



MATERNITY / PATERNITY ENTITLEMENTS TO PAY AND LEAVE

This policy is reviewed biennially by the Provision Committee.

To be read in conjunction with but not limited to:

Shared Parental Leave Adoption
entitlements
and other relevant policies and procedures

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1. STATEMENT OF INTENT

SENDAT is a Multi Academy Trust specialising in the care and education of young people with Special Educational Needs and Disabilities. This policy should be considered in the light of this context and the complexity of need that is accommodated within the Trust and its constituent Schools / Alternative Provisions (APs).

2. MATERNITY LEAVE

All pregnant employees can take up to 26 weeks' ordinary maternity leave (OML) and up to 26 weeks' additional maternity leave (AML), making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional maternity leave begins on the day after ordinary maternity leave ends.

An employee's entitlement to pay depends on a number of factors, such as length of service and average earnings.

2.1 Notification of pregnancy

Employees are required to give notice that they are pregnant and intend to take maternity leave, no later than the 15th week before the Expected Week of Childbirth (EWC).

To qualify for maternity leave, the employee must give at least 28 days' notice in writing before they intend to start maternity leave, unless there is a good reason why they are unable to do so.

The notice should be given by completing form MP3, attached at appendix 1 of this document.

The employee should also give their Head of School / Head of Specialism their MATB1 form as soon as this is provided by the midwife or other medical practitioner.

Both forms should be forwarded to the SENDAT HR transaction provide (Schools' Choice) for action.

The employee may change the date of commencement of maternity leave by giving at least 28 days' notice of the new date (unless there is a good reason why it is not possible to do so).

The employee should inform the school of the date the baby was born, if possible within 28 days of the birth.

The earliest date for commencement of maternity leave is 11 weeks before the baby is due, or from day after the baby is born, if that is earlier.



2.2 Length of maternity leave

All employees are entitled to a period of 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave (52 weeks in total), regardless of hours worked or length of service.

No further notice needs to be given of the date of return to work, unless the employee wishes it to be earlier than the end of the 52 week period, in which case notice must be given as follows:

- 8 weeks' notice (support staff)
- 21 days' notice (teachers).

If notice of early return is not given, the employee is expected to return to work at the end of the 52-week leave period.

All employees must take a minimum of two weeks' maternity leave immediately after the birth of the baby.

2.3 Ante-Natal Care

Pregnant employees are entitled to paid time off work to attend antenatal appointments and should, if requested, provide evidence of the appointment, such as a medical certificate or appointment.

The employee's partner has the right to take unpaid time off work to accompany her at up to two antenatal appointments, providing this person has a 'qualifying relationship' with the mother.

This means if he or she:

- Is a spouse or civil partner;
- Lives with the mother in an enduring family relationship, but is not a parent, grandparent, sister, brother, aunt or uncle;
- Is the father of the expected child; or
- Is an intended parent in a surrogacy situation who meets certain conditions.

2.4 Sickness Absence and Maternity Leave

If a pregnant employee is absent from work because of a pregnancy related illness on or after the 4th week before the baby is due, this will automatically trigger the start of maternity leave, unless it is a very minor illness, normally with absence of not more than 1 or 2 days.

If a pregnant employee is absent on extended sick leave for a non-pregnancy related reason, she will be regarded as being on sick leave until either the baby is born, or the date which has given as the commencement of maternity leave, when she will start receiving maternity pay.



2.5 Contact during maternity leave

Before a pregnant employee commences maternity leave, her line manager or Head of School / Specialism will discuss arrangements for keeping in touch during maternity leave. This may be to discuss plans for return to work, to discuss any special arrangements to be made or training to be given to support the employee's return to work, or to provide general updates on any developments at work during the period of maternity leave.

2.6 Keeping-in-touch (KIT) days during maternity leave

Keeping-in-touch (KIT) days provide for the employee to attend for work on up to 10 occasions during maternity leave, without the risk of statutory maternity leave being terminated. Both parties must be in agreement on any such work and the dates must be mutually agreed. A KIT day cannot take place during the first two weeks following the birth of the child.

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, that enables the employee to keep in touch with the workplace. Working for part of a day will count towards one of the 10 days.

SENDAT's policy is that employees will be paid their normal rate of pay for KIT hours worked, unless the KIT day is used to complete a specific task which is outside the normal role and at a significantly lower level, in which case payment will be at an appropriate rate (agreed in advance).

