



## **CORPORATE & SCHOOLS MODEL MATERNITY POLICY**

**Policy Date: 2005**

**Version Date: December 2014**

For further advice and guidance in relation to this policy, please contact HR ONE at [hrdirect@devon.gov.uk](mailto:hrdirect@devon.gov.uk) or on 01392 385555.

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## **1.0 Introduction**

- 1.1 This policy applies to all pregnant staff employed by Devon County Council (DCC), including school support staff and teachers regardless of the number of hours worked per week.

## **2.0 Policy**

- 2.1 This policy sets out the rights of DCC employees to maternity leave and pay in accordance with national, local and statutory conditions of service. Nothing in the provisions shall be construed as providing rights less favourable than statutory rights.

## **3.0 Principles**

- 3.1 Employees are not discriminated against on the grounds of their pregnancy in addition to being free to exercise their rights to maternity leave, paid time off for antenatal care, maternity pay and the right to return to work.
- 3.2 Full consideration is given to the full range of flexible working arrangements when requested by women returning to work after maternity leave and these are arranged wherever possible in response to such requests.
- 3.3 An employee who is the child's father, or is the partner or nominated carer of an expectant mother, is allowed to take paid maternity support leave at or around the time of the birth in accordance with the local conditions of service.
- 3.4 Around or after the time of the birth, requests by the child's father or the partner or nominated carer of an expectant mother for flexible working arrangements are treated sympathetically.

## **Procedure**

### **4.0 Notification of pregnancy**

- 4.1 The employee should notify her line manager as soon as possible so that the employee can find out about her entitlements and the employee and manager can identify any potential health and safety implications by completing a risk assessment and the manager can begin to prepare appropriate maternity cover. Please see guidance on Expectant & New Mothers at Work at <http://staff.devon.gov.uk/pp/gap/expectantandnewmothers.htm>
- 4.2 The employee should contact the Payroll Section. Payroll will send the employee a Maternity Information letter, which includes notification form MAT5 (MAT6 for teachers).
- 4.3 The employee should complete the MAT5 (MAT6 for teachers) notification form and send the original to Payroll as soon as possible, but at least by the 15<sup>th</sup> week

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before her EWC. A copy should be given to the line manager who must arrange for it to be placed on her personnel file.

- 4.4 The Line Manager will respond to the notification within 28 days, setting out the date on which the employee is expected to return to work if she takes her full entitlement to maternity leave.  
<http://staff.devon.gov.uk/maternityletter.doc>
- 4.5 The employee will be able to change her mind about when she wishes to start her maternity leave providing she gives at least 28 days notice in advance (unless this is not reasonably practicable).
- 4.6 The employee should give her line manager her MAT B1 form. The line manager should forward copies of the MAT B1 to Payroll and to the employee's personnel file. (The employee will receive the MAT B1 from her GP or Midwife stating when the baby is due, not before 20 weeks before the expected date of birth).
- 4.7 If a performance appraisal is due whilst the employee will be on maternity leave, the line manager should agree with the employee to either carry this out before she starts her leave or upon her return.
- 4.8 Employees should discuss the management of their annual leave with their manager at the earliest opportunity so that they are able to take their annual leave around the needs of the service.

## **5.0 Ante natal care**

- 5.1 In order to exercise her right to time off the employee must notify the line manager of her pregnancy and obtain her line manager's authorisation to take time off and provide evidence of her antenatal appointments, if requested (an appointment card will suffice as evidence). It is recommended that the manager maintains a record of the appointments through the normal processes for recording employee absences.
- 5.2 Please see the [Maternity and Adoption Support Leave Policy](#) for those accompanying a pregnant woman at an antenatal appointment.

## **6.0 Commencing maternity leave**

- 6.1 Maternity leave can commence at any time from 11 weeks before EWC. It must commence no later than the day after childbirth.
- 6.2 If the employee is absent from work due to a pregnancy related illness during the 4 weeks before the EWC, her maternity leave will commence automatically.
- 6.3 If childbirth occurs before the date the employee notified as the day she intended to start maternity leave then her maternity leave will commence on the day after the day of childbirth.

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- 6.4 When the employee actually begins maternity leave, the line manager or school administrator must ensure that the 'Online Absence Report' is completed stating the date that the employee commenced maternity leave. The line manager should also make a note of when the employee is expected to return, to ensure a further 'Online Absence Report' is completed at that time notifying Payroll of her return to work. While the employee is on maternity leave she will be unable to access her pay advice online unless she already has access through a DCC-managed device together with a Remote Access Token. Alternatively, the employee needs to notify Payroll that she will require a paper copy which will be posted to her home address.
- 6.5 If a temporary replacement is required to cover the employee's maternity leave, the temporary employee must be informed in writing that his or her employment will be terminated on the return to work of the employee from maternity leave.

## **7.0 Contact during maternity leave**

- 7.1 Managers will maintain contact with employees during their maternity leave period to discuss issues such as return to work and will keep employees informed of vacancies, any significant workplace developments and training opportunities.
- 7.2 Contact will not constitute 'work' and would not therefore count towards the 10 days 'keeping in touch' days and neither would contact bring the maternity leave period to an end.

