

# MATERNITY PROVISIONS FOR LCC TEACHERS

This document applies to all Council employees on Teachers Terms and Conditions.

*This document may not be applicable to employees who transferred into LCC under TUPE legislation and remain on the terms and conditions of their previous organisation.*

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# MATERNITY PROVISIONS FOR LCC TEACHERS

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## **INTRODUCTION**

This booklet attempts to answer the questions you may have about going on maternity leave, your entitlements and the conditions attached to them. It covers both your statutory rights and your entitlements in accordance with the Council's Occupational Maternity Scheme.

It applies to all teaching staff employed by the Council.

## **MATERNITY LEAVE AND RETURN TO WORK**

### **THE RIGHT TO MATERNITY LEAVE**

All pregnant women, irrespective of length of service or hours worked, have a right to:

- 26 weeks Ordinary Maternity Leave (OML) and
- 26 weeks Additional Maternity Leave (AML).

### **BEFORE YOU START YOUR MATERNITY LEAVE**

You must tell your head teacher in writing by no later than the end of the 15th week before the expected week of childbirth (EWC) or as soon as reasonably practicable:

- that you are pregnant
- the expected week of childbirth
- the date you intend to start your maternity leave (this can be any time from the 11th week before your expected week of childbirth)

You must complete and return to Serco People Services, a Maternity Leave Form together with a certificate from your GP or midwife stating your expected week of childbirth (MATB1). People Services will write to you within 28 days of receipt of this form confirming the end date of your maternity leave (1 year from the first day of commencement of maternity leave unless you have advised otherwise).

You may change the date from when you wish to commence maternity leave providing you give 28 days' notice.

### **THE START OF YOUR MATERNITY LEAVE**

Your maternity leave will either start on:

- the date you have notified your head teacher that you wish the leave to start; or
- if you are absent from work due to pregnancy related illness after the beginning of the 4th week before your expected week of childbirth, the day after the first day of your absence; or
- if you give birth to your baby before your maternity leave has started, on the day after the date of the birth.

### **YOUR CONTRACT OF EMPLOYMENT DURING YOUR MATERNITY LEAVE**

During your maternity leave (for both ordinary and additional maternity leave) your terms and conditions of employment will be maintained with the

exception of pay which in certain circumstances will vary according to your length of service.

When you return to work, you have the right to return to the job in which you were employed under your original contract of employment and on terms and conditions no less favourable than those which would have been applicable to you if you had not been absent.

## **RETURNING TO WORK**

All employees have the right to return to work. You will not be able to return to work for a minimum period of 2 weeks after the birth of your baby - this is termed as compulsory leave.

Unless you wish to return to work before the end of your maternity leave, you will simply be expected to return at the end of this period (i.e. 52 weeks).

However, if you wish to return earlier then you must give at least 21 days notice in writing of the date on which you wish to return.

If you return to work and do not give the above minimum notice then the school may postpone your return to a date which ensures it has 21 days notice.

If you return to work before the postponed date given, the school is not obliged to pay you until the date it has given for your return.

However, the school may not postpone your return to a date that occurs after the end of your additional maternity leave.

If you do not wish to return to work (i.e. you wish to terminate your employment with the Council) then you must give proper notice in accordance with your contract of employment.

If you do not attend work when expected at the end of the maternity leave period without an explanation, then this absence will be regarded as unauthorised absence. The relevant disciplinary rules and procedures will apply.

You and the school will need to complete the Return from Maternity Leave Form and return this to Serco People Services.

## **WHERE NOT FIT TO RETURN**

If, for any reason connected with your health, you are not fit to return to work at the end of the maternity leave period (or at an earlier notified date), then you will be deemed as having returned to work and the usual sickness reporting procedures and policies will apply.

## **MATERNITY PAY**

Maternity pay comprises two parts, Statutory and Occupational. Your receipt of Statutory and Occupational Maternity Pay depends on your length of service.

## **STATUTORY MATERNITY PAY (SMP)**

Statutory Maternity Pay (SMP) is a scheme for most women employees to get a basic amount of maternity pay from their employers. It will be paid to you along with Occupational Maternity Pay if you are entitled to this. SMP is treated as "pay" and will be subject to deductions, e.g. tax, national insurance.

Statutory Maternity Pay is paid for up to 39 weeks. You may work up to the birth of your baby without losing any entitlements to SMP.

The earliest you can receive SMP is from the beginning of the 11th week before the week in which your baby is due - but only if you stop work then. SMP is only payable if you are absent from work. It is not normally payable for part weeks. SMP will commence on the day you have specified to start your maternity leave, provided you start your leave on this day. However, it may start on other days of the week if triggered by the birth of the baby or absence from work for a pregnancy related reason in the 4 weeks before the EWC.

