

TEACHERS MATERNITY AND ADOPTION LEAVE POLICY**Contents**

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TEACHERS MATERNITY AND ADOPTION LEAVE POLICY

1.0 SCOPE

- 1.1 This document summarises the rights and obligations of all employees covered by Teachers National and Local Conditions of Service for Maternity and Adoption Leave.
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2.0 QUALIFYING CONDITIONS

- 2.1 **Maternity** – All pregnant employees, regardless of their length of service, are entitled to 26 weeks Ordinary Maternity Leave (OML) followed immediately by 26 weeks Additional Maternity Leave (AML) which commences at the end of the Ordinary Maternity Leave. This provides a right to one years' maternity leave in total.
- 2.2 If an employee resigns or is dismissed before the date she has notified to commence maternity leave, or before she has notified a date then she loses the right to maternity leave.
- 2.3 **Adoption** – Adoption leave will be granted where the employee meets the following criteria:
- the employee is the adopter of the child. The adopter can be either the mother or the father.
 - the employee has 26 weeks continuous service ending with the week which he/she was notified as being matched with the child.
 - the employee has notified the relevant Social Security Department/Adoption Agency (as applicable) that he/she agrees that the child should be placed with him/her and on the date of the placement.
- 2.4 Employees who qualify for adoption leave may take 26 weeks Ordinary Adoption Leave immediately followed by 26 weeks Additional Adoption Leave, which commences at the end of the Ordinary Adoption Leave. This provides for one year's adoption leave in total. If both adoptive parents work for the council, only one parent will qualify for Adoption Leave. The second parent may be entitled to Maternity/Adoption Support Leave. For further guidance, employees should view the Maternity/Adoption Support Leave on the Employee Hub.
- 2.5 In instances where there are multiple births/children adopted, the employee will only be entitled to one period of Maternity/Adoptive leave.
- 2.6 **Maternity & Adoption**
- Throughout the period of Maternity/Adoption Leave including the period of Ordinary and Additional Leave employees are entitled to the benefits of their normal terms and conditions of employment, with the exception of terms relating to remuneration.
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3.0 NOTIFICATION

- 3.1 **Maternity** – The employee must notify their Manager/ Headteacher that they are pregnant no later than the end of the 15th week before their Expected Week of Childbirth.
- 3.2 The employee must give a minimum of 28 days' notice to commence maternity leave specifying that they are pregnant, the expected week of childbirth and the intended start
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date of Maternity Leave. Employees should complete a Notification of Maternity Leave ML1(T) form and submit it along with their MATB1 form (supplied around 20 weeks by their GP/Midwife) to their Manager/ Headteacher who will then forward it on to the Council's Financial Services Payroll and Pensions and in the case of schools based Teachers, the external Payroll Provider if applicable.

- 3.3 When notification of an employee's pregnancy is received, the Council's Financial Services Payroll and Pensions will write to the employee, issuing the Standard Maternity Letter advising the employee of the date upon which they must return to work i.e. the last day of Additional Maternity Leave.
- 3.4 An employee may vary the date they wish to commence their Maternity Leave by notifying their Manager/ Headteacher of the new start date either 28 days before her original date or 28 days before the new date whichever is sooner. The Manager/Headteacher should inform the Council's Financial Services Payroll and Pensions (and the external payroll provider if applicable) of the revised date.
- 3.5 **Adoption** – The employee must provide the following information to their Manager/Headteacher who will then forward this on to the Council's Financial Services Payroll and Pensions. In the case of school-based employees, a copy should also be sent to the external Payroll Provider if applicable:
- adopters must inform their employers of their intention to take adoption leave the dates due for placement and start of Adoption Leave, within at least seven days of being notified that they have been matched for adoption (or, if this is not reasonably practicable, as soon as is reasonably practicable)
 - the employee may commence their Adoption Leave on either the date on which the child is placed with them or a pre-determined date no earlier than 14 days before the expected week of placement and no later than the expected date of placement.
 - the employee may vary the start of their Adoption Leave by giving 28 days' notice to their Manager/Headteacher before the original date or new date they want the leave to start, whichever is later.
 - the employee must provide evidence, in the form of one or more documents issued by the Adoption Agency that matched the employee with the child.
- 3.6 **Surrogacy arrangement (Parental Order)** – employees must inform their Manager/Headteacher at least 15 weeks before the due date, when the baby is due and when they want to start their leave.
- 3.7 **Overseas Adoption** – employees must inform their Manager/Headteacher by giving 28 days' notice;
- the date of their "official notification" and the expected date the child arrives in the UK.
 - the actual date the child arrives in the UK.
 - how much leave they want to take and when they want it to start.
 - if the date of placement changes.
- 3.8 If an employee is jointly adopting from abroad, they will need to decide which adopter will receive Statutory Adoption Leave and Pay and which adopter will receive Statutory Adoption Support Leave and Pay. If the employee chooses to receive Statutory Adoption Leave and Pay they will need to complete the "declaration" on Form SC6. If the employee chooses to receive Statutory Adoption Support Leave they must fill in the "Dates for Pay and Leave" and "Declaration" on Form SC5. Once the form is completed your Manager/Headteacher

will pass it to Financial Services Payroll and Pensions. In the case of school-based employees this will be to the external payroll provider if applicable.