2.7 Transfer of maternity leave/additional paternity leave/shared parental leave Shared parental leave enables parents to choose how to share time off work after their child is born. This could mean that the mother shares some of her maternity leave with her partner.

The first two weeks of the 52-week entitlement must be taken by the mother, but the remaining 50 weeks' entitlement and pay can be shared or split between both parents, if they meet the eligibility criteria. There may also be an entitlement to a maximum of 37 weeks of shared parental pay.

The Shared Parental Leave policy and guidance is available from the School Office, or from the SENDAT Central Administration Office.

2.8 Paternity leave

An employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child, is entitled to two weeks' ordinary paternity leave provided that he/she has 26 weeks' continuous service by the end of the 15th week before the week in which the child is expected.

Paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either adoptive parent may take paternity leave where the other adoptive parent has elected to take adoption leave. In respect of an adopted



child, the employee must have 26 weeks' continuous service by the week in which the child's adopter is notified of having been matched with the child for adoption.

See SENDAT Adoption Leave and Pay policy for further information.

To qualify for paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother.

Paternity leave must be taken in a single block of one or two working weeks within 56 days of the birth or adoption of the child. If the child is born early, it must be taken from the time of the birth but within 56 days of the expected date of childbirth. Paternity leave can start either from the date the child is born or placed for adoption or from a chosen number of days or weeks after that date.

Where an employee wishes to request paternity leave in respect of a birth child, he/she must give 15 weeks' written notice of the date on which his/her partner's baby is due, the length of paternity leave he/she wishes to take and the date on which he/she wishes the leave to commence.

In the case of an adopted child, the employee must give written notice of his/her intention to take paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start paternity leave, the length of the intended paternity leave period and the date on which the adopter was notified of having been matched with the child.

If an employee subsequently wishes to change the timing of the paternity leave, he/she must give 28 days' written notice of the new dates

3. MATERNITY PAY

There are two types of maternity pay:

1. Statutory Maternity Pay (SMP) and
2. Occupational Maternity Pay (OMP)

Employees may be entitled to one or both types of maternity pay, depending upon length of service and rate of pay.

3.1 Statutory Maternity Pay (SMP)

3.1.1 Eligibility



Statutory maternity pay is payable for up to 39 weeks during maternity leave. To qualify for SMP, the employee must:

- have been continuously employed by SENDAT for at least 26 weeks, at the start of the 15th week before the baby is due. This 15th week is known as the 'qualifying week';
- have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions in the 26 weeks up to and including the 15th week before the expected week of childbirth;
- still be pregnant at the 11th week before the week the baby is due or have had the baby at that time;
- have provided medical evidence of the date the baby is due (normally a MATB1 certificate) at least 28 days before the maternity absence is due to start; and
- have stopped work.

If the employee does not qualify for SMP, the Payroll team will send the employee a form SMP1, together with information on how to claim State Maternity Allowance (SMA).

The employee will not normally qualify for SMP if their employment with SENDAT ends before the qualifying week (the 15th week before the week in which the baby is due).

If employment ends during or after the qualifying week, the employee can still qualify for SMP from SENDAT.

3.1.2 Rates of SMP

For the first 6 weeks, SMP is paid at the higher rate, which is equivalent to 90% of average weekly earnings calculated over the period of eight weeks up to and including the qualifying week.

The standard rate of SMP is paid for the remaining 33 weeks, or less if the employee returns to work sooner. SMP is paid at a rate set by the Government (see the [gov.uk](https://www.gov.uk) website) for the relevant tax year, or 90% of average weekly earnings calculated over the period of eight weeks up to and including the qualifying week, if this is lower than the Government's set weekly rate.

SMP is treated as earnings and is, therefore, subject to PAYE and national insurance deductions.

Payment of SMP cannot start prior to the 11th week before the expected week of childbirth.

SMP is payable regardless of whether the employee returns to work after maternity leave.



3.2 Occupational Maternity Pay (OMP)

3.2.1 Eligibility

To qualify for OMP, the employee must have at least 1 year of continuous service with SENDAT at the 11th week before the expected week of childbirth. The Occupational Maternity Pay Scheme applies to pregnant employees with qualifying service regardless of the number of hours worked per week.

If the employee has less than 1 year of continuous service at the 15th week before the expected week of childbirth, she will not qualify for OMP, but will still get SMP or Statutory Maternity Allowance (SMA) as appropriate.

