

MATERNITY LEAVE/ADOPTION LEAVE POLICY

TEACHING

**(WHERE EXPECTED WEEK OF CHILDBIRTH IS ON OR AFTER
1 APRIL 2007)**

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MATERNITY LEAVE

1. OBJECTIVE

The purpose of this policy is to provide guidance on the legislation governing the rights and obligations of employees who are pregnant, and the Council's procedure.

2. INTRODUCTION

New statutory regulations contained within the Employment Act 2002 regarding Maternity Leave became effective from 6 April 2003. The Employment Act 2002 introduced a new improved maternity leave scheme to replace previous provisions contained in Part VIII of the Employment Rights Act 1996, and amended by the Employment Relations Act 1999. Changes to the rules affecting maternity leave, pay and return to work will become effective for children born on or after 1 April 2007.

3. MAIN PROVISIONS

The statutory provisions apply to women whose expected week of childbirth (EWC) is on or after 1st April 2007. In summary the main rights are:-

- The right to paid time off during working hours for antenatal care
- The right to special protection under health and safety legislation
- The right to be paid Statutory Maternity Pay (SMP) subject to the qualifying conditions
- The right not to be discriminated against on account of pregnancy or maternity leave
- The right to take maternity leave and return to work
- The right not to be dismissed on account of pregnancy or maternity leave.
- The right to optional 'keeping in touch' (KIT) days, which enables a woman to work for up to 10 days during her maternity period.

4. NOTIFICATION

- It is advisable that an employee who is pregnant advises their Headteacher as soon as she learns that she is pregnant but by no later than the 15th week before the Expected Week of Childbirth. This is in the employee's own interests as such notification may instigate action to safeguard the well-being of the mother-to-be and of her unborn child. Early notification also enables the Council to ensure that the employee is fully informed of her rights and obligations in law.

An employee must also notify her employer in writing of the following at least 28 days before her absence begins: -

- That she is pregnant.
- The expected week of childbirth (EWC). A certificate (form MAT B1) is required from a registered medical practitioner or a registered midwife stating the EWC.
- The date she wants her maternity leave to start. This cannot be earlier than the 11th week before the EWC.

The Council will then respond to the employee's notification of her leave plans within 28 days detailing the expected date of return from maternity leave.

5. TIME OFF FOR ANTENATAL CARE

All pregnant women have the right to leave of absence with pay for attending antenatal appointments. Evidence of the dates and times of these appointments should be obtained and shown to your Headteacher when requesting time off for this purpose.

6. MATERNITY LEAVE

6.1 Maternity Leave

Provided employees have complied with the notification procedures all pregnant employees (regardless of service or hours of work) will be entitled to 52 weeks Maternity Leave.

6.2 Earliest & Latest Dates for Commencing Maternity Leave

The earliest date that maternity leave can commence is 11 weeks before the EWC and the latest date is either the Sunday before the EWC or the Sunday before the birth of the baby.

6.4 Compulsory Maternity Leave

No employees are permitted to return to work in the two-week period immediately following the birth of the child.

6.5 Keeping in Touch (KIT) Days

- Keeping in touch (KIT) days are intended to facilitate a smooth return to work for women returning from maternity leave. Before going on leave, the employer and the employee should discuss and agree any voluntary arrangements, for keeping in touch during the employee's maternity leave. An employee may work for up to 10 KIT days during OML or AML without bringing her maternity leave to an end. An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.

- The work can be consecutive or not, and can include training or other activities which enable the employee to keep in touch with the workplace. Any such work must be by agreement and neither the employer nor the employee can insist upon it.
- The employer should agree with the employee payment for time worked during KIT days. Payment will be in accordance with the employee's contract of employment on a like for like basis e.g. if the employee attends for a full day she will be paid a full days pay.
- If an employee is in receipt of SMP this will be taken into consideration when calculating payment for KIT days. SMP will be broken down into a daily rate and the employer will pay the difference to ensure the employee receives full pay for the KIT day. Employees should note that they will not receive SMP plus a full days pay for KIT days they are attending.