### **You will be Eligible to Statutory Maternity Pay if:**

- you have been continuously employed by Lincolnshire County Council for at least 26 weeks by the end of the 15th week before the EWC, i.e. the qualifying week,
- ("continuously employed by Lincolnshire County Council" means that you must have worked for all or part of each of the 26 weeks, e.g. on a relief basis), and
- you have average weekly earnings in the 8 weeks up to and including the 15th week of over the lower limit for National Insurance contributions, and
- you have stopped working.

If you are entitled to SMP then you will receive:

- for the first 6 weeks - 9/10th or 90% of your average weekly earnings
- for the subsequent 33 weeks - the lesser of the standard rate of SMP or 90% of your average weekly earnings.

It will be reviewed annually by the Government.

## **MATERNITY ALLOWANCE (MA)**

If you do not qualify for Statutory Maternity Pay you may qualify for the Maternity Allowance. You must have been employed or self employed in at least 26 weeks in the 66 week period before your baby is due and if you are earning (gross) £30 per week averaged over a 13 week period.

Maternity Allowance (MA) is an allowance claimed from the Social Security/Jobcentre Plus office.

Maternity Allowance should be claimed on form SMP1 which will be sent to you by Serco on behalf of the Council following receipt of the Maternity Leave Form (available from Section E of the School Handbook which can be found on Lincolnshire School's Network).

Maternity Allowance can be paid for up to 39 weeks. You may work right up to the birth of the baby without losing any entitlement to Maternity Allowance.

The earliest Maternity Allowance can be paid is the start of the 11th week before the expected date of childbirth.

As with Statutory Maternity Pay, you can only receive Maternity Allowance if you have stopped working.

Further details of Maternity Allowance are available from your local Social Security/Jobcentre Plus office.

### **OCCUPATIONAL MATERNITY PAY (OMP)**

To qualify for Occupational Maternity Pay from Lincolnshire County Council you must have at least 1 year's continuous local government service by the 11th week before the EWC.

If entitled you will receive:

- For the first 4 weeks of absence you will receive full pay offset against SMP or MA payments.
- For the next 2 weeks of absence you will receive 9/10ths or 90% of a week's pay offset against SMP or MA payments.
- For the subsequent 12 weeks (if you intend to return to work) you will also be entitled to half pay. This is not offset against SMP except where your combined pay and benefits (e.g. SMP or Maternity Allowance) exceed full pay. In this instance, a weeks full pay will be offset against the SMP/ MA payments.

Both SMP and occupational pay will be subject to normal deductions, that is, tax and national insurance.

You have a choice with regard to payment arrangements. Payments may be made during your maternity leave or in a lump sum when you return to work. No further pay is due until you resume work.

You must inform the Council before you start your maternity leave about your intentions for returning to work in order that suitable payment arrangements can be made.

Having returned to work, you must work for a minimum period which equates to 13 weeks service under your contract prior to your maternity leave. If your contract was full time prior to your leave and you return on a part time basis then you must return for a period which equates to 13 weeks of full time service.

If you do not return to work for the stated period, then you will have to refund such sum of Occupational Maternity Pay as the Governing Body, at their discretion, may decide.

You will, however, retain the first 6 weeks' payment of Occupational Maternity Pay.

You will not have to refund any of the SMP payments.

## **YOUR HEALTH AND PREGNANCY AT WORK**

The Council, as your employer, wishes to provide a healthy working environment for all of its employees and wants you to take care of yourself and your baby. It is important that you tell your head teacher as soon as possible that you are pregnant. This will enable you to have access to any help or advice needed which will protect you and your unborn child, and give you the opportunity to discuss any concerns you have about how this relates to your work. It will also enable any special arrangements that are necessary to be made.

If you are unable to continue working in your normal job because your health and safety as a new or expectant mother may be jeopardised if you continue to do that job, then the Council has certain obligations.

It must assess the risk to you whilst you are pregnant, if you have recently returned to work after giving birth or if you are still breast-feeding when you return to work and take appropriate preventative measures to either eliminate or reduce the risk.

If the preventative action does not allow you to continue in your normal job then the Council must offer you suitable, alternative work, if it is available. It must be (a) of a kind which is both suitable and appropriate to you in your circumstances, and (b) the terms and conditions must be the same as or not substantially less favourable than those applicable for performing your normal duties under your normal contract.

If there is no suitable, alternative work then the Council may suspend you from work on the grounds that there are compelling health and safety reasons which may affect you and your unborn child. Suspension must continue for as long as necessary in order to avoid the risk.

You will be entitled to be paid whilst suspended. However, you will not be paid if you refuse suitable, alternative work.

If you have any concerns about your health at work during your pregnancy, please contact your head teacher or one of the Council's qualified counsellors in the Employee Support and Counselling Service, telephone (01522) 555440, based at Thomas Parker House, 13/14 Silver Street, Lincoln LN2 1DY.

There is more information about the health aspects of pregnancy and new mothers [POEL12 Health Guidance for New and Expectant Mothers at Work](#). Please ask your head teacher for a copy of this or you can obtain a copy from Serco People Services team.

## **REDUNDANCY**

If there is a redundancy situation when you are on maternity leave (either ordinary or additional leave), you have a right to be included in the consultation and selection process just as if you had not been absent. The

Council will ensure that you do not suffer any detriment because of your pregnancy.

Where your job is redundant, you are entitled to be offered suitable alternative employment.

If there are no suitable, alternative vacancies then you will need to consider alternative vacancies which may be acceptable but on less favourable terms. In these circumstances, salary safeguarding may be appropriate.

Where a vacancy does exist, you must be offered it before your existing contract comes to an end. It must take effect immediately when the old one terminates.

### **What is Suitable Work?**

Any vacancies within the organisation will be classed as suitable alternative work if:

- they are suitable for that employee, i.e. they must be compatible with your skills, qualifications and status before you started your maternity leave; and
- they are appropriate for you to do in all the circumstances, i.e. they must be on terms e.g. hours of work, location, etc. which are compatible with your personal circumstances; and
- they are offered on terms and conditions which are not in any respect substantially less favourable than those which you enjoyed before you started your maternity leave.

If the Council does not have a suitable or unsuitable alternative job to offer or you refuse to accept an offer of a suitable alternative job, then the Council is entitled to terminate your employment on grounds of redundancy.

If you are not offered a suitable or unsuitable alternative job and, if you have the qualifying period of employment, then you will be entitled to a redundancy payment.

If you refuse to accept an offer of a suitable alternative job, this may affect your receipt of a redundancy payment.

### **DETRIMENT/UNFAIR TREATMENT**

You must not be subjected to any detriment or unfairly treated by any act or any deliberate failure to act by your employer for any pregnancy-related matter.

It is unlawful for the Council to dismiss you for any pregnancy-related matter.

## **GENERAL INFORMATION**

### **ANTENATAL CARE**

You are entitled to necessary time off with full pay for all hospital and antenatal clinic appointments resulting from your pregnancy. This includes



relaxation, exercise and parent-craft classes where the appointment has been made on the advice of a registered GP, midwife or health-visitor.

Your head teacher may wish to see your appointment card.

Please try to give as much notice as possible of appointments. If you have any special needs during your pregnancy please discuss this with your head teacher.

## **WELFARE**

A qualified counsellor from the Employee Support and Counselling Service may be contacted on (01522) 555440 if you have any particular concerns that you cannot resolve with your headteacher.

## **SICKNESS**

Statutory and Occupational sick pay will apply as normal while you are pregnant up to the time that you start your maternity leave. If you are sick during your maternity leave you may not receive statutory sick pay (SSP) if you are receiving statutory maternity pay (SMP).

Maternity leave will not be treated as sick leave and will not, therefore, affect entitlement to sick leave.

## **DURING MATERNITY LEAVE**

Before your maternity leave commences, your head teacher will discuss with you suitable arrangements for you to keep in touch during your leave. Head teachers may make reasonable contact with you whilst you are on maternity leave to discuss a range of issues such as arrangements for your return to work, training to be given to ease your return to work, or to keep you informed of important workplace developments. The contact between employer and employee can be made in any way that best suits either or both parties. For example, it could be by telephone, email, letter, or by you making a visit to the workplace.

## **KEEPING IN TOUCH (KIT) DAYS**

Excepting the first 2 weeks after childbirth which are compulsory maternity leave, you may work for your employer (or attend training) for up to 10 days during either Ordinary Maternity Leave or Additional Maternity Leave without that work bringing your maternity leave to an end and without loss of a week's Statutory Maternity Pay. These are known as "keeping in touch days". Any work carried out on a day shall constitute one "keeping in touch day" for these purposes. Such days are different to the reasonable contact that employers and employees may make with one another described in the section above. Working for part of a day will count as one KIT day.

The Council cannot insist that you carry out any work, nor can you insist that you do so. The type of work that you undertake on 'Keeping in Touch' days is a matter for agreement between you and your head teacher. They may be used for any activity which would ordinarily be within the remit of your contract, for which you would be paid, but could be particularly useful in enabling you to attend a conference, undertake a training activity or attend a

team meeting. A “keeping in touch day” is however more than a social visit and more than a visit to discuss your return to work.

Any “keeping in touch days” worked do not extend the period of maternity leave. Once the keeping touch days have been used up, you will lose a week’s SMP for any subsequent week in which you agree to work for the School.

#### **Payment for “Keeping in Touch days”**

You will be paid your normal standard rate of pay for the actual hours that you work as ‘keeping in touch days’.

### **STATUTORY MATERNITY PAY AND DAY RELEASE**

You may agree with your head teacher that attendance at inset days counts as a ‘Keeping in Touch’ day. Any other work you undertake during your maternity leave which does not count as a ‘Keeping in Touch’ day e.g. other day release work including college attendance, should be undertaken on an entirely voluntary basis. Otherwise your Statutory Maternity Pay/Maternity Allowance may be affected.

### **ANNUAL LEAVE AND BANK HOLIDAYS**

Teachers do not have a contractual entitlement to paid annual leave but they are entitled to statutory leave entitlement under the Working Time Regulations (28 days wef 1 April 2009).

The leave year for teachers commences on 1st September in line with the start of the academic school year.

A teacher who takes maternity leave must be able to take her statutory annual leave entitlement at a time outside of her maternity leave. The statutory annual leave entitlement should be taken either before or after maternity leave during school closure periods.

On her return from maternity leave, a teacher must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate her leave in that leave year.

Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all her annual leave entitlement, a teacher must be allowed to carry over any balance of her leave to the following leave year. A teacher can be required to take this during the remaining periods of school closure after the statutory leave entitlement for that leave year has been accommodated.

It is anticipated that the number of instances when a teacher has not had, or will not be able to take, their annual leave entitlement in school closure periods, will be few.

The Working Time Regulations prohibits payment in lieu being made for annual leave that has not been taken. The only instance when payment in

lieu may be necessary is if a teacher does not return to her job following maternity leave.

Teachers do not have a contractual entitlement to paid leave on public or bank holidays. The May Day bank holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the May Day bank holiday will be classed as a school closure which counts against the statutory annual leave entitlement.

## **PENSIONS**

If you are a member of the Teachers' Pension Scheme, contributions are automatically deducted from your maternity pay based on what you actually receive. Your employer will continue to pay pension contributions whether or not you receive any pay during the ordinary maternity pay period and these will be based on what you would have been earning had you been working normally.

No contributions will be payable by either the employer or yourself during any period of no pay in the additional maternity leave period.

## **FLEXIBLE WORKING ARRANGEMENTS**

Should you be considering a change and/or a reduction in your working hours or the possibility of job sharing when you return to work from maternity leave, then you should discuss this as soon as possible with your headteacher.

Further information is available in employee leaflet [Flexible Working Policy](#).

## **CONTINUOUS SERVICE**

Continuous service for Occupational Maternity provision purposes means working without a break with either Lincolnshire County Council or with another Local Authority or with certain other bodies, e.g. probation or Magistrate Court Committees. If you have worked with another organisation which you think might count, you should bring this to the attention of your head teacher.

## **PARENTAL LEAVE**

There are two types of Parental Leave:

### **Ordinary Parental Leave**

Employees who are the parents of a child, or have adopted a child under 18 years, are entitled to take a total of 18 weeks unpaid ordinary parental leave. For further details see the [Ordinary Parental Leave and Maternity Support Leave Policy](#).

You will need to speak with your manager or head teacher in the first instance if you or your partner/spouse are interested in this scheme.

For full details please see the [Ordinary Parental Leave and Maternity Support Leave Policy](#).

## **Shared Parental Leave**

Shared Parental Leave enables eligible employees to choose how to share the care of their child during the first year of birth or adoption. For further details see the [Shared Parental Leave Policy](#).

## **MATERNITY SUPPORT LEAVE**

Under NJC conditions Maternity Support Leave is a minimum entitlement of a week's paid leave for the child's father; the partner, civil partner/same sex partner or a nominated carer of an expectant mother at or around the time of the birth.

Maternity Support Leave also applies in cases of adoption, where the employee requesting Maternity Support Leave meets the same criteria as that for a birth.

For full details please see the [Ordinary Parental Leave and Maternity Support Leave Policy](#).