See <http://staff.devon.gov.uk/pp/gap/maternity/ppgapcontactandkitdays.htm>

## **8.0 Following the birth**

- 8.1 Once the baby is born the employee should send a copy of the birth certificate to the line manager. The line manager should then forward a copy of the birth certificate to the employee's personnel file.
- 8.2 If a premature, still birth or miscarriage occurs, the employee is advised to notify her line manager as soon as is reasonably practical so that arrangements can be put in place to organise her maternity entitlements. The line manager should then liaise with Payroll and HR ONE.

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## 9.0 Returning to work

- 9.1 The employee cannot return to work in the two weeks following the day of childbirth. This is Compulsory Maternity Leave.
- 9.2 **Return at the end of Ordinary Maternity Leave** – If the employee chooses to return when the ordinary maternity leave period ends after 26 weeks, she does not have to give specific notice, although she should confirm to her line manager the date she wishes to return so that arrangements can be made.
- 9.3 **Return during Ordinary Maternity Leave** – If the employee chooses to return before the 26 weeks have elapsed, she must give, in writing, if requested, at least 21 days notice before her return. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days notice but not beyond the end of the maternity leave period.
- 9.4 **Return at the end of Additional Maternity Leave** – If the employee chooses to return when the additional maternity leave period ends, she does not have to give specific notice.
- 9.5 **Return during Additional Maternity Leave** – If the employee chooses to return before the 52 weeks have elapsed she must give, in writing if requested, at least 21 days notice before her return. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days notice but not beyond the end of the maternity leave period.
- 9.6 **Altering an early return date** – If an employee changes her mind about the date she intends to return, where she has already notified an early return date, she must give 21 days notice before the new date, and at least 21 days before the original early return date.
- 9.7 **Return to work and sickness absence** – If the employee is unable to return to work on the expected date due to sickness, the employee has still exercised her right to return by complying with the notification procedure. She will then commence a period of sickness absence, and be treated as any other employee who is absent due to sickness, including the payment of sick pay.
- 9.8 The line manager should ensure that an 'Online Absence Report' is completed upon the employee's return to work.
- 9.9 The line manager and employee should calculate any entitlement to public/extra statutory holidays that occurred during the maternity leave period and make arrangements for the taking of any substitute days.
- 9.10 The line manager and employee should review the risk assessment.

## **10.0 Flexible working requests**

- 10.1 An employee returning to work may make a request to work flexibly, as set out in the Corporate/ Schools Flexible Working Requests Policy <http://staff.devon.gov.uk/ppgapflexibleworkingpolicy.doc>. Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

## **11.0 Choosing not to return to work**

- 11.1 The employee must give normal notice of resignation if she does not intend to return to work after her maternity leave.
- 11.2 The employee will have received a lower rate of maternity pay or will have to pay back any half pay received, as part of contractual maternity pay. Payroll will notify the employee of their particular circumstances.
- 11.3 The last day of maternity leave will be the last day of service, unless the employee has given written notice that she wishes to resign on an earlier date.
- 11.4 The line manager will need to ensure that a Leaver's form (Prism 2) is completed, confirming the end of the employee's employment.

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## Guidance

### 12.0 Ante Natal Care

- 12.1 Any pregnant employee has the right to paid time-off to attend antenatal care. The employee will normally be required to attend antenatal classes (such as relaxation and parenting classes), which are usually at set times during the week, and ante natal appointments where the employee arranges the time with her midwife. The employee should liaise with their line manager regarding time-off giving as much notice as possible (see procedure).
- 12.2 Please see the [Maternity and Adoption Support Leave Policy](#) for those accompanying a pregnant woman at an antenatal appointment.

### 13.0 Maternity leave and pay

- 13.1 Entitlement to maternity pay is based on the employee's length of continuous local government service. The flowcharts provide more detailed information (appendix 1/2).
- 13.2 Maternity leave cannot commence more than 11 weeks before the Expected Week of Childbirth (EWC).
- 13.3 All women are entitled to both 26 weeks ordinary maternity leave and 26 weeks additional maternity leave, thus providing a right to one year's maternity leave in total, regardless of length of continuous service.
- 13.4 If the employee is absent from work due to a pregnancy related illness during the 4 weeks before the EWC, her maternity leave will commence automatically.
- 13.5 Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness absence.
- 13.6 Employees may be eligible for one or more of the following payments –
- **Statutory Maternity Pay (SMP)** - An employee is eligible for SMP providing she meets certain criteria. The Payroll Section will advise the employee of her entitlement. SMP payments are higher rate SMP (90% of average weekly earnings) for the first six weeks, then flat rate SMP for the next 33 weeks or 9/10ths average weekly earnings if this is less. Current rates are available from the Directgov website.
  - **Maternity Allowance (MA)** - Where the employee is not eligible for SMP she may be able to claim MA from the Department for Work & Pensions. The Payroll Section will send the employee a claim form to complete. MA payments are flat rate for 39 weeks. Current rates are available from the Directgov website.