7. MATERNITY PAY

Maternity pay can be made up of a number of different components:-

- Statutory Maternity Pay (SMP)
- Maternity Allowance (MA)
- Occupational Maternity Pay (OMP)

Qualification for maternity pay is dependent on an employee's continuous service at the beginning of the 15th week before the EWC.

A summary of the payments are detailed below:-

Length of Service at the beginning of the 15 th week before the EWC.	Maternity Pay
Employees with less than 26 weeks service at the 15 th week before the EWC	No entitlement to Statutory Maternity Pay (SMP) but may be eligible for Maternity Allowance from the Department of Work and Pensions.
Employees with more than 26 weeks at the 15 th week before the EWC but less than one years service at the 15 th week before the EWC	Where an employee has 26 weeks continuous service at the beginning of the 15 th week before the EWC and her earnings are higher than the lower earnings limit for NI contributions, she will be entitled to receive: <ul style="list-style-type: none"> • 6 weeks at 9/10ths of a week's pay; followed by • 33 weeks flat rate Statutory Maternity Pay (SMP).

	<p>Where earnings are less than the lower earnings limit for NI Contributions, she will be entitled to the above payments but any benefits received from the Department of Work and Pensions will be deducted.</p>
<p>Employees with more than one years service at the 15th week before the EWC</p>	<p>Where an employee has more than 1 year's continuous service at the beginning of the 15th week before the EWC and her earnings are higher than the lower earnings limit for NI Contributions, she will be entitled to receive:</p> <ul style="list-style-type: none"> • 4 weeks full pay, followed by 2 weeks at 9/10ths of a week's pay; followed by • 12 weeks half pay and flat rate Statutory Maternity Pay (SMP), for weeks 7 to 18, providing it does not exceed normal full pay; followed by • 21 weeks at flat rate SMP <p>If the employee does not return to the same employer for a minimum of 3 months then any monies received in excess of SMP during weeks 7-18 will be recoverable.</p> <p>Where earnings are less than the lower earnings limit for NI Contributions, she will be entitled to the above payments but any benefits received from the Department of Work and Pensions will be deducted.</p>

In all cases the employee has the right to terminate their employment and receive the appropriate payment depending upon their length of service i.e. any employee with more than 26 weeks service at the beginning of the 15th week prior to the EWC will receive 6 weeks at 9/10ths of a week's pay and 33 weeks flat rate SMP.

8. RETURNING TO WORK AFTER MATERNITY LEAVE

It will be assumed that an employee will be returning at the end of the Maternity Leave, which is 52 weeks from the date of commencement. If an employee wishes to return earlier than this date must give 21 days notice.

Should an employee wish to change the date of return from maternity leave, then notification must be provided at least 21 days in advance of the change.

If an employee is unable to return to the same job which she held prior to her maternity commencing, she should be offered an alternative job which is the same grade and broadly similar in duties to her previous post. As with any other employee she should be consulted on any changes to her job whether they are due to an internal restructuring of the division or reorganisation prior to the change actually taking place.

Similarly any potential redundancy situation should be discussed with the employee with a view to possible redeployment, again prior to the actual situation arising.

9. MANAGEMENT OF HEALTH & SAFETY AT WORK REGULATIONS 1999

The Management of Health & Safety at Work Regulations 1999 provides specific health and safety protection for women of childbearing age or new and expectant mothers.

Detailed below are the main requirements:

9.1 Risk Assessments

Specific risk assessments must be carried out where women of childbearing age or new and expectant mothers may be at risk from a work process, working condition or physical, chemical or biological agent.

The purpose of the risk assessment is to assess those risks faced by women of childbearing age or new and expectant mothers and where reasonably practicable, identify the preventative and protective measures to control those risks.

The phrase 'new and expectant mothers' is defined as:-

- Those who are pregnant.
- Those who have given birth or miscarried within the previous six months.
- Those who are breast feeding.

If on any occasion in a residential setting the employee is expected to work nights, then you should contact your Human Resources representative for advice.