## **PATERNITY LEAVE**

Employees who:

- have or expect to have responsibility for the child's upbringing
- are the biological father of the child or the mother's husband/partner or civil/same sex partner
- have worked continuously for the Council for 26 weeks ending with the 15th week before the baby is due or the end of the week in which the child's adopter is notified of being matched with the child can choose to take either one week or two consecutive weeks' paid paternity leave (not odd days). For full details please see the [Paternity Leave, Ordinary Parental Leave and Maternity Support Leave Policy](#).

## **TIME OFF FOR DEPENDANTS**

You (and /or your husband/partner) also have the right to have reasonable unpaid time off to look after your dependants, defined as spouse, child, parent, someone living in the same household or someone who reasonably relies on you.

This would cover time off for caring responsibilities or to deal with an unexpected or sudden problem where you may need to make longer term arrangements.

Please refer to [Special Leave Policy](#) for further information and speak with your head teacher in the first instance should the necessity arise.

## **CHILDCARE VOUCHER SCHEME**

Employees who were members of the Council's Childcare Voucher scheme provided by Sodexo prior to 5th October 2018 may remain in the scheme or rejoin the scheme as long as there has not been a break of more than 12 months.

Otherwise employees may choose to join the government's [Tax-Free Childcare Scheme](#)

## **ADVICE AND SUPPORT**

If you have any specific questions about the content of this booklet or about circumstances not covered, then please contact your head teacher or Serco People Services team.

## CHECKLIST FOR EMPLOYEE

<b>WHEN</b>	<b>ACTION REQUIRED</b>
As soon as you know you are pregnant	Tell your Head Teacher and discuss your intentions: to return, to defer your decision or not to return.
After 20 weeks pregnancy	Ask your Doctor or midwife for a maternity certificate (Form MATB1) showing when your baby is due
During or before the 15th week before Expected Week of Childbirth (EWC)	With your Head teacher complete the relevant maternity form confirming when you intend to commence maternity leave. Within 28 days Serco People Services will confirm acknowledgement in writing to you.
After 29 weeks pregnancy	Commence maternity leave if you have chosen to do so
During maternity leave	If you wish to return early (before 52 weeks) then 21 days notice is required in writing to your Head Teacher.
52 weeks from the beginning of the week in which you started maternity leave	Latest time by which you have a right to return to your job.

## **FREQUENTLY ASKED QUESTIONS**

### **What happens to my terms and conditions of employment during maternity leave?**

All women whose expected week of childbirth begins on or after 5 October 2008 are entitled to receive the same terms and conditions (except remuneration) that they currently receive during ordinary and additional maternity leave.

During your maternity leave (for both ordinary and additional maternity leave) your terms and conditions of employment will be maintained with the exception of pay which in certain circumstances will vary according to your length of service.

### **Do I accrue annual leave whilst I am on maternity leave?**

Whilst teachers have no contractual leave entitlement, you will have a statutory leave entitlement under the Working Time Regulations. Teachers are expected to take their accrued annual leave in periods of school closure in either the current or following leave year. Payment in lieu will only be provided where this is not possible.

### **Am I allowed time off to attend antenatal clinic appointments?**

You are entitled to necessary time off with full pay for all hospital and antenatal clinic appointments resulting from your pregnancy. This includes relaxation, exercise and parent-craft classes where the appointment has been made on the advice of a registered GP, midwife or health visitor.

Your manager or head teacher may wish to see your appointment card. Please try to give as much notice as possible of appointments. If you have any special needs during your pregnancy please discuss this with your manager or head teacher.

There is no specific leave provision for fathers or partners who may wish to attend antenatal clinic appointments. However, in most cases this may be accommodated under the terms of a flexible working request or at the discretion of the head teacher.

### **What is the earliest date I can commence my maternity leave?**

The earliest date that you may start your maternity leave is after the beginning of the 11th week before the expected week of childbirth.

### **If I give birth before I have started maternity leave when does my maternity leave start?**

It will start on the day after the birth, e.g. if you give birth on a Monday maternity leave will commence from the Tuesday. Statutory Maternity Pay (SMP) also starts from this day.

### **If I am off work sick with a pregnancy related condition when does my maternity leave start?**

A woman's maternity leave can only be triggered by pregnancy-related sickness from the beginning of the 4th week before the expected week of childbirth. If you are off sick with a pregnancy related condition during this

period then your maternity leave will commence on the day following the first day on which you were absent. Your SMP will also start on this day and run for 39 weeks.

**Does maternity leave/pay have any implications on my pension?**

During Ordinary maternity leave the employer must pay pension contributions based on the pay you would have received had you been at work. Your contributions are based on the amount of pay you actually receive during this period.