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• **Contractual Maternity Pay (CMP)** - This will depend on the employee's length of service (appendix 1/2).13.7 .If an employee has declared that she will be returning to work following the birth, she must return to local government employment or DCC for a period of time in order to 'protect' her Contractual Maternity Pay (CMP). Where the employee holds more than one post, she must return to each post in order to protect the CMP which has been paid against that employment.

The period for which the employee must return is 3 months in local government service and for teachers 13 weeks with DCC, regardless of the number of hours worked. Contractual maternity payments are made at the normal pay interval (less normal deductions) or withheld until the employee returns to work, when the amount is paid as a lump sum (less normal deductions).

13.8 If an employee decides not to return to work (i.e. resigns) or the contract ends for a reason other than redundancy whilst on maternity leave, CMP ceases when the employment ends. The employee is required to repay the half pay elements of CMP (12 weeks) paid up to and including the last day of employment if she does not return to local government/DCC employment (as set out in 13.7). Payroll will notify the employee of the amount. (This applies to employees on permanent and fixed term contracts).

If an employee holds more than one post and chooses to return to one or more but not to all posts, she will be required to repay the half pay elements, if applicable, paid against the post(s) which she chooses to not return to (as set out in 13.7).

13.9 If an employee is made redundant whilst on maternity leave, CMP ceases on the last day of employment. The employee is not required to pay back any half pay elements of CMP (12 weeks) paid up to and including the last day of employment. (This applies to employees on permanent and fixed term contracts).

13.10 The employee will not have to refund SMP/MA payments.

13.11 If the employee is made redundant during maternity leave any maternity pay should be topped up to the equivalent of full pay during the notice period (section 88 of the Employment Rights Act 1999).

13.12 To be eligible for maternity leave and pay employees must meet specific notification requirements (see procedure).

## **14.0 Health & Safety**

14.1 The manager and/or the relevant risk assessor is/are required to carry out specific risk assessments for all employees of childbearing age.

14.2 When an employee notifies her manager that she is pregnant it is important that this risk assessment is reviewed, in consultation with the employee and the risk assessor. Please see

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<http://staff.devon.gov.uk/cr/er/healthsafetywellbeing/healthsafety/healthissuesforemployees.htm> for further information.

- 14.3 A further review should take place when the employee returns to work following maternity leave.
- 14.4 Should the risk(s) be significant the line manager will need to take action, in consultation with Human Resources and Wellbeing@Work. This may include:
- i) Removing the hazard(s) or avoiding the employee's exposure to the risk(s);
  - ii) Advising the employee of the risk;
  - iii) Informing the employee of any action you will take to ensure that the employee is not exposed to a risk that could cause harm.
- 14.5 Removing the employee from the workplace if the level of risk is greater than the level of risk expected outside the workplace. This can be done by temporarily adjusting her working conditions and /or hours of work, offering the employee suitable alternative work (if any is available) or if neither of these is feasible, suspending the employee from work (with pay) for as long as necessary to protect her safety and that of the child.
- 14.6 The Health and Safety Executive (HSE) has advised that 'pregnancy should not be equated with ill health, it should be regarded as part of everyday life and its health and safety implications can be adequately addressed by normal health and safety procedures'.

## **15.0 Risk of Rubella – Teachers**

- 15.1 If in the early months of pregnancy a teacher is advised by an approved medical practitioner to absent herself from school because of the risk of rubella, she shall be granted leave with full pay, provided that she does not unreasonably refuse to serve in another school where there is no such undue risk.

## **16.0 Annual leave entitlement during maternity leave (not applicable to Teachers or school staff who take their holidays during school closure periods)**

- 16.1 Maternity leave does not affect annual leave entitlement, i.e. when taking maternity leave the employee will still be entitled to her full annual leave allowance within the year(s) in which the maternity leave falls.
- 16.2 If an employee's maternity leave spans two annual leave years, she will be able to carry forward her contractual entitlement into the new leave year. However, the manager should be proactive about managing the amount of leave that the employee will have, and discuss the options available as early as possible (see procedure). These options could be to:
- take annual leave before the start of the maternity leave;
  - start the maternity leave earlier than anticipated and fit in the annual leave before returning to work;

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- return before the end of the maternity leave so that the remaining leave can be taken before the end of the annual leave year;
- take annual leave at the end of maternity leave, fitting it in before returning to work.

Any leave carried over must be taken by 31<sup>st</sup> August of the subsequent leave year.

16.3 During maternity leave annual leave will accrue in the same way as it did before the absence began. If the employee returns to work on a reduced hours basis, on the date of return to work the annual leave will begin to be calculated at the new pro-rata rate.

16.5 If the employee decides not to return to work, annual leave will accrue up to the final date of service.

16.6 If during the maternity leave period the employee subsequently decides not to return to work and too much annual leave has been taken then there will be a requirement to pay back some of the annual leave taken in advance.

### **17.0 Annual leave entitlement during maternity leave (applicable to Teachers and school staff who take their holidays during school closure periods)**

17.1 a The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 September to 31 August.

b The leave year for support staff on NJC terms and conditions, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 April to 31 March.