10. MANAGERIAL RESPONSIBILITIES

As soon as a Headteacher is aware that an employee is pregnant they should: -

- undertake a risk assessment of the work area and, if necessary, consider the possibility of alternative work. (See also the 'Pregnant Women at Work Policy, HS8.) Headteachers can also obtain advice concerning the above from the Council's Health & Safety Officer.
- explore the possibility of offering day work if the employee is a night worker and provides a medical certificate stating that it is unsafe for her to continue working nights.

- ensure that reasonable time off is given to receive antenatal care (this includes sufficient travelling time).
- refer the employee to the relevant section to receive the appropriate advice & information on the benefits available and her responsibilities under the Council's maternity provisions.
- consider what arrangements will need to be made in the employee's absence to maintain service standards.
- maintain contact with the employee during her maternity leave and ensure that she receives all necessary circulars regarding the School/Council.
- on their return to duty arrange for any training/discussions that may be needed to familiarise her with any new procedures or policies.

11. ADDITIONAL RELATED MATTERS

11.1 Sickness Absence

Employees who become sick prior to the commencement of their Maternity Leave will be entitled to receive the following payments: -

- if sick prior to the 11th week before the EWC, then Occupational Sick Pay (OSP) and Statutory Sick Pay (SSP) will be paid.
- if sick between the 5th and 11th week before the EWC then OSP and SSP will be paid up to the notified start date of Maternity Leave at which point SMP becomes payable.
- if sick during the four weeks prior to the EWC, OSP and SSP will be paid up to the notified start date of Maternity Leave at which point SMP becomes payable. However if the illness is pregnancy related then SMP may be triggered automatically even if it is before the notified date for starting Maternity Leave. The Governing Body may at their discretion choose to pay SSP up to the notified start date.

If, due to sickness, an employee is unable to return to work at the end of her maternity leave or on the date she has notified (if she intended to return early), the Council's normal sickness provisions will apply from the date she was due to return. Where the sickness has occurred during the ordinary maternity leave period, the employee will receive SMP topped up with occupational sick pay, if eligible. If an employee is sick after the expiry of her ordinary maternity leave period or during the additional maternity leave period, she will receive SSP plus Occupational Sick Pay, if eligible.

11.2 Early/Late Births

If the baby is born before the qualifying week (QW), (the QW is 15 weeks prior to the EWC), continuous employment is measured up to the QW i.e. the continuous employment the employee would have had if she had not given birth prior to the QW. If this adds up to 26 weeks, then she will qualify.

If the baby is born after the QW but before the date the employee notified the Council she wanted her maternity leave to start, then maternity leave will commence from the date of childbirth, and maternity pay will commence for 39 weeks on the Sunday following the actual birth (the time between the maternity leave & maternity pay will be treated as leave of absence with pay).

If the baby is born after the expected week of childbirth, the maternity pay period is not affected. SMP will be paid for a period of 39 weeks only.

11.3 Miscarriages/Still Birth

National Conditions of Service define confinement as the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy. Therefore if a woman has a still birth after 24 weeks or more of her pregnancy, she is entitled to the benefits of the maternity leave scheme.

However in such unfortunate circumstances, it may be likely that the employee will wish to return to work when she is fit enough. If she has already started her maternity leave she must give the required notice of return (see Section 8). In any event the employee must take the compulsory two weeks maternity leave following the birth. If a miscarriage occurs before the 24th week then the employee will technically not have commenced her maternity leave and in such circumstances the Council's sickness scheme shall apply.

11.4 Dismissal

The dismissal of a woman will be automatically unfair, regardless of service or hours worked if: -

- it is on pregnancy-related grounds
- if it results from her decision to take advantage of the benefits available through the maternity leave period
- if it is on health & safety grounds which would lead to maternity suspension
- the grounds for dismissal are redundancy and she has not been offered any suitable available alternative
- selection for redundancy is pregnancy-related.

If an employee is dismissed during pregnancy or maternity leave she will be entitled to a written reason for her dismissal without having to request it, regardless of service and hours worked.

