



Maternity Policy

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Linked to policies:

- Paternity Leave policy
- Shared Parental Leave policy
- Flexible Working policy
- Data Protection policy

Signed:

A handwritten signature in blue ink, appearing to read 'S. Day'.

Version Control

| Version | Date of review/change(s) | Page and paragraphs affected | Summary of update |
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| New policy | January 2025 | | |
| | | | |

Maternity scheme - support staff P208c

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We, the Directors, have adopted this scheme.

1. Introduction and scope

- 1.1 The purpose of this scheme is to outline maternity leave and pay provisions for support staff. Depending on whether employees meet the applicable eligibility criteria, they may have entitlement to statutory (SMP) and/or occupational maternity pay (OMP). If the employee does not have entitlement to SMP or OMP, they would have access to statutory maternity allowance through the Job Centre Plus.
- 1.2 Directors must comply with the statutory maternity scheme. All Directors must comply with the nationally agreed schemes. All Directors must follow locally agreed provisions.
- 1.3 The Headteacher will ensure that employees are made aware of the provisions of this scheme and that they are applied in a consistent manner.

2. Equalities and support

- 2.1 The Headteacher will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.
- 2.2 Through the implementation of this scheme, the Directors will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.

2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Directors understands the employee may require extra support in relation to the application of this policy. Where reasonable adjustments are necessary and can be accommodated, the Headteacher will support these.

3. Initial obligations on the employee

- 3.1 To benefit from the scheme the employee must notify the employer, at least 28 days before their absence begins or as soon as is reasonably practicable:
- i. that they are pregnant
 - ii. of the expected week of childbirth, by means of a medical certificate MATB1
 - iii. of the date of the beginning of maternity absence.

The employer can request that the notification of the beginning of maternity absence is given in writing by completing the Maternity leave and pay form (MP1).

4. Antenatal care

- 4.1 All pregnant employees have the right to paid time off for antenatal care and must produce evidence of appointments if requested to do so by the employer. Antenatal care is defined as visits to a registered Medical Practitioner, Midwife or Health Visitor.
- 4.2 Except for the first appointment, the employee must provide a certificate from a registered practitioner, midwife or health visitor confirming an appointment has been made.
- 4.3 Partners of pregnant employees wishing to take time off to attend antenatal appointments have different entitlements, which are detailed in the Leave and time off policy.
- 4.4 Maternity support leave is available to eligible partners and employees who are nominated by the expectant employee to assist in the care of the child and to provide them with support (paragraph 14).

5. Entitlement

5.1 Leave

All pregnant employees, working under a contract of employment, regardless of their length of service, are entitled to take up to 52 weeks' statutory maternity leave (SML) around the birth of their child, regardless of their hours of work or length of service, where the appropriate notice has been given. This includes surrogate birth parents.

SML is made up of 26 weeks' ordinary maternity leave (OML) followed immediately by 26 weeks' additional maternity leave (AML). An employee must take a minimum of two weeks' leave after the birth of the child (compulsory maternity leave).

5.2 Pay

There are two maternity pay schemes - both will total a 39 week pay period. The actual amount of pay will vary depending on whether the employee is entitled to maternity allowance (MA) or statutory maternity pay (SMP) and/or occupational maternity pay (OMP):

Statutory Maternity Pay (SMP)

This is paid on behalf of the Department for Work and Pensions. There are two weekly rates of SMP:

- The higher rate is 9/10 of the employee's average weekly earnings and is payable for the first six weeks of the period for which SMP is due (known as the maternity pay period).
- The lower rate is a set rate payable for the remaining 33 weeks of the maternity pay period or 9/10 of the employee's average weekly earnings where this is less than the SMP rate. SMP is subject to pension, tax and NI contributions.

The [current rate for SMP is available on gov.uk](#)

The Payroll provider will calculate average weekly earnings but broadly they are an average of the gross earnings paid in the 8 weeks before the end of the qualifying week.

6. Eligibility

6.1 Leave

To qualify for maternity leave, the employee needs to notify the Headteacher that they wish to take maternity leave. This needs to be done no later than the end of the 15th week before the expected week of childbirth (EWC) by completing the *Maternity leave and pay form (MP1)*.

