



Maternity Leave & Pay – Support Staff

Approved by Trust Board on 11 September 2018
Applicable from 01 December 2018

Maternity Leave Policy – Support Staff

Contents

Section	Content	Page
1	Introduction	3
2	Eligibility	3
3	Initial obligations on the employee	3
4	What the Academy / Business Area must do	3
5	Ante-natal care	3 / 4
6	Maternity Leave including Compulsory and Ordinary Maternity Leave	4
7	Additional Maternity Leave	4
8	Maternity Pay including Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP)	4 / 5
9	Maternity Allowance (MA)	5
10	Maternity pay entitlements	5 / 6
11	Pensions	6
12	Contact during Maternity Leave	6
13	Keeping in Touch (KiT) Days	6 / 7
14	Right to return to work	7
15	Notice of return to work	7
16	Flexible Working	7
17	General Information	8
18	Health and Safety	8
19	Statutory Annual Leave	8 / 9
20	Continuous Service	9
21	Salary Sacrifice	9
22	Other	10
23	Review	10

1.0 Introduction

1.1 This policy applies to all support staff employed by Co-op Academies Trust to whom the NJC (Green Book) Conditions of Service apply.

2.0 Eligibility

2.1 All support staff employed by The Co-operative Academy Trust who are pregnant are entitled to maternity leave regardless of length of service or hours worked each week. Benefits will vary depending on service, hours or pay.

3.0 Initial obligations on the employee

3.1 In order to be eligible for maternity leave the employee 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):
 - Notify the academy of the expected week of childbirth
 - Notify the academy 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 a member of the finance team. (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.

*If an employee wishes to change the date on which her leave starts she must give 28 days' notice in writing.

4.0 What the Academy/Trust must do

4.1 Within 28 days of the initial notification from the employee the Academy/Trust must write to her informing of her rights to maternity leave and her return to work obligations. (See Work and Families Toolkit Letters XX)

4.2 The notification must include confirmation of the start and end of maternity periods, the pay entitlement during the period of maternity leave and the expected date of the employee's return to work. The Academy/Trust will be able to undertake a risk assessment and will also give the employee the opportunity to discuss any worries or concerns. (See Work and Families Toolkit (Page XX).

5.0 Ante-natal care

5.1 Employees are entitled to paid time off during normal working hours to attend appointments for ante-natal care. Employees should advise the academy of any such appointments in advance and show their appointment card if requested.

5.2 Employees 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 Employees should advise the Academy/Trust 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. Employees should seek to arrange appointments at the beginning or the end of the day, although Academies recognise this may not always be possible. You will not be asked to make your time up or change your hours

6.0 Maternity Leave

6.1 Compulsory maternity leave must take a minimum of two weeks' maternity leave following the birth of their child. An employee may not return to work during this time.

6.2 Childbirth means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy.

6.3 Ordinary maternity leave regardless of the length of service and hours of work employees are entitled to take up to 26 weeks' ordinary maternity leave. Employees 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).

6.4 If the baby is born before the employee has commenced her maternity leave, the maternity leave period will commence on the day after the baby is born.

6.5 If an employee 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.

7.0 Additional maternity leave

7.1 In addition to ordinary maternity leave all employees have the right to take up to 26 weeks' additional maternity leave, beginning on the day immediately following the day on which her ordinary maternity leave ends. Therefore, a total of up to 52 weeks maternity leave is available to all employees.

8.0 Maternity Pay

8.1 Statutory Maternity pay from the Academy may be made up of Statutory Maternity Pay and Occupational Maternity Pay subject to entitlement.

8.2 Statutory Maternity Pay (SMP) is a statutory entitlement for those employees whose average weekly earnings are not less than the lower earnings limit (LEL) for National Insurance Contributions and who have completed 26 weeks continuous service with the employer by the end of the 15th week before the EWC.

8.3 SMP is treated as income and is therefore subject to deductions for Income Tax, National Insurance and pensions (where applicable). Payment of SMP is not conditional on the employee returning to work.

8.4 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 police custody

8.5 It is the employee's responsibility to notify the employer 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 academy or Trust.

8.6 Occupational Maternity pay (OMP) is paid by the school to employees who have completed at least one years' continuous service by the 11th week before the EWC.

8.7 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 and a decision should be made whether sick pay should be paid. If a still birth occurs after this, i.e. after the 16th week before the EWC, SMP will be payable.

8.8 For the purpose of this scheme, a week's pay shall be treated as the amount payable to the employee under the contract of employment. If there are significant variations in the employee's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.

8.9 OMP is subject to an employee returning to work for a period of 13 weeks after their maternity leave. If the employee does not return to work for the required period, she will be required to refund the Occupational Maternity pay after the first 6 weeks of their maternity leave. SMP or Maternity Allowance (MA) (see below) is not refundable, even if the employee does not make a return to work.

8.10 Where the school agrees, a full-time employee may return to work on a part-time basis for a period which equates to 13 weeks' full-time service. Similarly, where the employer 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 her previous contract.

8.11 The 13-week period (or part-time equivalent) starts from the date the employee actually returns to work or the date during the school holiday on which the employee has notified the school in writing that she is available to work, provided she actually returns to duty on the first day after the period of closure.

8.12 If an employee is unsure whether they will be making a return to work following their maternity leave, they can request that their payroll provider withhold the refundable OMP aspect of their maternity pay. If the employee does return to work for the qualifying period, they will be paid the OMP owed to them.

9.0 Maternity Allowance (MA)

9.1 Employees who do not meet the eligibility criteria for Occupational Maternity Pay and/or SMP may be entitled to Maternity Allowance (MA) paid directly by the Department for Work and Pensions (DWP). The finance team will issue the employee with a form SMP1 and advise that they apply to the DWP for MA.

10. Maternity Pay Entitlements

10.1 If the employee has at least 26 weeks' continuous service, at the qualifying week (15th week before the EWC), they may be entitled to Statutory Maternity Pay (subject to the relevant earnings limit). Pay entitlement for Statutory Maternity Pay eligible employees is as follows:

6 weeks @ 90% pay (inclusive of SMP if eligible)
 33 weeks SMP (if eligible)
 13 weeks unpaid

10.2 Employees who have completed one year's continuous local government service at the 11th week before the EWC are entitled to both Occupational Maternity Pay and SMP (subject to the relevant earnings limit). Payment entitlement for eligible employees is as follows:

6 weeks' 90% pay (inclusive of SMP if eligible)
 12 weeks' half pay plus SMP if eligible
 21 weeks' SMP if eligible
 13 weeks unpaid

*During the period of combined half pay plus SMP (or MA) the total payable must not exceed the employee's normal full pay.

10.3 Employees who have completed two or more years' continuous local government service at the 11th week before the EWC are entitled to both Occupational and Statutory Maternity Pay. Payment entitlement to applicable employees is as follows:

11 weeks' 90% pay (inclusive of SMP if eligible)
 13 weeks' half pay plus SMP if eligible
 15 weeks' SMP if eligible
 13 weeks unpaid

*During the period of combined half pay plus SMP (or MA) the total payable must not exceed the employee's normal full pay.

10.4 OMP entitlements are subject to the employee returning to work for the required period.

11.0 Pensions

11.1 If the employee is a member of the Local Government Pension Scheme, 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 employee'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.

12.0 Contact during maternity leave

12.1 Before an employee's maternity leave begins, the Trust 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 employee from time to time during their maternity. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to 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

12.2 This does not constitute 'work' and such contact will not bring the maternity leave period to an end.

13.0 Keeping-in-touch (KIT) days

13.1 Except during the first two weeks after childbirth, an employee can agree to work, or to attend training, for up to ten days 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.

13.2 Any work carried out on a day shall constitute a day's work for these purposes. Working for part of a day will count as one day.

13.3 Employees are entitled to payment for the hours they work on any KIT day. However, if employees 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 an employee is on unpaid maternity leave, she will receive her normal pay on the basis of hours worked. The maximum pay that an employee 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 worked hours.

13.4 The employer cannot require an employee to carry out any work, and the employee has no right to undertake any work during their maternity leave. Any work undertaken is entirely a matter for mutual agreement between the school and employee. Any KIT days worked do not extend the period of maternity leave. Once the KIT days have been used up the employee will lose a week's SMP for any week in which they agree to work for the school.

14.0 Right to return to work

14.1 After ordinary maternity leave, an employee is entitled to return to the job in which she was employed under her original contract of employment.