17.2 Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect on 1 October 2007, the statutory leave entitlement has increased to 28 days (5.6 weeks), pro rata for those working part time. This is not an additional entitlement to annual leave on top of the current school closure arrangements.

17.3 Employees on maternity leave are entitled to the statutory annual leave under the Working Time Regulations. Employees who take maternity leave must be able to take the statutory annual leave at a time outside of her maternity leave. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the maternity leave period.

17.4 On return from maternity leave, employees must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate 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 the entire annual leave entitlement, employees must be allowed to carry over any balance of leave to the following leave year. Employees can be

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required to take this during the remaining periods of school closure after the statutory annual leave for that leave year has been accommodated.

- 17.5 It will not be possible for employees to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. However, payment in lieu may be necessary, if a teacher does not return to her job following maternity leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

See <http://staff.devon.gov.uk/ppaccrualannualleaveteachers.doc> for further guidance.

## **18.0 Public and extra statutory holiday entitlement during maternity leave (not applicable to teachers)**

- 18.1 **Full time employees** - During both periods of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML), an employee is entitled to accrue public holiday entitlement as those public holidays and extra statutory days fall, with a substitute day of paid leave being provided at another time.

- 18.2 **Part time employees** - During both periods of OML and AML an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given substitute paid leave at another time. Eg, where an employee works three days per week, they will receive an entitlement to 3/5ths of the total number of public holiday and extra statutory days that fall during their whole maternity leave period.

- 18.3 **Term time employees** - Term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OML and AML period. This should be managed locally, in the same way as the additional day of annual leave after 10 years continuous service.

- 18.4 Substitute leave may be taken immediately following the end of the period of maternity leave, which should allow for any maternity cover arrangements to be managed most effectively. Alternatively, any substitute leave may be added to the annual leave entitlement to be taken upon the return to work. In all cases, this should be recorded on leave cards (see Procedure).

- 18.5 **Technology Day** – For Social Care employees, the former Technology day has been added to annual leave and therefore entitlement for this day continues to accrue during periods of OML and AML.

For all other employees, where the former Technology day falls within the period of OML and AML, entitlement should continue to accrue and this entitlement added to annual leave.

## **19.0 Car users and maternity leave**

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- 19.1. An employee who is an essential or lease car user is still entitled to these benefits whilst she is on maternity leave, with some limitations and requirements.
- 19.2 An employee is entitled to receive the full essential user lump sum for the full 26 weeks of OML and 26 weeks of AML.
- 19.3 The manager should contact the Car Plan team, on (01392) 38 **2571** or email [Travel@devon.gov.uk](mailto:Travel@devon.gov.uk), if the employee is an essential user to ensure that payments during the OML and AML period continues.
- 19.4 The employee is entitled to keep the lease car for the period of her maternity leave. Any contributions the employee makes to the lease will have to be maintained during maternity leave. Deductions will be made automatically during her paid maternity leave, with arrangements being made between the employee and the Car Lease Section for payments during the unpaid period of maternity leave. The department will continue to make its contribution during the full period of the employee's maternity leave.

## **20.0 Pension contributions during maternity**

### **20.1 Teachers:**

- During the period of paid maternity leave, pension contributions will be paid and deducted from the teachers pay in the usual manner.
- Any unpaid period will not be pensionable/reckonable.
- Contact Teachers Pensions on 0845 6066166 and ask for the Fact sheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

### **20.2 All Other Employees:**

- During any period of paid or unpaid statutory maternity leave, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but DCC will pay pension contributions on the pay the employee would have received had she been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
- During any period of unpaid additional Maternity Leave, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the 'lost' pension.
- If an employee elects to buy the 'lost' pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3<sup>rd</sup> being paid by the employee. If the election is not made within the 30 day period then the employee will pay the full cost, unless the employer chooses to contribute towards the cost.
- If the employee wishes to buy the 'lost' pension they need to read the employee factsheet ([ABSENCES – Buying lost pension from 1<sup>st</sup> April 2014 by paying Additional Pension Contributions \(APC\)](#)) which can be found on the Peninsula

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Pensions website, which explains how to calculate the cost and then what the process is.

- Where an employee works on a Keeping in Touch Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes

See <http://staff.devon.gov.uk/ppadoptionleavepensioncontributions.doc> for further guidance.

## **21.0 Working during maternity leave/‘Keeping in Touch’ days**

21.1 A woman can do 10 days’ work during her maternity leave without bringing her maternity leave to an end. Working for part of a day will count as one day.

21.2 Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

21.3 A manager cannot insist that a woman carries out any work and equally a woman cannot insist on being given any work to do.

21.4 A woman’s maternity leave will not be extended due to the fact that she has carried out some work during this period.

21.5 A woman will not lose any SMP for working up to 10 days.

21.6 A woman will be paid their normal rate of pay for any work done under the contract of employment and this will be offset against any SMP due for each day.

21.7 A woman will lose her SMP for any week in which she does any further work.

21.8 A woman cannot carry out any work during the first two weeks following the birth of the child.

See <http://staff.devon.gov.uk/pp/gap/maternity/ppgapcontactandkitdays.htm> for further guidance.