The amount of OMP received will depend on whether the employee returns to work at the end of maternity leave.

If the baby is born early, before or during the qualifying week and the employee would have completed 1 year's employment but for the early birth, the continuous service rule for OMP is satisfied.

In order to determine eligibility for OMP, only continuous service with SENDAT, together with previous unbroken Local Government service with is taken into account.

3.2.2 Summary of main benefits

Length of service	SMP	OMP
Less than 26 weeks at QW	No entitlement except possibly SMA	No entitlement
At least 26 weeks at QW but less than 1 year at 11 weeks prior to EWC,	6 weeks at 90% of average pay plus 33 weeks standard rate SMP	No entitlement
More than 1 year at 11 weeks before EWC (Support Staff)	6 weeks at 90% of average pay plus 33 weeks standard rate SMP	Weeks 1-6 as per SMP Weeks 7-18 half pay (unless half pay plus standard rate SMP exceeds normal pay)*
More than 1 year at 11 weeks before EWC (Teachers)	6 weeks at 90% of average pay plus 33 weeks standard rate SMP	Weeks 1-4 full pay Weeks 5-6 as per SMP Weeks 7-18 half pay (unless half pay plus standard rate SMP exceeds normal pay)**

Note that if the normal earnings are lower than the standard rate of SMP, but above the Lower Earnings Limit (LEL), the 33 weeks will be paid at 90% of normal earnings.



* Support Staff are required to return to work at SENDAT for a minimum of 12 weeks (regardless of whether you return on reduced hours) to secure an entitlement to OMP. If the employee does not return for the required period, then the half pay OMP entitlement must be repaid (SMP does not have to be repaid). The employee may choose to have the half pay paid as it falls due, or as a lump sum on return to work or as a lump sum after the employee has completed their 12 weeks' return to work.

** Teachers are required to return to work at SENDAT for a minimum period of 13 weeks (or pro rata equivalent if the employee reduces working hours on her return to work) to secure an entitlement of OMP. (SMP does not have to be repaid). If the employee does not return for the required period, then the half pay entitlement must be repaid. The employee may choose to have the OMP paid as it falls due, as a lump sum on return to work or as a lump sum after having returned to work for 13 weeks.

The employee must return to contracted work in order to secure the entitlement to OMP. Supply and other casual arrangements do not count as contracted work.

4. PATERNITY PAY

4.1 Ordinary Paternity Pay

Pay during ordinary paternity leave will be at a standard rate of Statutory Paternity Pay (SPP) set by the Government for the relevant tax year, or at a rate equivalent to 90% of the employee's average weekly earnings if this figure is less than the rate of SPP. However, employees whose average weekly earnings are below the lower earnings limit (LEL) for national insurance contributions will not be eligible for ordinary statutory paternity pay.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee starts his/her paternity leave.

Note: Please see additional guidance on Maternity Support Leave (section 12 below), which may provide for full pay during the first week.

4.2 Shared parental pay

The Shared Parental pay policy and guidance can be found on the SENDAT website, or contact the SENDAT Central Administration Office at Priory School.

5 EMPLOYEES WORKING UNDER MORE THAN ONE CONTRACT

If an employee meets the qualifying rules with more than one employer, she can receive SMP from each of them.

If an employee works under two or more separate contracts of employment with SENDAT and pay 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.

Further information can be obtained from the SENDAT Central Administration team.

6 HEALTH & SAFETY RIGHTS FOR NEW AND EXPECTANT MOTHERS

Every employer has a duty of care to assess a pregnant employee's work activities to see if there are risks, also for a new mother (up to six months after giving birth) or breast-feeding, where the work is of a kind that could involve a risk of harm or danger to the health and safety of the mother or her baby.

Under health and safety legislation, if the job duties of a pregnant employee are in any way likely to cause her or her unborn child harm, reasonable steps must be taken to remove or reduce the risks. Specifically, consideration must be given where necessary to:

- exposure to infectious diseases e.g. rubella
- removing the employee from any job duties that might pose a risk to her health or safety
- transferring the employee to an alternative job – which must be on terms and conditions not substantially less favourable than those of her normal job
- where alternative work is not available or would not remove or reduce the risks to the employee, place her on paid suspension until the commencement of her maternity leave; If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

The employee's line manager should arrange to carry out a risk assessment with the employee.

