



# Maternity Leave & Pay - All Staff

Approved by Trust Board on 10 March 2022

Applicable from 01 May 2022

This policy applies where the EWC as stated on a colleague's MAT B1 is on or after 01 May 2022

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## 1. Introduction and applicability

- 1.1. This policy applies to all staff employed by Co-op Academies Trust. Any questions or concerns regarding eligibility should be directed to the relevant HR colleague. Where this policy refers to "partner" this is regardless of gender and includes same-sex partners. Where this policy refers to "women" and "mothers", it can also be considered to apply to all childbearing people, regardless of gender identity or intersex status.
- 1.2. The Trust is committed to supporting colleagues to understand the choices available to them when planning for the birth of a child, as families now have additional options open to them with regards to managing time off during the first year following their child's birth. This policy should be read alongside the Trust's policies on Paternity Leave and Shared Parental Leave & Pay to ensure that colleagues are fully aware of the options available to them and their family. A separate Adoption Leave & Pay Policy is also available.
- 1.3. This Policy will be applied with due consideration to the Trust's Equality, Diversity & Inclusion Policy and our co-operative values.
- 1.4. The following definitions are used within this policy:

EWC (Expected Week of Childbirth / Confinement )	The week in which it is expected that childbirth will occur. This is documented on the MATB1 and begins at midnight between Saturday and Sunday.
QW (Qualifying Week)	The 15th week before the EWC.
OML (Ordinary Maternity Leave)	The first 26 week period of maternity leave entitlement. If entitled to SMP, this will be paid for the full 26 week period.
AML (Additional Maternity Leave)	The remaining 26 week period of maternity leave entitlement. If entitled to SMP, this will be paid for the first 13 weeks of Additional Maternity Leave. The remaining 13 weeks will be unpaid.
SMP (Statutory Maternity Pay)	This is paid (up to 39 weeks) by the Trust to employees who meet the statutory conditions. This is paid at the statutory rate set by the Government in the relevant tax year, or 90% of an employee's average weekly earnings if this is lower.
OMP	This is a rate paid by the Trust in addition to (or on top of) any SMP entitlement as an additional and flexible

(Occupational Maternity Pay)	benefit to eligible staff.
MA (Maternity Allowance)	This is paid (up to 39 weeks) to colleagues who are not entitled to SMP but who meet the qualifying conditions for Maternity Allowance.
SPL (Shared Parental Leave)	An alternative or supplementary option to maternity leave, which allows a mother to reduce their maternity leave entitlement and share the remainder of their time off with their partner (if eligible). Details are available in the Trust's Shared Parental Leave Policy.

## 2. Eligibility

- 2.1. In order to be eligible for maternity leave and pay the colleague must:
- Continue to be employed (whether or not at work) immediately before the start of the maternity absence.
  - Notify the academy that she is pregnant in writing no later than the 15th week before the expected week of childbirth (EWC), outlining when she proposes to commence her maternity leave.
  - Forward the MATB1 Certificate (issued by the doctor or certified midwife stating the date on which the baby is due) to the Academy. (The earliest the MATB1 can be issued is 20 weeks before the EWC i.e. not earlier than the end of the 20th week of pregnancy).
  - Not remain at work if certified medically unfit to do so.

## 3. Maternity leave & pay

- 3.1. All new mothers are entitled to take up to one years' maternity leave (52 weeks). This is not pro-rated for part-time workers and it does not require a minimum length of service. It is however, subject to satisfying the notification requirements set out later in this policy. This 52 week period is split into two blocks, referred to as:
- Ordinary Maternity Leave (OML) for 26 weeks
  - Additional Maternity Leave (AML) for 26 weeks
- 3.2. The law requires a mother to take at least 2 weeks off, following the birth of their child (compulsory maternity leave).
- 3.3. Colleagues have the right to choose when to start their maternity leave any time after the beginning of the 11th week before the baby is due to be born, known as the Expected Week of Confinement (EWC).