## **22.0 Maternity rights in the event of a still birth or miscarriage**

22.1 **Stillbirth or miscarriage before the 25th week of pregnancy** - If an employee miscarries or has a stillbirth earlier than the 25th week of her pregnancy she will commence a period of sickness absence and be treated as any other employee who is absent due to sickness, including the payment of sick pay.

22.2 **Stillbirth from 25th week of pregnancy onwards** - A woman who has a stillbirth from the 25th week of pregnancy onwards will be eligible to full maternity scheme benefits.

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**22.3 Birth of a live child before the 25th week of pregnancy onwards** - A woman who gives birth to a live child, even if the child later dies, at any point in her pregnancy will be entitled to full maternity scheme benefits.

### **23.0 Right to return to work**

23.1 Employees have the right to return to work, following maternity leave, subject to specific requirements (see Procedure).

23.2 'Return to work' means to the job to which the employee was employed under her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. 'Job' for this purpose, means the nature of the work that she is employed to do and the capacity and place in which she is so employed.

23.3 Where it is not practicable by reason of redundancy for the County Council to permit the employee to return to work in her job, the employee shall be entitled to be offered a suitable alternative vacancy where one exists. The duties in that post should be suitable for the employee and appropriate to the circumstances. Also, the capacity and place in which she is to be employed and her terms and conditions of employment should not be substantially less favourable to her than if she had been able to return to the job in which she was originally employed. Suitable alternative employment as described above may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence.

### **24.0 Return to Local Government Service following a Resignation and Break for Maternity Reasons** (not applicable to Teachers)

24.1 Where an employee returns to local government service following a break for maternity reasons, or reasons concerned with caring for children or other dependants he or she will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened:

- Sickness provisions
- Maternity provisions
- Adoption provisions
- Period of notice to terminate employment

24.2 For the purpose of the calculation of entitlement to annual leave, the eight years time limit does not apply, provided that no permanent paid full time employment has intervened.

24.3 The calculation of continuous service for rights against unfair dismissal or redundancy payments are not included within this contractual provision.

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24.4 If an employee chooses to return to local government with DCC she will be asked to complete and sign a form confirming her service and that no permanent paid full time employment has intervened.

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## Costs

There may be a need to replace an employee on maternity leave. The formulas below will help managers to work out how many replacement hours they are able to employ an individual for, whilst still remaining within their staffing budget.

### All employees except teachers

Length of service	Week	Employee Receives	Cost
At least 26 weeks continuous service but less than 1 years continuous service	1	Normal pay which when added to SMP (90% of average weekly earnings) or MA (flat rate) will secure the equivalent of normal pay	If entitled to SMP, 8% of the 90% plus the balance of normal salary. If entitled to MA, normal salary less MA. If no entitlement to statutory pay, one weeks normal pay
	2 - 6	SMP - 90% of average weekly earnings	If entitled to SMP, 8% of the 90%.
	7 - 39	SMP - flat rate (current rates are available from the Directgov website)	If entitled to SMP, 8% of flat rate (which may be less if employee is a low earner)
At least 1 years continuous service	1 - 6	CMP / SMP - 90% of average weekly earnings	If entitled to SMP, 8% of the 90% If entitled to MA, 90% of normal pay less MA If not entitled to SMP or MA 90% of normal pay
	7 - 18	CMP - 50% of average weekly earnings + SMP - flat rate	50% of average weekly earnings + 8% of flat rate if entitled to SMP providing half pay + SMP does not exceed full pay
	19-39	SMP - flat rate	8% of flat rate if entitled to SMP

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## Teachers

Length of service	Week	Employee Receives	Cost
Less than 26 weeks continuous service with DCC and less than 1 years continuous service with one or more LEAs	1-26	Nil	Nil
Less than 26 weeks continuous service with DCC but at least 1 years continuous service with other LEA's  If returning to work	1-4	Normal pay when added to flat rate MA will secure the equivalent of normal pay	If entitled to MA, normal salary less MA. If no entitlement to statutory pay, 4 weeks salary.
	5-6	90% of average weekly earnings	If entitled to MA, 90% of 2 weeks salary less MA If no entitlement to statutory pay, 2 weeks pay 90 %
	7-18	CMP - 50% of average weekly earnings provided half pay plus maternity allowance does not exceed full pay	50% of average weekly earnings
At least 26 weeks continuous service with DCC but less than 1 years continuous service with other LEA's	1 - 6	90% of average weekly earnings	If entitled to SMP, 8% of the 90%
	7 - 39	SMP flat rate	If entitled to SMP 8% of flat rate
At least 26 weeks continuous service with DCC and at least 1 years continuous service with other LEA's  If returning to work	1-4	CMP / SMP - normal pay when added to SMP (90% of average weekly earnings) or flat rate MA will secure the equivalent of 4 weeks normal pay	If entitled to SMP, 8% of 90% plus the balance of normal salary If entitled to MA, normal salary less MA If no entitlement to statutory pay, 4 weeks salary If entitled to SMP 8% of the 90% If entitled to MA 90% of normal pay less MA
	5-6	CMP / SMP 90% of average weekly earnings	
	7-18	CMP / SMP - 50% of average weekly earnings plus SMP flat rate	50% of average weekly earnings plus 8% of flat rate if entitled to SMP
	19-39	SMP flat rate	8% of flat rate if entitled to SMP

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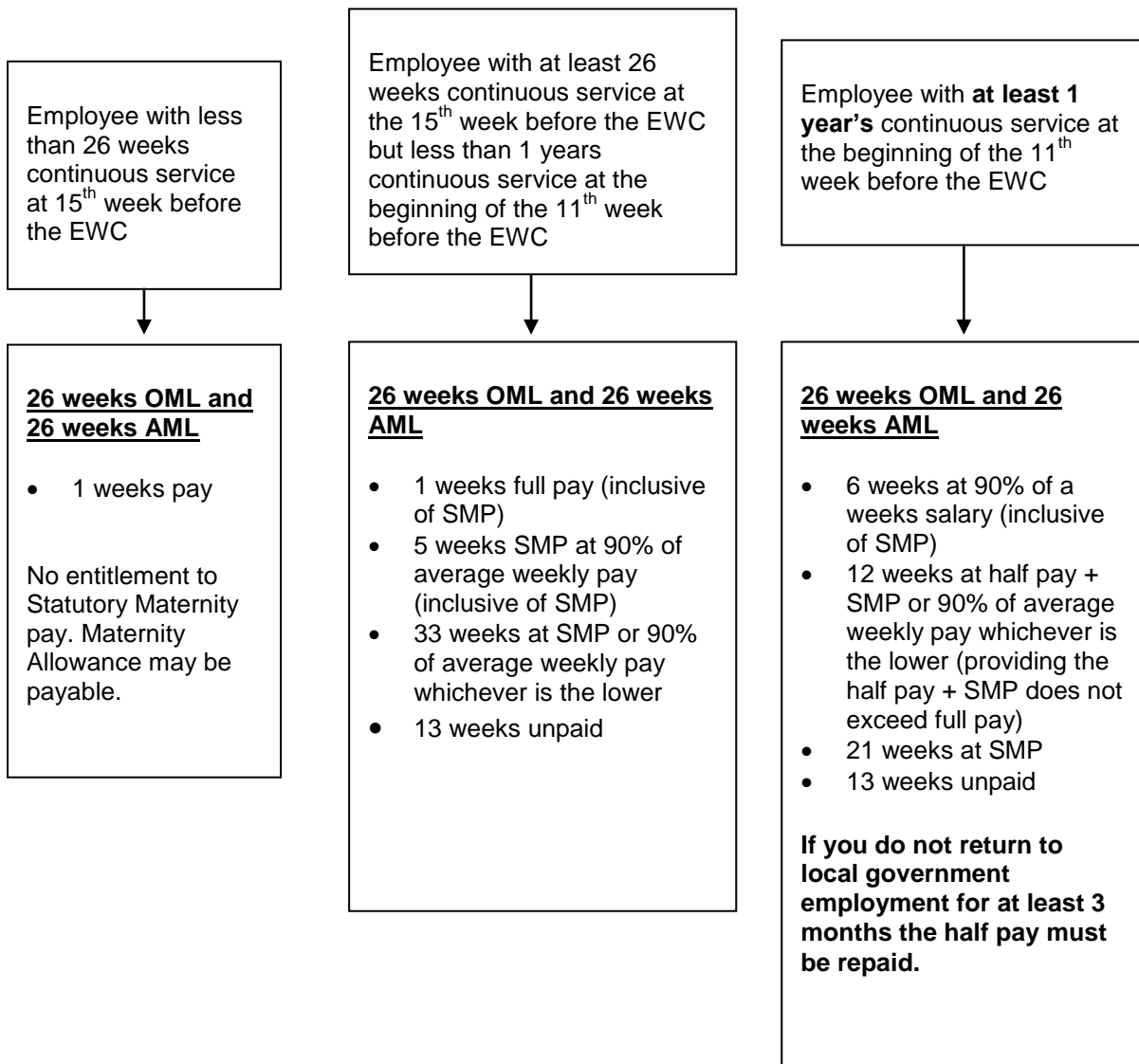
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## Appendix 1

### All Employees (Excluding Teachers) Maternity Benefits Flowchart



**OML** = Ordinary Maternity Leave  
**AML** = Additional Maternity Leave  
**SMP** = Statutory Maternity Pay\*  
**EWC** = Expected Week of Childbirth  
\*SMP is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Directgov website.

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## Appendix 2 - Teachers Maternity Benefits Flowchart

Teacher with less than 26 weeks continuous service with DCC at the end of the 15<sup>th</sup> week before the EWC and less than 1 years continuous service as a teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC

Teacher with less than 26 weeks continuous service with DCC at the end of the 15<sup>th</sup> week before the EWC, but at least 1 years continuous service as a teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC

Teachers with at least 26 weeks continuous service with DCC at the end of the 15<sup>th</sup> week before the EWC but less than 1 years continuous service as a teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC

Teachers with at least 26 weeks continuous service with DCC at the end of the 15<sup>th</sup> week before the EWC and at least 1 years continuous service as teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC

**26 weeks OML and 26 weeks AML**

- No entitlement to contractual or statutory maternity pay.

Maternity allowance may be payable.

**26 weeks OML and 26 weeks AML**

- 4 weeks full pay, inclusive of maternity allowance if eligible
- next 2 weeks 90% of a week's salary, inclusive of maternity allowance if eligible
- next 12 weeks, half pay + maternity allowance if eligible (providing the half pay + MA does not exceed full pay)
- next 21 weeks on MA if eligible
- up to 13 weeks unpaid.

**If you do not return to DCC employment for at least 13 weeks the half pay must be repaid.**

**26 weeks OML and 26 weeks AML**

- 6 weeks at SMP equal to 90% of a weeks salary
- 33 weeks at SMP or 9/10 of average weekly pay whichever is the lower
- 13 weeks unpaid

**26 weeks OML and 26 weeks AML**

- 4 weeks full pay, inclusive of SMP
- next 2 weeks 90% of a weeks salary, inclusive of SMP
- next 12 weeks, half pay + SMP or 9/10 of average weekly pay whichever is the lower ( providing the half pay + SMP does not exceed full pay )
- next 21 weeks at SMP
- 13 weeks unpaid

**If you do not return to DCC employment for at least 13 weeks the half pay must be repaid.**

**OML** = Ordinary Maternity Leave    **AML** = Additional Maternity Leave  
**SMP** = Statutory Maternity Pay\*    **EWC** = Expected Week of Childbirth

\***SMP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Directgov website.

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### **Appendix 3 - Terms and abbreviations**

Actual Week of Childbirth (AWC)	This is the week the baby is born.
Additional Maternity Leave (AML)	An additional 26 weeks maternity leave, immediately following ordinary maternity leave, which gives the right to one year's maternity leave in total to all pregnant employees, regardless of length of continuous service.
Childbirth	The live birth of a child, or a still birth after a pregnancy that has lasted at least 24 weeks.
Compulsory Maternity Leave	The two weeks commencing with the day of childbirth during which employers are prohibited from allowing the employee back to work.
Continuous service (excluding teachers)	Continuous service includes continuous previous service with any public authority to which the Redundancy payments Modification Order (Local Government) 1983 (as amended) applies.
Continuous service (Teachers)	Continuous service includes continuous previous service as a teacher with any Local Authority under the Redundancy Payments Modification Order.
Contractual Maternity Pay (CMP)	This is the payment made by DCC over and above SMP, as part of the employee's Conditions of Service.
Expected Week of Childbirth (EWC)	This is the week the baby is expected to be born.
Job	For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which she is so employed.
MATB1	This is the certificate issued by the employee's GP or Midwife (no earlier than 20 weeks before the EWC) to confirm the date of the EWC.
Maternity Allowance (MA)	Where the employee does not qualify for SMP she may be entitled to MA, which is paid directly by the Department for Work and Pensions.
Ordinary Maternity Leave (OML)	26 weeks maternity leave. Available to all pregnant employees.
Qualifying Week	This is the 15th week before the EWC. It is used to determine entitlement to SMP, as the employee needs to have worked for the same employer for at least 26 weeks up to and including the Qualifying Week (in addition to paying appropriate National Insurance Contributions).
Return to Work	Means to the job to which the employee was employed under her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent.
Statutory Maternity Pay (SMP)	Providing the Qualifying Week and National Insurance contribution criteria are met the employee will be entitled to SMP. This payment is made by DCC on behalf of the Department for Work and Pensions. Current rates are available from the Directgov website.
Week	A woman can start to receive her SMP on any day of the week.
Week's Pay	This is usually the amount payable by DCC to the employee under her current contract of employment for working her normal hours in a week.

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## Useful Contacts and Information

### HR Direct

Corporate and Schools 01392 385555  
Email: [hrdirect@devon.gov.uk](mailto:hrdirect@devon.gov.uk)

### Payroll

General salaries 01392 382400  
Education salaries 01392 382390  
Email: [payroll@devon.gov.uk](mailto:payroll@devon.gov.uk)

### Pensions

Surname A – GILL 01392 688216  
Surname GILLA – PARR 01392 688214  
Surname PARS – Z 01392 688212

HM Revenue & Customs <http://www.hmrc.gov.uk/>

Department for Work & Pensions <http://www.dwp.gov.uk/>

Devon Information on Services  
for Children (DISC) Freephone: 0845 155 1013  
[http://www.devon.gov.uk/disc\\_services.htm](http://www.devon.gov.uk/disc_services.htm)  
Email: [discinfo@devon.gov.uk](mailto:discinfo@devon.gov.uk)

Directgov <http://www.direct.gov.uk/en/index.htm>

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## POLICY HISTORY

Policy / Version Date	Summary of change	Contact	Implementation Date	Review Date
15.12.2006	Policy amended to take account of Work & Families Act 2006 for those with an EWC on or after 1.4.07	P&S	01.04.2007	
28.3.2007	Policy reformatted into shell document & rate of SMP, effective from 1.4.07, updated to £112.75.	P&S	01.04.2007	01.04.2008
06.04.08	Policy updated as statutory pay increased to £117.18 per week. Reference to maternity leave/pay prior to 1 April 2007 has been deleted.	P&S	06.04.2008	April 2009
16.06.08	Policy updated following a High Court ruling that UK law on pay and benefits during maternity leave does not meet EU requirements. New regulations will affect those with an expected week of childbirth (EWC) which falls on or after 5 October 2008. Essential car user and bank holiday entitlement now extended to include AML.	P&S	05.10.2008	April 2009
07.07.08	Section 17.3 added to policy to ensure the essential car user lump sum continues throughout OML/AML, if applicable.	P&S	05.10.08	April 2009
08.09.08	Policy updated following amendments to the Sex Discrimination Act 1975 in relation to pension contributions. <b>Section 18.1 amended as teachers no longer able to pay combined contributions.</b>	P&S	05.10.08	April 2009
08.09.08	Section 16 added following the introduction of the Working Time (Amendment) Regulations 2007.	P&S	01.09.08	April 2009
20.03.09	Flexible Working Requests (Section 10) added. Other minor adjustments: amended wording (9.6 and 21.5); changed 'bank' to 'public' holidays (Section 21); added reference to adoption leave (24.1); corrected numbering (Section 11), and, added definition of Continuous Service (excluding teachers)(Appendix 3 ).	P&S	20.03.09	April 2009
24.03.09	Policy updated as Statutory Maternity Pay increased to £123.06 per week.	P&S	06.04.09	April 2010
23.10.09	Minor amendments: Updates to front cover, amended wording to align with adoption policy (section 1.1 and 2.1), changed Personnel to HR (sections 4.4, 8.2 and page 16 costs table), amended wording from 24 days to statutory	P&S	October 2009	April 2010

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	(section 17.4), deleted last line (section 17.4) regarding pay in lieu, changed Social Services to Social Care (section 21.5), deleted CMP for weeks 2 to 6 (Costs table – page 16), added SMP after 5 weeks at 90% of average weekly pay (Appendix 1 – 2 <sup>nd</sup> column), amended flowchart wording from authority to government (Appendix 1), added further wording in first box of Appendix 2, reordered Appendix 3 and added continuous service information for teachers, and updated contact pages. Section 12 added information about relaxation and parenting classes. Section 13.7 updated to align with adoption policy wording and confirming that teachers have to return to DCC for 13 weeks. Section 24.1 updated to reflect the Green Book National Provisions.			
12.02.2010	Minor amendment to section 8.1 – Payroll no longer need to be sent a copy of the birth certificate following the birth of the baby.	P&S	February 2010	April 2010
06.04.2010	SMP rates deleted as information can be obtained from Directgov website.	P&S	04.04.2010	April 2011
18.10.2010	Minor amendments to essential car user wording in section 18.2.	P&S	18.10.2010	April 2011
19.04.2011	Sections 13.8 and 13.9 added. Updates to names of forms – CTP5 to MAT5, CTP6 to MAT6, CTP1 to Online Absence Report and LGS8 to Prism 2.	P&S	19.04.2011	
	New Section 6.1 added “Maternity leave can commence at any time from 11 weeks before EWC. It must commence no later than the day after childbirth.” New Section 6.3 added: “If childbirth occurs before the date the employee notified as the day she intended to start maternity leave then her maternity leave will commence on the day after the day of childbirth.”	HR Direct	12.07.2012	
20.09.2012	Update to section 4.4 to reflect that Payroll undertake this function, and update to 8.2 to reflect change of name to HR Direct	HR Direct	20.09.2012	
15.11.2012	Correction to section 4.4 to reflect line management responsibility	HR Direct	15.11.2012	
01.11.2013	Amendment to section 16.2 regarding carryover of annual leave.  Update HR Direct to HR ONE Helpline  Public and extra statutory holiday entitlement during maternity leave section amended to clarify accrual, and moved to follow Annual Leave	HR ONE	01.11.2013	

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	during Maternity Leave sections  Update to sections 13.7 and 13.8 to clarify where employee holds more than one post.  Update to wording 24.2 and 24.4			
01.05.2014	Update to Section 6.4. Employee to notify Payroll if they require a hard copy of their Payslip to be sent to their home address.	HR ONE	26.6.14	
26.06.2014	Update to Section 20.2. Update to Pensions section as result of changes to LGPS.	HR ONE	26.6.14	
08.12.2014	Update to Section 16 and 17 to encompass staff who work in schools and take their leave during school closure periods	HR ONE	09.12.14	
16.12.2014	Section 5.2 added to reflect the addition of Time off for Ante Natal Care	HR ONE	17.12.14	
16.12.2014	13.11 added to highlight the legal position in relation to pay whilst an employee is under notice of redundancy.	HR Direct	17.12.14	

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