



Maternity Leave and Pay Policy (Support Staff)

Date Approved	January 2025
Date of Next Review	January 2027

Changes from original policy following feedback/changes in legislation

Changes	Reason - Reviewer/ Legislation	Date
Policy Scope and purpose : Added reference of Legislative requirements the Protection from redundancy (pregnancy and family leave) act 2023 and the Maternity leave amendment regulations 2024. (Implemented April 2024)	Legislation	Jan 25
Policy layout has been amended for ease of reference and wording adapted to follow the latest SCC policy.	Reviewer	Jan 25
1 Elaborated on wording around H&S - sickness and chest/breast feeding.	Reviewer	Jan 25
2 Amended wording around time off for antenatal appointments	Reviewer	Jan 25
3.2 Added section, rights during maternity leave	Reviewer	Jan 25
3.3 Changed wording on Qualifying Conditions for Mat Leave	Reviewer	Jan 25
3.7 Added requirement for employee to give 28 days notice for changing date of mat leave	Reviewer	Jan 25
7. Added a Maternity Leave Action Timeline	Reviewer	Jan 25
9. Added section detailing process around leaving employment during maternity leave	Reviewer	Jan 25
10. Redundancy Protection - w.e.f 6 April 2024 the right to be offered suitable alternative employment in preference to other employees at risk of redundancy has been extended for employees taking maternity leave -	Reviewer	Jan 25
11.2 Elaborated section on Keeping in Touch Days	Reviewer	Jan 25
12. Clarification around the right to return to their job, terms and conditions if returning to work when only taking 26 weeks maternity leave and what applies where they take the full 52 weeks.	Reviewer	Jan 25
12.1 Added section returning to work late following Mat leave.	Reviewer	Jan 25
12.2 Added section for varying hours of work on return from mat leave	Reviewer	Jan 25
13.2 Added section around miscarriage	Reviewer	Jan 25
13.3 Clarified definition of stillbirth, added wording regarding pay for primary carers parental bereavement and links to support	Reviewer	Jan 25

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Policy scope and purpose	
Scope and purpose	<p>This document sets out the entitlements for Inclusive Education Trust (IET) employees on Support Staff Pay terms and conditions regarding maternity leave and pay.</p> <p>This policy intends to:</p> <ul style="list-style-type: none"> · Fully inform employees of their entitlements in relation to maternity leave and pay · Provide guidance on maternity leave and pay processes. · Support managers by providing them with details of the Trust's obligations to employees. <p>Employees should note that the right to maternity leave and maternity pay are separate, each having its own qualification criteria as set out in the sections of this policy.</p>
Start point of the policy	To be referred to when an employee becomes aware that they are pregnant and are seeking maternity related leave or pay.
End Point of the Policy	This policy may be utilised up to and including the return to work from maternity leave, with further information in relation to maternity entitlements and procedures following a return to work. At any stage when information on maternity pay or leave is required.
Legislative requirements	The Employment Rights Act 1996, as amended by the Employment Relations Act 1999. The Statutory Paternity Pay and Statutory Adoption pay (General) Regulations 2002. The Maternity and Parental Leave Regulations 1999. The Employment Act 2002 the Work and Families Act 2006. The Protection from Redundancy (pregnancy and family leave) Act 2023, The Maternity Leave, Adoption Leave & Shared parental Leave (amendment) regulations 2024.
Who uses this policy	This policy applies to all employees on the Trust's Support Staff pay terms and conditions of employment, including those on fixed term contracts. It will not apply to Teachers or other workers employed in school.

Glossary	
AML Additional Maternity Leave	The 26-week maternity leave period which immediately follows Ordinary Maternity Leave
AWE Average Weekly Earning	Calculated on the total payments made during an 8 week qualifying period, except where there is no established pattern of work in which case a 52-week period will be used or the number of weeks in which the employee has been in employment if less than 52
CS Continuous Service	For statutory maternity leave and pay entitlements CS is the length of time you have unbroken service with the IET, other maintained schools and modification order bodies, such as other academy schools.
CML Compulsory Maternity Leave	The first 2 weeks following the birth of a baby, which must be taken as maternity leave
EWC Expected Week of Childbirth	The week in which the baby is due to be born as certified by the employee's Doctor or Midwife on the Maternity Certificate (MAT B1)
Higher rate SMP	90% of average weekly earnings (before tax)
LEL Lower Earnings Limit	The weekly earnings level set annually by the HM Revenue and Customs, above which you can make Class 1 National Insurance Contributions. You need to earn this amount before tax to qualify for statutory maternity pay.
Lower Rate SMP	The statutory SMP rate or 90% of average weekly earnings (before tax) - whichever is lower.
KIT days Keeping in Touch Days	The days that can be worked during maternity leave without bringing maternity leave to an end.
MPP Maternity Pay Period	The period during which SMP is payable to an eligible employee
MAT B1 Maternity Certificate	The maternity certificate given to a pregnant woman by a doctor or midwife, which states the Expected week of Childbirth and is issued after the 20th week of pregnancy. It is required for the payment of SMP
OML Ordinary Maternity Leave	The first 26-week maternity leave period
OMP Occupational Maternity Pay	An enhanced level of maternity pay provided by the school to eligible employees
QW Qualifying Week	The 15th week before the expected week of childbirth for the payment of SMP
Partner	The term 'partner' is used in the definition of eligibility. A partner is married to or lives with the mother of the baby in an enduring family relationship, whether of different sex or the same sex, but is not