The risk assessment will be reviewed every 4-6 weeks, or more frequently if the employee's work situation changes, or if the employee's own needs change

7 ANNUAL LEAVE DURING MATERNITY/SHARED PARENTAL LEAVE

If the employee is contracted to work throughout the school closure periods i.e. she has a 'year-round- contract, and therefore has an annual leave entitlement, advice should be sought from the SENDAT Central Administration Office regarding entitlement to annual leave and public holidays during maternity/shared parental leave.

8 PREMATURE BABIES

If the employee's baby is born early, but after commencement of maternity leave, it will have no effect on entitlement to maternity pay.

If your baby is born before the employee is due to commence maternity leave she must, if possible, give notice of the date of birth within 28 days. OMP and/or SMP will be paid from the day following the day of childbirth.



9 LATE BABIES

If the baby is born after the due date, maternity pay is not affected.

10 RETURNING TO WORK AFTER MATERNITY LEAVE

10.1 Ordinary maternity leave

If the employee returns to work immediately after entitlement to Ordinary Maternity Leave is exhausted i.e. after 26 weeks, she is entitled to return to the same job as was occupied before commencing maternity leave, on the same terms and conditions of employment, as if the employee had not been absent.

If the employee is employed on a fixed-term contract and this is due to end during maternity leave, there is no right to return to the same role as was occupied before commencing maternity leave. However, the fixed-term contract may be renewed, and the school / provision should consult with the employee before putting in place any extension/renewal. If the fixed-term contract is not renewed, and as the ending of a fixed-term contract is classed as a dismissal in law, it will be dealt with in the same way as any dismissal providing the same rights of appeal. Further information can be obtained from the SENDAT Central Administration office.

10.2 Additional maternity leave

If you return to work after additional maternity/paternity leave i.e. between 26 and 52 weeks of starting maternity leave, you are entitled to work which is the same, or broadly similar, on the same terms and conditions of employment.

10.3 If you decide not to return

If you decide not to return to work after your maternity leave, you must notify the school in writing, giving your normal contractual notice. If you resign but there is not time to complete your notice period before the end of your entitlement to maternity leave, you will be expected to return to work after your maternity leave ends to complete the remainder of your notice. This may be waived by agreement with the school in exceptional circumstances.

If you resign and your notice period ends before you have exhausted all of your SMP entitlement, this will still continue to be paid to you until all 39 weeks have been paid.

11 Requests for flexible working

You have a statutory right to request flexible working such as changing/reducing your hours.

You do not have an absolute right to return to work on different terms, as the right to return after maternity leave relates to the position you held before your maternity leave began. But if you wish to change your hours (or other conditions), you should discuss this with your Headteacher / Head of School/AP.

All requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of the school. It may take some time to



consider/implement changes, it would be very helpful if you could start discussions with your Headteacher / Head of School/AP as early as possible.

If you return on a different basis (e.g. reduce to part-time from full time), this will affect some of your entitlements, such as annual leave, pension provisions, etc, depending on the change being made, normally pro-rata to the new hours being worked. Please contact SENDAT Admin office for further information or clarification.

For support staff, returning part-time does not affect an employee's entitlement to retain their 12 weeks at half pay, providing you return to work for the minimum period of 12 weeks, regardless of the number of hours you work.

For teaching staff where there is a reduction in hours, the requirement to work for a minimum of 13 weeks is increased pro rata, e.g. a reduction from full time to 0.5 full time equivalent necessitates you returning for a minimum of 26 weeks to retain all your occupational maternity pay.

You only have the right to request one change to your working hours in the first 12 months after you return, and this is considered a permanent change to your contract. However, by mutual consent a temporary arrangement may be made and for a shorter period, this can then be reviewed thereafter before making the change permanent or reverting back to your substantive contract.

12 MATERNITY SUPPORT LEAVE

Under national conditions of service support staff have an entitlement to take 5 days of maternity support leave which is at full pay. This is available to the child's father or the partner or nominated carer of the mother, to assist in the care of the child and provide support to the mother at or around the time of the birth. Where an employee qualifies for both Shared Parental Leave and Pay and Maternity Support Leave, they will receive SPP topped up to full pay for the first week and SPP only for the second week.

There is no provision for maternity support leave in teachers' conditions of service.

13 PENSIONS

During any period of paid maternity leave, you must continue to pay pension contributions on the actual pay, if any, you are receiving. Benefits will continue to accrue as if you were working normally on full pay.

