annually by the Government.

6 weeks at 90% average earnings
33 weeks at a fixed rate or 90% of average weekly earnings, whichever is lower.

- 7.5 To qualify for Statutory Maternity Pay, the employee must meet all the following eligibility criteria:

- (a) Have 26 weeks continuous service with the current employer by the end of the 15th before their expected week of childbirth
- (b) Must earn at least the lower earnings limit for National Insurance Contributions. The lower earnings limit is reviewed and set annually by the Government.
- (c) Give the correct notice and proof of pregnancy. Proof of pregnancy is a MATB1 certificate or a letter from a doctor or midwife. SMP will not be paid without proof that the baby is due.

- 7.6 If the pregnant employee meets the above criteria, they will receive Statutory Maternity Pay (SMP) even if the employee does not return to work.

- 7.7 An employee who does not meet the above criteria for Statutory Maternity Pay (SMP) may be able to claim Maternity Allowance (MA). The school will provide the employee with a completed SMP1 form which will explain why the council will not pay SMP. The employee should contact their local Job Centre Plus for advice on what other payments they may be entitled to.

- 7.8 If SMP is received as part of the maternity payments, it is the employee's responsibility to notify the school if any of the following occur:

- (a) If the employee undertakes work for another employer at any point during the qualifying week for SMP
 - (b) The child is taken into legal custody at any time during the SMP pay period.
- If (a) or (b) occurs, Statutory Maternity Pay will cease.

Occupational Maternity Pay

- 7.9 Entitlement to receive Occupational Maternity Pay is dependent on length of continuous service with Local Government and continuous service with the current employer as at the 15th week before the expected week of childbirth.

7.10 Continuous service means continued employment with the local authority, a previous local authority or related employer with a break of less than one week between employments. Where an employee previously worked for the current employer or local authority via an agency, any period or assignment undertaken as an agency worker does not count toward continuous service.

7.11 If eligible, it is paid on the condition that the employee returns to work after maternity leave for at least 3 months.

7.12 The rate of Occupational Maternity Pay is based on the salary as at the day before the employee commences maternity leave.

7.13 The entitlements to maternity pay are out in section 8.

8 MATERNITY PAY ENTITLEMENTS

8.1 The following tables detail the pay entitlements that will apply during maternity leave. The school will confirm the pay entitlements, and which table applies in writing to the employee.

8.2 For each table, the required length of continuous service for both local government and continuous service with The current employer is as at the 15th week before the expected week of childbirth.

8.3 Maternity pay entitlements are set out below.

(a) Table A

To qualify for pay entitlements in Table A below, as at the **15th week before the expected week of childbirth**, the employee must have:

- Local Government continuous service: 1 year or more AND
- The current employer continuous service: 26 weeks or more

Maternity Leave	Maternity Pay
Weeks 1-6 (6 weeks)	90% average pay or 90% full pay, whichever is the greater (includes 6 weeks SMP). Teachers who have at least one year's continuous service as a teacher with one or more Local Authorities at the beginning of the 11th week before the EWC will receive 100% of pay for the first 4 weeks in line with Burgundy Book, this is inclusive of SMP.

Weeks 7-10 (4 weeks)	Full pay (includes 4 weeks lower rate SMP)
Weeks 11-30 (20 weeks)	Half pay plus 20 weeks lower rate SMP (provided half pay and SMP are not more than full pay)
Weeks 31-39 (9 weeks)	9 weeks lower rate SMP
Weeks 40–52 (13 weeks)	No pay
Total: 52 weeks	

It is possible to take 20 weeks half pay as 10 weeks full pay, plus 32 weeks as a combination of remaining SMP entitlement and unpaid leave.