- 3.9 Employees should complete a Notification of Adoption Leave AL1(T) form and attach the original copy of the following and submit it to their Manager/Headteacher who has responsibility for forwarding it on to Financial Services Payroll and Pensions and in the case of schools based Teachers, the external Payroll Provider if applicable.

- Matching certificate (UK Adoptions)
- Official notification and declaration form SC6 (Overseas Adoptions)
- Certificate of declaration (Surrogate Arrangement/Parental Order)

When notification of an employee's intention to take adoption leave is received, the Council's Financial Services Payroll and Pensions will write to the employee, issuing the Standard Adoption Letter advising the employee of the date upon which they must return to work i.e. the last day of Additional Adoption Leave.

3.10 **Absence due to childbirth before the intended start date**

If childbirth occurs before the expected date when Maternity Leave was to commence (or before any date was notified), the Maternity Leave period starts automatically on the day after the date of birth (even if this is before the beginning of the 11th week before the expected week of childbirth).

- 3.11 In order to preserve the employee's rights to maternity leave and Statutory Maternity Pay (SMP), the employee must as soon as is reasonably practicable inform their Headteacher/Manager in writing of the date of childbirth. Headteachers/Managers must then forward the letter on to the Council's Financial Services Payroll and Pensions immediately, and in the case of school based employees a copy should also be sent to the external Payroll Provider if applicable.

3.12 **Returning to Work – Maternity Leave**

- If an employee intends to return to work immediately after the end of Additional Maternity Leave, indicated this on their ML1(T) form, and have not notified their employer otherwise they do not have to give notice of their return-to-work date. However, it is customary for employees to give notice of their intended date of return.
- If an employee wishes to return before their return date, they must give 21 days' written notice of their intention to return back to work.
- Where an employee changes their mind about the date they intend to return, where they have already notified their Manager/Headteacher of an early return date but decide to return to work even earlier they must give 21 days' notice before the new date.
- Where an employee has already notified their Manager/Headteacher of an early return date then decides to postpone their return they must give 21 days' notice before the original intended return date.

3.13 **Returning to Work – Adoption Leave**

- If an employee intends to return to work immediately after the end of Additional Adoption Leave, have indicated this on their AL1(T) form and have not notified their Manager/Headteacher otherwise, they do not have to give notice of their return-to-work date. However, it is customary for employees to give notice of their intended date of return.

- If an employee wishes to return before the end of their Additional Adoption Leave return date, they must give 21 days' written notice of their intention to return back to work.
- Where an employee changes their mind about the date they intend to return, where they have already notified their Manager/Headteacher of an early return date but decide to return to work even earlier they must give 21 days' written notice before the new date.
- Where an employee has already notified their employer of an early return date then decides to postpone their return, they must give 21 days' written notice before the original intended return date.

3.14 Employees wishing to end their Maternity/Adoption Leave early in order to opt for Shared Parental Leave must provide at least 8 weeks written notice to their Manager/Headteacher. Please refer to the [Shared Parental Leave Policy](#) for further advice.

3.15 Employees not wishing to return to work following either Maternity or Adoption Leave must give at least their contractual notice to terminate their contract of employment. However, they may still have an entitlement to receive their full entitlement of leave and Statutory Maternity Pay/Statutory Adoption Pay up to the point of termination.

4.0 **TIME OFF FOR ANTE-NATAL CARE AND PRE-ADOPTION TRAINING/INTERVIEWS**

4.1 All pregnant employees are entitled to time off with pay to attend appointments for antenatal care. Antenatal care can include not only medical examinations but also, e.g. relaxation classes and parent craft classes. Except in the case of the employee's first appointment, the employee must be prepared to show their Manager/Headteacher on request:

- a certificate from a registered Medical Practitioner, registered Midwife or registered Health Visitor confirming that the employee is pregnant; and
- an appointment card or some other document showing that an appointment has been made.

4.2 All employees qualifying for Adoption leave have an entitlement to time off with pay to attend adoption appointments. Each appointment is limited to a period of 6.5 hours. The entitlement to paid time off differs for adopters as follows:

- Single adopters are entitled to paid time off to attend up to 5 adoption appointments.
- In the case of joint adopters (i.e. a couple who have been jointly matched to adopt a child) where both are Council employees, one of the adopters will be entitled to time off to attend up to 5 adoption appointments. The other employee/ joint adopter may be entitled to unpaid time off to attend up to 2 adoption appointments.
- Parental Order parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to up to 2 of her antenatal appointments.

4.3 The time off to attend adoption appointments must be taken between being notified of a match with a child and the date that the child joins the family. If more than one child is being adopted at the same time, the number of appointments will still be the same.

4.4 Employees must be prepared to show their Manager/Headteacher appropriate documentation confirming their required attendance.

