



## Planned leave Policy

### Policy statement

The following policy addresses both statutory and occupational entitlements to maternity, paternity and adoption.

The following guidance outlines the effect of the statutory Educational Provision of Maternity/Paternity leave and Maternity/Paternity pay which are set out in the Work and Families Act 2006, The Employments Rights Act 1996 and other associated regulations. There are qualifying conditions from Maternity/Paternity pay and entitlement to Maternity/Paternity leave does not automatically give entitlement to Maternity/Paternity pay.

#### *Statement of Principles:*

The policy aims to ensure fair and consistent treatment of its employees. The policy sets out statutory rights and any additional benefits offered by Nailsworth Playgroup. The accompanying procedure provides clear guidance on the processes to be followed.

### 1. Maternity Leave

All pregnant employees are entitled to take up to 52 weeks maternity leave made up of:

#### *1.1. Ordinary Maternity Leave (OML)*

You are entitled to 26 weeks' Ordinary Maternity Leave (OML), during which time your contract continues and you will continue to receive your contractual benefits (except pay).

This period is counted as continuous service for the calculation of statutory employment rights, pension rights and other contractual payments relating to your length of service. This means that this period is included in the calculation of entitlement to sick pay.

If there has been a re-grading or pay award applied to your post during the period you are on OML then you are entitled to receive this benefit as if you were not on OML.

At the end of OML you are entitled to return to the same job on the same terms and conditions, unless there is some reason, other than redundancy, why this is not reasonably practicable, in which case you are entitled to be offered suitable alternative work.

Note: a suitable alternative job should be appropriate to the circumstances, capacity and place in which you are to be employed, with no less favourable terms and conditions of employment.

### *1.2. Additional Maternity Leave (AML)*

You are entitled to 26 weeks' Additional Maternity Leave (as well as OML). It will start immediately after OML ends. There cannot be a gap between the OML and the AML.

At the end of AML you are entitled to return to the same job on the same terms and conditions unless there is some reason, other than redundancy, why this is not reasonably practicable, in which case you are entitled to be offered suitable alternative work.

Note: a suitable alternative job should be appropriate to the circumstances, capacity and place in which you are to be employed, with no less favourable terms and conditions of employment.

### *1.3 Compulsory Maternity Leave*

You are not able to work for the 2 weeks following the birth of your baby.

#### **Notice Requirements:**

On becoming pregnant, you must notify your line manager as soon as possible. This is important as there are health & safety considerations to be considered.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform the organisation in writing of:

- The fact they are pregnant;
- Expected week of childbirth;
- The date on which you intend to start your maternity leave.

You must also provide a MATB1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either a doctor's name and address or the midwife's name and registration number on it.

You are permitted to bring forward your maternity leave start date, provided that you inform the organisation, in writing, at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. You may also postpone your maternity leave start date, provided that you inform

the organisation, in writing, at least 28 days before the original proposed start date or if that is not possible, as soon as reasonably practicable.

### **Antenatal Appointments:**

Regardless of length of service you are entitled to time off for antenatal care paid at your normal rate of pay. You must provide evidence of the appointments. Antenatal care may include relaxation and parent craft classes, as well as medical examinations.

The employee should endeavour to give their line manager as much notice as possible of antenatal appointments and wherever possible, try to arrange them as near to the start or end of the working day as possible.

### **Health & Safety:**

The organisation has a duty of care for the health & safety of all employees. We are required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or who are breastfeeding where the work is of a kind that could involve a risk or harm or danger to their health & safety or the health & safety of their baby and that risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace. If applicable, the organisation will provide you with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out their normal job duties, the organisation will take such steps as are reasonably necessary to avoid those risks, such as altering your working conditions.

In some cases, this may mean offering you suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

Note: If it is not possible for the organisation to alter your working conditions to remove the risks to your health and safety and there is no suitable alternative work available to offer you on a temporary basis, the organisation may suspend you from work on medical grounds, until such time as there are no longer any risks to your health.

This may be for the remainder of the pregnancy until the commencement of your maternity leave. If you are suspended in these circumstances, your employment will continue during the period of suspension and does not in any way affect their statutory or contractual employment and maternity rights. You will be entitled to your normal salary and contractual benefits during the period of suspension.

### **Starting Maternity Leave:**

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You can choose to start OML any time from 11 weeks before the Expected Week of Childbirth (unless your child is born prematurely before that date, in which case it will start earlier. OML will start on whichever date is the earlier of:

- The employees chosen start date;
- The day after the employee gives birth;
- The day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If you give birth before your maternity leave was due to start, you must notify Nailsworth Playgroup in writing of the date of birth as soon as reasonably practicable.