	an immediate relative. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and the child.
SMA Statutory Maternity Allowance	The allowance payable by Job Centre Plus to employees not entitled to SMP
SML Statutory Maternity Leave	The 52-week maternity leave period which all pregnant employees are entitled regardless of length of service or hours worked
SMP Statutory Maternity Pay	Payable to eligible employees who take maternity leave or leave employment because of pregnancy or childbirth.
SMP1 Statutory Maternity Pay Form	The form from which HR will give to the employee who is not entitled to SMP for the purpose of claiming SMA.

Summary Entitlements	
Length of service	Entitlement
Maternity Leave	
No service-related requirement	Statutory Maternity Leave (SML) Up to 52 weeks Time off for antenatal appointments/fertility treatment
Maternity Pay	
Less than 26 weeks' continuous service by the end of the 15th week before the baby is due, known as the EWC.	No entitlement to Statutory Maternity Pay (SMP) Possible entitlement to Statutory Maternity Allowance (SMA) paid by Job Centre Plus Occupational Maternity Pay (OMP) 50% of average weekly earnings (over the period of their employment) for 4 weeks from week 7 of maternity leave. (This is paid in addition to SMA where payable provided the combined payments do not exceed full pay)
At least 26 weeks' continuous service by the end of the 15th week before the EWC, but less than one years' service at the beginning of the 11th week before the EWC.	Statutory Maternity Pay (SMP) For employees earning above the Lower Earnings Limit: Higher rate SMP for 6 weeks. Lower rate SMP for up to 33 weeks. For employees earning below the Lower Earnings Limit: Possible entitlement to Statutory Maternity Allowance (SMA) paid by JobCentre Plus Occupational Maternity Pay (OMP) If returning to work following maternity leave. 50% of average weekly earnings, (over the period of their employment) in addition to lower rate SMP or SMA, for 4 weeks

	<p>(from week 7 of maternity leave) provided the combined payments do not exceed full pay.</p>
<p>One years' continuous service or more at the beginning of the 11th week before the EWC.</p>	<p>Statutory Maternity Pay (SMP)</p> <p>For employees whose average gross weekly earnings are at least the Lower Earnings Limit:</p> <p>Higher rate SMP for 6 weeks. Lower rate SMP for up to 33 weeks.</p> <p>For employees earning below the Lower Earnings Limit:</p> <p>Possible entitlement to Statutory Maternity Allowance (SMA) paid by JobCentre Plus</p> <p>Occupational Maternity Pay (OMP) for employees earning below the Lower Earnings Limit with no entitlement to SMP and returning to work after maternity leave:</p> <p>90% of average weekly earnings for 6 weeks. Any SMA received will be offset from this amount</p> <p>For all employees returning to work after maternity leave:</p> <p>50% of contractual pay for 20 weeks (from week 7 of maternity leave (this is paid in addition to lower rate SMP or SMA, for 20 weeks provided the combined payments do not exceed full pay).</p>

1. Health and safety

Whilst an employee is under no obligation to advise their HoS/Line Manager that they are pregnant until 15 weeks before their due date, it is strongly advised due to the nature of our setting to notify their line manager earlier than this, so that health and safety during pregnancy can be considered. When an employee has made their HoS/manager aware that they are pregnant it is essential that a pre-maternity discussion is arranged between the employee and their manager and a pregnancy risk assessment completed. This will consider risks to the mother, the unborn child and if applicable, the child of a woman who is still breastfeeding. The risk assessment should be repeated periodically as the pregnancy progresses or if there are any significant changes to the employee's work activity or to their health and wellbeing and will continue into their return to work if the mother is breastfeeding. The risk assessment will consider working condition risks to the mother and to the unborn child.

An employee who is pregnant and has given birth in the previous six months, or is breast/chest-feeding, must be provided with safe alternative work if their usual work presents unacceptable risks to their health and safety.

