



Please note that subsequent to the approval of this policy, the name of the organisation changed to The Partnership Trust. All references to The Bath and Mendip Partnership Trust should be read as The Partnership Trust

HR - Maternity Leave Policy

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PLEASE NOTE THAT, SINCE CREATION OF THIS POLICY THE PARTNERSHIP TRUST HAS CHANGED ITS NAME TO THE BATH AND MENDIP PARTNERSHIP TRUST. ALL REFERENCES IN THIS POLICY TO THE PARTNERSHIP TRUST ARE TO BE READ AS THE BATH AND MENDIP PARTNERSHIP TRUST

1. Policy Statement

- 1.1 This policy outlines the rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for pregnancy-related sickness, health and safety, and maternity leave. It does not apply to agency workers or the self-employed.
- 1.2 In some cases you and your spouse or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives you more flexibility to share the leave and pay available in the first year after birth. However, you must take a period of compulsory maternity leave first. Details of SPL are set out in our Shared Parental Leave (Birth) Policy.
- 1.3 This policy does not form part of any employee's contract of employment and we may amend it at any time.

2. Maternity leave – TEACHERS

(Includes headteacher, deputy head, assistant head and teachers)

3. Eligibility

- 3.1 All employees who are pregnant will be entitled to 52 weeks' maternity leave, consisting of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML) regardless of length of service or the number of hours worked each week.

4. Initial obligations on the employee

- 4.1 In order to be eligible for maternity leave and pay the employee must:
 - a) continue to be employed (whether or not at work) immediately before the start of the absence - (the exception to this is the eligibility to be paid statutory maternity pay during the maternity pay period)
 - b) complete the Commencement of Maternity Leave Form (appendix 1) to notify The Trust Business Manager, in writing as soon as possible but not later than the 15th week before the expected week of childbirth (EWC) that she is pregnant, the date the baby is due and the date that it is her intention to start maternity leave; early notification is important due to health and safety reasons and this letter should be placed on the personal file.
 - c) when available, forward the MAT B1 (which is the maternity certificate issued by the doctor or certified midwife stating the date on which the baby is due) to the Maternity Leave Form. Note: the earliest the MAT B1 can be obtained is 14 weeks before the EWC, i.e. not earlier than the end of the 26th week of pregnancy.
 - d) not remain at work if certified medically unfit to do so (taking into account the provisions of The Management of Health and Safety at Work (Amendment) Regulations 1999).

5. What the school/Trust Business Manager must do

- 5.1 Within 28 days of receipt of the initial notification from the employee the school must write to the employee informing the employee of all of their rights relating to maternity leave and return to work obligations. The notification must include confirmation of the start and end of maternity leave periods, the pay during the period of maternity leave and the expected date of the employee's return to work. The school should also undertake or arrange a risk assessment (see section 18).

6. Ante-natal care

- 6.1 Employees are entitled to paid time off during normal working hours to attend appointments for ante-natal care. Employees should, however, advise their school and show their appointment

card if requested (unless it is the first appointment).

6.2 Ante-natal visits include visits to the GP, midwife or hospital. Ante-natal care may include relaxation classes that the doctor, midwife or health visitor has advised as beneficial to attend.

7. Maternity leave

7.1 Compulsory maternity leave

Employees must take a minimum of two weeks' maternity leave following the birth of their child or a minimum of four weeks if they are employed within a workshop environment.

7.2 Ordinary maternity leave (OML)

Regardless of length of service and hours of work, employees are entitled to take up to 26 weeks' maternity leave (this is inclusive of the compulsory maternity leave). Employees have a right to choose when to start their maternity leave any time after the beginning of the 11th week before the baby is due. If the baby is born before they start maternity leave, they will start the leave on the day after the baby is born. If an employee is taken ill with a pregnancy-related condition after the beginning of the fourth week before the baby is due, maternity leave will start automatically.

7.3 Additional maternity leave (AML)

In addition to her ordinary maternity leave an employee has the right to take up to 26 weeks' additional maternity leave, beginning on the day immediately following the day on which her ordinary maternity leave ends.