(b) Table B

To qualify for pay entitlements in Table B below, as at the **15th week before the expected week of childbirth**, the employee must have:

- Local Government continuous service: 1 year or more AND
- The current employer continuous service: under 26 weeks

Maternity Leave	Maternity Pay
Weeks 1-6 (6 weeks)	90% average pay or 90% full pay, whichever is the greater (less MA). Teachers who have at least one year's continuous service as a teacher with one or more Local Authorities at the beginning of the 11th week before the EWC will receive 100% of pay for the first 4 weeks in line with Burgundy Book, this is inclusive of MA.
Weeks 7-10 (4 weeks)	Full pay (less MA)
Weeks 11-30 (20 weeks)	Half pay (provided half pay and MA are not more than full pay)
Weeks 31–52 (22 weeks)	No pay
Total: 52 weeks	

Maternity Allowance (MA) will be deducted from the maternity pay whether or not the employee is entitled to it. They may be able to claim Maternity Allowance (MA) and should contact their local Job Centre Plus for advice.

There is an option to take 20 weeks half pay as 10 weeks full pay, plus 32 weeks as a combination of remaining MA entitlement and unpaid leave.

(c) Table C

To qualify for pay entitlements in Table C below, as at the **15th week before the expected week of childbirth**, the employee must have:

- Local Government continuous service: under 1 year AND

- The current employer continuous service: 26 weeks or more

Maternity Leave	Maternity Pay
Weeks 1-4 (4 weeks)	Full pay, (includes 4 weeks SMP)
Weeks 5-6 (2 weeks)	No pay however will receive 2 weeks SMP
Weeks 7-12 (6 weeks)	Half pay plus 6 weeks lower rate SMP (provided half pay and SMP are not more than full pay)
Weeks 13 – 39 (27 weeks)	27 weeks lower rate SMP
Weeks 40-52 (13 weeks)	No pay
Total: 52 weeks maternity leave	

(d) Table D

To qualify for pay entitlements in Table D below, as at the **15th week before the expected week of childbirth**, the employee must have:

- Local Government continuous service: under 1 year AND
- The current employer continuous service: under 26 weeks

Maternity Leave	Maternity Pay
Weeks 1-4	Full pay (less Maternity Allowance)
Weeks 5-12	Half pay (provided half pay and Maternity Allowance are not more than full pay)
Weeks 13-52	No pay
Total: 52 weeks	

Maternity Allowance (MA) will be deducted from the maternity pay whether or not the employee is entitled to it. They may be able to claim Maternity Allowance (MA) and should contact their local Job Centre Plus for advice.

- 8.4 If the employee wants a breakdown of maternity pay, they can contact Payroll during the month that they are due to start maternity leave and Payroll will calculate the employee's gross payments.

9 STILL BIRTH, MISCARRIAGE OR LOSS OF UNBORN BABY

- 9.1 If the baby is still born after 24 weeks' pregnancy or is born live at any stage of pregnancy and later dies (no matter how soon after birth), maternity leave and pay apply as set out in this procedure.

- 9.2 The employee may also be eligible for Parental Bereavement Leave and Pay. This statutory leave entitles eligible working parents to two weeks paid parental bereavement leave in the event of a death of their child or a child in their care, under the age of 18 or a still birth after 24 weeks of pregnancy. Full details can be found in the Special Leave Policy and Procedure.
- 9.3 In the event of a miscarriage or loss of an unborn baby before the 24th week of pregnancy, whilst the employee is not eligible for maternity leave or pay, they are eligible to take one week's paid leave on compassionate grounds. The employee should seek support from their GP or health care professional should they require a longer period of recovery, this additional time may be recorded as sick leave. Where the employee does not have a right to maternity leave, they will have a 'protected period' of 2 weeks after the pregnancy ends. Any sickness absence during the protected period that is pregnancy related will not be counted towards any review or trigger points. Sickness absence beyond the protected period will be managed sensitively under the Attendance Management Policy.
- 9.4 The employee should be made aware of any support available to them through the school's Employee Assistance Programme, details of the school's EAP can be obtained from the school office.

10 DURING MATERNITY LEAVE

- 10.1 The Headteacher should keep in regular contact whilst the employee is on maternity leave and must inform them about job opportunities and any reorganisation that could affect their job.

Keeping in Touch Days

- 10.2 During maternity leave, the employee can take up to 10 'Keeping In Touch' (KIT) days without bringing their maternity leave to an end or losing Statutory Maternity Pay (SMP) entitlement.
- 10.3 KIT days may be used for any activity which would ordinarily be classed as work under the contract of employment, including training and attending a team meeting. They can be undertaken at any stage during maternity leave apart from the first two weeks after the birth of the baby.
- 10.4 KIT days are optional and can only take place by mutual agreement between the Headteacher and employee. A Headteacher cannot insist that an employee works during maternity leave and the employee cannot insist on taking a KIT day.