6.2 Pay

Statutory Maternity Pay (SMP)

To receive SMP, an employee must satisfy the following conditions:

- have been continuously employed by their current employer for at least 26 weeks¹, at the start of the 15th week before the baby is due. This 15th week is known as the qualifying week.
- have average earnings of not less than the lower earnings limit for payment of National Insurance contributions between the last normal pay day before the 15th week before the EWC and 8 weeks prior to this.
- still be pregnant at the 11th week before the week the baby is due or have had the baby by that time.
- have provided the MATB1² showing the date the baby is due at least 28 days before the maternity leave is due to start and have stopped work.

Payroll will not pay SMP until documentary evidence is received.

If the employee does not qualify, the original MAT B1 must be returned by the Payroll provider with form SMP1 explaining why SMP is not payable and how the employee can claim maternity allowance (MA) from the Jobcentre Plus.

¹ If a baby is born early, before or during the qualifying week and they would have completed 26 weeks employment but for the early birth, the continuous employment rule is satisfied.

² The earliest the MATB1 is available is the 14th week before the baby is due (i.e. the 26th week of pregnancy). This means that at the time when the qualifying week should be established (i.e., the 15th week before the baby is due) the MATB1 may not be available.

If any of the circumstances outlined below apply to an employee, they will cease to be entitled to SMP if:

- the employee does not give 28 days' notice of the date they intend to start maternity leave and the reason given for the delay is unacceptable,
- the employee is taken into legal custody during the maternity pay period,
- the employee starts working after the birth for someone who did not employ them in the 15th week before baby due.

Employees must inform their Headteacher, who will notify the payroll provider if the circumstances outlined above become applicable.

7. Commencement of maternity leave

- 7.1 The starting date of the maternity leave period should normally be agreed between the employee and the Headteacher, however, the final decision is the employee's. The earliest they can start maternity leave is 11 weeks before the baby is due, or from the time of childbirth if that is earlier, but they can, if they want to and they are fit enough, work right up to the time the baby is due.
- 7.2 Normally maternity leave will commence on the day specified by the employee, but this can be triggered by absence due to pregnancy or the birth of the baby. When this happens the maternity leave and maternity pay period is deemed to have begun on the day following the first day of absence or childbirth.
- 7.3 If the employee is absent from work because of a pregnancy related illness on or after the start of the 4th week before the baby is due this should be treated as the start of their maternity leave unless it is a very minor illness and they are expected to return within one or two days.
- 7.4 If the employee is ill for a non-pregnancy related reason, they will be regarded as being on sick leave until either the baby is born, or the date that they gave as the start date of their maternity leave, when they will start receiving maternity pay.
- 7.5 It follows that if an employee is off sick during or after the 4th week before the baby is due and they have not started maternity leave, it is essential the reason for absence is immediately discovered. Normally the employee's certificate from the GP will state if the sickness is pregnancy related. For illnesses where it is not possible to decide if the absence is due to pregnancy, then the advice of the school medical adviser should be sought.
- 7.6 The date that an employee wishes to start maternity leave can be changed but 21 days' notice needs to be provided prior to when the maternity leave was originally due to start.

8. Notification

- 8.1 The employee must notify the Headteacher that they wish to take maternity leave. This needs to be done no later than the end of the 15th week before the EWC. This can be done by completing the *Maternity leave and pay form (MP1)*.

- 8.2 If the employee does not give the required notification, they lose their right to start maternity leave on their chosen date. The only exception to this is where it is not reasonably practicable for the employee to give notice any earlier e.g., if the baby is born much earlier than expected, i.e., well before the qualifying week.

It should be noted that the qualifying week for SMP is the 15th week before the week the baby is due.

- 8.3 The Headteacher will confirm the end date of maternity leave, which will normally be assumed to be 52 weeks from the intended start of maternity leave, unless the employee has notified otherwise. The statutory requirement is for confirmation to be sent to the employee within 28 days of the employee's notification. Failure to confirm within this timescale may result in the employee having protection against dismissal if they fail to return to work on time, and they also may not be obliged to give 21 days' notice of changing their return to work date.

9. Keeping in touch (KIT) days

- 9.1 KIT days are a statutory entitlement where the employee may work for up to 10 days during their maternity leave without the loss of statutory maternity payments for that week, or their maternity leave being terminated.
- 9.2 Both parties must be in agreement of any such work - the employee cannot be required to attend a KIT day, nor is the employee entitled to a KIT day if there is no reason for them to attend the workplace.
- 9.3 A KIT day cannot take place during the first two weeks following the birth of a child (compulsory maternity leave). KIT days do not have to be consecutive and can be used for work activities, training or any other activity such as a staff meeting or INSET day that enables the employee to keep in touch with the workplace. Working for part of a day will count as one of the 10 KIT days.
- 9.4 Employees who attend a KIT day will claim for the actual hours that they have worked on each KIT day taken to a maximum of the employee's normal pay for a day's work. KIT day payments will be paid at the employee's normal hourly rate, offsetting any OMP for that day, SMP is not affected.