8. Maternity pay

8.1 Maternity pay from the employer can be made up of the following two elements, subject to entitlement:

- a) **Occupational Maternity Pay (OMP)** - is paid by the school/local authority to those staff who are eligible under their contract of employment and have completed one year's continuous service by the 11th week before the EWC.
- b) **Statutory Maternity Pay (SMP)** - is a statutory entitlement for those employees whose average weekly earnings are not less than the lower earnings limit for National Insurance Contributions and who have completed 26 week's' continuous service with the employer by the end of 15th week before the EWC. It is paid by the school/local authority and forms part of the OMP.
 - **Payments for teachers who have less than one years' continuous service at the beginning of the 11th week before the EWC shall be their entitlement to SMP only.**
 - SMP is payable where the employee has been continuously employed for at least 26 weeks at the end of the Qualifying Week and are still employed by us during that week;
 - **SMP stops being payable when the employee returns to work.**
- c) **Maternity Allowance (MA)** - some employees are not eligible to receive maternity pay from their employer for a number of reasons. In such circumstances, the employer will issue the employee with a SMP 1 form and advise that they should apply to the Department for Work and Pensions (DWP) for Maternity Allowance which is paid directly by the DWP. Please note; MA is paid direct by the DWP. The employee must inform the school/local authority of the amount they are receiving to ensure that there is no overpayment of maternity pay.

8.2 SMP is treated as income and it is therefore subject to deductions for Income Tax, National Insurance and Pensions (where applicable). SMP is not conditional upon the employee returning to work. Employees will not be entitled to SMP if any of the following apply to them during the period in which they are being paid SMP:

- a) they start working, after the birth of the baby, for another employer, this includes another local authority or Foundation School; or
- b) they are taken into legal custody. It is the employee's responsibility to notify the designated

senior member of staff/local authority if any of the above events occur during the period in which they are being paid SMP.

9. Maternity leave and pay

9.1 Leave

An employee who has completed not less than 1 year's continuous service with one or more local authorities at the beginning of the 11th week before the EWC, shall have an entitlement:

- a) to 26 weeks' leave of absence with pay as set out in section 7.2; and,
- b) to take additional leave of up to 26 weeks, giving a total of 52 weeks' continuous leave 'maternity leave period'. The basic principle of these leave conditions is that the employee has the right to choose when to commence her maternity leave.

The exceptions are:

- c) where the employee is absent from work 'wholly or partly because of pregnancy or childbirth' after the beginning of the fourth week before the EWC -, in these circumstances, maternity leave will commence immediately; (see section 15);
- d) where the baby is born before maternity leave commences - in these circumstances, the day after the childbirth will be regarded as the first day of maternity leave.

9.2 OMP

Occupational maternity pay (OMP) is payable for up to 39 weeks. OMP will stop being payable if the teacher returns to work. The teacher is entitled to OMP if:

- (a) they have been continuously employed for at least one year at the 11th week before the Expected Week of Childbirth and is still employed by the School during that week;
- (b) they provide the School with a doctor's or midwife's certificate (MAT B1 form) stating the Expected Week of Childbirth;
- (c) they give at least 28 days' notice (or, if that is not possible, as much notice as they can) of their intention to take maternity leave; and
- (d) they are still pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.

OMP is calculated as follows:

- (a) First four weeks: OMP is paid at full pay (based on an average of 12 weeks preceding the date of absence) ;
- (b) Two weeks at 90% of a weeks' salary (based on an average of 12 weeks preceding the date of absence);
- (c) 12 weeks at 50% of a weeks' salary (based on an average of 12 weeks preceding the date of absence) plus SMP at the Prescribed Rate;
- (d) A further 21 weeks' SMP at the Prescribed Rate;
- (e) No pay for any remaining period of absence up to the date of return notified by the teacher.

9.3 OMP accrues from the day on which the teacher commences her OML and thereafter at the end of each complete week of absence. OMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.

9.4 In the event of the teacher not being available, or being unable, to return to her job for the required period, the teacher will refund such sum after the first six weeks' payment as the School at their discretion may decide. If the teacher has at least one years' continuous service they are entitled to retain the first six weeks' payment. (NB Payments made by way of SMP are not refundable).