- 10.5 KIT days do not need to be worked as consecutive days and may be worked at any time during the maternity leave, except for within two weeks after the birth of the child.
- 10.6 Where a KIT day is worked the employee will receive their normal pay for the hours worked on KIT days minus any entitlement to SMP or half pay.
- 10.7 Payment for hours worked during KIT days will be worked out on an hourly basis (based on the employee's normal salary).
- 10.8 If an employee works part of a KIT day, it still counts as a whole day, although the pay will be pro rata and the employee will only be paid for the number of hours worked on that day.

11 PENSIONS

- 11.1 Pension contributions only continue during paid periods of maternity leave for as long as the statutory payment is made. The Teachers' Pension Scheme does not allow service during periods of unpaid leave to be purchased but there is provision for Additional Pension to be purchased when returning to paid teaching service. Full details are on the Teachers' Pensions website.
- 11.2 For employees in the Local Government Pension Scheme (LGPS), during maternity leave their pension is worked out using their Assumed Pensionable Pay (APP). This is a notional figure that is used to ensure the pension is not affected by the pay reduction. The employee continues to build up a pension in the scheme as if they are working and receiving normal pay.
- 11.3 During a period of unpaid maternity leave, whilst membership of the scheme continues, no pension will be accrued unless when they return to work, the employee pays extra pension contributions to buy the pension they have 'lost'.
- 11.4 The extra contributions are known as Additional Pension Contributions (APCs). If an employee elects to pay Additional Pension Contributions within 30 days from the end date of the unpaid maternity leave period, the cost will be split between the employee and the council. If the employee elects to pay Additional Pension Contributions after 30 days from the end date of the unpaid maternity leave period, the council will not contribute.

- 11.5 Once the employee returns to work and full pay, the contributions will resume, and the pension will accrue in the usual way.
- 11.6 Employees in the Local Government Pension Scheme (LGPS) will find full details of entitlements whilst on maternity leave on the LGPS website.
- 11.7 Employee who are members of other pension schemes should contact their pension provider for further information.

12 ANNUAL LEAVE, EXTRA STATUTORY AND CONCESSIONARY DAYS

Teachers

- 12.1 Teachers do not have a contractual entitlement to leave but do retain their right to statutory leave entitlements (28 days inclusive of bank holidays per leave year). Statutory annual leave continues to accrue during maternity leave; however teachers are deemed to 'take' their leave during periods of school closure (e.g., school holidays).

Support Staff

- 12.1 Support staff build up (accrue) holiday entitlement as usual during maternity leave. This includes bank holidays, extra-statutory and concessionary days.
- 12.2 This leave cannot be taken at the same time as maternity leave.
- 12.3 This accrued leave must be taken either immediately prior to the start of maternity leave or, if returning to work, at the end of the maternity leave period.
- 12.4 If the employee is not able to take their leave entitlement during the leave year because they were on maternity leave for all or most of the year, this leave can be carried over to the new leave year.
- 12.5 If the employee does not return to work, they will accrue annual leave, plus leave for bank holidays, extra-statutory and concessionary days that fell during the maternity leave up to the last day of service.

13 RETURNING TO WORK

- 13.1 If the employee wants to return to work before taking all their maternity leave, they must give their Headteacher eight weeks' notice in writing. Where the employee intends to return at the end of the 52 week period, notice does not need to be given, however, the school would appreciate having 28 days' notice from the employee to confirm their return date.
- 13.2 Prior to returning to work, the employee is advised to notify their Headteacher of any support they require on their return. This can include for example if they are breastfeeding/chest feeding. The Headteacher should also carry out an individual risk assessment.
- 13.3 If the employee wishes to breast/chest feed or express when they return to work, they should discuss this with their Headteacher about what support is required.
- 13.4 Should the employee wish to delay their return from maternity leave, they may consider applying to extend their time away through other family friendly procedures which includes the Extended Leave or Parental Leave Schemes. However, on return, the employee will be required to return to work for at least 3 months, otherwise any payment of Occupational Maternity Pay will need to be repaid.