If a pregnant employee is unable to attend work due to sickness, they should follow notification procedures as set out in the Absence Management Policy. Sick leave related to an employee's pregnancy will not be included in general attendance records. If an employee is absent from work for a reason wholly or partly related to their pregnancy after the beginning of the 4th week before their baby is due or before a notified date of starting maternity leave (whichever is earlier) this will trigger the start of their maternity leave.

On an employees' return to work following maternity leave, it is essential that their manager arranges a return-to-work discussion with them and that together they complete a risk assessment. The risk assessment will consider working condition risks to the mother and to the child if the employee is still breast/chest-feeding. The risk assessment should be repeated periodically if there are any significant changes to the employee's work activity or to their health and wellbeing.

Employees who return to work whilst they are still breast/chest feeding should meet with their line manager to discuss and plan in line with the following points:

- A private and hygienic space for the employee to express and rest, with the potential to lie down if necessary (toilets or medical rooms are not suitable as they pose a hygiene risk)
- Somewhere to store expressed milk

Consideration for workplace risk and temporary adjustments will need to continue for as long as the employee continues to breast/chest-feed. Periodic reviews to the arrangements can be carried out at the same time as reviewing the risk assessment.

2. Time off for antenatal appointments

- Pregnant employees, regardless of their length of service or number of hours worked, have the right to reasonable time off for antenatal care, including relaxation and parent craft classes that are recommended by their doctor, nurse or midwife. This includes payment for the time spent travelling to an appointment and waiting time that falls within normal working hours,
- All time off for antenatal care, including reasonable travelling and waiting time, will be paid at the employee's normal weekly rate of pay. If working hours vary from week to week, pay will be based on the average pay for the previous 12 complete working weeks, excluding overtime unless it is compulsory
- With the exception of the first visit, evidence of appointments should be available on request by the HoS/manager.

3. Maternity leave

3.1 Maternity leave entitlement

Regardless of length of service or hours all pregnant employees can take up to 52 weeks' Statutory Maternity Leave (SML) subject to qualifying conditions. This is made up of 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML).

3.2 Rights during Maternity Leave

Employees are entitled to receive all the normal terms and conditions of their contract of employment apart from normal pay. Pay during maternity leave will be subject to the rules that relate to maternity leave and pay as detailed in this policy document.

An employee is protected from being subjected to detriment (by any act or deliberate failure to act by their employer) and protected from dismissal because they:

- Took maternity leave or
- Sought to take maternity leave

Detriment can cover a wide range of unfair treatment, such as denial of promotion, facilities, or training opportunities which the employer would otherwise have offered or made available.

3.3 Qualifying conditions for Maternity Leave

The employee will need to:

1. Advise the HoS/manager that they are pregnant, at least 15 weeks before their due date (known as the Expected Week of Childbirth – EWC)
2. Give notice of the date they intend to start their maternity leave no later than the end of the 15th week before the EWC. Employees should use the statutory Notification of Maternity Leave and pay form (this form may be completed on behalf of the employee by the SBM or HR Team). This date cannot be earlier than the beginning of the 11th week before EWC (see "Changing the date of maternity leave" below).
3. Provide a MAT B1 stating the Expected Week of Childbirth (EWC) - available from the 20th week of pregnancy from their midwife or doctor. The MAT B1 form should be submitted by the end of the third week of the maternity pay period, although it may be accepted up to the 13th week of the maternity pay period if the employee has good reason for late submission.

Once the statutory notification form has been approved, the HR Team will write to the employee confirming the maternity leave start and end dates. The employee should receive this letter within 28 days of the school receiving their notification form.

A pregnant employee carrying a child as a surrogate mother has the same entitlements as any new or expectant mother. Refer to surrogacy policy for further information.

Failure to give the required notifications within the specified time limits may result in the loss of the right to start maternity leave on the intended start date.

3.4. The start of Ordinary Maternity Leave (OML)

OML commences on whichever of the following dates is the earliest:

- The date notified by the employee as the date they intend to start their OML, or a revised date if applicable and agreed by the manager.
- The first day after the beginning of the 4th week before the baby is due (known as EWC) if the employee is absent from work for a reason wholly or partly related to their pregnancy. Any absence before the 4th week before the EWC, or a notified date of starting maternity leave (whichever is earlier), would be dealt with in accordance with the provisions for sickness absence.
- The day after the day on which childbirth occurs.

3.5 Additional Maternity Leave (AML)

The AML period begins on the first day following the end of the OML period.

There is no requirement for the employee to notify that they intend to take AML and it will be presumed that they will take their AML unless they notify, in writing, their intention to return early.

3.6 Compulsory Maternity Leave (CML) - two weeks after the childbirth

The first two weeks following the birth of the baby are compulsory maternity leave and must be taken by the birth mother and will form part of the 52 weeks' maternity leave period. These 2 weeks are paid subject to the conditions of maternity pay entitlements being met (see paragraph 4).