9.5 SMP

If the teacher has less than one year's service at the 11th week before EWC, but they do have 26 weeks' continuous service at the 15th week before EWC, they will be entitled to SMP only (6 weeks at 90% of normal pay and 33 weeks with SMP is paid at the Prescribed Rate or 90% of average weekly earnings if this is less than SMP if the teacher:

- (a) provides the School with a doctor's or midwife's certificate (MAT B1 form) stating their

- Expected Week of Childbirth;
- (b) gives at least 28 days' notice (or, if that is not possible, as much notice as they can) of their intention to take maternity leave; and
 - (c) is still pregnant 11 weeks before the start of the Expected Week of Childbirth or has already given birth.

9.6 MA

If the teacher has less than 26 week's continuous service with the School at the end of the Qualifying Week then they will not be entitled to any Occupational or Statutory Maternity Pay. The teacher may be entitled to Maternity Allowance which can be claimed from the Department of Work and Pensions.

9.7 Example 1

An employee who has less than 1 year's continuous service at the beginning of the 11th week before the EWC, but more than 26 weeks' continuous service with the school/local authority at the end of the 15th week before the EWC and has an average salary above the lower earnings limit, shall be entitled to 26 weeks' ordinary maternity leave and a further 26 weeks' additional maternity leave. The employee will be eligible to receive SMP or MA only which will be paid as follows:

- first six weeks' absence, at 9/10ths of a week's pay;
- the next 33 weeks at SMP or MA; any remaining period of absence will be without pay.

9.8 Example 2

An employee who has less than 26 weeks' continuous service with the employer at the end of the 15th week before the EWC shall be entitled to 26 weeks' ordinary maternity leave and a further 26 weeks' additional maternity leave. The employee will be eligible to receive MA only which will be paid as follows:

- 39 weeks at MA;
- any remaining period of absence will be without pay.

10. Terms and condition during OML and AML

10.1 All the terms and conditions of employment remain in force during OML and AML, except for the terms relating to pay. In particular, pension benefits shall continue

11. Pensions

11.1 The 39 weeks maternity pay period, regardless of whether the teacher receives SMP or OMP, is treated as pay for pension purposes and pension contributions, based on the pay received, will be deducted. This means that the 39 weeks counts towards pension calculations when the teacher retires

11.2 There is no obligation to pay contributions on the remainder of the maternity leave period. However should the teacher wish to pay pension contributions for the duration of the unpaid maternity leave, advice should be sought from the Payroll Department

12. Contact during maternity leave

12.1 The designated senior member of staff will ensure that arrangements are made for keeping in touch with the employee during their leave. The amount of contact will be dependent upon the wishes of the employee, however the school reserves the right in any event to maintain reasonable contact with the employee from time to time during their maternity leave. Reasonable contact is:

- to discuss the employee's plans to return to work
- to discuss any special arrangements to be made, or training to be given, to ease an employee's return to work; and
- to update an employee on developments at work during their absence. This would not constitute 'work' and such contact will not bring the maternity leave period to an end.

13. Keeping-in-touch days

13.1 Except during the first two weeks after childbirth, an employee can agree to work, or to attend training, for up to ten days during either ordinary maternity leave or additional maternity leave without that work bringing the period of their maternity leave to an end and without loss of a week's SMP or MA. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes. Working for part of a day will count as one day. An employee will be paid for any work undertaken. The school has no right to require an employee to carry out any work, and the employee has no right to undertake any work, during their maternity leave. Any work undertaken is entirely a matter for agreement between the school and employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up the employee will lose a week's SMP for any week in which they agree to work for the school.

14. Right to return to work

14.1 Once you have notified us in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date has been changed (either because you gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected Return Date.

14.2 Shortly before you are due to return to work, we may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may cover:

- a) updating you on any changes that have occurred during your absence;
- b) any training needs you might have; and
- c) any changes to working arrangements (for example if you have made a request to work part-time)

14.3 You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.

14.4 However, if you have taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position; we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

15. Notice of return to work

15.1 An employee will have been notified of the date of expected return by the school. If an employee wants to return early from maternity leave they must give 21 days' notice. Where this notice is not given, the employer may postpone the return for up to eight weeks from the date when the employee informs the employer of the early return or up to the expected date of return, whichever is sooner.