11.5 Suspension From Work On Maternity Grounds

An employee, who is pregnant, or has recently given birth or is breastfeeding, may be suspended from her normal contractual duty on health and safety grounds. If she is suspended before the birth of the child and the period of suspension is likely to last until the birth, she is entitled to delay her maternity leave until this date.

During the suspension, an employee is entitled to receive her normal remuneration and all other contractual benefits. She is also entitled to be offered any suitable alternative work before the suspension takes place. If she turns down an offer of such work, she will lose her right to receive pay during the suspension.

11.6 Redundancy

If an employee's post becomes redundant during her maternity leave period she must be included on the Council's teaching redeployment list before her original contract ends, where every effort will be made to attempt to seek alternative employment. The new contract must not be less favourable than the original contract, in terms of conditions of service and location.

If the employee turns down any suitable alternative employment, then she may be fairly dismissed as long as the Governing Body/Council can show that they acted fairly and took adequate steps to find alternative work.

11.7 Pension Contributions

Teachers pension contributions are payable during the ordinary maternity leave period on the remuneration and SMP actually received.

Should the maternity leave extend beyond 39 weeks into unpaid leave, it is up to individual employees to determine whether they pay pension contributions on the unpaid maternity leave period.

Further information is available from Teachers Pensions on 0845 6066166.

11.8 Internal Vacancy Circular

Once an employee has commenced her maternity leave a nominated officer within the school must send her a copy of the Council's internal vacancy circular until her return to duty or until the end of her maternity leave period should she be unable to return for some other reason e.g. sickness absence.

a. Other Absences

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

ADOPTION LEAVE

12. OBJECTIVE

Rhondda Cynon Taf Council, your school and your Governing Body are committed to helping working parents. This policy provides guidance on the legislation governing Adoption Leave and pay, and information regarding the Councils Adoption Leave policy.

(This is a model Adoption leave Policy recommended by the Council for adoption by Governing Bodies. It is based on Council Policies/Procedures and adapted, as appropriate, for schools.)

13. INTRODUCTION

Statutory regulations regarding Adoption Leave and pay were contained within the Employment Act 2002. The Employment Act introduced a right for eligible employees to take Adoption Leave and pay when adopting a child. Changes to the rules affecting adoption leave, pay and return to work will be effective with children placed on or after 1 April 2007.

In drawing up the scheme, the Governing Body recognises that:

- The commitments of adoptive parents are the same as those of natural parents.
- The scheme will assist in retaining valuable employees who would otherwise not be able to remain in employment, and
- The scheme will contribute to the Council's equal opportunities policy.

14. MAIN PROVISIONS OF THE SCHEME

WHO IS ENTITLED?

The employee must have worked continuously for Rhondda Cynon Taf County Borough Council for 26 weeks leading into the week in which they are notified by the adoption agency of being matched with a child. The policy applies to:

- An adoptive parent of a child newly placed for adoption. It will not apply to step - family adoption or adoption by a child's existing foster carer as these do not involve the new placement of a child.
- An employee who adopts a child from overseas.

N.B. Where a couple adopt jointly, the couple must decide which partner takes adoption leave. The other partner will be entitled to Maternity Support Leave and Paternity Leave (Paternity Leave will be available for those who meet the eligibility criteria under the Paternity Leave and Maternity Support Leave policy).

15. ADOPTION LEAVE

Provided employees have complied with the notification procedures, (see section 6 below) they will be entitled to 52 weeks Adoption Leave. This is regardless of length of service or hours of work.

16. NOTIFICATION

Adopters will be required to inform their Headteacher of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless it is not reasonably practicable. They will need to tell their Headteacher:

- When the child is expected to be placed with them and
- When they want their adoption leave to start

Adopters will be able to change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable e.g. if the notification by the Adoption Agency to the adopting couple is less than 28 days).

On behalf of the Governing Body the Council will be required to respond within 28 days, setting out the date on which they expect the employee to return to work if the full entitlement to adoption leave is taken.

Employees will have to provide their employer with documentary evidence in the form of a 'matching certificate' from their adoption agency as evidence of their entitlement to Statutory Adoption Leave (SAP). (Employees should ask their Adoption Agency for a matching certificate, which will include information on matching and placement dates).