3.7 Changing the date of Maternity leave

Employees can revise the date on which they intend to start their maternity leave provided they give their manager, and HR team at least 28 days' notice in writing (unless this is not reasonably practicable).

The HR team will write to the employee if the start date of the maternity leave has to be amended. The employee should receive this letter within 28 days of the school receiving the employee's written notification of the change.

The revised date cannot be earlier than the 11th week before the EWC, and the request must be in writing.

The exceptions to these notice requirements are where the birth of the child or pregnancy related sickness trigger the start of Maternity Leave.

4. Pension during Maternity Leave

During any period of paid maternity leave an LGPS member's pension is worked out to make sure that their pension is not affected by the reduction in pay. This means that they will continue to build up a pension in the section of the LGPS they are in, as if they were working normally and receiving pay. For an example of how assumed pensionable pay is calculated see the LGPS website. Employees on maternity leave will pay their basic pension contributions on the maternity pay they receive.

However, any period of unpaid additional maternity leave (normally from weeks 39-52) will not count for pension purposes unless the employee elects to pay Additional Pension contributions (APCs) to purchase the amount of pension lost during that period of unpaid absence. If an employee is interested in buying the pension lost, they must contact Surrey Pensions 0300 200 1031, crtpensions@surreycc.gov.uk. For further information see the LGPS website <https://www.lgpsmember.org/> or <https://www.surreypensionfund.org/>.

5. Annual Leave and Bank Holidays During Maternity Leave

Pregnant employees are encouraged to take any outstanding accrued annual leave before maternity leave starts. Wherever possible, annual leave accrued during maternity leave should be taken as paid leave before the employee returns to work.

If an employee wishes to use up their accrued leave by returning to the payroll earlier than their intended return date. i.e. substituting a period of unpaid maternity leave should be taken as paid leave before the employee returns to work.

If an employee is unable to take their annual leave entitlement during the year in which it accrues, they can carry over up to 28 days leave (their statutory annual leave entitlement including bank holiday - pro rata for those working part time or part year) to the next leave year, to be used within 12 months of the end of the year in which it accrued. For most employees an adjustment to annual leave will be applied, but for employees working on a part year annualised hours basis, this will require a pay adjustment.

6 Pay and pay progression during Maternity Leave

Pay Awards

If an annual pay award falls during the period of an employee's maternity leave, they will be notified of their reviewed salary at the same time as other employees and will receive their reviewed salary upon their return to work. Similarly, any backdated increases will be considered when calculating Statutory and Occupational Maternity Pay.

Pay progression

If a pay progression review date falls whilst an employee is on a period of OML, their increment will be paid, in accordance with the normal pay progression arrangements. If a review date falls whilst they are on a period of AML, their pay progression review will take place on their return to work.

7. Maternity Leave Action Timeline - Summary of key dates for employees

Date	Action
20 weeks before you baby is due	You will receive a form MATB1 from your doctor or midwife, normally following your 20 week scan. Email this to hr@ietmat.co.uk
At least 15 weeks before your baby is due	Advise your HoS/line manager of the dates that you want to start and finish your maternity leave, by completing the form obtained from hr@ietmat.co.uk
11 weeks before you baby is due	You can commence Maternity Leave at any time after this date.
Birth date	If it has not already started, Maternity Leave must start the day after you give birth (even if it is earlier than 11 weeks before your baby was due)
First 2 weeks after giving birth	You must take maternity leave

8. Maternity Pay

8.1 Maternity Pay Entitlements

Employees will receive up to 39 weeks' maternity pay, either **Statutory Maternity Pay** (SMP) or **Statutory Maternity Allowance** (SMA), depending on meeting the relevant qualifying conditions. In addition, employees may be eligible for **Occupational Maternity Pay** (OMP).

The maternity pay that employees receive depends on their length of service.

SMA is paid by JobCentre Plus to employees who have less than 26 weeks' continuous service at the 15th week before their expected week of childbirth (as shown on their MATB1) or do not earn enough to meet the lower earnings limit and therefore do not qualify for SMP.

Employees can check their entitlement for SMP/SMA using the Government's Maternity Leave and Pay calculator <https://www.gov.uk/maternity-paternity-pay-leave>

If an employee is not entitled to SMP, the HR team will issue them with an SMP1 form for completion, detailing the reason for not paying SMP, which can be given to Job Centre Plus to make a claim.

8.2 Qualifying conditions for SMP

The employee must:

- Have at least 26 weeks' continuous service prior to the Qualifying week (QW) i.e. the end of the 15th week before their EWC. This condition will be deemed to be satisfied in cases of early childbirth.
- Still be pregnant at the 11th week prior to the EWC or have given birth by that time.
- Have average weekly earnings over the eight weeks prior to the Qualifying Week (QW) of not less than the lower earnings limit for the payment of national insurance contributions.
- Give at least 28 days' notice before their absence is likely to start, or as soon as is reasonably practicable
- Have stopped work due to pregnancy or childbirth.
- Provide a MatB1 stating the EWC available from the 20th week of pregnancy and normally provided after the 20 week scan. The MatB1 form should be submitted by the end of the third week of the maternity pay period, although it may be accepted up to the 13th week of the maternity pay period, if the employee has a reason for late submission.

An employee will be entitled to the same amount of maternity leave and pay even if they have a multiple birth.

If the qualifying conditions are not met the employee may be entitled to SMA as detailed above.

8.3 Qualifying conditions for OMP

To retain the 4 weeks' half pay (employees with less than one year's continuous service) or 20 weeks' half pay (employees with more than one year's continuous service), an employee must:

- Have given the required written notification of their intention to return to work.
- Return to work for a minimum of 13 continuous weeks at their pre maternity leave contracted hours.
- If the employee reduces their contracted hours on returning to work, they will have to work longer than 13 weeks to retain the half pay element of their OMP. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 weeks' service. This is determined by applying the following formula (using the example of someone who worked 36 hours per week before they went on maternity/adoption leave and works 18 hours per week on their return):
 - Hours worked before going on leave (36) ÷ Hours per week on return (18) = 2
 - 13 weeks x the answer above (13 x 2) = 26
 - Employee must return for 26 weeks working 18 hours per week to retain their full OMP/OAP entitlement.
- An employee, who does not return will be liable to repay any OMP received.

An employee can choose to receive their 4 or 20 weeks' half pay after they return to work, which might be a sensible approach if their return to work is uncertain.

8.4 Payment of SMP and OMP

Average weekly earnings for SMP purposes are normally calculated by reference to an 8-week period, known as the Relevant Period, that comes before the start of the 15 week before the employee's baby is due (the Qualifying Week)

SMP is payable at 90% of the employee's average weekly earnings for the first 6 weeks (the higher rate) and at either the statutory SMP rate or 90% of the employee's Average Weekly Earnings (whichever is lower).

SMP is subject to Income Tax, National insurance contributions and, in certain circumstances, pension contributions.

SMP usually starts on the day Ordinary Maternity Leave begins or, if triggered by birth or pregnancy related absence, the day after the day of birth or on the day after the 1st day of absence, respectively.

SMP is payable at a daily rate of 1/7th of the weekly SMP amount, whether the higher or lower rate. The weekly rate of SMP is set by the Government. SMP is not repayable.

For employees with less than one year's service, average weekly earnings for OMP are calculated by reference to the number of weeks the employee has been employed. OMP for employees with one year's service or more is calculated by reference to their contractual pay.

SMP is not repayable. OMP will be repayable if the employee does not return to work following maternity leave (see section qualifying conditions for OMP above).

Both SMP and OMP are calculated weekly but paid monthly. Monthly payments will vary depending upon the level of SMP/OMP the employee is entitled to as the maternity leave progresses.

8.5 Exclusions from SMP/OMP

An employee will not be entitled to SMP and/or OMP, or will cease to be entitled to SMP and/or OMP, if they:

- attend work on more than ten occasions for keep in touch days,
- do any work, other than keep in touch days, for any employer, or
- are taken into legal custody or
- the placement of the child is disrupted

9. Leaving Employment during Maternity Leave

- A. If an employee is considering resignation, their HoS/line manager should invite them to a meeting to discuss the potential flexible working options that might be considered to facilitate a return to work and to advise the employee of their rights under Parental Leave arrangements or the flexible working policy.
- B. If the employee does not wish to return to work after Ordinary or Additional maternity leave, they must give notice in accordance with the notice provisions specified in their Statement of Particulars of employment, although consideration may be given to waive the normal notice provisions subject consideration and approval by the DoE.
- C. If the employee leaves IET employment after the qualifying week (that is after the 15 week before the EWC) through resignation connected or unconnected with pregnancy or childbirth or through dismissal and they satisfy the qualifying conditions as outlined above, they will receive SMP.

- D. If the employee leaves IET employment or is dismissed before they have given notice of their maternity leave, were employed at the start of the qualifying week (that is the 15th week before the EWC) and satisfy the qualifying conditions as outlined above, they will receive SMP. In these circumstances, SMP begins on the later of; the Sunday of the 11th week before the EWC or the Sunday of the week after the employment ends.
- E. In either of the circumstances described in paragraphs C and D above, where the employee is entitled to receive SMP, the employment will terminate at the end of the notice period and SMP will be paid as a lump sum, subject to tax and national insurance contributions.
- F. In either of the circumstances described in paragraphs C and D above, the employee will not receive OMP.
- G. If the employee leaves IET employment when they are on OML, their last day of service will be the end of their notice period following resignation and SMP will be paid as a lump sum.
- H. If the employee leaves IET employment when they are on AML, their last day of service will be the end of their notice period following resignation. The date should be no earlier than the date of receipt of the resignation.
- I. Employees who resign during maternity leave or who do not return to work at the end of their maternity leave period, may in some cases, be entitled to pay in lieu of their accrued annual leave entitlement. If the employee qualifies for OMP, the pay in lieu of leave will help off-set any OMP that has to be repaid following failure to return to work. See the section Qualifying conditions for OMP above for further information.

10. Redundancy Protection

In the event of a redundancy situation, employees on maternity leave (and those on adoption leave and shared parental leave) have the right to be offered a suitable alternative vacancy, if one is available, before being made redundant and have priority access to redeployment opportunities.

From 6 April 2024, this right to be offered a suitable alternative employment in preference to other employees at risk of redundancy has been extended for employees taking maternity leave as follows.

- Where an employee notifies the school that they are pregnant on or after 6 April 2024, the redundancy protection period starts from the date of notification of pregnancy.
- Where an employee's statutory maternity leave ends on or after 6th April 2024 the redundancy protection period ends 18 months after the child's date of birth (if notified to the school before the end of the maternity leave) or 18 months from EWC (in other cases). This includes any time spent in this period on maternity leave or other statutory leave.

An employee who miscarried before 24 full weeks of pregnancy will have redundancy protection for two weeks after the end of their pregnancy.

11. Reasonable contact & Keeping in Touch days

11.1 Maintaining contact during Maternity Leave

Whilst on maternity leave, the employee's privacy should be respected. However, the Work and Families Act 2006 gives the employer the express right to make reasonable contact with an employee on maternity leave, to keep the employee informed of developments in the workplace and discuss the employee's plans to return to work at the appropriate time.

As a minimum an employee on maternity leave, will be informed of any organisational change that may affect them and any vacancies in the team that may be of interest to them.

Prior to the employee going on leave, the HoS/line manager will conduct a pre-maternity leave discussion to agree what information the employee would like to receive, when first contact will be made and how frequent contact will be thereafter. The method of contact needs to be agreed e.g. phone, email, letter, or face to face. If the employee is unsure what contact they want, the HoS/line manager should agree with them when and how the first contact will be made and agreement for further contact reached when first contact is made.

Already anticipated Keeping in Touch (KIT) days should also be scheduled at this point, with any further KIT days being agreed during the maternity leave period, as they become relevant.

11.2 Keeping in Touch (KIT) Days

Kit days are designed to provide an opportunity for employees to keep their skills and knowledge current whilst on maternity leave. KIT days can only be made available to employees who have indicated that they intend to return to work immediately after their maternity leave or where there is a statutory requirement e.g. statutory training.

An employee may participate in up to 10 KIT days (or part days) without losing entitlement to maternity leave or pay. If they work more than 10 KIT days, their maternity leave and pay automatically ends by law.

Remuneration is based on contractual pay. Any SMP, OMP or MA received will count towards that remuneration, and the total must not exceed full pay. There is no obligation on the employer to offer KIT days or an employee to take them up if offered, but they are a useful way for an employee to remain up to date with their team whilst they are away on maternity leave.

Even if the employee only works for part of a day (for example half a day), this counts as 1 full KIT-day. The employee will be paid a full day, irrespective of how many hours they work. Team lunches, or any time when the employee's child is in attendance is not constituted as a KIT day.

Where an employee's working pattern is not available and/or the number of hours worked are not known, payment will default to the average daily hours, across 5 days.

The employee's HoS/line manager should notify HR, by email, of the days the employee intends to work. HR will arrange with the SBM for payment to be received in the next available pay run. Employees can however choose to receive payment for a KIT day on returning to work following maternity leave.

12. Returning to work

Four months prior to the specified maternity leave return date HR will write to the employee, reminding them of the expected return date, and advising them to 'catch up' with their HoS/line manager prior to their return. Employees should notify their HoS/line manager in writing, as soon as possible if they wish to propose a change to their leave entitlement arrangements. See also 'Varying hours on return from Maternity Leave' section below

Unless otherwise notified, the date on which the employee returns to work will be the first working day after the end of their 52 weeks' Maternity Leave period.

Employees who intend to return to work immediately after their maternity leave period do not have to give notice of their return.

If an employee wishes to return to work before the notified date or the end of their full maternity leave, they need to give 8 weeks' notice of the date of their intended return. If the employee fails to give 8 weeks' notice, their return can be deferred to ensure 8 weeks' notice is provided.