- 3.4. If the baby is born before the colleague has commenced maternity leave, the maternity leave period will commence on the day after the baby is born.
- 3.5. If a colleague is absent from work due to a pregnancy related health condition after the beginning of the 4th week before the EWC, maternity leave will start automatically.
- 3.6. Statutory Maternity Pay (SMP) is a statutory entitlement for colleagues whose average weekly earnings are not less than the lower earnings limit for National Insurance Contributions and who have completed 26 weeks' continuous service by the end of the 15th week before the EWC.
- 3.7. SMP is subject to deductions for Income Tax, National Insurance and pensions (where applicable). Payment of SMP is not conditional on the colleague returning to work.
- 3.8. Those not eligible for Statutory Maternity Pay will be issued with form SMP1 which may be used to claim Maternity Allowance (MA). To find out more and/or claim Maternity Allowance please visit <https://www.gov.uk/maternity-allowance>.
- 3.9. Employees are not entitled to SMP if any of the following apply during the period in which they are being paid SMP:
  - They start working after the birth of the baby, for another employer
  - They are taken into legal / police custody
  - They move outside the European Economic Area during the maternity pay period. If this applies, the colleague will need to discuss the details (e.g. which country) with their line manager and advice from the Hub HR Manager should be sought.
- 3.10. It is the colleague's responsibility to notify the Trust if any of the above events occur in the period in which they are being paid SMP. Any overpayment of SMP will be reclaimed by the Trust.
- 3.11. Maternity pay for all colleagues is detailed in the tables below and varies depending on length of service, hours and pay. As a minimum the Trust offers maternity pay benefits which are in line with the provisions set out in the respective national terms and conditions of service. In many cases the Trust has exceeded those provisions.
- 3.12. Colleagues who have completed 26 weeks' continuous service, but less than one year by the end of the 15th week before the EWC shall be entitled to Statutory Maternity Pay as set out below:

Weeks 1 to 6 (6 weeks)	SMP - 90% of average weekly earnings
Weeks 7 to 39 (33 weeks)	Standard SMP rate for the tax year or 90% of your average weekly earnings (whichever is lower).
Weeks 40 to 52 (13 weeks)	Unpaid.

- 3.13. Colleagues who have completed one years' continuous service by the end of the 11th week before the EWC shall be entitled to Occupational Maternity Pay as set out below:

Weeks 1 to 4 (4 weeks)	Full pay - Offset against payments made by way of SMP or MA.
Weeks 5 to 6 (2 weeks)	90% of average weekly earnings (SMP)
Weeks 7 to 11 (5 weeks)	90% of average weekly earnings - offset against payments made by way of SMP or MA.
Weeks 12 to 24 (13 weeks)	50% of average weekly earnings plus SMP, subject to a maximum of full pay.  *Conditional on returning to work for a period of 13 weeks (full-time staff) See paragraph 3.14.
Weeks 25 to 39 (15 weeks)	Standard SMP rate for the tax year or 90% of your average weekly earnings (whichever is lower).
Weeks 40 to 52 (13 weeks)	Unpaid.

- 3.14. OMP received during weeks 7 to 24 is conditional on the colleague returning to work for the required period of thirteen weeks after their maternity leave.
- 3.15. Where the Trust agrees, a full-time colleague may return to work on a part-time basis for a period which equates to 13 weeks' full-time service. Similarly, where the Trust agrees, a part-time employee may return to work on a different part-time basis for a period which equates to 13 weeks' part-time service relating to the previous contract. Further details around flexible working can be found at section 8 and in the Trust's Flexible Working policy.
- 3.16. The 13-week period (or part-time equivalent) starts from the date the colleague actually returns to work or the date during the school holiday on which the colleague has notified the school in writing that they are available to work, provided they actually return to duty on the first day after the period of closure.