#### **Sickness prior to taking Maternity Leave:**

If you are absent from work for a pregnancy related reason after the 4th week before the Expected Week of Childbirth (EWC), but before the date which you have notified as the intended start date for maternity leave, the maternity leave will automatically begin on the day after the first day of your absence.

#### **Contact during maternity leave:**

During the maternity leave period, reasonable contact may be made with you. The frequency and nature of the contact will depend on a number of factors including the nature of your post, what has been agreed and what important information arises. You should be informed of promotion opportunities and other information relating to your job that you would normally be made aware of if you were working. What constitutes as 'reasonable' will depend on the circumstances.

#### **Keeping in Touch Days (KIT days):**

It is important that you maintain contact with Nailsworth Playgroup during maternity leave. Should you and the Playgroup wish it, you can do up to 10 days' work during the maternity leave period. This cannot be during the 2 weeks' compulsory maternity leave period. These need not be limited to working days, but could be used e.g. for training or inset days.

You are not obliged to take up KIT days; it is up to you to choose. Neither does the Playgroup have to offer them to you.

You and the manager must both agree that you will work these days and what you will be doing. Payment will be made at the usual hourly pay rate for the hours worked and will be offset against any SMP paid for these days.

#### **Return to Work:**

If you take the full year's maternity leave, you do not have to give any further notification that you will be returning to work provided you return on the date notified by your employer.

If you wish to return before the end of your maternity leave period (as notified) you must give the manager at least 21 days' notice in writing. If you do not do this the manager can delay the return until 21 days' notice has been received, or until the end of the maternity leave period (as notified) if that is earlier than 21 days.

If you decide not to return to work you must give the normal contractual notice.

### **Maternity Pay:**

15.2 SMP is paid for up to 39 weeks and is paid as follows;

- 90% of your average weekly earnings for the first 6 weeks
- For the remaining 33 weeks the rate set by the government every April or 90% of your average weekly earnings (whichever is lower).

### **Maternity Allowance (MA):**

This is paid by The Department for Work and Pensions to women who qualify, but do not qualify for SMP. It is based on recent employment and earnings record. For more information please refer to [www.gov.uk/maternity-allowance](http://www.gov.uk/maternity-allowance).

### **IVF Treatment:**

Following implantation a pregnancy may or may not occur, but the woman is regarded as being pregnant from the point of the implantation, and is protected from dismissal or adverse treatment under the Equality Act 2010 pregnancy legislation. Employees should notify their line manager once they have reached this stage. The pregnancy test is usually taken 2 weeks after implantation.

If the treatment is successful and the woman remains pregnant she will be protected against discrimination on the grounds of pregnancy until the end of her maternity leave.

If the treatment is unsuccessful, the protection will end two weeks after the end of the pregnancy. A pregnancy test is taken 2 weeks after implantation and, if the test is negative, the protected period extends for a further 2 weeks.

For employees undergoing IVF treatment, paid time off work will be allowed for treatments. Any time taken will be paid at their normal basic rate of pay and will be treated as medical appointments.

Employees will need to provide their line manager with reasonable notice of appointments and be prepared to produce evidence of their appointment, if requested.

If the employee is unwell and not able to work as a result of the IVF treatment this should be recorded as sickness absence.

### **Problems arising during pregnancy:**

Although the majority of pregnancies progress without any problems, premature births, miscarriages or stillbirth do occur from time to time.

The following information provides guidance should any of these circumstances arise.

#### *Premature Birth*

The premature birth of a baby can be a difficult time for employees who are either the parents or close relatives. Time off for the mother will be in accordance with the Maternity Policy with maternity leave commencing the day after the birth of the baby.

Request for time off from other family members will only affect a small proportion of employees at any one time. It is nonetheless important to handle each case with sensitivity. Leave for this purpose should be considered in accordance with the BSM's policy. Flexible working options could also be considered.

#### *Miscarriage and Stillbirth*

The miscarriage or stillbirth of a baby, regardless of when it occurs is bereavement and the employee may experience a variety of emotions. They will require understanding from the Playgroup management and colleagues.

The stillbirth or death of a baby before the 24th week of pregnancy is classed as a miscarriage and any absence following the miscarriage would need to be covered by a sickness certificate if the employee is absent for more than 7 calendar days.

A stillbirth from the 24th week of pregnancy onwards is classed as a 'birth' and the full EPs of the maternity scheme in terms of pay and leave will apply. In these circumstances advice can be obtained from the Chair.

If the baby dies after being born employees still qualify for the full EPs of the maternity scheme in terms of pay and leave.

### **Fixed Term Contracts:**

The same maternity rights apply to those employees employed on a fixed term contract of employment.

If your fixed term contract ends before the EWC (15th week before the week the baby is due) you will not be entitled to receive SMP from Nailsworth Playgroup but you may be entitled to receive MA from the Department of Work and Pensions.