14 NOT RETURNING TO WORK

- 14.1 If the employee does not return to work, provided they meet the qualification criteria, they will be entitled to receive Statutory Maternity Pay (SMP).
- 14.2 If whilst on maternity leave, the employee decides not to return to work, they will be entitled to keep all Statutory Maternity Pay (SMP).
- 14.3 If an employee has received Occupational Maternity Pay whilst on maternity leave and they decided they do not wish to return to work, they will be required to repay all occupational maternity pay paid to them as a condition of receiving occupational maternity pay is that the employee returns to work for at least 3 months following maternity leave.
- 14.4 Should an employee return to work on a part time basis, then provided that they return for 3 months, they will not be required to repay Occupational Maternity Pay that they received whilst on maternity leave.

15 IVF

- 15.1 If an employee becomes pregnant through IVF, they have all the same pregnancy and maternity rights as non-IVF pregnancies.
- 15.2 There is no legal right for time off work for IVF treatment or related sickness, however flexible working can be used to enable an employee to manage appointments during fertility treatment. Special leave can also be considered where further time off is required.
- 15.3 An employee has pregnancy and maternity rights once the last part of the IVF process (embryo transfer) has taken place and they might become pregnant. The employee does not have to inform their Headteacher at this stage, however, it is helpful if they can as this will allow enable the Headteacher to put in place any health and safety protective measures as out in section 5.
- 15.4 If the IVF was not successful, the employee is protected by law against pregnancy discrimination for two weeks after finding out an embryo transfer was unsuccessful.
- 15.5 Should the employee wish to seek further support, they should be made aware of the school's Employee Assistance Programme.

16 FIXED TERM CONTRACTS

- 16.1 An employee on a fixed term contract and whose contract ends during their maternity period, if eligible for Statutory Maternity Pay (SMP), will receive the full amount of SMP, regardless of whether they leave the council before the end of the maternity period. However, they will only receive occupational maternity pay up to their final day of service.
- 16.2 If the role lasts beyond the end of their contract, the employee has an automatic right to have their contract extended.
- 16.3 If at the end of the contract, the employee has more than one year local government service, they will be eligible for redeployment.

17 REDUNDANCY PROTECTION PERIODS

- 17.1 An employee who is pregnant or taking maternity leave has special protection in a redundancy situation. This applies during a redundancy protected period which is the length of time an employee has this redundancy protection for. During the redundancy protected period, the employee is entitled to be offered a suitable alternative post, where one exists, in preference to other employees who would also be redundant.
- 17.2 The length of the protected period during pregnancy and maternity starts when an employee informs the Headteacher that they are pregnant and ends 18 months from the exact date the baby is born.
- 17.3 If an employee has a miscarriage within the first 24 weeks of pregnancy, the redundancy protected period ends two weeks from the end of the pregnancy.
- 17.4 If a child is stillborn after 24 weeks of pregnancy, the redundancy protected period ends 18 months from the date of the birth.
- 17.5 Details of how the redundancy protection period applies in relation to restructures, job matching and redeployment are set out in the Organisational Change Policy.

18 REDUNDANCY AND MATERNITY PAY

- 18.1 If a restructure occurs whilst on maternity leave and the employee decides to take voluntary redundancy or early retirement whilst on maternity leave, they will receive all Statutory Maternity Pay (should they have met the criteria), however, will only receive Occupational Maternity Pay until the last day of service.
- 18.2 If a restructure occurs whilst on maternity leave and the employee is made compulsorily redundant whilst on maternity leave, they will receive the full amount of both statutory and occupational maternity pay and will not be required to repay occupational maternity pay they received whilst on maternity leave.
- 18.3 Further information can be found in the Organisational Change Policy.

19 FLEXIBLE WORKING

- 19.1** Should the employee wish to change their working hours or pattern on their return to work, they should discuss this with their Headteacher and can submit a flexible working request in with the Flexible Working Policy.

Document History	
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Author	HR

20 FURTHER GUIDANCE

- 20.1** For further guidance please contact your HR provider.