

## **SUPPLY TEACHERS WHO ARE PREGNANT OR BREASTFEEDING MOTHERS**

The NASUWT is aware that there are a significant number of supply teachers members who are pregnant who will be concerned about undertaking supply teaching from September 2021, given the easing and withdrawal of various restrictions in relation to the COVID-19 pandemic.

In light of this, the Union has revised its advice and guidance to ensure that supply teachers who are pregnant are aware of their rights and entitlements and supported during this time.

It should be noted that this advice and guidance should be considered in conjunction with the comprehensive advice, health and safety checklists and other associated guidance produced by the Union, including that specifically addressing issues related to pregnancy and maternity leave during the COVID-19 pandemic, which can be found at: [www.nasuwat.org.uk/Covid19AdviceWales](http://www.nasuwat.org.uk/Covid19AdviceWales).

In addition, the Union has produced a specific pregnancy health and safety risk assessment to assist and support those who are pregnant or new mothers. This can be accessed at: [www.nasuwat.org.uk/PregnancyMaternityDuringCovidWales](http://www.nasuwat.org.uk/PregnancyMaternityDuringCovidWales).

### **The Health and Safety at Work Act 1974 (HASAW)**

The Health and Safety at Work Act 1974 (HASAWA) places a responsibility on all employers to ensure, as far as is reasonably practicable, the health and safety of all employees and non-employees in their workplace, including those who are pregnant or breastfeeding mothers. This includes identifying and assessing risks to health and safety and steps to reduce or eliminate these risks. This applies to COVID-19 in the same way it would to any other hazard.

Supply teachers working through an agency or umbrella company who are pregnant or breastfeeding mothers are therefore entitled to the same provisions as permanent employees when they are on a placement with a school (referred to as the 'end user' or 'client' in legislation), as the school must ensure the safety of its temporary workers in the same way it does that of its own employees.

There is a joint responsibility between the provider (i.e. the supply agency) and the end user with regard to the health and safety of agency workers, including supply teachers, who are pregnant or breastfeeding mothers. Supply staff who are pregnant or breastfeeding mothers must therefore be treated exactly as permanently employed teachers with regard to health and safety during the COVID-19 pandemic.

This applies equally if you are supplied via an umbrella company, as they are legally your employer. The umbrella company would therefore have the responsibility for your health and safety and for taking steps to address this as you are their employee.

As a supply teacher who is pregnant or breastfeeding, you should expect your agency to take reasonable steps to identify any known risks concerning your health and safety and to satisfy itself that the school for which you are undertaking an assignment has taken appropriate steps to mitigate the risks associated with the COVID-19 pandemic, including producing an individual risk assessment as appropriate.

This should be provided to you by the agency in enough time to fully familiarise yourself with the situation with that employer.

## Your duties as a pregnant or new mother

Whilst your agency and the school have responsibilities in regard to your health and safety, you also have a duty to take reasonable care for your own health and safety, particularly during the COVID-19 pandemic. You must co-operate with your agency and the end user where you are working, including by providing them with any information which may necessitate the provision of a risk assessment before you undertake an assignment with a school, including if you are pregnant or breastfeeding.

If you are pregnant or a new mother and have worked for the same school ('end user' or 'client') in the same role for a 12-week qualifying period, you are also entitled to:

- reasonable paid time off to attend antenatal appointments when on assignments;
- be offered an alternative assignment if your assignment is unsuitable for pregnancy-related reasons; or
- be suspended on full pay if a suitable alternative assignment is not available.

If you are an employee of the agency or the umbrella company, you will be entitled to these rights from day one of any assignment.

Even if you have not been with a school for the 12-week qualifying period, it is still discrimination if your agency refuses to place you in a job or terminates an assignment because you are pregnant or are breastfeeding or have given birth in the last six months.

It would also be seen as discrimination if your agency only gave you short-term assignments in comparison to those offered to other supply teachers, or the agency refused to place you in a job because you are pregnant or breastfeeding.

Schools as end clients or hirers may also be seen to discriminate if they refuse to hire you because you are pregnant or breastfeeding or if they refuse to let you return following your maternity leave.

If your employer refuses to undertake a risk assessment, and/or provide you with suitable alternative work, then you should [contact the NASUWT](#) for advice and support.

Members should be consulted on the risk assessment and any member who has concerns about the provision of the risk assessment or its contents should [contact the NASUWT](#) for advice and support.

## Statutory Maternity Pay (SMP)

All workers and employees who are paid through PAYE, with tax and National Insurance deducted at source, are entitled to SMP if they meet the normal qualifying conditions. This means that agency workers, such as supply teachers, can claim SMP.

If you are an employee of the agency or the umbrella company, you will be entitled to these rights from day one of any assignment.

If you are eligible, your agency can start your SMP automatically when you are 36 weeks' pregnant if you are off work on maternity suspension or furlough, or they can start it from the date that your placement would have ended, if that is earlier.

If you do not meet the qualifying conditions for SMP, you can claim Maternity Allowance (MA).

If you have been put on furlough, your employer is still obliged to pay your MA at the full rate rather than 80% of normal pay, and any period of furlough still counts as continuous service for the purposes of qualifying for MA. The same is true if you are accessing SSP.

If you are applying for MA, you must send in payslips covering a 13-week period in the 66 weeks before your baby is due. You should send in payslips with your highest earnings. If you need to send in payslips covering the period when you were on furlough, you should let the Maternity Allowance Claims Department know, so that they can use your normal earnings.

## Legal rights during your pregnancy and maternity leave

Supply teachers working through an agency or umbrella company who are pregnant are entitled to the [same provisions and protections](#) as employees, depending on their eligibility.