If your fixed term contract ends during or after the qualifying week you will still be entitled, if eligible, to receive SMP from Nailsworth Playgroup (provided you do not start working for a new employer during your maternity pay period, if you do, you will lose your entitlement to SMP from Nailsworth Playgroup).

If your fixed term contract ends during your maternity leave and whilst you are in receipt of Occupational Maternity Pay (OMP), your OMP will stop when your contract is terminated. As the contract has been terminated, you will obviously not have the right to return to work at the end of your maternity leave.

### **Paternity Leave:**

An employee whose wife, or partner gives birth to a child, 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, is entitled to 2 weeks paternity leave, provided that they have 26 weeks continuous service by the end of the 15th week before the week in which the child is expected.

Paternity leave must be taken in a single block of either one or two weeks within eight weeks of the birth of the child. Paternity leave can start either from the date the child is born, or a chosen date.

### *Antenatal Appointments:*

From 1 October 2014, expectant fathers, or the partner of a pregnant woman, will be entitled to take paid time off work to attend up to two antenatal appointments with their partner.

The leave is designed for a person who has a relationship with the pregnant woman or her unborn child. Employees are entitled to time off to accompany an expectant mother to her ante-natal appointments if they are:

- the baby's father;
- the expectant mother's spouse, her civil partner, or partner (of either sex) in an enduring relationship; or
- intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of that child.

There is no qualifying period for employees. This is a 'day one' right.

Additional time can be taken from annual leave.

### *Notification of Paternity Leave*

Where an employee wishes to request paternity leave, they must give their line manager 15 weeks written notice of the date on which their partner's baby is due.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform the organisation in writing of the following:

- Completion of a SC3 form
- Expected week of childbirth;
- The date on which you intend to start your paternity leave.
- The length of time you wish to take

Once the child is born, and as soon as is reasonably practicable, you must inform the organisation of the date of birth.

#### *Statutory Paternity Pay (SPP)*

You are entitled to receive up to 2 weeks SPP if you:

- Have worked for the organisation continuously for at least 26 weeks by the end of the 15th week before the EWC.
- Your earn on average at least £118 per week
- Complete a SC3 form

#### *Antenatal Care*

Employees have the right to take time off to accompany a pregnant woman with which they are having a child at up to two antenatal appointments. This time off will be paid/unpaid.

You must provide evidence of the appointments. The employee should endeavour to give their line manager as much notice as possible of antenatal appointments and wherever possible, try to arrange them as near to the start or end of the working day as possible.

#### **Adoption Leave:**

An employee who adopts a child through an approved adoption agency is entitled to up to 52 weeks adoption leave from day one of their employment. This is made up of up to 26 weeks ordinary adoption leave, followed immediately by up to 26 weeks additional adoption leave.

Adoption leave is only available to 'new matches' – therefore step-parents adopting a partner's child(ren) are disallowed under this policy.

#### *Notification of Adoption Leave*

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An employee wishing to take adoption leave must give written notification of their intention to take adoption leave, no later than 7 days after the date on which notification of the match with the child was provided by the adoption agency. Notice, which must be in writing, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends their adoption leave to start.

The employee must also provide evidence of the adoption by providing a 'matching certificate' from the adoption agency.

#### *Time Off to Attend Adoption Appointments*

Employees who are adopting a child are entitled to take time off to attend adoption appointments. An employee adopting a child alone is entitled to take paid time off to attend up to 5 adoption appointments. Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments. The other can elect to take unpaid time off to attend up to two adoption appointments.

The purpose of the appointment is to enable the employee (and their partner) to have contact with the child, to bond with them before placement and for any other purpose connected with the adoption. The appointment must have been arranged by or at the request of the adoption agency. The time taken off must be taken before the date of the placement for adoption with the employee.

#### *Returning to Work After Adoption Leave*

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that they give the appropriate notification. Alternatively, the employee may take their full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, they must give at least 8 weeks' notice in writing to the organisation of the date on which they intend to return.

The employee has the right to resume working in the same job if returning to work from ordinary adoption leave. If the employee returns to work after a period of additional adoption leave, they are entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

#### *Statutory Adoption Pay (SAP)*

You are entitled to receive up to 39 weeks SAP.

- Have worked for the organisation continuously for at least 26 weeks by the week you were matched with the child
- Your earn on average at least £118 per week

#### **Parental Leave**

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This is a right for parents to take time off work to look after a child or make arrangements for the child's welfare. You must have 1 year's continuous service to qualify for this EP.

Parents are able to take 18 weeks' unpaid parental leave up to child's 18th birthday. Adoptive/Foster parents are able to take parental leave up to the 5th anniversary of the date of placement, or the child's 18th birthday if this is earlier. Parents of disabled children are able to take 18 weeks' unpaid parental leave up to child's 18th birthday.