- 3.17. If the colleague does not return to work for the required period, they will be required to refund the sum of OMP received after the first six weeks. Payments made by way of SMP are not refundable.
- 3.18. If a colleague is unsure whether they will be making a return to work following their maternity leave, they can request that the Trust withhold the refundable OMP element of their maternity pay. If the colleague does return to work for the required period, they will be paid the OMP owed to them. Colleagues are advised to seek advice from their pension scheme, as pension contributions could be impacted by this option.
- 3.19. During the time that a colleague is receiving maternity pay, National Insurance, tax and pension contributions (where applicable) will be deducted from the gross pay.
- 3.20. For the purpose of this scheme, a week's pay shall be treated as the amount payable to the colleague under the contract of employment. If there are significant variations in the colleague's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.
- 3.21. If the baby is stillborn before the 24th week of the pregnancy, SMP will not be payable, i.e. before the 16th week before the EWC. If a stillbirth occurs after this, i.e. after the 16th week before the EWC, SMP will be payable.
- 3.22. Childbirth means the birth of a living child or the birth of a live or stillborn child after 24 weeks of pregnancy.

#### 4. Notification Process

- 4.1. To ensure that the Trust can provide full support with regards to health, safety and wellbeing, colleagues are asked to notify their line manager of their pregnancy as early as possible. This may be informally in the first instance. Having been notified of the pregnancy, the line manager will ensure that a risk assessment is carried out as soon as reasonably possible and will also give the colleague the opportunity to discuss any worries or concerns.
- 4.2. Colleagues should submit a formal notification of maternity leave to the line manager / relevant colleague using the Trust's '*Notification of intention to take Maternity Leave*' form. This should be done no later than the 15th week before the expected week of childbirth (EWC). The form will ask you to specify:
  - Expected date of childbirth
  - Date that you intend to start maternity leave
  - If you intend to return to work after maternity leave

- 4.3. The MATB1 Certificate (issued by the doctor or certified midwife) can be issued at 20 weeks before the EWC. This should be forwarded to the line manager / relevant colleague.
- 4.4. Within 28 days of receipt of the formal notification and MATB1, the academy/Trust will write to the colleague to confirm the leave and pay arrangements. Colleagues who do not have the required length of service or are ineligible for SMP will be provided with an SMP1 form which will be required as part of any claim for maternity allowance.

## 5. Antenatal care

- 5.1. Colleagues are entitled to paid time off during normal working hours to attend appointments for ante-natal care.
- 5.2. Colleagues who are the father, partner or civil partner of a pregnant woman, are entitled to take time off work to attend antenatal appointments (Please refer to the Trust's Paternity Policy).
- 5.3. Colleagues should advise the line manager / relevant colleague of any such appointments in advance and show their appointment card if requested.
- 5.4. Ante-natal visits include visits to the GP, midwife or hospital. Ante-natal care may include relaxation or other classes that the doctor, midwife or health visitor has advised as beneficial to attend. Colleagues should seek to arrange appointments at the beginning or the end of the day, although the Trust recognises that this may not always be possible. You will not be asked to make your time up or change your hours.

## 6. Right to return to work

- 6.1. After ordinary maternity leave, a colleague is entitled to return to the job in which they were employed under the original contract of employment.
- 6.2. After additional maternity leave, a colleague is entitled to return to either the job that they left, or a suitable alternative job, if the original job is no longer available, on terms and conditions no less favourable than those which would have been applicable had they not been absent. ('Job', for this purpose, means the nature of the work which they are employed to do and the capacity and place in which they are employed.).



- 6.3. Where it is not practicable by reasons of redundancy for the Trust to permit the colleague to return to work in their job as defined in the above paragraph, the colleague is entitled to be offered a suitable alternative vacancy, where one exists, provided that the work to be done in that post is suitable and appropriate to the circumstances, and that the capacity and place in which they are to be employed and the terms and conditions of employment are not substantially less favourable than if they had been able to return to the job in which they were originally employed.

## 7. Notification of return

- 7.1. A colleague will have been notified of their date of expected return to work by the Trust and the colleague is not required to give notice of their intended return on this date. However, if they want to return early from maternity leave they must give 21 days' notice. Where this notice is not given, the Trust may postpone the return for up to eight weeks from the date when the colleague informs the Trust of the early return or up to the expected date of return, whichever is sooner.
- 7.2. If the colleague does not return on the specified date, their absence may be considered unauthorised and the line manager may make contact.
- 7.3. Where an employee is unable to return to work at the end of their period of maternity leave due to sickness, the conditions of the sick pay scheme and the Trust's Supporting Attendance Policy will apply.

## 8. Flexible Working

- 8.1. Employees have the right to request a variation to their contract so that they can work more flexibly and thereby balance their childcare responsibilities with their work commitments. There is no automatic right to return to work following Maternity Leave on an adjusted working pattern, however careful consideration will be given on receipt of a request in accordance with the Trust's Flexible Working Policy.

## 9. Relationship with sickness

- 9.1. If an employee is absent through illness whilst pregnant, they should report this in the usual way. If, however, employees are absent with a pregnancy related illness on or after the start of the 4th week before the baby is due, then their maternity leave will start automatically.

- 9.2. If an employee is unable to return to work on the expected date due to illness, they should report this to the employer in the usual way. Full entitlement to SMP has to be paid before Statutory Sick pay (SSP) can start.
- 9.3. If, in the early months of pregnancy, a colleague is advised by an approved medical practitioner to absent themselves from work because of the risk of rubella or parvovirus, they will be granted leave with full pay, provided that they do not unreasonably refuse to serve in another site where there is no such undue risk, if requested to do so.
- 9.4. Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity, shall be treated as ordinary absence on sick leave and shall be subject to the conditions governing sick leave, provided it is covered by a doctor's statement.
- 9.5. Where an illness is attributable to pregnancy, sickness absence should not be counted towards the absence indicators in the Trust's Supporting Attendance Policy, however such absence will still be managed in accordance with the Trust's Supporting Attendance Policy to facilitate a return to work as soon as possible with any necessary support or adjustment to duties. Therefore, return to work, attendance management meetings and home visits (if applicable) for longer term absence should still be held.

## 10. Health and Safety

- 10.1. There is a legal obligation under The Management of Health and Safety at Work Regulations 1999 for an employer to assess any risks to the pregnant colleague and unborn child. If risks are identified and these risks cannot be avoided by preventative and protective measures taken by the employer, then the employer will need to alter working conditions or hours of work or provide suitable alternative work, in consultation with the colleague. This will not affect the colleague's pay.
- 10.2. Immediately after the colleague has notified the headteacher/Principal/line manager of their pregnancy, the Headteacher/Principal/line manager, or Chief Education Officer if it is the Principal who is pregnant, must undertake or arrange a risk assessment.
- 10.3. If risks are identified (if appropriate, taking into account medical advice), the assessor should discuss with the colleague, then:

- remove the element of the job that is causing the risk, if this is possible;
- explore the possibility of alternative work in consultation with the colleague; or
- arrange for the colleague to take paid leave if no suitable alternative work can be found.

10.4. Furthermore, in accordance with legal obligations, the Trust will also carry out an assessment of the risks for new mothers and breast-feeding mothers who return from maternity leave. Further guidance can be found in the Work and Families Toolkit.

## 11. Statutory annual leave

- 11.1. Paragraphs 11.2 to 11.5 apply to teaching colleagues and support staff on term-time only contracts. Paragraph 11.6 applies to support staff colleagues on all year round contracts.
- 11.2. A colleague who takes maternity leave must be able to take the 28 days' statutory annual leave (which includes bank holidays) at a time outside their maternity leave. Colleagues may have a contractual entitlement to annual leave which exceeds 28 days, however accrual of annual leave during periods of maternity leave only applies to the statutory leave entitlement of 28 days. An employer may not treat any part of the maternity leave period as annual leave.
- 11.3. The statutory annual leave entitlement can be offset by any period of Academy closure that has taken place in the academic leave year in question, i.e. both before and after the maternity leave period. Prior to commencing maternity leave the colleague should be advised that they have a statutory entitlement to 28 days' annual leave including bank holidays and that this should be taken either before or after the maternity leave period during school closure periods.
- 11.4. On the return from maternity leave, a colleague must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures including bank holidays to accommodate the leave in that leave year.
- 11.5. Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all the statutory annual leave entitlement, a colleague must be allowed to carry over any balance of their leave to the following leave year. A colleague can be required to take this during the remaining periods of academy closure after the 28 days' annual leave for that leave year has been accommodated.