17. EARLIEST DATE FOR COMMENCING ADOPTION LEAVE

An adoptive parent can choose to start their ordinary adoption leave from the date of placement of the child (whether this is earlier or later than expected) or from a date up to two weeks before the expected date of placement.

18. ADOPTION PAY

Adoption pay can be made up of different components:

- Statutory Adoption Pay (SAP)
- Adoption Allowance (AA)
- Occupational Adoption Pay (OAP)

	Adoption Pay
Employees with less than 26 weeks service leading into the week in which they are notified of being matched with a child for adoption.	No entitlement to SAP but may be eligible for Adoption Allowance from the Department of Work and Pensions.
Employees with more than 26 weeks but less than one year service	<p>Where an individual has 26 weeks continuous employment at the time of matching, and his/her earnings are higher than the lower earnings limit for N.I. contributions s/he will be entitled to receive:</p> <ul style="list-style-type: none"> • 6 weeks at 90% average weekly pay; • 33 weeks flat rate Statutory Adoption Pay (SAP) <p>Where earnings are less than the lower earnings limit for NI contributions, s/he will be entitled to receive the above payments but benefits from the Department of Work and Pensions will be deducted.</p>
Employees with more than one year service	<p>Where an individual has more than 1 year continuous service at the time of matching, and his/her earnings are higher than the lower earnings limit for NI contributions, she/he will be entitled to receive:</p> <ul style="list-style-type: none"> • 4 weeks at Full Salary • 2 weeks at 90% earnings. • 12 weeks half pay and flat rate Statutory Adoption Pay (SAP) for weeks 7-18 of the Adoption Leave period, providing it does not

	<p>exceed normal full pay.</p> <ul style="list-style-type: none"> • 21 weeks at flat rate SAP • If not returning to the same employer for a minimum of 3 months then any monies received in excess of SAP during weeks 7-18 will be recoverable. <p>Where earnings are less than the lower earnings limit for NI Contributions, he/she will be entitled to receive the above payments but benefits from the Department of Work and Pensions will be deducted</p>
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19. RETURN TO WORK AFTER ADOPTION LEAVE

It will be assumed that an employee will be returning at the end of maternity leave as previously indicated. If an employee wishes to return earlier than either of these dates they must give 21 days notice.

Should an employee wish to change the date of return from adoption leave, then notification must be provided at least 21 days in advance of the change.

N.B. If an employee is unable to return to the same job which s/he held prior to the Adoption Leave, s/he should be offered an alternative job which is the same grade and broadly similar in duties to his/her previous post. As with any other employee s/he should be consulted on any changes to his/her job, whether they are due to an internal restructuring of the School or reorganisation prior to the change actually taking place. Similarly any potential redundancy situation should be discussed with the employee with a view to possible redeployment, again prior to the actual situation arising.

20. PROTECTION FROM DETRIMENT AND DISMISSAL

Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take Adoption Leave. Employees who believe they have been treated unfairly will be able to complain to an Employment Tribunal.

21. REDUNDANCY

If an employee's post becomes redundant during his/her Adoption Leave Period, s/he must be included on the Council's teaching redeployment list before his/her original contract ends. The new contract must not be less

favourable than the original in terms of conditions of service, capacity and location.

If the employee turns down any suitable alternative employment then s/he may be fairly dismissed as long as the Governing Body/Division can show that it acted fairly and took adequate steps to find alternative work.

22. PENSION CONTRIBUTIONS

Teachers Pension contributions are payable for the first 39 weeks on the remuneration and Statutory Adoption Pay actually received during the period of the paid adoption absence.

Should the adoption leave extend beyond 39 weeks into unpaid leave, it is up to individual employees to determine whether they pay pension contributions on the unpaid Adoption Leave period.

Further information is available from Teachers Pensions on 0845 6066166.

23. PATERNITY LEAVE

Paternity Leave is available for adopters who have been notified that they have been matched with a child. Paternity leave will be paid at Statutory Paternity Pay rate.