15.2 If an employee wishes to return later than the expected return date, the employee shall be expected to give not less than 21 days' notice, although as much notice as possible is preferred.

15.3 If a member of staff does not intend to return to work, or are unsure, it is helpful if they discuss this with the school as early as possible. If the employee decides not to return they should give notice of resignation in accordance with their employment contract. The amount of maternity leave left to run when the employee gives notice, this must be at least equal to their contractual notice period, otherwise the school may require the employee to return to work for the remainder of the notice period.

15.4 If a member of staff does not return on the specified date, their absence may be considered unauthorised and the designated senior member of staff may make contact. Where an employee is unable to return to work at the end of her period of maternity leave due to sickness, the sick pay scheme will apply.

16. Returning to work to qualify for occupational maternity pay

- 16.1 Under her terms of employment, immediately following her period of maternity leave, an employee has an obligation to return to work for at least 13 weeks (including periods of school closure) in order to qualify for the 12 weeks' half pay (occupational maternity pay). Where the school agrees, a full-time employee may return to work on a part-time basis for a period which equates to 13 weeks' full-time service. Similarly, where the school agrees, a part-time employee may return to work on a different part-time basis for a period which equates to 13 weeks' part-time service relating to her previous contract. The 13-week period (or part-time equivalent) starts from the date the employee actually returns to work or the date during the school holiday on which the employee has notified the school that she is available to work, provided she actually returns to duty on the first day after the period of closure. If the employee does not intend to return to work, she can delay making her decision whether or not to return to work until after the baby is born; the job is kept open up to the expected date of return, however the employee will be expected to give the required notice.
- 16.2 Employees also have the right to request a variation to their contract so that they can work more flexibly and thereby balance their childcare responsibilities with their work commitments. The procedure for requesting flexible working is included within the full Parenting Policies document.

17. Relationship with sickness

- 17.1 Periods of pregnancy-related sickness absence shall be paid in accordance with the teacher's contract of employment in the same manner as any other sickness absence. Periods of pregnancy-related sickness absence from the start of the teacher's pregnancy until the end of the maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions. If an employee is absent through illness whilst pregnant, they should report this to their school in the usual way.
- 17.2 If, however, employees are absent with a pregnancy related illness on or after the start of the 4th week before the baby is due, then their maternity leave will start automatically. If they are unable to return to work on the expected date due to illness, they should report this to their school/local authority in the usual way. Full entitlement to SMP has to be paid before SSP can start.

18. Childbirth

- 18.1 Childbirth means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy.

19. Other absences

- 19.1 If, in the early months of pregnancy, an employee is advised by an approved medical practitioner to absent herself from school because of the risk of rubella and parvovirus, 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. Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity, shall be treated as ordinary absence on sick leave and shall be subject to the conditions governing sick leave, provided it is covered by a doctor's statement.

20. Health and safety

- 20.1 Immediately after an employee has notified the designated senior member of staff of her pregnancy, the designated senior member of staff, or local authority if it is the designated senior member of staff who is pregnant or where the designated senior member of staff has not been trained in undertaking a risk assessment, must undertake or arrange a risk assessment. The school will provide the teacher with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If the School considers that, as a new or expectant mother, the teacher would be exposed to health hazards in carrying out her normal work the School will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:

- a) removing the element of the job that is causing the risk, if this is possible;
 - b) explore the possibility of alternative work in consultation with the employee; or
 - c) arrange for the employee to take paid leave if no suitable alternative work can be found.
- Employers are also required to undertake a risk assessment where they have women employees who are of child bearing age and to take into consideration any risks to employees who are breast feeding and have returned to work. Advice and guidance is available from (Human Resources/Health and Safety (as applicable).

21. Annual leave

21.1 Maternity leave - employees who takes maternity leave must be able to take the 28 days' statutory annual leave at a time outside her maternity leave. A school/local authority may not treat any part of the maternity leave period, i.e. ordinary maternity leave (OML) or additional maternity leave (AML), as annual 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. Prior to commencing her maternity leave an employee should be advised that she has a statutory entitlement to:

- a) 28 days' annual leave and that this should be taken either before or after the maternity leave period during school closure periods.
- b) Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all her annual leave entitlement, an employee
- c) must be allowed to carry over any balance of her leave to the following leave year. An employee can be required to take this during the remaining periods of school closure after the 28 days' annual leave for that leave year has been accommodated.
- d) It is not possible for either the employee or the school/local authority to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year, i.e. in school closures or in term time.