10. Returning to Work

- 10.1 An employee is expected to return to work at the end of their maternity leave period on the date notified by the employer. Specific notification, to the employee's Headteacher, of the return date is only required from the employee where it is to be before the natural end of the 52 week (one year) period. An employee wishing to return before the end of the maternity leave period is required to give 21 days' notice of the earlier date that they propose to return. If an employee changes their mind about the day they propose to return, they must give the employer 21 days' notice of the new date, if this is earlier than the original date they notified or if they are proposing to return later than the original date, they must give notice of the new return date, 21 days before the original return date.

- 10.2 In cases where the notice given is less than this, management can postpone the return to ensure the minimum notice period above, as long as this does not go beyond the end of the maternity leave period. Any postponement is conditional upon the employee having been issued with the required notice of expected date of return within the 28 day limit. Where no early or prior notice of a date of return is given the employee will be expected to return to work at the end of the 52 weeks leave period.
- 10.3 The Headteacher will inform the Director when an employee's maternity leave ends
- 10.4 When the employee returns to work at the end of their maternity leave, they are entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those that would have applied had they not been absent. In the event of this position being no longer available through reason of redundancy, the employee will be entitled to be offered alternative employment, where available, in accordance with the terms and conditions of the Schools' Staffing Adjustment Procedure.
- 10.5 As a matter of good practice, Headteachers are advised to maintain reasonable contact with their employees throughout their maternity leave, to let them know of changes occurring in the workplace and to keep informed about changes to the employee's plans. This contact does not count towards the 10 KIT days.
- 10.6 An employee is able to return from maternity leave during a school holiday period, providing they have met any conditions as outlined in this scheme and they are deemed medically fit to do so.

10.7 Returning to work on a part-time basis

Some employees wish to return to work on reduced hours after their period of maternity leave. There is no automatic right to do this but employees do have a right to request it. Employers have a statutory duty to give such requests full consideration and have an obligation to formally respond to the request. It follows that the Headteacher should assess the practicalities of allowing a return on this basis and not unreasonably refuse it. The Headteacher will be required to justify any decision not to allow such a return.

10.8 Delaying return to work

If the employee is unable to return to work on the expected day due to sickness, the absence will be covered by the sickness scheme in the normal way.

11. Resigning from work or not returning by the expected date

11.1 Resignation before maternity leave

If the employee states, before they leave work to have a baby, that they will not be returning to work and gives their resignation date as their last day of service, then their contract of

employment ends with effect from the day after that date. They will be entitled to SMP or SMA provided they fulfil the eligibility criteria.

If they do not give a resignation date, an appropriate date should be agreed. This will normally be their last day of service or the last day of the 39-week maternity pay period. In the latter case, the employee will be entitled to receive all contractual benefits for the maternity pay period (except remuneration) as described in section 12.

11.2 Resignation during maternity leave

If, during a period of maternity leave, an employee tenders their written resignation, their last date of service would be the date of the letter. As described above, the employee will be entitled to receive all contractual benefits up to their resignation (except remuneration).

11.3 Employees who do not return by the expected date

Failure to inform an employee of their expected date of return within the specified 28-day period can have the following implications for the employer:

- If the employee does not give the required 21 days' notice of intention to return on a date earlier than the end of the maternity leave, the employer is not able to postpone their return to work. The employee becomes protected from suffering a detriment or being dismissed if they fail to return after the end of maternity leave and they reasonably believe that it had not ended.
- If the employee simply does not return at the end of the maternity leave, it should not be presumed they have resigned. Legislation and case law has confirmed that while an employee may lose their right to return to work, the contract of employment will still subsist until one of the parties brings it to an end e.g., by resignation or dismissal. In such cases, Headteachers are advised to find out the reason why the employee has not returned. If they do not intend to return to work then they should be asked to resign as described above. If they are experiencing difficulties e.g., problems with organising childcare, then they should be allowed a reasonable extension to their unpaid maternity leave. To dismiss an employee in these circumstances is likely to constitute unfair dismissal and sex discrimination.

12. Contractual status during maternity leave

12.1 Contractual benefits

Entitlement to contractual benefits should be at least those which would apply had the employee been absent due to sickness. For the purpose of calculating a week's pay, this will include contractual allowances throughout the whole of the 52 weeks of maternity payments.

12.5 **Sickness during maternity leave**

If the employee is sick during paid maternity leave, it does not affect their maternity pay and they need not comply with the sickness notification procedures. If, however, they are sick during unpaid maternity leave, they should inform the Headteacher, who, in turn, will notify the payroll provider as soon as possible. They should also provide a medical certificate as they may be entitled to statutory sick pay. Payroll will be able to advise if they have any entitlement to this.

12.6 **Pensions**

Pensions contributions on statutory maternity pay will be taken in line with auto-enrolment rules.

12.7 **Pregnancy and unfair dismissal**

It is automatically unfair to dismiss an employee:

- for a pregnancy or pregnancy related reason,
- at the end of their general maternity leave because they have given birth or a related reason,
- after their general maternity leave because they have availed themselves of maternity benefits,
- within 4 weeks from the end of their general maternity leave where they are covered by a medical certificate,
- where a requirement to suspend on health and safety grounds is the main reason for the dismissal,
- where they are prevented from exercising their right to return because of redundancy and they are not offered a suitable alternative vacancy where it is available,
- where they are made redundant during their maternity leave and are not offered available suitable alternative employment.

In the above circumstances, employees will be entitled to bring unfair dismissal claims regardless of the hours they work or their length of service.

Where an employee is dismissed at any time during their pregnancy or maternity leave, they are entitled to be provided with written reasons for their dismissal (whether requested or not).

However, employers are not prevented from dismissing employees for reasons unconnected to their pregnancy (e.g., for redundancy or misconduct reasons). Where a dismissal would have occurred regardless of the fact that the employee is pregnant or on maternity leave, such a dismissal will not be automatically unfair. The fairness will be judged according to the reasonableness of the employer's actions. Employees will need two years' service to make an unfair dismissal claim in these circumstances.

Special considerations apply to redundancy during maternity leave, this is detailed in the Staffing adjustment policy and procedure.

Where redundancy occurs during the period of paid maternity leave, the employee is entitled to be offered any existing suitable alternative employment. Suitable alternative employment means work that is suitable for the employee and appropriate for them to do in the circumstances and on terms and conditions which are not substantially less favourable, than those under their previous contract. The offer must be made before the existing contract comes to an end, to take effect immediately on the ending of the original contract. A trial period will be applicable where redeployment has occurred due to redundancy.

Where the redundancy would take effect in a period of unpaid maternity leave, employees retain their right to return within the 52-week period. It is the responsibility of Headteachers to ensure that employees who are absent from work on maternity leave are kept consulted on any restructuring. This means that regardless of whether the contract of employment continues, the employee can exercise their right to return. Where redundancy means there is no job for them to return to, the employee is entitled to be offered any existing suitable alternative to coincide with their date of return to work i.e., the end of the period of maternity leave or earlier if the employee gives 21 days' notice of the wish to return before this. As a result of this, it is advisable to delay any redundancy dismissal until the employee reaches the date of return. It is only where no suitable alternative vacancy exists at this time that notice is given and a redundancy payment made.

13. Health and Safety

- 13.1 Employers have a responsibility to assess the work activities of pregnant employees to determine if there are any risks to their health and safety, or that of their baby, while they are pregnant, a new parent (up to six months after giving birth), or breastfeeding. This applies to jobs that involve potential harm or danger from processes, working conditions, or physical, chemical, or biological agents in the workplace.
- 13.2 According to health and safety legislation, if a pregnant employee's job duties are likely to cause harm to them or their unborn child, reasonable steps must be taken to reduce or eliminate the risks. This may involve removing the employee from certain job duties that might pose a risk to their health or safety, transferring them to a temporary alternative role – which must be on terms and conditions not substantially less favourable than those of their normal job, or placing them on paid suspension until the start of their maternity leave if alternative work is not available.
- 13.3 The Headteacher will conduct a risk assessment with the pregnant employee. The assessment will be done using appropriate forms and in collaboration with the employee. Any necessary control measures or adjustments to the working environment should be implemented immediately.
- 13.4 It is important to review the risk assessment regularly, every 4-6 weeks, and more frequently as the pregnancy progresses, to ensure that the changing needs of the employee are considered. The risk assessment should be held locally by the employer for ongoing review during this period, and a copy of the assessment should be kept on file.

13.5 If a risk assessment results in the employee being suspended, their employment and maternity rights are not affected, and they are entitled to their normal salary and contractual benefits – unless they have unreasonably refused a temporary alternative role.

13.6 Employees on suspension should be aware they have the right to informally raise a concern with their manager if they believe suspension is not appropriate. If the response to the concern is not believed to be fair by employee, they should refer to the grievance policy.

14. Maternity Support Leave

14.1 In most cases, such care and support would be provided by the father, partner, civil partner/same sex partner and therefore their first week of statutory paternity pay will be 'topped up'. However, the role can otherwise be fulfilled by a relative or someone who has a caring relationship with the birth parent and/or child e.g., grandparent. If this is the case the *Maternity leave form F208m* can be used. **Note:** the birth parent does not have to be an employee for the school employee to take MSL and only one nominated carer per expectant mother can take advantage of MSL.

15. Other/change in circumstances

15.1 Premature birth

If the baby is born early, but after the employee has gone on maternity leave, it will have no effect on the maternity pay they are entitled to.

If the employee's baby is born before the maternity pay period is due to start, they must, if reasonably practicable, give notice of the date they had the baby within 28 days. SMP should be paid from the day following the day of childbirth.

15.2 Stillborn birth

If a baby survives for only an instant, it is a live birth not a stillbirth.

If the baby is stillborn before the 24th week of pregnancy, i.e., earlier than the 16th week before the expected week of childbirth, SMP is not payable. Instead, the sick pay scheme applies.

If the baby is stillborn after the start of the 16th week before the expected week of childbirth, then SMP should be paid as it would for a live birth.

15.3 Entitlement to SMP if a baby dies after birth

In the event of the employee giving birth to a live baby which later dies during the maternity leave period, SMP should continue to be paid.

15.4 Employees working under more than one contract

If an employee works under two separate contracts of employment and the employer pays National Insurance Contributions separately for each contract, eligibility for the payment of SMP will be assessed separately.

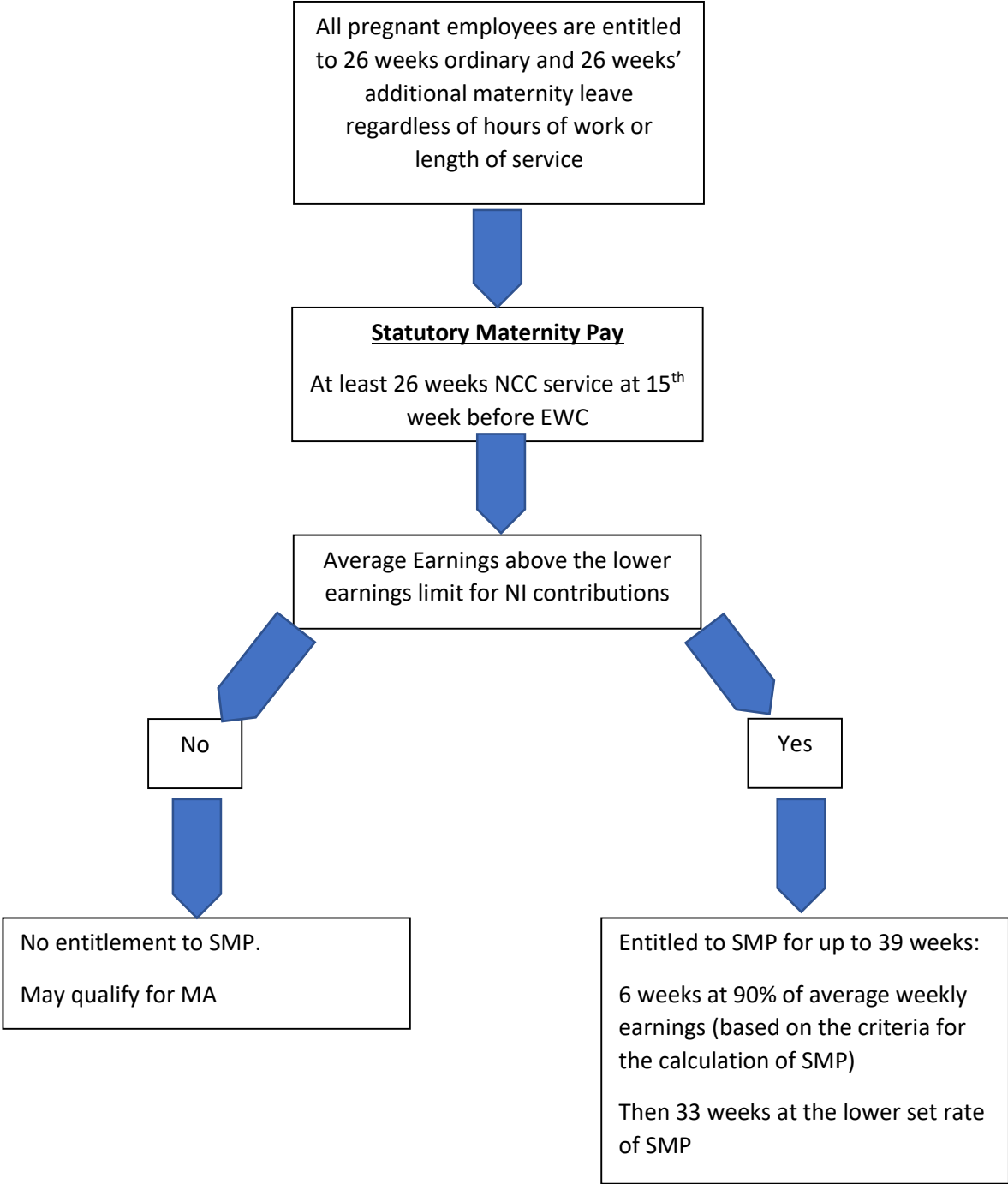
If the pay from the contracts is added together before National Insurance contributions are calculated, then SMP is assessed on the total payment.

If the employee satisfies the qualifying rules with more than one employer, they can receive SMP from each of them.

16. Data protection

Personal data collected and processed for the purpose of this scheme will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.

Appendix 1



Glossary of Terms
SMP: Statutory Maternity Pay
MA: Maternity Allowance
EWC: Expected Week of Childbirth

Appendix 2

Maternity Leave and Pay form (MP1)

Employee action: If you need help to complete the form contact the Managing Director or the Headteacher

This form should be submitted with a copy of your original MATB1 as soon as it is received – this form cannot be processed without your MATB1.

Please complete sections A and B.

Completed forms should be returned to head@allsaintslessingham.co.uk

| A. Please answer <u>all</u> questions in this section | |
|--|-----------------|
| Employee personal details | |
| Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other: <input type="checkbox"/> | |
| Full name: | Post title: |
| Place of work: | Payroll number: |
| Phone number: | Email: |

| Maternity details | |
|--|-----|
| Date started employment with current employer: | / / |
| Expected date of childbirth: | / / |
| Date intending to start maternity leave: | / / |
| Last working day: | / / |

| B. Maternity pay options – please tick <u>only one</u> option from numbers 1-4. If choosing option 3, however, please indicate how you would like to receive your maternity pay. Please also indicate your understanding and acceptance of potential repayment conditions in section 4. | |
|---|--|
| 1 | I may not be entitled to any maternity pay but I will be taking maternity leave <input type="checkbox"/> |
| 2a | I confirm that I intend to take maternity leave and note that I may only be entitled to a period of 39 weeks paid leave (6 weeks @ 9/10 th average earnings followed by 33 weeks @ flat rate SMP) <input type="checkbox"/> |
| 2b | I wish to take maternity leave from the date specified and I am not returning to work at the end of my maternity leave. Therefore, I am only entitled to a period of 39 weeks statutory maternity pay (SMP) (6 weeks @9/10 th average earnings followed by 33 weeks @ flat rate SMP) <input type="checkbox"/> |

| | |
|---------------------|-----------|
| Employee signature: | Date: / / |
|---------------------|-----------|

Appendix 3

Maternity Support Leave form

Employee action: If you need assistance completing this form, please contact the Managing Director or Headteacher.

Only **one** nominated carer per expectant mother can take maternity support leave.

Completed forms should be returned to head@allsaintslessingham.co.uk

| Employee personal details | |
|--|-----------------|
| Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other: <input type="checkbox"/> | |
| Full name: | Post title: |
| Place of work: | Payroll number: |
| Phone number: | Email: |
| Expected date of childbirth: | / / |
| Date started employment with current employer: | / / |
| Date started in employment: | / / |

| Maternity support leave and pay | |
|---|--------------------------|
| I am taking leave to care for the child or support the birth parent | <input type="checkbox"/> |
| I have attached a copy of the MATB1 | <input type="checkbox"/> |
| Date intending to start maternity support leave: | / / |

| | |
|---------------------|-----------|
| Employee signature: | Date: / / |
|---------------------|-----------|