5.0 **WORKING DURING MATERNITY/ADOPTION LEAVE (KEEPING IN TOUCH DAYS)**

- 5.1 Employees are entitled to undertake up to 10 days work, known as Keeping in Touch (KIT) Days, during their Maternity/Adoption Leave and Maternity/Adoption Support Leave without bringing their Maternity/Adoption Leave or Additional Maternity/Adoption Support Leave to an end or losing Statutory Maternity Pay/Statutory Adoption Pay or Additional Maternity/Adoption Support Leave. This can take place at any time during their maternity leave with the exception of the first two weeks following the birth OR with the exception of the first two weeks of Adoption Leave. It is an offence to allow an employee to carry out ANY work during this Compulsory Maternity/Adoption Leave Period.
- 5.2 Regardless of the number of hours worked on a KIT day, this will constitute as 1 full day from the 10 allowed.
- 5.3 Any time worked over 10 days will result in the employee losing their Statutory Maternity/Adoption Pay for any week in which they do any further work and therefore the Council will not consider allowing employees to work above 10 days.
- 5.4 Work is defined as any work done under the contract of employment and includes training or any activity undertaken for the purposes of keeping in touch with the workplace.
- 5.5 Managers cannot insist that the employee carries out any work and the employee should not suffer any detriment for refusing to do so. Equally the employee cannot insist on working.
- 5.6 An employee's Maternity/Adoption Leave will not be extended due to having carried out some work during this period.
- 5.7 An employee's pay will be calculated based on the actual number of hours worked on a KIT Day. However, employees should be aware that the pay for working a KIT Day will be offset against Occupational Maternity/Adoption or Statutory Maternity/Adoption Pay. For example;

If an employee earns £50 for a KIT Day, she will be paid her full SMP/SAP for that week as the flat rate of SMP/SAP is more than £50. Her SMP/SAP will be offset against the £50 earned, meaning that she will be paid £172.48 for the week. She will not be paid £50 as well as the SMP/SAP for that week as her SMP/SAP has been offset against the contractual pay.

If she works for three KIT days in the same week and earns £300 for the KIT days, she will be paid £300 for the KIT days. Her SMP/SAP of £172.48 is offset against the contractual pay paid to her for the same week so she does not receive both.

Employees will be required to complete a Keeping In Touch Day Payments Form to reflect the number of days/hours worked for a KIT day. The Manager/Headteacher will then forward the completed form to the Financial Services Payroll and Pensions or external payroll provider where applicable.

6.0 **REASONABLE CONTACT**

- 6.1 Managers and employees can make reasonable contact during Maternity/Adoption leave to discuss issues such as their return to work. This does not constitute work and therefore does not count towards the 10 days specified above and would therefore not bring the Maternity/Adoption leave to an end.

- 6.2 Headteachers/Managers should ensure that employees are kept informed of relevant issues e.g. job vacancies, significant workplace developments, training opportunities, re-structuring etc.
- 6.3 It may be useful for Managers/Headteachers and employees to discuss and agree prior to the commencement of Maternity/Adoption leave the way in which contact will happen and how often this may occur.

7.0 **PERIOD OF ABSENCE**

- 7.1 **Maternity** – An employee can start Maternity leave no earlier than 11 weeks before their Expected Week of Childbirth but has the right to work up to the birth of their baby if they so wish.
- 7.2 An employee can choose how much leave to take but must be absent for a minimum of 2 weeks after the birth (Compulsory Maternity Leave). The onus is on the Council/School not to allow women to return to work during this period.
- 7.3 **Adoption** – The date that the employee can start Adoption Leave varies as follows;
- UK Adoptions - An employee can take Adoption Leave up to 14 days before the date that the child starts living with them.
 - Overseas Adoption - An employee can take Adoption Leave when the child arrives in the UK or within 28 days of this date.
 - Parental Order (Surrogate Arrangement) - An employee can take Adoption Leave on the day the child is born or the day after.
- An employee can choose how much leave to take but must take at least 2 weeks Ordinary Adoption Leave.
- 7.4 **Shared Parental Leave** – An employee is entitled to end their Maternity/Adoption Leave early in order to opt for Shared Parental Leave. The employee must provide at least 8 weeks written notice to their Manager/Headteacher. Please refer to the Shared Parental Leave Policy for further advice.
- 7.5 **Parental Leave** – An employee is entitled to take an additional 4 weeks (maximum) unpaid parental leave following their Maternity/Adoption leave. To take Parental leave the employee must give a minimum of 28 days' notice to their Headteacher/Manager. For further guidance, employees should view the Parental Leave Scheme on the Employee Hub.
- 7.6 **Neonatal Care Leave & Pay**
- Neonatal Care Leave** - New legislation from 6 April 2025 details the support available to parents of babies who are admitted into neonatal care within 28 days of birth for a continuous period of 7 days or longer. The leave is a day one right. For further information can be found in Appendix A.

8.0 **MATERNITY/ADOPTION PAY**

- 8.1 Entitlement to Statutory Pay is dependent on the length of service the employee has with the Council and whether the employee's weekly earnings are above the Lower Earnings

Limit, (this is the level at which the employee's earnings become relevant for National Insurance purposes).

8.2 Statutory Maternity Pay/Statutory Adoption Pay will commence on the day the employee specifies in their notice, provided they start their leave on this day. If the birth occurs before the start of maternity leave or following absence due to pregnancy after the start of the fourth week before the Expected Week of Childbirth, then Statutory Maternity Pay will commence the following day.

