



## **Support Staff Maternity Policy**

**This Policy has been approved and adopted by the Xavier  
Catholic Education Trust  
to be reviewed in April 2028**

**Committee Responsible: HR Committee**

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## **1. Policy Statement**

This policy sets out the rights of employees who are pregnant or have recently given birth, including time off for antenatal appointments and entitlement to maternity leave and pay.

It provides guidance on maternity leave and pay processes and supports managers by providing them with information about the Xavier Catholic Education Trust's obligations to its employees.

## **2. Policy Scope**

This policy applies to all employees of Xavier Catholic Education Trust and the family of schools, including those on fixed term contracts.

### **Health & Safety during Pregnancy**

Whilst you are under no obligation to advise your line manager that you are pregnant until 15 weeks before your due date, we encourage you to tell them earlier than this so that they can consider your health and safety during your pregnancy.

#### **2.1 Risk assessment**

As soon as you make your manager aware that you are pregnant your manager will arrange to have a pre-maternity discussion with you and together you should complete a Risk Assessment guided by the Risk Assessment Checklist for new and expectant mothers. The risk assessment should be repeated periodically as your pregnancy progresses or if there are any significant changes to your work activity or to your health and wellbeing.

The risk assessment will consider working conditions and risks to you and to your unborn child. If any risks are identified, we will inform you of the steps we propose to take to eliminate or reduce them. This may mean altering your working hours, changing your working conditions or offering you suitable alternative work if your usual work presents unacceptable risks to your health and safety or to the health and safety of your unborn child.

## **3. Sickness Absence during Pregnancy**

If you are unable to attend work due to sickness, you should follow the notification procedures as set out in the Sickness Absence Management Policy. Sick leave related to your pregnancy will be recorded separately as pregnancy-related sickness and will not count towards absence management triggers. You will receive sick pay in the same way you would during any other sickness absence.

However, if you are absent from work due to a pregnancy-related illness in the four weeks immediately before the start of your expected week of childbirth or in the four weeks immediately before the date you have notified us that you will be starting maternity leave (whichever is earlier) this will trigger the start of your maternity leave. You must notify your line manager as soon as reasonably practicable that you are absent for a pregnancy-related reason and the date that your absence began.

## **4. Time off for Antenatal Appointments**

Once you have told us that you are pregnant, you will be entitled to reasonable paid time off work to attend your antenatal appointments. This may include relaxation and parentcraft classes that your doctor, midwife or nurse has recommended that you attend, in addition to medical examinations, screening tests and any midwife appointments. It includes payment for the time spent travelling to an appointment and waiting time.

Your manager cannot ask you to provide evidence of your first antenatal appointment but can ask to see evidence of subsequent antenatal appointments. You should provide this evidence when requested.

You will be paid at your normal rate of pay to attend antenatal appointments. If your working hours vary from week to week, your pay will be based on your average pay for the previous 12 complete working weeks, excluding overtime unless it is compulsory.

You should give your line manager as much notice as possible of your antenatal appointments.

## **5. Maternity Leave**

### **5.1 Maternity leave entitlement**

All pregnant employees are entitled to take 26 weeks of ordinary maternity leave (OML) and 26 weeks of additional maternity leave (AML).

You can decide how much maternity leave you wish to take. However, you must take at least 2 weeks of compulsory maternity leave immediately after your baby is born.

To exercise your right to take maternity leave, you must comply with the procedure set out in section 6.2 notice to take maternity leave.

### **5.2 Notice to take maternity leave**

#### **5.2.1 Employee responsibilities**

You can start your maternity leave at any time from the Sunday at the beginning of the 11<sup>th</sup> week before your expected week of childbirth.

To take maternity leave, you must give your manager notice by the end of your qualifying week, or as soon possible afterwards of:

- The fact that you are pregnant.
- Your expected week of childbirth
- The date on which you wish your maternity leave to start and
- The date on which you wish your maternity leave to end, if you have decided

Your qualifying week is the 15th week before your expected week of childbirth.

The HR lead or your line manager will provide you with the notification forms to complete.

You will also have to provide your MATB1 form when available, which is a certificate from your doctor or midwife confirming your expected week of childbirth. This is normally provided to you after your 20-week scan.

Failure to give the required notifications within the specified time limits may result in the loss of the right to start maternity leave on your intended start date.

Once your statutory leave form has been approved, we will write to you confirming your maternity leave start and end dates within 28 days. If you have not notified us of an earlier end date, we will confirm the date you are expected to return to work if you take your full 52-week entitlement to maternity leave.

#### **5.2.2 Line Manager responsibilities**

You will need to:

- Agree with the employee during a pre-maternity leave discussion, arrangements for keeping in touch during the maternity leave period and what information the employee would like to receive (see section 7 maintaining contact during maternity leave for further details).

### **5.3 Changing the start date of maternity leave**

If you wish to bring forward or to postpone your maternity leave start date you must inform your line manager and HR Lead in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

If you are bringing forward your maternity leave start date, the date that you select to start cannot be before the Sunday at the beginning of the 11<sup>th</sup> week before your expected week of childbirth.

Once the notification of a revision to the start date of your maternity leave has been received, we will write to

you confirming the change within 28 days, including the revised date that you must return to work if you take your full 52-week entitlement to maternity leave.

The exceptions to these notice requirements are where the birth of the child or a pregnancy related absence trigger the start of maternity leave (see section 5.4 starting maternity leave for further information).

#### 5.4 Starting maternity leave

Your maternity leave will usually start on the date that you have chosen, unless:

- Your child is born before your chosen maternity leave start date, in which case your maternity leave will start on the day after you give birth or
- You are absent for a pregnancy-related reason (for example, if you are off sick for a pregnancy-related illness) in the four weeks before the start of your expected week of childbirth or in the four weeks before the date you have notified us that you will be starting maternity leave (whichever is earlier), in which case your maternity leave will start on the day after your first day of absence.

If you give birth before your intended maternity leave start date, you must notify your line manager or HR lead in writing of the date that you have given birth as soon as is reasonably practicable.

For the first two weeks following the birth of your baby you are required to take maternity leave. This is known as compulsory maternity leave, and it forms part of the maximum 52 weeks of maternity leave that can be taken.

#### 5.5 Maternity leave action timeline – summary of key dates for employees

| Date                                      | Action  |
|---|---|
| 20 weeks before your baby is due          | You will receive form MatB1 from your doctor or midwife, normally following your 20-week scan. It will confirm your expected week of childbirth. Please pass to the HR lead |
| At least 15 weeks before your baby is due | Please notify your school's HR Lead   |
| 11 weeks before your baby is due          | You can commence maternity leave at any time after this date.   |
| Birth date                                | If it has not already started, maternity leave must start the day after you give birth (even if this is earlier than 11 weeks before your expected week of childbirth)      |
| First 2 weeks after giving birth          | You must take maternity leave   |

### 6. Maternity Pay

#### 6.1 Maternity pay entitlements

Statutory maternity pay (SMP) is payable for up to 39 weeks of your maternity leave, subject to your meeting eligibility criteria.

In addition, you may be eligible for occupational maternity pay (OMP).

If you are not entitled to SMP, you may qualify for maternity allowance (MA) from the Government. If this is the case, your HR Lead will issue you with an SMP1 form, detailing the reasons why we are not able to pay you SMP and this can be given to JobCentre Plus to enable you to make a maternity allowance claim. You may still be eligible for OMP.

The maternity pay you receive will depend on your length of continuous service (see section 6.5 for further

information about continuous service) and earnings as shown in the table below

| Service requirement   | Maternity Pay  |
|---|--|
| <p>You have less than 26 weeks' continuous service by the end of the 15th week before your expected week of childbirth</p>  | <p><b>No entitlement to Statutory Maternity Pay (SMP).</b><br/>           You may be eligible to receive maternity allowance (MA) paid by JobCentre Plus.</p> <p><b>Occupational Maternity Pay (OMP)</b><br/>           You will receive 50% of your average weekly earnings (over the period of your employment) for 4 weeks from week 7 to week 10 of your maternity leave. This is paid in addition to MA where payable provided the combined payments do not exceed full pay.</p>  |
| <p>You have at least 26 weeks' continuous service by the end of the 15th week before your expected week of childbirth, but less than one year's service at the beginning of the 11th week before your expected week of childbirth</p> | <p><b>Statutory Maternity Pay (SMP)</b><br/>           If your average gross weekly earnings over the eight weeks prior to your qualifying week are at least equal to the Lower Earnings Limit you will receive:</p> <ul style="list-style-type: none"> <li>• Higher rate SMP (90% of your average weekly earnings) for 6 weeks from weeks 1 to 6</li> <li>• Lower rate SMP (the government SMP rate or 90% of your average weekly earnings – whichever is lower) for up to 33 weeks from week 7 to up to week 39</li> </ul> <p>If your earnings are below the Lower Earnings Limit you may be eligible to receive maternity allowance (MA) paid by JobCentre Plus.</p> <p><b>Occupational Maternity Pay (OMP)</b><br/>           You will receive 50% of your average weekly earnings (over the period of your employment) for 4 weeks, i.e. from weeks 7 to 10 of your maternity leave. This is paid in addition to either lower rate SMP or MA provided the combined payments do not exceed full pay.</p>   |
| <p>You have one year's continuous service or more at the beginning of the 11th week before your expected week of childbirth.</p>  | <p><b>Statutory Maternity Pay (SMP)</b><br/>           If your average gross weekly earnings over the eight weeks prior to the qualifying week are at least equal to the Lower Earnings Limit you will receive:</p> <ul style="list-style-type: none"> <li>• Higher rate SMP (90% of your average weekly earnings) for 6 weeks from weeks 1 to 6</li> <li>• Lower rate SMP (the government SMP rate or 90% of your average weekly earnings – whichever is lower) for up to 33 weeks from week 7 to up to week 39</li> </ul> <p>If your earnings are below the Lower Earnings Limit:<br/>           You may be eligible to receive maternity allowance (MA) paid by JobCentre Plus</p> <p><b>Occupational Maternity Pay (OMP)</b><br/>           If your average gross weekly earnings are below the Lower Earnings Limit and you have no entitlement to SMP you will receive 90% of your contractual pay for 6 weeks, from weeks 1 to 6. Any MA received will be offset from this amount.<br/>           All employees (regardless of whether they receive SMP, MA or neither) will receive 50% of their contractual pay for 20 weeks from week 7 to 26 of their maternity leave. This is paid in addition to lower rate SMP or SMA where payable provided the combined payments do not exceed full pay.</p> |

You will be entitled to the same amount of maternity leave and pay even if you have a multiple birth.

## 6.2 Maternity pay eligibility

In all cases to be eligible for maternity pay you must also:

- Still be pregnant 11 weeks before the start of your expected week of childbirth or have given birth by that time
- Have provided us with a MATB1 form confirming your expected week of childbirth. Ideally this will have been provided when you applied for maternity leave, however if not, it should be submitted by the end of the third week of your maternity pay period, although it may be accepted up to the 13th week of the maternity pay period if you have good reason for late submission
- Have given at least 28 days' notice of the date your absence is likely to start, or as soon as is reasonably practicable
- Have stopped work due to pregnancy or childbirth.

In addition, to be eligible for occupational pay you must also:

- Have notified us in writing of your intention to return to work following your maternity leave
- Return to work for a minimum of 13 continuous weeks at your pre maternity leave contracted hours to retain any half pay occupational maternity pay you receive.

If you do not return to work, you will be liable to repay any half pay occupational maternity pay you receive

If you reduce your contracted hours on returning to work, you will have to work longer than 13 weeks to retain the half pay element of your occupational maternity pay. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 weeks' service, see section 12.7 varying hours of work on return from maternity leave for more information.

You can choose to receive your half pay occupational maternity pay after you return to work if your return to work following maternity leave is uncertain.

## 6.3 Payment of SMP and OMP

Average weekly earnings for SMP purposes are normally calculated by reference to an 8-week period (known as the relevant period) that comes immediately before the end of your qualifying week (which is the 15<sup>th</sup> week before your expected week of childbirth).

SMP usually starts on the day your maternity leave begins or, if triggered by birth or a pregnancy related absence, the day after the day of birth or on the day after the 1st day of absence, respectively.

SMP is payable at a daily rate of 1/7th of the weekly SMP amount, whether the higher or lower rate. The [weekly rate of SMP](#) is set by Government. If you have less than one year's service, average weekly earnings for OMP are calculated by reference to the number of weeks you have been employed. If you have one year's service or more your OMP is calculated by reference to your contractual pay.

Both SMP and OMP are calculated weekly but paid monthly. Monthly payments will vary depending upon the level of SMP/OMP you are entitled to as your maternity leave progresses.

SMP is not repayable should you leave our employment.

Half pay OMP will be repayable if you do not return to work following your maternity leave

SMP and OMP are subject to Income Tax, National Insurance contributions and, in certain circumstances, pension contributions.

## **6.4 Exclusions from SMP/OMP**

You will not be entitled to SMP and/or OMP, or will cease to be entitled to SMP and/or OMP, if you:

- attend work/training on more than ten occasions for keeping in touch days
- do any work, other than keeping in touch days, for any employer or
- are taken into legal custody.

## **6.5 Continuous service for maternity pay entitlements**

Your continuous service for SMP entitlements is the length of time that you have unbroken service with Xavier Catholic Education Trust., where there is no break in service. Continuity of service is normally broken if there has been a break in service of a period of one complete week, running from Sunday to Saturday between two contracts of employment, unless certain exceptions apply.

Your statement of particulars of employment or amendment to contract letter confirms the relevant continuous service start dates for the above.

## **7. Maintaining Contact during Maternity Leave**

### **7.1 Maintaining reasonable contact**

Whilst on maternity leave, your privacy will be respected. However, we reserve the right to maintain reasonable contact with you during your maternity leave. This may be to keep you informed of developments in the workplace, to discuss your plans for returning to work at the appropriate time or to discuss any training to be given to ease your return to work.

As a minimum you will be informed of any organisational change that may affect you and of any vacancies in the team that may be of interest to you. Any contact above this needs to be agreed during the pre-maternity leave discussion between you and your line manager.

You should agree with your line manager:

- what information you would like to receive
- when first contact will be made
- how frequent contact will be thereafter
- the method of contact e.g., phone, email, letter, or face to face.

If you are unsure of what contact you want, you should agree with your line manager when and how first contact will be made and agreement for further contact reached when first contact is made.

Already anticipated Keeping in Touch (KIT) Days could also be scheduled at this point, with any further KIT Days being agreed during the maternity leave period, as they become relevant. A maximum of 10 KIT Days can be scheduled.

### **7.2 Keeping in Touch (KIT) Days**

#### **7.2.1 Eligibility and purpose**

KIT Days are designed to provide an opportunity for employees to keep their skills and knowledge current whilst on maternity leave.

KIT Days can only be made available to you if you have indicated that you intend to return to work immediately after your maternity leave or where there is a statutory requirement, e.g., statutory training.

There is no obligation on us to offer you KIT Days and there is no obligation on you to take them up if offered, but they are a useful way for you to remain up to date with your team whilst you are away on maternity leave.

You can agree to work (or attend training) for up to 10 KIT Days, prorated for part time employees (or part days) without losing entitlement to maternity leave or pay. If you work or attend training on more than 10 KIT Days, your maternity leave and pay automatically ends by law.

### **7.2.2 Payment for KIT days**

For each KIT Day you will receive payment equivalent to your normal, contractual pay for a day. Any statutory maternity pay, occupational maternity pay, or maternity allowance received will count towards your pay for the day.

Any work carried out or training received on a KIT Day will be counted as 1 full KIT Day (even if you only work or receive training for part of the day) and you will be paid for a full day

Team lunches or any time when your child is in attendance will not constitute a KIT Day.

If you work part time, the hours paid will be based on your normal working pattern. For example, if you work 8 hours per day, over 3 days, you will receive 8 hours pay for one KIT-day.

Where your working pattern is not available and/or the number of hours worked are not known, payment will default to the average daily hours, across 5 days. For example, if you work 24 hours per week, across 5 days it would equate to a payment of 4.8 hours per KIT Day. Your manager must record each KIT Day that you attend work and arrange for payment to be made in the next available pay run by contacting your school's HR lead

You can choose to receive payment for a KIT Day the month after it has been worked, or to receive payment for all KIT Days on your return to work following maternity leave. Your line manager is responsible for instructing payroll to make payments for KIT-days.

## **8. Rights during Maternity Leave**

### **8.1 Terms and conditions of employment**

During both ordinary and additional maternity leave, all the terms and conditions of your contract except normal pay will continue. Your pay will be replaced with statutory and/or occupational maternity pay, subject to eligibility. However, other benefits such as holiday entitlement and pension contributions will continue as set out in sections 9 and 10.

### **8.2 Protection against detriment**

Employees are protected from being subjected to detriment (by any act or deliberate failure to act by their employer) and protected from dismissal because they took maternity leave or sought to take maternity leave. Detriment can cover a wide range of unfair treatment, such as denial of promotion, facilities, or training opportunities which the employer would otherwise have offered or made available.

### **8.3 Redundancy protection**

In the event of a redundancy situation, employees on maternity leave (and those on, neonatal care leave, adoption leave and shared parental leave) have the right to be offered a suitable alternative vacancy, if one is available, before being made redundant and have priority access to redeployment opportunities.

From 6 April 2024, this right to be offered suitable alternative employment in preference to other employees at risk of redundancy was extended for employees taking maternity leave as follows.

- Where an employee notifies XCET that they are pregnant on or after 6th April 2024, the redundancy protection period starts from the date of notification of pregnancy.
- Where an employee's statutory maternity leave ends on or after 6th April 2024 the redundancy protection period ends 18 months after the child's date of birth (if notified to SCC before the end of maternity leave) or 18 months from the expected week of childbirth (in other cases). This includes any time spent in this period on maternity leave or other statutory leave.

An employee who miscarries before 24 full weeks of pregnancy will have redundancy protection for two weeks after the end of the pregnancy.

## **9. Annual Leave and Bank Holidays during Maternity Leave**

### **9.1 Accruing annual leave**

You and your line manager should arrange a meeting to discuss your annual leave entitlement before your maternity leave starts.

You will continue to accrue your annual leave entitlement (including bank holidays) during your maternity leave. Your line manager should advise you of the amount of leave that you will accrue and discuss with you your options for taking that leave. If you have a non-standard working pattern (e.g., term time only, annualised hours or on a bank (zero hours) basis please refer to your HR lead for details about how your annual leave and bank holidays are calculated.

### **9.2 Taking annual leave**

Annual leave can be taken before maternity leave starts, or after it comes to an end, subject to normal management approval. Annual leave cannot be taken at the same time as maternity leave.

You are encouraged to take any outstanding accrued annual leave before your maternity leave starts. Wherever possible, annual leave accrued during maternity leave should be taken as paid leave before you return to work.

If you want to use up your accrued leave by returning to the payroll earlier than your intended return date, i.e., by substituting a period of unpaid maternity leave with a period of paid annual leave, you must give 8 weeks' notice as it will be treated as if you are returning to work early from maternity leave.

Please note that line managers are responsible for recording and managing locally any time off taken in lieu of bank holidays accrued during a period of maternity leave.

Accrued leave for term time only or annualised hours employees

If you work on a term time or annualised hours basis, where your annual salary includes payment for annual leave and bank holidays, your line manager will need to ensure that any outstanding leave accrued and not taken on your return to work is recorded on by HR so that your pay is adjusted accordingly. Payroll will assist line managers with the management of annual leave and bank holidays for staff who work term time only or who have annualised hours.

### **9.3 Carrying over accrued annual leave to the next leave year**

If you are unable to take your annual leave entitlement during the year in which it accrues, you can carry over up to 28 days' leave (your statutory annual leave entitlement including bank holidays – pro rata for those working part time or part year) to the next leave year, to be used within 12 months of the end of the year in which it accrued. For most employees an adjustment to annual leave will be made by the line manager but if you work on a part year annualised hours basis, this will require a pay adjustment.

## **10. Pensions and Flexible Benefits during Maternity Leave**

### **10.1 Local Government Pension Scheme (LGPS)**

If you are an LGPS member, during any period of paid maternity leave your pension is worked out to make sure that it is not affected by the reduction in your pay. This means that you will continue to build up a pension in the section of the LGPS you are in, as if you were working normally and receiving pay. For an example of how assumed pensionable pay is calculated see the [LGPS website](#). Whilst on paid maternity leave, you will pay your basic pension contributions on the maternity pay you receive.

However, any period of unpaid additional maternity leave (normally from weeks 39-52) will not count for pension purposes unless you elect to pay Additional Pension Contributions (APCs) to purchase the amount of pension lost during that period of unpaid absence. If you are interested in buying the pension lost, you must contact [crt pensions@surreycc.gov.uk](mailto:crt pensions@surreycc.gov.uk) within 30 days of returning to work. Xavier employers pension contributions will cease during any period of unpaid additional maternity leave.

For further information see the [LGPS website](#) if advice is needed.

## **10.2 Flexible benefits**

If you have elected to receive flexible benefits, you will be required to continue to pay contributions whilst on maternity leave. For more information you should contact your HR lead

## **11. Pay and Pay Progression during Maternity Leave**

### **11.1 Annual pay award**

If the date of the annual pay award falls during your maternity leave, you will be notified of your reviewed salary at the same time as other employees.

If the date falls between the start of your maternity pay calculation period (that is the 8 weeks prior to the 15<sup>th</sup> week before your expected week of childbirth) and the end of your maternity leave, your statutory maternity pay will be recalculated to take account of your pay rise, regardless of whether your statutory maternity pay has already been paid. This means that your statutory maternity pay will be recalculated and increased retrospectively, or that you may qualify for statutory maternity pay if you did not previously.

### **11.2 Pay progression**

If a pay progression review date falls whilst you are on maternity leave your increment will be applied to your record in accordance with normal pay progression arrangements.

If the date falls between the start of your maternity pay calculation period and the end of your maternity leave, your statutory maternity pay will be recalculated as in section 11.1 above.

## **12. Shared Parental Leave**

If you and your partner meet the eligibility and notice requirements, you may choose to end your maternity leave and pay early and take shared parental leave instead. This will enable you and your partner to take it in turns to have periods of leave to care for your child. You can return to work whilst your partner takes leave or take leave at the same time as your partner. Further information can be found in our Shared Parental Leave Policy

## **Returning to Work following Maternity Leave**

### **12.1 Notice requirements**

You do not have to provide notice if:

- you take your full 52-week maternity leave entitlement and return to work at the end of the additional maternity leave period or
- on applying for maternity leave, you advised us that you would be returning on an earlier date, and you return on that date

You will have to provide notice if:

- you didn't advise us that you would be returning on an earlier date when you applied for maternity leave, but you now wish to return to work earlier than the end of your additional maternity leave period. In this case you must give at least eight weeks' notice in writing to your line manager/the school's business manager/bursar confirming the date on which you intend to return.
- on applying for maternity leave you advised us that you would be returning on an earlier date, and you now wish to change that date. In this case you must give notice in writing to your line manager/the school's business manager/bursar at least eight weeks before the earlier of the date on which you intend to return and the date on which you had previously given notice to return.

### **12.2 Job security**

If you take only 26 weeks of maternity leave (ordinary maternity leave) you have the right to resume working in the same job, on the same terms and conditions of employment as before commencement of your maternity leave, and to any improvements implemented in your absence.

If you take the full 52 weeks of maternity leave (ordinary and additional maternity leave), you have the right to return to the same job wherever possible. However, if this is not reasonably practicable, we will offer you a suitable alternative job on terms and conditions that are no less favourable.

If you unreasonably refuse to take the similar job the council/school can take this as your resignation.

### **12.3 Continuity of service following maternity leave**

On return to work you will have full continuity of service for purposes of redundancy and other service-related benefits, provided you return to work on the notified date.

### **12.4 Returning to work late following maternity leave**

If you do not return to work on the notified date, that is, either the date originally agreed or subsequently amended date, you must contact your manager as soon as possible to explain the reasons why. You cannot extend maternity leave beyond the statutory entitlement.

- If you are ill at the date of return to work, you should inform your line manager in the normal way. This would be dealt with in accordance with the provisions for absence management
- If you cannot return to work because of a pregnancy-related illness, then this will be handled sensitively. Line managers should contact their school's HR team for further information and support. If you cannot return to work for other reasons, depending on the circumstances you may be able to take unpaid parental leave or use annual leave or other special leave in agreement with your line manager
- If there is an interruption of work (whether due to industrial action or some other reason) and it is unreasonable to expect you to return on the notified day, you may instead return when work resumes, or as soon as reasonably practicable thereafter
- If you fail to return after the maximum period of maternity leave, and fail to notify your absence, disciplinary procedures may be invoked. In these circumstances, line managers should refer to the Unauthorised Absence Guidance and make every effort to contact the employee to establish the reason(s) and offer support, if appropriate.

### **12.5 Support**

We recognise that returning to work from maternity leave after a significant period away from work can be challenging. We will take steps to ensure that your return to work is as smooth as possible.

### **12.6 Flexible working following maternity leave**

If, following a period of maternity leave, you feel that you would benefit from a change to your working arrangements, you should discuss this with your line manager. You have a right to request a flexible working arrangement and for that request to be fully considered. Should a manager receive such a request they should deal with it under the Right to Request Flexible Working Policy.

Although we will take all reasonable steps to accommodate a request for flexible working, the full range of flexible working options will not be appropriate for all jobs across all areas of the school.

### **12.7 Varying hours of work on return from maternity leave**

Varying your hours of work is one example of a change to your working arrangements. If you wish to vary your hours of work on your return from maternity leave, you should discuss this with your line manager.

If you reduce your contracted hours on returning to work, you will have to work longer than 13 weeks to retain the half pay element of any occupational maternity pay you have received. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 weeks' service. It is determined by applying the following formula (using the example of someone who worked 36 hours per week before they went on maternity leave and works 18 hours per week on their return):

- Hours worked before going on leave (36) ÷ Hours per week on return (18) = 2
- 13 weeks x the answer above (13 x 2) = 26 weeks

### **13. Health and Safety on Return to Work**

On your return to work following maternity leave, your manager will arrange a return-to-work discussion with you and you should together complete a Risk Assessment guided by the Risk Assessment Checklist for new and expectant mothers. The risk assessment should be repeated periodically if there are any significant changes to your work activity or to your health and wellbeing.

The risk assessment will consider working condition risks to you and to your child if you are still breast-feeding. If any risks are identified, we will inform you of the steps we propose to take to eliminate or reduce them. This may mean altering your working hours, changing your working conditions or offering you suitable alternative work if your usual work presents unacceptable risks to your health and safety or to the health and safety of your child.

If you have given birth in the previous six months or if you are breast-feeding, you must be provided with safe alternative work if your usual work presents unacceptable risks to your health and safety.

If you return to office/school-based work whilst you are still breast feeding you and your manager should together discuss and plan in line with the following points:

- Access to a private and hygienic space for you to express and rest, with the potential to lie down if necessary (toilets or medical rooms are not suitable as they pose a hygiene risk)
- Somewhere to store expressed milk

We will continue to consider workplace risks and temporary adjustments for as long as you continue to breastfeed. Periodic reviews of the arrangements can be carried out at the same time as reviewing the risk assessment.

### **14. Leaving Employment before, during or at the end of Maternity Leave**

If you decide that you do not wish to return to work, you must give written notice of resignation as soon as possible in accordance with the terms of your contract of employment as shown in your statement of particulars of employment.

#### **14.1 Resignation or dismissal before maternity leave**

If you leave our employment after your qualifying week (that is after the 15th week before your expected week of childbirth) through resignation or through dismissal and you satisfy the eligibility criteria as outlined in section 6.2, you will receive statutory maternity pay.

If you leave our employment through resignation or through dismissal before you have given us notice of your maternity leave, but were employed at the start of the qualifying week (that is the 15th week before your expected week of childbirth) you will receive statutory maternity pay (if eligible). In these circumstances statutory maternity pay begins on the later of the Sunday of the 11th week before your expected week of childbirth or the Sunday of the week after your employment ends.

In either of the circumstances described above:

- where you are entitled to receive SMP, your employment will terminate at the end of your notice period and SMP will be paid as a lump sum, subject to tax and national insurance contributions
- you will not receive OMP.

#### **14.2 Resignation during or at the end of maternity leave**

If you do not wish to return to work after ordinary or additional maternity leave, you must give notice in accordance with the notice provisions specified in your Statement of Particulars of Employment, although the normal notice provisions may be waived by your line manager.

If you leave our employment whilst you are on ordinary maternity leave, your last day of service will be the end of your notice period following your resignation and your statutory maternity pay (if eligible) will be paid to you as a lump sum. If you leave our employment whilst you are on additional maternity leave, your last day of service will

be the end of your notice period following resignation. The date should be no earlier than the date of receipt of the resignation.

If you resign during maternity leave or you do not return to work at the end of your maternity leave period you may, in some cases, be entitled to pay in lieu of your accrued annual leave entitlement. If you received occupational maternity pay, the pay in lieu of leave will help off-set any occupational maternity pay that has to be re-paid due to your not returning to work.

#### Line Manager responsibilities

If an employee is considering resignation, you should invite them to a meeting to discuss the potential flexible working options that might be considered to facilitate a return to work and to advise the employee of their rights under the maternity leave arrangements or the right to request flexible working policy. Additional support facilities, such as for breast-feeding, should also be considered.

### **14.3 Dismissal during maternity leave**

If you are dismissed during your maternity leave, you will be entitled to receive the same amount of statutory maternity pay as if you had not been dismissed. This will either be paid as a lump sum at the end of your employment or as a monthly payment up to the end of your maternity pay period, at which point your employment would end. In some circumstances (e.g., redundancy or end of fixed term contract) redeployment options will be sought up to your termination date.

## **15. Special Circumstances**

### **15.1 Becoming pregnant whilst on maternity leave**

If you become pregnant whilst on maternity leave, you should notify your manager that you are pregnant and that you wish to take a second period of maternity leave. Your manager will need to establish:

- Whether you will be returning to work between the periods of maternity leave
- Whether you received occupational maternity pay during your first period of maternity leave
- Whether you wish to receive occupational maternity pay for your second period of maternity leave. Taking OMP is optional. If you take OMP for both the first and the second period of maternity leave, this will increase the number of weeks that you are required to return to work following maternity leave as each period of OMP is attached to a requirement to return to work for 13 weeks (see the section 15.1.2 effect on occupational maternity pay).
- If you want to take OMP for the second period of maternity leave, whether you wish to receive it during your maternity leave or on your return to work following maternity leave (you can choose to receive your 4- or 20- weeks' half pay OMP after you return to work).
- The expected week of childbirth for the second baby.

#### **15.1.1 Effect on statutory maternity pay**

From the expected week of childbirth, your manager assisted by payroll (via the HR Helpdesk) or, for schools, their payroll provider, will be able to calculate when your statutory maternity pay (SMP) calculation period will fall. The SMP calculation period is normally the 8-week period, known as the 'relevant period', that comes before the start of the 15<sup>th</sup> week before the baby is due (the qualifying week).

As average weekly earnings for SMP purposes are normally calculated by reference to earnings during the relevant period, if you are not receiving any pay during this period, or your pay is less than the lower earnings limit for NI contributions, then you will not qualify for SMP for your second period of maternity leave. Any SMP or OMP payments made to you (in relation to your first pregnancy) during the relevant period are treated as earnings for the purpose of calculating whether you are entitled to SMP during your second period of maternity leave.

If you are not eligible for SMP for your second maternity, you may be able to claim maternity allowance and may be eligible for occupational maternity pay.

### **15.1.2 Effect on occupational maternity pay**

If you take two consecutive periods of maternity leave which include one or more periods of additional maternity leave the following will apply:

#### First period of maternity leave

If you have been in receipt of OMP during your first period of maternity leave, although you will not have returned to work after that first period of maternity leave, you will not be required to repay your 4- or 20-weeks' half pay OMP if you:

- indicate that you intend to return to work following your second period of maternity leave and
- return to work following your second period of maternity leave for a minimum of 13 continuous weeks at your pre maternity leave contracted hours. If you reduce your contracted hours on returning to work, you will have to work longer than 13 weeks to retain the half pay element of your OMP. How much longer will depend on the reduction in hours and its pro rata equivalent to 13 weeks' service. See section 12.7 varying hours of work on return from maternity leave for more information.

You will be required to refund the OMP payments you received during your first period of maternity leave if you:

- indicate that they do not intend to return to work following your second period of maternity leave or
- if having indicated that you will return to work, you subsequently decide not to return to work following your second period of maternity leave.

#### Second period of maternity leave

You will be entitled to receive OMP during your second period of maternity leave if you indicate that you intend to return to work following your second period of maternity leave and you return to work following your second period of maternity leave for the following periods:

- If you were not paid OMP during your first period of maternity leave you will need to return to work following your second period of maternity leave for a minimum of 13 continuous weeks at your pre maternity leave contracted hours.
- If you were paid OMP during your first period of maternity leave you will need to return to work following your second period of maternity leave for a minimum of 26 continuous weeks at your pre maternity leave contracted hours (13 weeks to retain the OMP paid during your first period of maternity leave and 13 weeks to retain the OMP paid during your second period of maternity leave).
- In either of the cases above, if you reduce your contracted hours on returning to work, you will have to work longer than 13 or 26 weeks to retain the half pay element of your OMP. How much longer will depend on the reduction in hours and its pro rata equivalent to 13- or 26-weeks' service. See section 12.7 varying hours of work on return from maternity leave for more information.

If, having taken OMP during your second period of maternity leave, you do not return to work following that leave, you will be required to refund any OMP payments received during your first and second periods of maternity leave.

#### Returning to work between periods of maternity leave

If you return to work at your pre maternity leave contracted hours between your two periods of maternity leave but for less than 13 weeks, the number of weeks that you work will be counted towards the total number of weeks that you are required to work to retain the OMP that has been paid to you.

Employees who take back-to-back periods of maternity leave (who do not return to work between periods of maternity leave) will be entitled to return to the same job or to be offered a suitable similar job if it is not reasonably practical to offer them the same job (see section 12 returning to work following maternity leave).

## 15.2 Premature births

If you give birth prematurely you will be entitled to the maternity leave and pay you would have received if the child had been born when due, that is during the expected week of childbirth (EWC). If childbirth occurs before the date you have notified to start maternity leave or before notification, the maternity leave period starts automatically on the day after the date of birth.

For statutory maternity pay purposes, if you give birth before the qualifying week (that is before the 15th week before the EWC) you may still be able to receive SMP if the following conditions are satisfied.

- You must inform your manager within 28 days of giving birth or as soon as possible thereafter.
- The 26 weeks' continuous service rule is considered satisfied if this rule would have been satisfied but for the early birth.
- You have average weekly earnings calculated over the 8 weeks ending with the week before the week in which you give birth of not less than the lower earnings limit for the payment of national insurance contributions.
- SMP will not be payable if the pregnancy ends before the 24th week other than by a live birth.

## 15.3 Neonatal care

If your baby is admitted into neonatal care, you may be entitled to neonatal care leave and pay in addition to maternity leave and pay.

### Miscarriage

A miscarriage is the loss of a pregnancy during the first 23 weeks and 6 days of pregnancy. Miscarriage can be a traumatic experience. [The Miscarriage Association: Pregnancy Loss Information & Support](#) charity offers information and support to those who have experience a miscarriage and to their family and friends.

Paid compassionate leave will be granted when an employee or the employee's partner has had a miscarriage or termination of pregnancy during this period. For further details please see our Special Leave Policy.

## 15.4 Death of a baby and stillbirths

Stillbirth is when a baby dies before they are born or during labour at more than 24 weeks of pregnancy. If this occurs, or if the baby dies after birth, an employee will still be entitled to maternity leave and pay if they fulfil the eligibility criteria for the statutory or occupational schemes.

It is devastating when a baby dies. The charity [SANDS](#) (Stillbirth and Neonatal Death charity) offers website support and a helpline for parents and families affected by the death of a baby and stillbirth – 0808 164 3332. The NCT has an article on [Coping with Stillbirth](#), which may also be helpful.

Time off with pay will be granted at times of parental bereavement for primary carers following the death of a baby, or a stillbirth after 24 weeks of pregnancy. For further details please see our Bereavement and Compassionate Leave page within the Xavier Special Leave Policy on the Xavier website.

### Relevant Legislation

- The Employment Rights Act 1996, as amended by the Employment Relations Act 1999
- The Maternity and Parental Leave Regulations 1999
- The Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002
- The Employment Act 2002
- The Work and Families Act 2006
- The Protection from Redundancy (Pregnancy & Family Leave) Act 2023
- The Maternity Leave, Adoption Leave & Shared Parental Leave (Amendment) Regulations 2024
- The Neonatal Care (Leave and Pay) Act 2023

- Glossary

| Acronym or term                   | Definition   |
|-----------------------------------|--|
| Additional Maternity Leave (AML)  | The 26-week maternity leave period which immediately follows ordinary maternity leave.   |
| Average Weekly Earnings (AWE)     | Calculated on the total payments made during an 8-week qualifying period, except where there is no established pattern of work in which case a 52-week period will be used or the number of weeks in which the employee has been in employment if less than 52.  |
| Compulsory Maternity Leave        | The first 2 weeks following the birth of the baby, which must be taken as maternity leave.   |
| Continuous Service (CS)           | For statutory maternity leave and pay entitlements CS is the length of time you have unbroken service with Xavier Catholic Education Trust.<br><br>Refer to your contract of employment for further information and see section 6.5 Continuous Service for Maternity Pay Entitlements.                           |
| Expected Week of Childbirth (EWC) | The week in which the baby is due to be born as certified by the employee's Doctor or Midwife on the Maternity Certificate (MAT B1).   |
| Higher rate SAP                   | 90% of average weekly earnings (before tax).   |
| Keeping in Touch days (KIT days)  | The days that can be worked during maternity leave without bringing the leave to an end.   |
| Lower Earnings Limit (LEL)        | The weekly earnings level set annually by the HM Revenue & Customs, above which you make Class 1 National Insurance contributions.   |
| Lower rate SAP                    | The statutory SAP rate or 90% of average weekly earnings (before tax) – whichever is lower.  |
| MAT B1 Maternity Certificate      | The maternity certificate given to a pregnant woman by a doctor or midwife, which states the expected week of childbirth and is issued after the 20th week of pregnancy. It is required for the payment of SMP.  |
| Maternity Allowance (MA)          | The allowance payable by JobCentre Plus to employees who are not entitled to statutory maternity pay because they either have less than 26 weeks' continuous service at the 15th week before their baby is due (their expected week of childbirth), or they do not earn enough to meet the lower earnings limit. |

|                                     |   |
|-------------------------------------|---|
| Maternity Pay Period                | The period during which SMP is payable to an eligible employee.   |
| Occupational Maternity Pay (OMP)    | An enhanced level of maternity pay provided by the council to eligible employees.   |
| Ordinary Maternity Leave (OML)      | The first 26-week maternity leave period.   |
| Partner                             | Someone, of whatever sex, who lives with the mother or the child in an enduring family relationship but who is not their child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew. |
| Qualifying Week (QW)                | The 15th week before the expected week of childbirth.   |
| Relevant period                     | The 8-week period prior to the end of the qualifying week used to determine the employee's average weekly earnings for SMP.   |
| Statutory Maternity Leave (SML)     | The 52-week maternity leave period to which all pregnant employees are entitled regardless of length of service or hours worked.  |
| Statutory Maternity Pay (SMP)       | Payable to eligible employees who take maternity leave or leave employment because of pregnancy or childbirth.  |
| Statutory Maternity Pay Form (SMP1) | The form which HR manager will give to an employee who is not entitled to statutory maternity pay (SMP) for the purpose of claiming maternity allowance (MA).   |