22. Maternity leave – SCHOOL SUPPORT STAFF

22.1 This policy outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave. It does not apply to teachers, agency workers or the self-employed. Please see separate policy for teachers.

23. Eligibility

23.1 All school support staff in a school or service maintained by the local authority who are pregnant will be entitled to maternity leave regardless of length of service or the number of hours worked each week.

23.2 This policy does not form part of any employee's contract of employment and we may amend it at any time.

24. What the employee must do

24.1 In order to be eligible for maternity provisions the employee must:

- a) continue to be employed (whether or not at work) immediately before the start of the absence - (the exception to this is the eligibility to be paid statutory maternity pay during the maternity pay period)
- b) complete the Commencement of Maternity Leave Form to notify The Trust Business Manager, in writing as soon as possible but not later than the 15th week before the expected week of childbirth (EWC) that she is pregnant, the date the baby is due and the date that it is her intention to start maternity leave; early notification is important due to health and safety reasons and this letter should be placed on the personal file.

- c) when available, forward the MAT B1 (which is the maternity certificate issued by the doctor or certified midwife stating the date on which the baby is due) to the Maternity Leave Form.
Note: the earliest the MAT B1 can be obtained is 14 weeks before the EWC, i.e. not earlier than the end of the 26th week of pregnancy.
- d) not remain at work if certified medically unfit to do so (taking into account the provisions of The Management of Health and Safety at Work (Amendment) Regulations 1999).
- e) not remain at work if certified medically unfit to do so (taking into account the provisions of the Management of Health and Safety at Work (Amendment) Regulations 1999).

25. What the school must do

Within 28 days of receipt of the initial notification from the employee the **school** must write to the employee informing the employee of all their rights relating to maternity leave and return to work obligations. The notification must include confirmation of the start and end of maternity leave periods, the pay during the period of maternity leave and the expected date of the employee's return to work. The school should also undertake or arrange a risk assessment.

26. Ante-natal care

26.1 Employees are entitled to paid time off during normal working hours to attend appointments for ante-natal care. Employees should, however, advise their designated senior member of staff and show their appointment card if requested (unless it is the first appointment).

26.2 Ante-natal visits include visits to the GP, midwife or hospital. Antenatal care may include relaxation classes where the employee's doctor, midwife or health visitor has advised it would be beneficial to the employee's health.

27. Maternity leave

27.1 Compulsory maternity leave (taken as part of the Ordinary Maternity Leave)

Employees must take a minimum of two weeks' maternity leave following the birth of their child. This increases to four weeks if they work in a workshop environment.

27.2 Ordinary maternity leave

Regardless of length of service and hours of work, employees are entitled to take up to 26 weeks' maternity leave. Employees have a right to choose when to start their maternity leave any time after the 11th week before the baby is due. If the baby is born before they start maternity leave, they will start the leave on the day after the baby is born. If an employee is taken ill with a pregnancy-related condition after the beginning of the fourth week before the baby is due, maternity leave will start automatically.

27.3 Additional maternity leave

In addition to her ordinary maternity leave, an employee has the right to take up to 26 weeks' additional maternity leave, beginning on the day immediately following the day on which her ordinary maternity leave ends.

28. Maternity pay

28.1 Maternity pay from the employer can be made up of two elements subject to entitlement:

- a) **Occupational Maternity Pay (OMP)** - is paid by the school to those employees who are eligible to receive it under the contract of employment and have completed one year's continuous service by the 11th week before the EWC;
- b) **Statutory Maternity Pay (SMP)** - is a statutory entitlement for those employees whose average weekly earnings are not less than the lower earnings limit for National Insurance Contributions and who have completed 26 week's' continuous service with the employer by the end of 15th week before the EWC. It is paid by the school and forms part of the OMP.