8.3 If an employee leaves their employment after the beginning of the 15th week before the Expected Week of Childbirth but before they have started to receive Statutory Maternity Pay, then Statutory Maternity Pay will be payable from the day following which their employment ended.

8.4 **EMPLOYEES WITH 1 YEAR'S SERVICE OR MORE**

Employees will be entitled to receive one of the following pay options:

Employees who have at least 1 year's service *before the 11th week before the Expected Week of Childbirth/date of adoption and their earnings are above the lower earnings limit:*

Weeks 1 - 4	Employees will receive full pay.
Weeks 5 - 6	Employees will receive 2 weeks' pay at 90% of the employee's average weekly earnings.
Weeks 7 - 18	Where the employee has indicated by completing their ML1(T)/AL1(T) form that they intend to return to work, they will receive 12 weeks half pay Occupational Maternity/Adoption pay*. This is paid on the understanding that a woman will return to local authority (not just the current authority) employment for at least 3 months. The employee will also receive either the current rate of Statutory Maternity Pay/Statutory Adoption Pay per week or 90% of the employee's average weekly earnings, whichever is the lower. In accordance with the Conditions of Service Document an employee cannot receive a payment which is more than a normal weeks pay therefore in instances where half pay, and SMP/SAP exceeds full pay the difference the amount that exceeds full pay will be deducted.
Weeks 19 - 39	For the remaining 21 weeks the employee will receive their Statutory Maternity Pay/Statutory Adoption Pay Entitlement.

8.5 **Employees who have at least 1 year's service *before the 11th week before the Expected Week of Childbirth/ date of adoption and their earnings are below the lower earnings limit***

Weeks 1 - 4	Employees will receive full pay.
Weeks 5 - 6	Employees will receive 2 weeks' pay at 90% of the employee's average weekly earnings.

Weeks 7 – 18	Where the employee has indicated by completing their ML1(T)/AL1(T) form that they intend to return to work, they will receive 12 weeks Half Pay (Occupational Maternity/ Adoption pay).*
Weeks 7 - 39	The employee will not receive the additional Statutory Maternity Pay/ Statutory Adoption Pay. The employee may be entitled to Maternity/Adoption allowance which is payable by the Department of Social Security or Job Centre Plus.

* **Occupational Maternity/Adoption Pay** (applicable to employees who have at least 1 year's service)

8.6 Employees can opt to receive their 12 weeks half pay in the following way:

- from weeks 7 to 18 as specified in the table above
- some employees prefer to have the 12 weeks half pay retained until they return to work. Employees wishing to do this should endorse the ML1/AL1 form accordingly. (Please note that this option may have an impact on the amount of National Insurance payable).

Employees who do not return back to work, should note that any excess monies will be recovered. For employees not intending to return, payment will be the employee's entitlement to Statutory Maternity Pay/Statutory Adoption Pay.

8.7 **EMPLOYEES WHO HAVE LESS THAN 1 YEAR'S SERVICE**

Employees who have 26 weeks service into the 15th week before the Expected Week of Childbirth or 26 weeks service by the date of Adoption, but have less than 1 years service and their earnings are ABOVE the lower earnings limit and they meet the following criteria:

- the employee's average earnings must be above the Lower Earnings Level in the 8 weeks ending with the 15th week before the Expected Week of Childbirth to qualify for Statutory Maternity Pay
- the employee's average earnings must be above the Lower Earnings level in the 8 weeks before the date of Adoption to qualify for Statutory Adoption Pay.

The employee will receive the following payment:

Weeks 1 - 6	Pay at 90% of the employee's average weekly earnings.
Weeks 7 - 39	The employee will receive either the current rate of Statutory Maternity/ Adoption Pay or 90% of the employee's average weekly earnings, whichever is the lower.

8.8

Employees who fall under the following categories do not qualify for Statutory or Occupational Maternity/ Adoption Pay

- **less than 26 weeks service into the 15th week before the expected Week of Childbirth**

- **less than 26 weeks service by the date of Adoption**
less than 1 years' service and earnings are below the Lower Earnings Limit.

However, employees may be entitled to Statutory Maternity/Adoption Allowance payable by the Department of Social Security/Job Centre Plus. The following process should be followed:

Maternity	Employees in this circumstance need to submit their MATB1 along with their ML1(T) form to Financial Services Payroll and Pensions who will then copy these forms and return to the employee along with a SMP1 form, entitled 'Why I can't pay you SMP'. The employee must complete this form and submit this along with their MATB1 to their Department of Social Security/Job Centre Plus who will then deal with any entitlement to Statutory Maternity Allowance.
Adoption	Employees will need to submit the letter of confirmation of acceptance of adoption from the relevant Department of Social Security/Job Centre Plus or Adoption Agency as applicable along with the 'matching certificate' (this is equivalent to a MATB1) to Financial Services Payroll and Pensions. These forms will then be copied and returned to the employee, advising them to submit these to the local Department of Social Security/Job Centre Plus office who will deal with any entitlement to Statutory Adoption Allowance.