14.2 After additional maternity leave, an employee is entitled to return to either the job that she left, or a suitable alternative job, if her original job is no longer available, on terms and conditions no less favourable than those which would have been applicable to her had she not been absent. ('Job', for this purpose, means the nature of the work which she is employed to do and the capacity and place in which she is so employed.)

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

15.0 Notice of return to work

15.1 An employee will have been notified of her date of expected return to work by the employer. The employee is not required to give notice of her intended return on this date. However, if an employee wants to return early from maternity leave they must give 28 days' notice. Where this notice is not given, the employer may postpone the return for up to eight weeks from the date when the employee informs the employer of the early return or up to the expected date of return, whichever is sooner.

15.2 If the employee does not return on the specified date, their absence may be considered unauthorised and the Principal or line manager may make contact.

15.3 Where an employee is unable to return to work at the end of her period of maternity leave due to sickness, the conditions of the sick pay scheme and the school's attendance policy will apply.

16.0 Flexible Working

16.1 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.

16.2 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 school's flexible working policy.

17.0 General Information

17.1 Maternity leave will not be taken into account for the calculation of the period of entitlement to sick leave. If an employee is absent through illness whilst pregnant, they should report this to the school 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.

17.2 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.

17.3 Childbirth means the birth of a living child or the birth of a live or stillborn child after 24 weeks of pregnancy.

17.4 If, in the early months of pregnancy, an employee is advised by an approved medical practitioner to absent herself from school because of the risk of rubella or parvovirus, she will be granted leave with full pay, provided that she does not unreasonably refuse to serve in another school where there is no such undue risk, if requested to do so.

17.5 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.

18.0 Health and safety

18.1 There is a legal obligation under The Management of Health and Safety at Work Regulations 1999 for the employer to assess any risks to the pregnant teacher and her unborn child. If risks are identified and these risks cannot be avoided by preventative and protective measures taken by an employer, the employer will need to alter working conditions or hours of work or provide suitable alternative work. Immediately after the employee has notified the head teacher/principal/line manager of her pregnancy, the headteacher/Principal/line manager, or Education Director if it is the Principal who is pregnant, must undertake or arrange a risk assessment.

18.2 If risks are identified, the assessor should discuss with the teacher, 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 teacher; or
- arrange for the teacher to take paid leave if no suitable alternative work can be found.

18.3 Furthermore, in accordance with legal obligations academies 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.

19.0 Statutory Annual Leave

19.1 An employee who takes maternity leave must be able to take the 28 days' statutory annual leave including bank holidays at a time outside her maternity leave. Employees 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.

19.2 Employees 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.

19.3 For term time only staff, the statutory annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question, i.e. both before and after the maternity leave period.

19.4 Prior to commencing her maternity leave an employee should be advised that she has a statutory entitlement to 28 days' annual leave and that this should be taken either before or after the maternity leave period during school closure periods. On her return from maternity leave, a term time only employee must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate her leave in that leave year.

19.5 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 her annual leave entitlement, a term time only employee must be allowed to carry over any balance of her leave to the following leave year. An employee can be required to take this during the remaining periods of school closure after the 28 days' annual leave for that leave year has been accommodated.

19.6 It is not possible for either the employee or the employer 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 school closures or in term time.

19.7 A financial payment cannot be made in lieu of the annual leave except where an employee leaves the Trust's employment whilst this entitlement is owing.

20.0 Continuous service

20.1 Maternity leave is regarded as continuous service and does not constitute a break in service even when unpaid.

20.2 Any period of unpaid leave however does not count towards pensionable service in the assessment of retirement benefits.

20.3 During the time that an employee is receiving maternity pay, National Insurance, Income Tax and pension contributions (where applicable) will be deducted from the gross pay.

20.4 Continuous service is calculated as service as a support staff employee with one or more local authorities or schools without a break in service.

21.0 Salary Sacrifice

21.1 Employees who have sacrificed salary in return for benefits (e.g. childcare vouchers) may wish to review the arrangements in advance of their maternity leave. Advice should be sought from the Academy 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.

22.0 Other

22.1 Notifications of entitlement to pay and leave may be undertaken on behalf of the school by the school's payroll provider. The academy/trust must ensure that all relevant documentation is provided in a timely manner to the payroll provider.

23.0 Review

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