28.2 **Maternity Allowance (MA)** - some employees are not eligible to receive maternity pay from their

employer for a number of reasons. In such circumstances, the employer will issue the employee with a SMP 1 form and advise that they should apply to the Department of Work and Pensions (DWP) for MA. MA is paid directly by the DWP. SMP is treated as income and it is therefore subject to deductions for Income Tax, National Insurance and Pension (if applicable). SMP is not conditional upon the employee returning to work. Employees will not be entitled to SMP if any of the following apply to them during the period in which they are being paid SMP:

- a) if they start working, after the birth of the baby, for another employer, this includes
- b) another local authority or Foundation School; and or
- c) are taken into legal custody. It is the employee's responsibility to notify the designated senior member of staff /local authority if any of the above events occur during the period in which they are being paid SMP.

29. Maternity leave and pay

29.1 Leave

An employee who has completed not less than 1 year's continuous service with one or more local authorities at the beginning of the 11th week before the EWC, shall have an entitlement:

- to 26 weeks' leave of absence with pay as set out in section 7.2, and
- to take additional leave of up to 26 weeks, giving a total of 52 weeks' continuous leave 'maternity leave period.'

29.2 The basic principle of these leave conditions is that the employee has the right to choose when to commence her maternity leave. The exceptions are:

- where the employee is absent from work 'wholly or partly because of pregnancy or childbirth' after the beginning of the fourth week before the EWC. In these circumstances, maternity leave will commence immediately; (see Paragraph section 15) and;
- where the baby is born before maternity leave commences - in these circumstances, the day after the childbirth will be regarded as the first day of maternity leave.

Pay

Employees with 1 year's continuous service with the school/local authority at the start of the 11th week and more than 26 week's' continuous service with the school/local authority by the end of the 15th week before the EWC and have an average salary above the lower earnings limit will receive SMP or MA at:

- a) the first six weeks: 9/10ths of a week's pay, offset against SMP/MA;
- b) next 12 weeks' absence: without deductions except by the extent to which combined pay and SMP (or, if not eligible for SMP, MA and any dependants' allowances) exceeds full pay;
- c) next 21 weeks' absence: SMP/MA;
- d) any remaining period of absence will be without pay.

30. 12 weeks' half pay

The element of occupational pay of 12 weeks at half pay shall be subject to the employee being available and able to return to work for the required period.

31. Pensions

31.1 Where the employee is a member of the Employee's Pension Scheme, contributions will continue to be deducted while they are in receipt of maternity pay and the school will continue to pay the employer's contribution based on the Employee's normal full pay. During any unpaid maternity leave period, staff can choose whether or not to continue making contributions.

32. Contact during maternity leave

32.1 The designated senior member of staff will ensure that arrangements are made for keeping in contact with the employee during their maternity leave. The amount of contact will be dependent upon the wishes of the employee, however the school reserves the right in any event to maintain reasonable contact with employees from time to time during their maternity leave. Reasonable

contact is:

- to discuss the employee's plans to return to work;
- to discuss any special arrangements to be made, or training to be given, to ease an employee's return to work; or
- to update the employee on developments at work during their absence. This would not constitute 'work' and such contact will not bring the maternity leave period to an end.

33. Keeping-in-touch days

33.1 Except during the first two weeks after childbirth, employees can agree to work, or to attend training, for up to ten days during either ordinary maternity leave or additional maternity leave without that work bringing the period of their maternity leave to an end and without loss of a week's SMP or MA. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes. Working for part of a day will count as one day. Employee's will be paid for any work undertaken. The school has no right to require employee's to carry out any work, and employees have no right to undertake any work, during their maternity leave. Any work undertaken is entirely a matter for agreement between the school and employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, employees will lose a week's SMP for any week in which they agree to work for the school.

34. Right to return to work

34.1 Once you have notified us in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date has been changed (either because you gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected

35. Return Date.

35.1 Shortly before you are due to return to work, we may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may cover:

- a) updating you on any changes that have occurred during your absence;
- b) any training needs you might have; and
- c) any changes to working arrangements (for example if you have made a request to work part-time)

35.2 You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.

35.3 However, if you have taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position; we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

36. Notice of return to work

36.1 An employee will have been notified of the date of expected return by Human Resources. If an employee wants to return early from maternity leave they must give 21 days' notice. Where this notice is not given, the employer may postpone the return for up to eight weeks from the date when the employee informs the employer of the early return or up to the expected date of return, whichever is the sooner.