If you have a right to return to work, they can choose to pay contributions for any period of unpaid maternity leave so that the period of absence will count in full for pension purposes. The contributions will be calculated on the rate of pay (or reduced pay) you were entitled to receive immediately before you commenced the period of unpaid maternity leave.

If you choose to pay the contributions, you will be given the opportunity to pay at the end of the period of unpaid leave. Repayments are usually made over the same period as the length of the missing service e.g. unpaid maternity leave of six months would mean recovery of the



pension contributions over the following six months. Instalments are subject to agreement between yourself and SENDAT's Payroll team (Schools' Choice).

If, before going on maternity/paternity leave, you were paying additional contributions to increase your pension, these remain payable. They are calculated on the rate of pay you would have received you were not on maternity/paternity leave. The additional membership continues to accrue in full.

14 CONTINUOUS SERVICE

Maternity leave counts as continuous service for redundancy purposes and does not adversely affect your right to a redundancy payment.

For the purposes of entitlements to Occupational Maternity Pay, continuous service will include continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.

15 FURTHER ADVICE

Further advice and information is available from the SENDAT HR team:

Postal address:

SENDAT

Ask House, 2 Northgate Avenue

Bury St Edmunds IP32 7BB

Email: hr@sendat.academy

Tel: 01284 717874

07751 582887

APPENDIX 1

Form MP3

Notification of Pregnancy

Please complete and sign this form and forward it to the Schools' HR Processing Team as soon as possible once you are aware of your pregnancy and you have decided on the date you wish to start maternity leave. Please also ensure you attach an original Maternity Certificate (MATB1 form).

The Schools' HR Processing Team will verify the information as indicated and forward the form to payroll. You will receive written confirmation of your rights and obligations.



The information you give will be used to assess:

- a) Your Occupational Maternity entitlements (conferred by Conditions of Service)
- b) Your eligibility to receive Statutory Maternity Pay (SMP)

This form will be accepted as notification:

- a) Of your pregnancy
- b) Of your wishes concerning returning to work after the birth
- c) Of your wishes concerning the receipt of your half pay entitlements (if applicable)
- d) Of the date of commencement of your maternity leave

This form is NOT acceptable as a resignation from your post; you need to write a separate letter to your line manager if you wish to resign.

Section 1			Departmental verification (where needed)	
1 . 1	Name and Forename(s):			
1 . 2	Personal Number (from latest payslip)	/		
1 . 3	Job Title:			
1 . 4	Department / Place of work:			
Section 2				
2 . 1	Date you commenced employment with the County Council	/ /		
2 . 2	Contracted hours per week:			
2		Yes	No	



3	Are you on a fixed term contract?	<input type="checkbox"/>	
2	Do you pay contributions into the Local Government Pension Scheme?		
4			
Section 3			
3	Is it your intention to return to work following the birth?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
1			
3	If YES, How would you like to receive your half pay entitlement, if eligible? (please tick one box)		
2			
	a. Paid as falls due	<input type="checkbox"/>	
	b. As a lump sum on return to work	<input type="checkbox"/>	
	c. As a lump sum after return to work	<input type="checkbox"/>	

This form is **NOT** acceptable as a resignation of your post: you need to write a separate letter to your Line Manager in this respect.

Section 4			Departmental verification (where needed)
	Do you have a Maternity Certificate (MATB1) or other written evidence that you are pregnant?		



	If YES: Enter date of expected childbirth from certificate (Attach the certificate securely to this form)		Attached?
	If NO: Enter your personal estimate of the date of expected childbirth?		

	Give reason certificate is not available:	
Section 5		



	Have you already commenced your maternity leave?		
	If YES : Enter date you commenced maternity leave?		
	If you could not give notice please explain why:		
	If NO : Enter date you intend to commence maternity leave?		



	If you are giving less than 28 days' notice, please explain why:	
Section 6		
	Starting from the Sunday preceding your date of expected childbirth, count back 11 complete weeks:	
	a. Were you or do you expect to be abroad outside the European Economic Area during this week?	
	b. Were you or do you expect to be in legal custody during this week?	
	Starting from the Sunday preceding your date of expected childbirth (childbirth) count back 15 complete weeks. Were you or do you expect to remain in the employment of the County Council during this week?	

Signed: (Employee): _____

Date: ____/____/____

NB: Please attach Maternity Certificate (MATB1 form).

We require written evidence of the pregnancy prior to the payments bei