- 11.6. Support staff colleagues who are employed on all year-round contracts, will be permitted to take their statutory annual leave either within term time or during school holidays, subject to usual leave authorisation.
- 11.7. It is not possible for either the colleague or the Trust to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year, i.e. in academy closures or in term time.
- 11.8. A financial payment cannot be made in lieu of the annual leave except where a colleague leaves the Trust's employment whilst this entitlement is owing.

## 12. Keeping In Touch (KIT) days

- 12.1. Except during the first two weeks after childbirth, an employee can agree to work, or to attend training, for up to ten days ("occasions") during either ordinary maternity leave or additional maternity leave without that work bringing the period of their maternity leave to an end and without loss of a week's SMP or MA. These are known as 'Keeping In Touch' (KIT) days. KIT days are not pro-rata for part time colleagues.
- 12.2. Any work carried out on a KIT day shall, regardless of the number of hours worked, count as one of the ten "occasions".
- 12.3. Colleagues are entitled to payment for the hours they work on any KIT day; the calculation for this can be seen in paragraph 12.4. However, if colleagues are still in receipt of SMP when they attend for work, their SMP will form part of the pay they receive for that day. If a colleague is on unpaid maternity leave, they will receive the normal pay on the basis of hours worked. The maximum pay that a colleague can receive for a KIT day is their normal days' pay. If the payment for the amount of hours that they work during a KIT day is less than the normal amount of SMP that they would receive for that day, they will receive the higher amount of SMP and not receive pay for any hours worked.
- 12.4. A "normal day's pay" for fully contracted colleagues (as opposed to temporary / supply) is 1/365. This is the amount of money a colleague receives for every day in employment, and the amount that would be deducted per working day if someone was on unpaid leave. However, often someone only attends for a few hours on a KIT day. To enable a fair and consistent approach across the Trust, depending on the amount of time worked - colleagues are paid the lesser of 1/365, or the pay for the number of hours worked.

- 12.5. The academy cannot require a colleague to carry out any work, and any work undertaken is entirely a matter for mutual agreement between the Trust and colleague. Any KIT days worked do not extend the period of maternity leave.

### 13. Contact during maternity leave

- 13.1. Before a colleague's maternity leave begins, the line manager will discuss the arrangements for them to keep in touch during their leave. The Trust reserves the right in any event to maintain reasonable contact with the colleague from time to time during their maternity leave. This may be to discuss plans to return to work, to ensure the individual is aware of any possible promotion opportunities, discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence. This does not constitute 'work' and such contact will not bring the maternity leave period to an end.
- 13.2. The Trust will support colleagues who wish to continue their CPD voluntarily whilst on maternity leave. This can be discussed with the line manager.

### 14. General / other information

- 14.1. Maternity leave is regarded as continuous service and does not constitute a break in service, even when unpaid.
- 14.2. Any period of unpaid leave however, does not count towards pensionable service in the assessment of retirement benefits.
- 14.3. If the colleague is a member of the Local Government Pension Scheme (LGPS) or Teachers Pension Scheme (TPS) contributions will continue to be deducted while they are in receipt of maternity pay and the school will continue to pay the employer's contribution based on the colleague's normal full pay. Contributions cannot be made for any unpaid maternity leave period; thus, such period does not count as part of pensionable service. Employees may wish to discuss the possibility of Additional Pension Contributions (APCs) with their pension provider, for any period of unpaid leave.
- 14.4. Colleagues who have sacrificed salary in return for benefits (e.g. childcare vouchers/tax-free childcare scheme, cycle to work) may wish to review the arrangements in advance of their maternity leave. Advice should be sought from the Finance Team or the salary sacrifice benefit provider at the earliest opportunity.  
*\* HMRC confirms employers are not required to provide childcare vouchers during*

*maternity leave and therefore the Trust will not provide childcare vouchers during maternity leave when offered through a salary sacrifice scheme, unless already a member of the scheme.*

- 14.5. Notifications of entitlement to pay and leave may be undertaken on behalf of the Trust by the Trust's payroll provider. The Trust and the colleague must ensure that all relevant documentation is provided in a timely manner to the payroll provider.

## 15. Review

- 15.1. The Trust will review this policy every three years and/or if any significant changes in legislation occur.