36.2 If an employee wishes to return later than the expected return date, the employee shall be expected to give not less than 21 days' notice, although as much notice as possible is preferred.

36.3 If a member of staff does not intend to return to work, or are unsure, it is helpful if they discuss this with the school as early as possible. If the employee decides not to return they should give

notice of resignation in accordance with their employment contract. The amount of maternity leave left to run when the employee gives notice, this must be at least equal to their contractual notice period, otherwise the school may require the employee to return to work for the remainder of the notice period.

- 36.4 If a member of staff does not return on the specified date, their absence may be considered unauthorised and the designated senior member of staff may make contact. Where an employee is unable to return to work at the end of her period of maternity leave due to sickness, the sick pay scheme will apply.

37. Returning to work to qualify for occupational maternity pay

37.1 The employee has an obligation to return to work for at least 12 weeks (including period of school closure) in order to qualify for the 12 weeks' half pay (occupational maternity pay). Where the school agrees, a full-time employee may return to work on a part-time basis for a period which equates to 12 weeks' full-time service. Similarly, where the school agrees, a part-time employee may return to work on a different part-time basis for a period which equates to 12 weeks' part-time service relating to her previous contract. The 12-week period (or part-time equivalent) starts from the date the employee actually returns to work or the date during the school holiday on which the employee has notified the school that she is available to work, provided she actually returns to duty on the first day after the period of closure.

37.2 If the employee does not intend to return to work, she can delay making her decision whether or not to return to work until after the baby is born; the job is kept open up to the expected date of return. Employees also have the right to request a variation to their contract so that they can work more flexibly and thereby balance their childcare responsibilities with their work commitments. The procedure for requesting flexible working is included within the full Parenting Policies document.

38. Relationship with sickness

38.1 Periods of pregnancy-related sickness absence shall be paid in accordance with the employee's contract of employment in the same manner as any other sickness absence. Periods of pregnancy-related sickness absence from the start of the employee's pregnancy until the end of the maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions.

38.2 If employees are absent through illness whilst pregnant, they should report this to their manager in the usual way. If, however, employees are absent with a pregnancy-related illness on or after the start of the 4th week before the baby is due, then their maternity leave will start automatically. If they are unable to return to work on the expected date due to illness, they should report this to their manager in the usual way and sickness absence arrangements and pay will apply.

39. Childbirth

39.1 Childbirth means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy.

40. Other absences

40.1 If, in the early months of pregnancy, an employee is advised by an approved medical practitioner to absent herself from school because of the risk of rubella or parvovirus, 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. Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity, shall be treated as ordinary absence on sick leave and shall be subject to the conditions governing sick leave, provided it is covered by a doctor's statement or self-certification, whichever is applicable.

41. Health and safety

41.1 Immediately after an employee has notified the designated senior member of staff of her pregnancy, the designated senior member of staff, or local authority if it is the designated senior member of staff who is pregnant or where the designated senior member of staff has not been trained in undertaking a risk assessment, must undertake or arrange a risk assessment. The School will provide the teacher with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If the School considers that, as a new or expectant mother, the teacher would be exposed to health hazards in carrying out her normal work the School will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:

removing the element of the job that is causing the risk, if this is possible;

- a) explore the possibility of alternative work in consultation with the employee; or
- b) arrange for the employee to take paid leave if no suitable alternative work can be found.

41.2 Employers are also required to take into consideration any risks to employees who are breast feeding and have returned to work. Advice and guidance is available from the Safety, Health and Wellbeing Services.

42. Annual leave

An employee who takes maternity leave must be able to take the 28 days' statutory annual leave at a time outside her maternity leave. A school/local authority may not treat any part of the maternity leave period, i.e. ordinary maternity leave (OML) or additional maternity leave (AML), as annual 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. Prior to commencing her maternity leave, an employee should be advised that she has a statutory entitlement to 28 days' annual leave and that this should be taken either before or after the maternity leave period during school closure periods.

43. Questions and answers

What is the minimum provision for maternity leave?