9.0 **ANNUAL LEAVE**

- 9.1 Teachers do not have any contractual entitlements to be paid Annual Leave nor a specified leave year.
- 9.2 Teachers are entitled to 28 days statutory Annual Leave under the Working Time Regulations.
- 9.3 A Teacher who takes Maternity/Adoption Leave must be able to take 28 days Statutory Annual Leave at a time outside her Maternity/Adoption Leave period. A school/service must not consider any part of the Maternity/Adoption Leave period as Annual Leave
- 9.4 Statutory Annual Leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. either before or after the Maternity/ Adoption leave period.
- 9.5 The leave year for Teachers for the purpose of establishing Statutory Annual Leave has been agreed locally as commencing on 1 September, in line with the start of the academic school year.
- 9.6 A Teacher should be advised prior to commencing her Maternity/Adoption Leave that they have a statutory entitlement to 28 days Annual Leave and that this should be taken before or after the Maternity/Adoption Leave period during school closure periods. On their return from Maternity/Adoption Leave a Teacher must be allowed to take any outstanding leave during term time if there is insufficient school closure time to accommodate her leave in that leave year.
- 9.7 Where there is not enough time to take all their Annual Leave, a Teacher must be allowed to carry over any balance of her leave to the following leave year to be taken during the

remaining periods of school closure after the 28 days annual leave for that year has been taken.

- 9.8 It is not possible for the Teacher or school to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e. in school closure or term time.

10.0 **SICKNESS ABSENCE**

- 10.1 **Maternity** - An employee cannot claim Statutory Maternity Pay and Statutory Sick Pay at the same time.
- 10.2 If an employee is absent due to a pregnancy related illness, within the 4-week period before the Expected Week of Childbirth, the Statutory Maternity Pay period and Maternity Leave start on the day after the first complete day of absence from work.
- 10.3 If the employee is absent from work due to illness **unrelated** to their pregnancy, the employee may take sick leave and receive Statutory Sick Pay/Incapacity Benefit until their Maternity Leave period begins. The employee's Ordinary Maternity Leave period will begin either on the date they have notified or (if the employee has yet to notify a date) on the date of the birth.
- 10.4 As soon as is reasonably practicable the employee must notify their employer of the reason for their absence.

11.0 **RETURNING TO THE SAME JOB AFTER MATERNITY/ADOPTION LEAVE**

- 11.1 An employee who returns to work after Ordinary/Additional Maternity/Adoption Leave is entitled to return to the same job on the same terms and conditions as if they had not been absent.
- 11.2 Employees who are on Maternity Leave during the period of a restructure have special protection under the Maternity and Parental Leave Regulations (Amendments) 2014. The legislation (Regulation 10) provides that should the employee's position become redundant during the employee's maternity leave the employee **must** be offered any suitable alternative vacancy that is available in the School. The terms and conditions of this new post must not be substantially less favourable than the employee's original terms and conditions. The post offered is considered a suitable alternative therefore there is no requirement for the employee to undertake an interview. Those employees have priority status over all other employees who are potentially being made redundant.

In addition, from 6 April 2024, The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 extends the protections for redeployment opportunities in a redundancy situation for pregnant employees and those who have recently returned from maternity/adoption leave and shared parental leave.

These protections will be discussed with affected individuals during any Managing Change process.

12.0 **BREASTFEEDING**

12.1 **Employee Responsibilities**

Before you return to work, to ensure you get the support you need, let your manager know you are planning to return to work breastfeeding and negotiate any changes which may be required to your working day. There are no legal restrictions on breastfeeding at work or any time limits on how long this should take but you are able to take up to one hour in your own time (over the course of your workday) to express or breastfeed your baby.

If you work in an area where it is safe for your baby to be brought into work, this should where possible, be facilitated by your manager. If your baby is in childcare near to work you can negotiate time to leave work to breastfeed your baby, however it is important to have realistic expectations regarding this. Flexible working arrangements must be discussed with your manager if you are unable to accommodate breastfeeding.

If you would like to talk to someone from Barnsley Council's Infant Feeding Team about returning to work breastfeeding, please contact (01226) 775700 (Monday to Friday, 9am to 4pm) and they will be able to support you through your journey.

12.2 **KIT Days**

If you are breastfeeding and want to attend work for a KIT Day, speak to your manager about identifying a safe and private place to breastfeed your baby or express and store your breastmilk. If you are expressing breastmilk, it is your responsibility to ensure that this is stored in appropriately labelled containers.

12.3 **Manager's responsibilities**

Health and safety legislation requires managers to complete a health and safety risk assessment for breastfeeding mothers returning to work.

Before your employee returns from maternity leave you should ask for written confirmation if they are breastfeeding and intend to do so on their return to the workplace. This will give you the opportunity to provide a healthy, safe, and suitable rest environment for them to do this. If a mother intends to continue breastfeeding upon her return to work, you must complete the New and Expectant Mothers Risk Assessment and guard against inappropriate behaviour towards the employee who is breastfeeding.

If a mother intends to express breastmilk at work, you must ensure that suitable facilities have been identified:

12.4 **A private space**

A breastfeeding employee may ask for a private, hygienic, safe, and secure area where she can express milk, this could be an unoccupied office, or an area used for meetings that can be discreetly screened. If in doubt an employer should ask the employee what would be most appropriate. It would be inappropriate to use toilets or sick rooms as there may be a hygiene risk. If, after careful consideration, an employer is physically unable to provide an appropriate space, they should discuss the issue with the employee to see if there is any alternative facility.

12.5 **Fridge and storage**

Employers should consider enabling expressed milk to be stored in a fridge or cool area, perhaps secured in a re-sealable container for hygiene purposes. It would be good practice to discuss storage preferences with the employee.

13.0 DEDUCTIONS FROM SALARY

- 13.1 All the usual deductions, National Insurance, Superannuation, and Tax etc will be made during the 39 weeks of pay.
- 13.2 All voluntary deductions from salary will continue throughout the whole of the period of PAID Maternity/ Adoption leave (i.e. 39 weeks). Where an employee takes the unpaid Additional Maternity/Adoption Leave, there will be no facility to continue deductions whilst they are receiving no pay.
- 13.3 All usual pension deductions will continue to be paid for the whole of the period of Ordinary Maternity/Adoption Leave (whether or not the employee is receiving Statutory and/or Occupational Maternity/Adoption Pay) and any period of paid Additional Maternity/Adoption Leave. The Council will calculate the employer's contributions, as advised by Teachers' Pensions, based on the actual amount of money the employee receives and not what is usually paid on the teacher's normal salary. Where an employee takes the unpaid Additional Maternity/Adoption Leave, they will not pay any pension contributions whilst they are receiving no pay.

14.0 SALARY SACRIFICE SCHEMES

- 14.1 Monthly deductions will continue to be made whilst the employee is in receipt of their salary from their employer. The employee will then be invoiced each month for the period when no salary is due, so that on their return to work, no payment has been missed.

15.0 RISK ASSESSMENTS FOR PREGNANT EMPLOYEES

- 15.1 Where a workplace or work activities could involve a risk to the health or safety of an expectant mother, employers are required under the Management of Health and Safety at Work Regulations 1999 to assess those risks. Where risks are identified appropriate control measures must be identified and implemented. Both the risks and control measures must be recorded. Expectant mothers need to be informed of any additional risks they may face and the control measures to control these risks.
- 15.2 When an employee informs her Headteacher/Manager that she is an expectant mother, the Headteacher/ Manager should carry out a risk assessment based on the Council's Generic Risk Assessment for New and Expectant Mothers. This can be found on the Health and Safety Intranet Site.
- 15.3 Where a risk has been identified the Headteacher/ Manager has to decide how best to avoid the risk, this may be:
- implement suitable control measures; or if it is not reasonable to do so or would not avoid the risk.
 - temporarily adjust the expectant mother's working conditions and/or hours of work; or if it is not reasonable to do so or would not avoid the risk.
 - offer the expectant mother suitable alternative work if any is available; or if that is not feasible you must suspend the expectant mother from work (with pay) for as long as necessary to protect her safety or health of that of her unborn child.
- 15.4 Headteachers/Managers must consult with their Human Resources Advisor/Provider before

any decision is taken regarding Points 2 to 3 above to discuss the necessary action.

- 15.5 Advice on Health and Safety with regards to expectant mothers can be obtained from the Occupational Health Unit or the Health and Safety Intranet Site.

16.0 **PREGNANCY AND VDU'S**

- 16.1 Guidance issued by the National Joint Council for Local Government Service states the following:

“The current medical view outlined by the Health and Safety Executive (HSE) is that radiation emissions from Display Screen Equipment (DSE) would not put either a pregnant employee or her unborn child at risk. The Health and Safety Executive further take the view that the latest research studies have not been able to show a link between miscarriage and birth defect and Display Screen Equipment and advise that there is no reason for women who are pregnant or thinking of becoming so to stop working with Display Screen Equipment.

- 16.2 However, some employees may be anxious about continuing to work with Display Screen Equipment during pregnancy and this in itself may lead to stress. When a pregnant employee is concerned about continuing to carry out Display Screen Equipment work their employer may give sympathetic consideration to reorganisation of the workload or provide suitable alternative work where practicable for the period of the pregnancy. It is expected that the alternative work will be on terms and conditions not less favourable than those of the original contract.”

17.0 **TEMPORARY COVER DURING PERIOD OF ABSENCE**

- 17.1 The School's Recruitment and Selection Procedure must be followed when recruiting temporary staff.

18.0 **INCOME TAX AND NATIONAL INSURANCE IMPLICATIONS**

- 18.1 Maternity and Adoption pay is assessable to tax under Schedule E (75) [ICTA 1988, S150; FA 2002, S35].
- 18.2 Therefore, payments made by the employer to employees during maternity or adoption leave, whether they are entitlements to pay, half Occupational pay or Statutory Maternity pay/Statutory Adoption pay are subject to Tax and National Insurance in the normal manner, having regard to Tax and National Insurance levels and rates at the time these payments are made.
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Document Control

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APPENDIX A – NEONATAL CARE LEAVE & PAY

The trust / school are aware that some parents reading this guidance may have a baby requiring neonatal care or may have experienced baby loss. Please be aware that support is available via the Employee Hub and can be accessed by managers in school.

Overview

Neonatal care leave allows parents to have additional time off to be with a baby who is receiving neonatal care. It can also be used when the baby is no longer receiving neonatal care, for example, at the end of maternity leave. Neonatal care leave is a day one entitlement.

Neonatal care pay eligibility is based on the following eligibility criteria. Whereby, the employee must have been employed for at least 26 weeks up to the end of the 'qualifying week'. and earn on average at least the lower earnings limit (before tax) per week over an 8-week period. If the employee is already entitled to Maternity or Paternity Pay, this is the 15th week before the baby is due.

Employees may be eligible for Statutory Neonatal Care Pay and Leave if they or their partner have a baby that needs neonatal care.

'Neonatal care' is the name given to care for newborn babies which starts in the first 28 days after birth. This may be for:

- hospital care
- medical care after leaving hospital
- palliative or end of life care

Post-hospital medical care must be supervised by a consultant and include ongoing visits or checks arranged by the hospital where the baby was treated.

The baby must:

- enter neonatal care within 28 days of birth
- spend at least 7 full and consecutive days in neonatal care

The baby must have been born on or after 6 April 2025.

Neonatal Care Leave

An employee can take up to a maximum of 12 weeks' Neonatal Care Leave from the first day of their employment.

One week of leave for every 7 consecutive full days the baby spends in neonatal care can be taken.

Employees must take all leave within 68 weeks of the baby's date of birth.

Leave can be taken:

- while the baby is in neonatal care, or in the first week after (this is sometimes called 'tier 1')
- more than a week after the baby has left neonatal care (this is sometimes called 'tier 2')

How leave is taken

If the baby is in neonatal care, or in the first week after, employees can take leave in blocks of at least one week at a time. There is no requirement for these to be taken all at the same time.

If it has been more than a week since the baby left neonatal care, employees must take any leave they're entitled to in one single continuous block.

Taking Neonatal Care Leave with other types of statutory leave

Employees must take Neonatal Care Leave after any Statutory Maternity or Adoption Leave. If the baby is in neonatal care, or in the first week after, Neonatal Care Leave can be interrupted by other types of pre-booked parental leave (such as Paternity or Shared Parental Leave).

The remaining period of Neonatal Care Leave can be tagged immediately onto the end of the other parental leave.

If leave is being taken later than the first week after the baby leaves neonatal care, it can only be taken in a single block, before or after any other existing parental leave entitlement.

Statutory Neonatal Care Pay

The current Statutory Neonatal Care Pay for an eligible employee can be found here [Neonatal Care Pay and Leave: What you can get - GOV.UK](#). Tax and National Insurance are to be deducted, where applicable.

What are the eligibility and qualifying criteria for Neonatal Care Leave (NCL)?

The employee must qualify for Neonatal Care Leave and (if eligible) Statutory Neonatal Care Pay both as a parent with caring responsibility for the baby, and as an employee.

The employee will be entitled up to a maximum 12 weeks' pay and leave if their baby:

- was born on or after 6 April 2025
- spends 7 full days or more in neonatal care in a row

To get both leave and pay, the employee must be classed as an employee - this means they have an employment contract.

The employee may be eligible if they are taking leave and pay to care for the baby and they are also either:

- the baby's parent (biological, adoptive or of a child born to a surrogate) and have caring responsibility for the baby
- the partner of the baby's mother, with shared caring responsibilities

If the employee or their partner is an adoptive parent

An employee may be eligible for leave and pay if they are taking the leave to care for the child and either of the following apply:

- the child has been placed with them for adoption (or they've been approved for adoption)
- they are the partner of the adopter and have shared caring responsibilities

An employee may be eligible if they or their partner are adopting a baby from overseas and:

- they will have caring responsibility for the baby
- the baby has been placed with them

- they have the 'official notification' confirming they're allowed to adopt

If the employee had the child with the help of a surrogate

An employee is eligible if they both:

- have responsibility for the upbringing of the child
- apply for a parental order within 6 months of the child's birth

Neonatal Care Leave

Employees are eligible from the first day of their employment.

Statutory Neonatal Care Pay

The employee must have been employed for at least 26 weeks up to the end of the 'qualifying week'. If an employee is already entitled to Maternity or Paternity Pay, this is the 15th week before the baby is due. In the case of Statutory Adoption Pay, it's the week the employee was told they'd been matched with the baby for adoption.

Otherwise, the qualifying week is the week immediately before the baby enters neonatal care. The employee must also:

- remain employed up to the week before they claim the pay entitlement
- earn on average at least the lower earnings limit which can be found here [Rates and thresholds for employers 2025 to 2026 - GOV.UK](#) (before tax) over an 8-week period

How much leave can be taken?

Parents can take one week's Neonatal Care Leave in respect of each interrupted week (7 days) that their baby receives neonatal care, to a maximum amount of 12 weeks. The first qualifying period of 7 days begins with the day after the day your baby first receives neonatal care. Neonatal care Leave can be taken from the day after the first qualifying period. This means that you are not able to start neonatal leave until day nine.

Leave must be taken within **68 weeks** of the baby's birth (or placement in the case of adoption). As many people will already be on some form of family leave while their baby is in neonatal care, neonatal leave will likely be taken after neonatal care has ended and at the end of maternity/shared parental or adoption leave.

However, there will be instances where individuals will take neonatal leave while their baby is still receiving neonatal care, for example partners whose paternity leave entitlement has run out while their baby is still receiving care.