Employees who take only 26 weeks of maternity leave have the right to return to their job, on terms and conditions no less favourable to those they had at the commencement of their maternity leave, and to any improvements implemented in their absence unless this is not reasonably practicable.

If the employee takes the full 52 weeks of maternity leave, they will have the right to their job or similar job (if it is not possible to give them their old job). Similar means the job has to be the same or better terms and conditions. If the employee unreasonably refuses to take the similar job, the school can take this as their resignation.

If an employee chooses to return to work early from maternity leave, once they have returned they cannot then go back on to maternity leave. If they require additional time off then annual leave, parental leave, or special leave could be considered.

12.1 Returning to work late following Maternity Leave

An employee who does not return to work on the specified date, either the date originally agreed or subsequently amended date, must contact their HoS/line manager as soon as possible to explain the reason why. An employee cannot extend maternity leave beyond the statutory entitlement.

- If the employee is ill at the date of return to work, they should inform their HoS in the normal way. This would be dealt with in accordance with the provision for absence management.
- If the employee cannot return to work because of a pregnancy related illness, then this should be handled sensitively as employees may have protection under sex discrimination legislation if they are disciplined or dismissed in such circumstances.
- If there is an interruption of work (whether due to industrial action or some other reason) and it is unreasonable to expect the employee to return on the notified day, the employee may instead return when work resumes, or as soon as reasonably practicable thereafter.
- If the employee fails to return after the maximum period of maternity leave, and fails to notify their absence, disciplinary procedures may be invoked. In these circumstances, the employee's HoS/line manager should make every effort to contact the employee to establish the reason(s) and offer support, if appropriate.

12.2 Varying hours of work on return from Maternity Leave

If an employee wishes to vary their hours of work on return from maternity leave, they should discuss this with their HoS/line manager. They have a right to request a flexible working arrangement and for the request to be fully considered should comply and refer to the 'Flexible Working Request' policy.

If the employee reduces their contracted hours on returning to work, they will have to work longer than 13 weeks to retain the half pay element of their OMP. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 weeks' service and is determined by applying the following formula (using the example of someone who works 36 hours per week before they went on maternity leave and works 18 hours per week on their return).

- Hours worked before going on leave (36) ÷ Hours per week on return (18) = 2
- 13 weeks x the answer above (13 x 2) = 26
- Employee must return for 26 weeks, working 18 hours per week to retain their full OMP entitlement

13. Special circumstances

13.1 Premature births

An employee who gives birth prematurely will be entitled to the maternity leave and pay they would have received if the child was born on the Expected Week of Childbirth (EWC). If childbirth occurs before the date the employee has been notified to start Maternity Leave or before notification, the maternity leave period starts automatically on the day after the date of birth.

For Statutory Maternity Pay (SMP) purposes, an employee who gives birth before the Qualifying Week (QW) may still be able to receive SMP if the following conditions are satisfied.

- They must inform their HoS/line manager within 28 days of giving birth or as soon as possible thereafter.
- The 26 weeks' continuous service rule is considered satisfied if this rule would have been satisfied but for the early birth.
- They have average weekly earnings calculated over the 8 weeks ending with the week before the week in which they give birth, of not less than the lower earnings limit for the payment of national insurance contributions
- SMP will not be payable if the pregnancy ends before the 24th week other than by a live birth.

For Babies requiring Neonatal Care, refer to the Neonatal Leave and Pay Policy.

13.2 Miscarriage

A miscarriage is the loss of a pregnancy during the first 23 weeks and 6 days of pregnancy. Miscarriage can be a traumatic experience. <https://www.miscarriageassociation.org.uk/> charity offers information and support to those who have experienced a miscarriage and to their family friends. The Trust also provides an Employee Assistance Programme through Smart Clinic <https://smartclinic.com/>

Paid compassionate leave will be granted when an employee or the employee's partner has had a miscarriage or termination of pregnancy during this period. See Other Leave Policy.

13.3 Death of a baby and stillbirths

Stillbirth is when a baby dies before they are born or during labour at more than 24 weeks of pregnancy. If this occurs, or if the baby dies after birth, an employee will be entitled to maternity leave and pay if they fulfill the eligibility criteria for the statutory or occupational schemes.

Time off with pay will be granted at times of parental bereavement for primary carers following the death of a baby, or a stillbirth after 24 weeks of pregnancy. For further details please see the Other Leave Policy.

It is devastating when a baby dies. The charity 'SANDS' (Stillbirth and Neonatal Death Charity) <https://www.sands.org.uk/> offers website support and a helpline for parents and families affected by the death of a baby and stillbirth – 0800 164 3332. The NCT has an article on Coping with Stillbirth which may also be helpful <https://www.nct.org.uk/labour-birth/losing-baby/coping-stillbirth>

13.4 Continuity of Service following Maternity Leave

On return to work the employee will have full continuity of service for purposes of redundancy and other service-related benefits, provided they return to work on a specified date.

13.5 Becoming Pregnant Whilst on Maternity Leave

If an employee becomes pregnant whilst on maternity leave, they should notify their HoS and line manager that they are pregnant and that they wish to take a second period of maternity leave.

The HoS/line manager will need to establish:

- Whether the employee will be returning to work between the periods of maternity leave and whether the employee received occupational maternity pay during their first period of maternity leave
- Whether the employee wishes to receive occupational maternity pay for their second period of maternity leave. Taking OMP is optional. If the employee takes OMP for both the first and the second period of maternity leave, this will increase the number of weeks that the employee is required to return to work following maternity leave as each period of OMP is attached to a requirement to return to work for 13 weeks (see the section Effect on Occupational Maternity Pay below).
- If the employee wants to take OMP for the second period of maternity leave, whether they wish to receive it during their maternity leave or on their return to work following maternity leave (an employee can choose to receive their 4 or 20 weeks' half pay OMP after they return to work).
- The expected date of childbirth for the second baby.

Effect on Statutory Maternity Pay (SMP)

From the expected date of childbirth, the HR Team/SBM will be able to calculate when the employee's statutory maternity pay (SMP) calculation period will fall. The SMP calculation period is normally the 8-week period, known as the Relevant Period, that comes before the start of the 15th week before the baby is due (the Qualifying Week).

As average weekly earnings for SMP purposes are normally calculated by reference to earnings during the Relevant Period, if the employee is not receiving any pay during this period, or their pay is less than the lower earnings limit for NI contributions, then they will not qualify for SMP for their second period of maternity leave. Any SMP or OMP payments

made to the employee (in relation to their first pregnancy) during the Relevant Period are treated as earnings for the purpose of calculating whether the employee is entitled to SMP during their second period of maternity leave.

If the employee is not eligible for SMP for their second maternity, they may be able to claim MA and may be eligible for OMP.

Effect on Occupational Maternity Pay (OMP)

If the employee takes two consecutive periods of maternity leave which include one or more periods of additional maternity leave the following will apply:

First period of maternity leave

If the employee has been in receipt of OMP during their first period of maternity leave, although they will not have returned to work after that first period of maternity leave, they will not be required to repay their 4 or 20 weeks' half pay OMP if they:

- indicate that they intend to return to work following their second period of maternity leave and
- return to work following their second period of maternity leave for a minimum of 13 continuous weeks at their pre maternity leave contracted hours. If the employee reduces their contracted hours on returning to work, they will have to work longer than 13 weeks to retain the half pay element of their OMP. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 weeks' service.

See the varying hours of work on return from the maternity leave section of the policy for more information.

The employee will be required to refund the OMP payments they received during their first period of maternity leave if they:

- indicate that they do not intend to return to work following their second period of maternity leave or
- if having indicated that they will return to work, they subsequently decide not to return to work following their second period of maternity leave.

Second period of maternity leave

The employee will be entitled to receive OMP during their second period of maternity leave if they indicate that they intend to return to work following their second period of maternity leave and they return to work following their second period of maternity leave for the following periods:

- Employees who were not paid OMP during their first period of maternity leave will need to return to work following their second period of maternity leave for a minimum of 13 continuous weeks at their pre maternity leave contracted hours.
- Employees who were paid OMP during their first period of maternity leave will need to return to work following their second period of maternity leave for a minimum of 26 continuous weeks at their pre maternity leave contracted hours (13 weeks to retain the OMP paid during their first period of maternity leave and 13 weeks to retain the OMP paid during their second period of maternity leave).
- In either of the cases above, if the employee reduces their contracted hours on returning to work, they will have to work longer than 13 or 26 weeks to retain the half pay element of their OMP. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 or 26 weeks' service. See the section Varying hours of work on return from maternity leave for more information.

If, having taken OMP during their second period of maternity leave, the employee does not return to work following that leave, they will be required to refund any OMP payments received during their first and second periods of maternity leave.

Returning to work between periods of maternity leave

If the employee returns to work at their pre maternity leave contracted hours between their two periods of maternity leave but for less than 13 weeks, the number of weeks that they work will be counted towards the total number of weeks that they are required to work to retain the OMP that has been paid to them.

Employees who take back-to-back periods of maternity leave (who do not return to work between periods of maternity leave) will be entitled to return to the same job or to be offered a suitable similar job if it is not reasonably practical to offer them the same job (see the section Returning to Work following Maternity Leave).