Every pregnant employee has the right to take up to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave. To exercise her right to maternity leave, an employee must notify her employer of her intentions by the end of the 15th week before her expected week of childbirth. She must inform her employer of the date on which she intends to start her ordinary maternity leave and, if asked to do so, produce Form Mat B1 or the equivalent, signed by her doctor or midwife. An employee who has specified a date on which she intends to start her ordinary maternity leave has the right to change her mind about that date so long as she notifies her employer of this at least 28 days before the revised start date.

Does an employee have the right to return to the same job after maternity leave?

If the woman returns after a period of ordinary maternity leave, she has the right to return to the job she occupied before her maternity leave. If she has taken additional maternity leave or more than four weeks' parental leave, she has the right to return to her original job unless this is not reasonably practicable, in which case she has the right to be offered suitable alternative employment on terms no less favourable than the terms she enjoyed in her original job.

Can an employer terminate the contract of an employee on maternity leave?

It is automatically unfair to dismiss an employee or select her for redundancy either because she is pregnant or has given birth or because she has exercised her statutory rights in pregnancy or maternity. An employee who is dismissed during her pregnancy or maternity leave must be provided with a written statement explaining the reasons for her dismissal.

Will the dismissal of an employee who is taken on temporarily to fill in for a pregnant woman be fair?

The dismissal of a temporary employee recruited to replace a permanent employee who is absent

from work on maternity leave will be treated as fair so long as the temporary employee is advised in writing, before his or her employment begins, that the appointment is for that specific purpose or until an agreed date and that the contract will be terminated once the regular employee returns to work. It is also important that the correct procedures are carried out.

Apart from the right to statutory maternity leave what other statutory rights do pregnant women and new mothers have?

Pregnant women and new mothers have a number of statutory rights including the right to a reasonable amount of paid time off work to enable attendance at antenatal appointments, provided that attendance has been recommended by a doctor, midwife or health visitor; the right to suitable rest facilities; and the right not to be victimised, penalised or subjected to any detriment for taking advantage of their rights in pregnancy, childbirth or maternity.

What happens when an employee has given birth early before the start of her maternity leave?

Maternity leave will start on the day following the birth. SMP will also start on the following day.

If an employee is off sick from work due to a pregnancy-related condition, when does her maternity leave start?

Maternity leave can only be triggered by a pregnancy-related condition from the beginning of the fourth week before the expected week of confinement.

Appendix 1 – Commencement of Maternity Leave Form

As soon as you are able to identify when you wish to commence maternity leave you should notify your manager and complete and return the form below to: The Trust Business Manager, The Partnership Trust, Longfellow Road, Radstock BA3 3AL. You must notify both The Trust Business Manager and your Manager/Head when you intend to take maternity leave at least 28 days before the start date or you could put your entitlement to paid leave at risk. You may change the dates by giving a minimum of 8 weeks' notice.

COMMENCEMENT OF MATERNITY LEAVE FORM

As soon as you are able to identify when you wish to commence maternity leave you should notify your manager and complete and return this form to: The Trust Business Manager, The Partnership Trust, Longfellow Road, Radstock BA3 3AL. You must notify both The Trust Business Manager and your Manager/Head when you intend to take maternity leave at least 28 days before the start date or you could put your entitlement to paid leave at risk. You may change the dates by giving a minimum of 8 weeks' notice.

Full Name:

Payroll Ref:

Address:

Post Code:

Job Title:

Expected Date of Childbirth (confinement):

I intend to commence maternity leave on:

I am/am not currently intending to return to work following Maternity Leave (*delete as applicable*)

I intend to return from maternity leave on *(if applicable)*

I attach my MatB1 Maternity Certificate

I will send my MatB1 Maternity Certificate as soon as it is available
(*delete as applicable*)

Please read the following statements carefully, delete one as applicable and sign and date in the box below.

I wish to receive all payments in respect of maternity leave as they become due. If I do not return to work at the end of my maternity leave, I will forfeit any additional payments not entitled to except Statutory Maternity Pay and will repay the monies received.

Or

I do not wish to receive any payment other than Statutory Maternity pay until I return to work following my maternity leave.

Signed:

Date: