

**Honiton Community
College
Academy Trust**



This policy was adopted by the Governing Body of
Honiton Community College Academy Trust
on 31st March 2021
and will reviewed every 3 years.

**MATERNITY
POLICY**

CONTENTS

Introduction	3
Definitions	3
Notification of Pregnancy	3
Time off for ante-natal care	3
Sickness	4
Health and Safety	4
Entitlement to maternity leave	4
Starting maternity leave	5
Statutory maternity pay	5
SMP is calculated as follows	6
Contractual Maternity Pay	6
Terms and conditions during OML and AML	7
Annual leave	7
Pensions	8
Keeping in touch	9
Expected return date	9
Returning early	9
Returning late	10
Deciding not to return	10
Your rights when you return	10
Returning to work part-time	10
Appendix 1 - All Employees (Excluding Teachers) Maternity Benefits Flowchart	11
Appendix 2 - Teachers Maternity Benefits Flowchart	13
Document Change History	14

Introduction

This policy outlines your statutory rights and responsibilities if you are pregnant or have recently given birth, and sets out the arrangements for antenatal care, pregnancy-related sickness, health and safety, and maternity leave. It does not apply if you are an agency worker or are self-employed.

This policy does not form part of your contract of employment and the College may amend it at any time.

Definitions

The following definitions apply in this policy:

- **Expected Week of Childbirth (EWC):** the week, starting on a Sunday, in which your doctor or midwife expects you to give birth.
- **Qualifying Week:** the fifteenth week before the Expected Week of Childbirth.

The Resources Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Resources Committee ensures the policy's maintenance and review and has delegated to the Principal day-to-day responsibility for operating the policy.

Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

Notification of Pregnancy

You must inform us as soon as possible that you are pregnant. This is important, as there may be health and safety considerations. Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, you must tell us:

- (a) That you are pregnant;
- (b) The Expected Week of Childbirth; and
- (c) The date on which you would like to start your maternity leave (**Intended Start Date**).

You must provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming your Expected Week of Childbirth.

Time off for ante-natal care

If you are pregnant you may take reasonable paid time off during working hours for antenatal care. You should try to give us as much notice as possible of the appointment.

We may ask you to provide the following (unless it is the first appointment):

- (a) a certificate from the doctor, midwife or health visitor stating that you are pregnant;
and
- (b) an appointment card.

Sickness

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

If you are absent for a pregnancy-related reason during the four weeks before your Expected Week of Childbirth, your maternity leave will usually start automatically.

Health and safety

The College has a general duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.

We will provide you with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If we consider that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work we will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:

- (a) Changing your working conditions or hours of work;
- (b) Offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
- (c) Suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

If in the early months of pregnancy you are advised by an approved medical practitioner to absent yourself from school because of the risk of rubella, you will be granted leave with full pay.

Entitlement to maternity leave

You are entitled to up to 52 weeks' maternity leave which is divided into:

- a) Ordinary maternity leave of 26 weeks (**OML**); and
- b) Additional maternity leave of a further 26 weeks immediately following OML (**AML**)

provided that you comply with the notification requirements in this policy.

Starting maternity leave

The earliest date you can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless your child is born prematurely before that date). You must notify us of your Intended Start Date in accordance with the notification provisions set out above. We will then write to you within 28 days to inform you of the date we will expect you to return to work if you take your full entitlement to maternity leave (**Expected Return Date**).

You can postpone your Intended Start Date by informing us in writing at least 28 days before the original Intended Start Date, or if that is not possible, as soon as reasonably practicable.

You can bring forward the Intended Start Date by informing us at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.

Maternity leave shall start on the earlier of:

- (a) your Intended Start Date (if notified to us in accordance with this policy); or
- (b) the day after any day on which you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or
- (c) the day after you give birth.

If you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth, you must let us know as soon as possible in writing. Your maternity leave will be triggered unless we agree to delay it. If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible. The law prohibits you from working during the two weeks following childbirth.

Shortly before your maternity leave starts we will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.

Statutory maternity pay

Statutory maternity pay (**SMP**) is payable for up to 39 weeks. SMP will stop being payable if you return to work (except where you are simply keeping in touch see "keeping in touch", below).

You are entitled to SMP if:

- (a) you have been continuously employed for at least 26 weeks at the end of the Qualifying Week and are still employed by us during that week;
- (b) your average weekly earnings during the eight weeks ending with the Qualifying Week (the Relevant Period) are not less than the lower earnings limit set by the Government;
- (c) you provide us with a doctor's or midwife's certificate (MAT B1 form) stating your Expected Week of Childbirth;
- (d) you give at least 28 days' notice (or, if that is not possible, as much notice as you can) of your intention to take maternity leave; and

- (e) you are still pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.

SMP is calculated as follows:

Period of maternity leave	Entitlement to SMP
First six weeks	SMP is paid at the Earnings-Related Rate of 90% of your average weekly earnings calculated over the Relevant Period;
Remaining 33 weeks	SMP is paid at the Prescribed Rate which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower

SMP accrues from the day on which you commence your OML and thereafter at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions will be deducted as appropriate.

You shall still be eligible for SMP if you leave employment for any reason after the start of the Qualifying Week (for example, if you resign or are made redundant). In such cases, if your maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

- (a) the week following the week in which employment ends; or
- (b) the eleventh week before the Expected Week of Childbirth.

If you become eligible for a pay rise before the end of your maternity leave, you will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that your SMP will be recalculated and increased retrospectively, or that you may qualify for SMP if you did not previously qualify. We shall pay you a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

Contractual Maternity Pay

You may also be entitled to Contractual Maternity Pay (CMP) (please see appendices 1 and 2). If you are entitled to contractual maternity pay you are required to return to work for a period of time (see below) in order to protect your CMP.

Teachers:

You must return to work for 13 weeks; regardless of the number of hours you work.

All other staff:

You must return to work for 3 months, regardless of the number of hours you work.

Contractual payments are made at normal pay intervals (less normal deductions) or withheld until you return to work, when the amount is paid as a lump sum (less normal deductions). If you do not return, you will be liable to refund the contractual maternity pay you have received. We will notify you of the amount to be repaid. You will not have to refund any statutory maternity payments or maternity allowance you have received.

You entitlement to CMP is dependant on you complying with the notification requirements.

Terms and conditions during OML and AML

All the terms and conditions of your employment remain in force during OML and AML, except for the terms relating to pay. In particular:

- (a) benefits in kind shall continue;
- (b) annual leave entitlement under your contract shall continue to accrue (see "Annual leave" below); and
- (c) pension benefits shall continue (see "Pensions" below).

Annual leave

During OML and AML, annual leave will accrue at the rate provided under your contract. Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during your maternity leave, you should ensure that you have taken the full year's entitlement before starting your maternity leave.

Teachers only:

Your leave year, for the purpose of establishing annual leave entitlement whilst on maternity leave is 1 September to 31 August.

Your statutory holiday entitlement is not an additional entitlement to annual leave on top of the current school closure arrangements.

Whilst you are on maternity leave you are entitled to your statutory holiday under the Working Time Regulations. You shall not accrue holiday above your entitlement under the Working Time Regulations 1998. Annual leave entitlement will be offset against any period of school closure that has taken place in the leave year in question i.e. both before and after your maternity leave period.

On return from maternity leave, you are permitted to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate your holiday in that leave year. Where your return from maternity leave is so close to the end of the leave year that there is not enough time to take your entire holiday entitlement, you will be permitted to carry over any balance of outstanding holiday to the following leave year. You can be required to take this during the remaining periods of school closure after the statutory holiday for that leave year has been accommodated.

You will not be entitled to a payment in lieu of untaken annual leave. However, payment in lieu may be necessary, if you decide not to return to your job following your maternity leave. Payment will be made in accordance with the Working Time Regulations and will not be pensionable.

Public and extra statutory holiday entitlement during maternity leave (not applicable to teachers)

Full time employees:

You will accrue holiday entitlement for any public holidays which fall within your maternity leave, with substitute paid leave being provided at another time.

Part time employees:

You will accrue pro-rata holiday entitlement for any public holidays which fall within your maternity leave, and will be given substitute paid leave at another time.

Term time employees:

You are entitled to a substitute day of paid leave where a public holiday/statutory holiday falls during term time during your maternity leave period.

Substitute days of leave may be taken immediately following the end of the period of maternity leave. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work.

Pensions

Teachers

During a period of paid maternity leave, pension contributions will be paid and deducted from your pay in the usual manner. Your contributions will be based on the pay you get while absent. Any unpaid period of maternity leave will not be pensionable/reckonable.

If you require any further information you should contact Teachers Pensions on 0845 6066166 and ask for a fact sheet. Alternatively this information is available from their website: www.teacherspensions.co.uk.

All other staff:

During any period of paid maternity leave, if you are a member of the Local Government Pension Scheme, you will pay basic pension contributions on the pay actually received but the College will pay pensions contributions on the pay you would have received had you been at work (notional pay). Your service will count as normal for pensionable purposes i.e. as if you had been at work.

During any period of OML, you will be deemed to have paid basic contributions but the College will pay contributions on notional full pay. The service will count as normal for pension purposes i.e as if you had been at work.

During any period of unpaid AML, the unpaid period will not count for pension purposes unless you make an election for it to count.

You can, within 30 days of returning to work or the termination of your contract if you do not return, elect to pay the relevant pension contributions in respect of this unpaid period. You will need to notify **the Director of Finance and Resources** of your decision to pay contributions during this unpaid period and you will need to complete the appropriate paperwork.

If you work on a keeping in touch day, both you and the College will pay contributions based on the pay you receive for that day. The day will count as a day of scheme membership.

Keeping in touch

We may make reasonable contact with you from time to time during your maternity leave.

You may work (including attending training) for up to ten days during maternity leave without bringing your maternity leave or SMP to an end. You are not obliged to undertake any such work during maternity leave. In any case, you must not work in the two weeks following birth.

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

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

Expected return date

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

We will expect you back at work on your Expected Return Date unless you tell us otherwise. It will help us if, during your maternity leave, you are able to confirm that you will be returning to work as expected.

Returning early

If you wish to return to work earlier than the Expected Return Date, you must give us eight weeks' prior notice. It is helpful if you give this notice in writing. If not enough notice is given; we may postpone your return date until eight weeks after you gave notice, or to the Expected Return Date if sooner.

Returning late

If you wish to return later than the Expected Return Date, you should either:

- (a) request unpaid parental leave, giving us as much notice as possible but not less than 21 days; or
- (b) request paid annual leave in accordance with your contract, which will be at our discretion.

If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and our Sickness Absence Policy will apply. In any other case, late return will be treated as unauthorised absence.

Deciding not to return

If you do not intend to return to work, or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period, otherwise we may require you to return to work for the remainder of the notice period.

Once you have given notice that you will not be returning to work, you cannot change your mind without our agreement.

This does not affect your right to receive SMP.

Your rights when you return

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

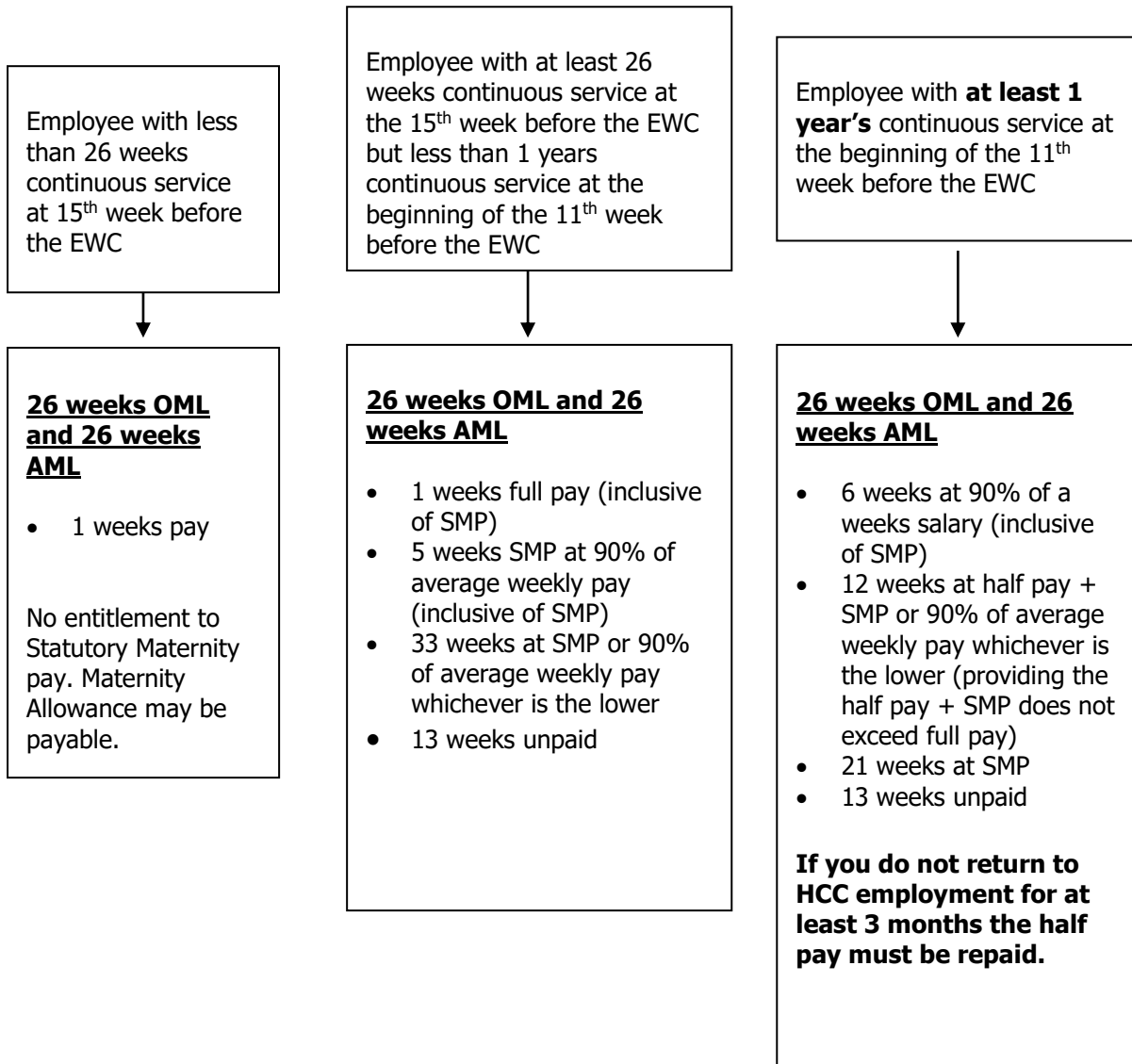
However, if you have taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

Returning to work part-time

We will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on a case-by-case basis. There is no absolute right to insist on working part-time, but you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the College. It is helpful if requests are made as early as possible.

Appendix 1

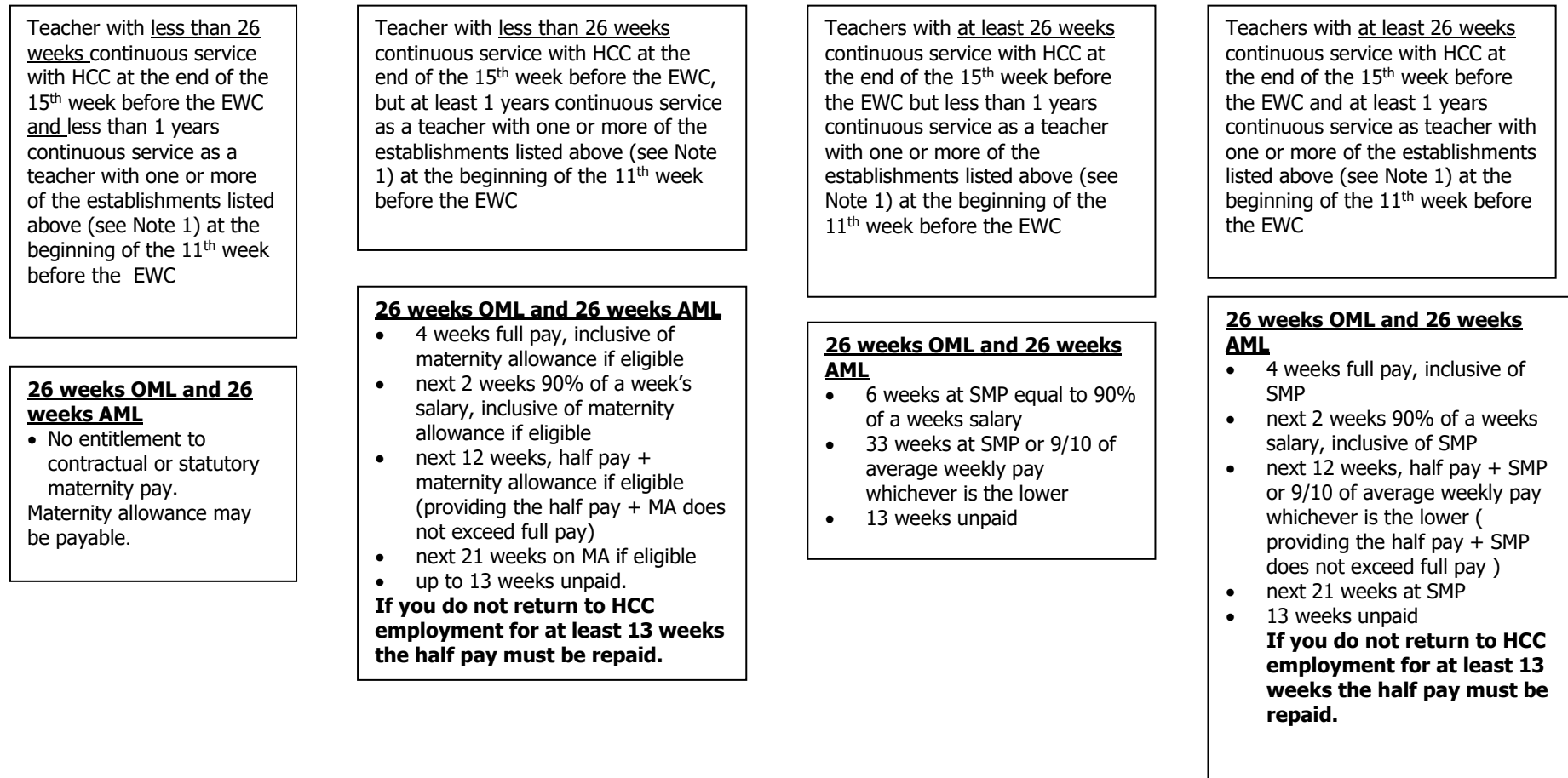
All Employees (Excluding Teachers) Maternity Benefits Flowchart



OML = Ordinary Maternity Leave
AML = Additional Maternity Leave
SMP = Statutory Maternity Pay*
EWC = Expected Week of Childbirth
***SMP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Directgov website.

Appendix 2 - Teachers Maternity Benefits Flowchart

Note 1: but at least 1 years continuous service as a teacher with one or more of the following (community schools, voluntary aided schools, voluntary controlled schools, trust schools, foundation schools, academies, free schools, studio schools, university technical colleges, technical academies, further education colleges, independent schools and such other educational establishments which governors at their absolute discretion may decide to recognise continuity from)



OML = Ordinary Maternity Leave **AML** = Additional Maternity Leave
SMP = Statutory Maternity Pay* **EWC** = Expected Week of Childbirth
 ***SMP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Directgov website.

Document Change History

- **Major review of the policy by solicitors (Foot Anstey) – May 2014**
- **Policy reviewed by solicitors (Foot Anstey) – January 2015:**
 - Page 4 - **Entitlement to maternity leave** – *'provided that you comply with the notification requirements in this policy'* added to end of section.
- **21st November 2018** – Personnel Committee amended to Resources Committee.