There are two categories of neonatal leave depending on when the leave is taken, and these are referred to as Tier 1 or Tier 2 periods.

Tier 1 period leave applies to leave taken while your baby is still receiving care and up to a week post discharge. Tier 1 leave can be taken in non-continuous blocks of a minimum of one week at a time. The Tier 1 period leave ends on the 7th day after the day your baby stops receiving neonatal care.

Tier 2 period leave applies to all other leave and must be taken in one continuous block, there is no option to take more than one period of Neonatal Care Leave in the tier 2 period.

How much notice is needed for Neonatal Care Pay?

The rules for giving notice depend on whether the leave is taken:

- while the baby is in neonatal care, or in the first week after (this is sometimes called 'tier 1')
- more than a week after the baby has left neonatal care (this is sometimes called 'tier 2')

Employees should give notice for leave in writing to their line manager via the Gov.uk Neonatal Form NE03 linked below. The form can be completed online and saved for printing or emailing purposes:
About this form – Guidance – GOV.UK

The line manager must then send the completed NE03 form to fspayrollandpensions@barnsley.gov.uk for processing.

However, if the baby is in neonatal care (or in the first week after), notice can be given again directly to the line manager initially by phone, voicemail or text message instead and we will be in touch shortly after.

Line managers must inform pay and pensions by email on fspayrollandpensions@barnsley.gov.uk should they receive notification of a baby currently in neonatal care (or in the first week after) via phone, voicemail or text message in order that the employee can be signposted to the NE03 form.

If the baby is in neonatal care (or in the first week after)

The employees should give notice that they're taking leave as soon as possible, and ideally before the time they usually start work.

If the employee needs leave to continue, they should give notice again by the end of the previous week. The employee should also inform the council when the baby leaves neonatal care as soon as possible.

If the baby left neonatal care more than a week ago

An employee who wants to take:

- one week of leave, must give 15 days' notice
- 2 or more weeks of leave, must give at least 28 days' notice

How do I give notice to take Neonatal Care Leave and Neonatal Care Pay?

In order to take Neonatal Care Leave and Neonatal Care Pay, the following information should be provided to the line manager via the Gov.uk Neonatal Form linked below:

About this form – Guidance – GOV.UK

- Name and employee number
- Baby's date of birth (or date of placement/entry to Great Britain if adopting)
- The start date or dates of neonatal care
- The date neonatal care ended (if applicable)
- The date on which you would like to take the leave (and pay)
- The number of weeks of Neonatal Care Leave (and pay) the notice is being given for
- Confirmation that the leave is being taken to care for the baby

- Confirmation that you are eligible to take the leave due to your relationship with the baby

Cancellation of Neonatal Care Leave and Neonatal Care Pay

The employee may be able to cancel the Neonatal Care Leave or Statutory Neonatal Care Pay depending on when the leave is due to start. It may also be possible to re-book the leave and pay, providing the appropriate notice is given.

Leave or pay cannot be cancelled if it was due to start while the baby was still receiving neonatal care (or in the first week after).

If leave or pay is due to start more than a week after baby has left neonatal care

To cancel Neonatal Care Leave or Statutory Neonatal Care Pay, written notice will be required:

If taking:

- one week's leave – The council must be informed that you want to cancel at least 15 days before the start of the planned leave
- 2 or more weeks' leave - The council must be informed that you want to cancel at least 28 days before the start of the planned leave

Questions:

Is there an easy way to see if I'm eligible?

The flowchart in Figure 1 demonstrates eligibility in a simple way.

Can I still qualify for Neonatal Care Pay if my baby was born before the Relevant week (approximately 25 weeks)?

If baby is born before the relevant week (which is the 15th week before the week in which the baby is due), the employee will be treated as having been employed in the relevant week and will still qualify for Neonatal Care Pay providing the average earnings are at least equal to the lower earnings limit for National Insurance (NI) purposes. In this situation, the period for assessing the average earnings will be 8 weeks ending in the week immediately before the week baby is born.

What about multiple births?

If your babies are in neonatal care at the same time (for example, if you have twins), you can only claim Neonatal Care Pay and Leave for one of them, up to a maximum of 12 weeks.

If your babies are in neonatal care at separate times, you'll be able to claim for each of them - up to a maximum of 12 weeks in total.

Can I take Neonatal Care Leave following the end of my paid period of Maternity leave?

It is possible to choose to take Neonatal Care Leave and Neonatal Care Pay as soon as Statutory Maternity Pay ends at 39 weeks.

What happens if my baby dies after I have qualified for Neonatal Care Leave?

In the very sad circumstances where a baby dies after Neonatal Care Leave has accrued, the employee is still able to take the leave.

What happens if I am not eligible?

You will be informed within 28 days if this is case.

Questions:

Can I still qualify for Neonatal Care Pay if my baby was born before the Relevant week (approximately 25 weeks)?

If baby is born before the relevant week (which is the 15th week before the week in which the baby is due), the employee will be treated as having been employed in the relevant week and will still qualify for Neonatal Care Pay providing the average earnings are at least equal to the lower earnings limit for National Insurance (NI) purposes. In this situation, the period for assessing the average earnings will be 8 weeks ending in the week immediately before the week baby is born.

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Figure 1:

