



Maternity Leave & Pay – Teachers

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Maternity Leave Policy – Teachers

Contents

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

1.0 Introduction

1.1 This policy applies to all teachers employed in The Co-operative Academies Trust to whom the conditions of the Burgundy Book (Conditions of Service for School Teachers in England and Wales) are being applied.

1.2 All teachers 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.

2.0 Initial obligations on the teacher

2.1 In order to be eligible for maternity leave and pay the teacher 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 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.

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

3.0 What the Academy must do

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

3.2 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 teacher's return to work. The Academy 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).

3.3 The Academy must write to the teacher within 28 days to confirm the new expected date of return to work if the intended date of return has been amended by the teacher.

4.0 Ante-natal care

4.1 Teachers are entitled to paid time off during normal working hours to attend appointments for ante-natal care.

4.2 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)

4.3 Teachers should advise the Academy of any such appointments in advance and show their appointment card if requested.

4.4 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.

5.0 Maternity Leave including Additional Maternity Leave

5.1 In the case of compulsory maternity leave teachers must take a minimum of two weeks' maternity leave following the birth of their child.

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

5.3 In the case of ordinary maternity leave regardless of the length of service and hours of work teachers are entitled to take up to 26 weeks' maternity leave.

5.4 Teachers 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 (EWC). If the baby is born before they start maternity leave, they will start the leave on the date the baby is born. If a teacher is taken ill with a pregnancy related condition after the beginning of the 4th week before the EWC, maternity leave will start automatically.

5.5 In addition to ordinary maternity leave a teacher has a 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.

6.0 Maternity Pay

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

6.2 Statutory Maternity Pay (SMP) is a statutory entitlement for those teachers whose average weekly earnings are not less than the lower earnings limit 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. It is paid by the Academy and forms part of the OMP.

6.3 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 teacher returning to work.

6.4 Teachers 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 custody
- They go outside the European Economic Area during the maternity pay period.

6.5 It is the teacher's responsibility to notify the Academy 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.

6.6 Occupational Maternity pay (OMP) is paid by the Academy to teachers who have completed one years' continuous service (as defined in section 18.2) by the 11th week before the EWC.

6.7 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.

6.8 A teacher is entitled to maternity pay as follows:

- first four weeks' absence: full pay, offset against payment made by the way of SMP or Maternity Allowance (MA);
- next two weeks' absence: 9/10ths of a week's pay, offset against payments made by way of SMP or MA;
- next 12 weeks' absence: half pay without deductions for SMP or MA except by the extent to which combined pay and SMP or MA exceeds full pay;
- next 21 weeks' absence: SMP or MA entitlement only;
- any remaining period of absence will be without pay.

*The element of occupational pay of 12 weeks at half pay is subject to the teacher being available and able to return to work for the required period (See Section 13)

6.9 In the event of the teacher not being available, or being unable, to return to her job for the required period, she shall refund the 12 weeks' half pay.

6.10 If a teacher is undecided about a return to work she may at the outset request that she receives the 12 weeks' half pay element subject to deductions by way of a lump sum following her return to work. Payments made by way of SMP or MA are not refundable.

7.0 Maternity Allowance (MA)

7.1 Teachers who do not meet the eligibility criteria for SMP may be entitled to Maternity Allowance (MA) paid directly by the Department for Work and Pensions (DWP).

7.2 The Academy finance team will issue the teacher with a form SMP1 and advise that they apply to the DWP for MA

8.0 Pensions

8.1 If the teacher is a member of the Teachers' Pension Scheme, contributions will continue to be deducted while they are in receipt of maternity pay and the Academy will continue to pay the employer's contribution based on the teacher'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.

9.0 Contact during maternity leave

9.1 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.

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

10.0 Keeping-in-touch (KIT) days

10.1 Except during the first two weeks after childbirth, a teacher 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.

10.2 These are known as 'keeping-in-touch' days. 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.

10.3 Teachers are entitled to payment for the hours they work on any KIT day. However, if teachers 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 the teacher 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.

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

11. Right to return to work

11.1 A teacher's right to return to work after ordinary maternity leave is a right to return to the job in which she was employed under her original contract of employment.

11.2 A teacher's right to return to work after additional maternity leave is to return either to 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.)

11.3 Where it is not practicable by reasons of redundancy for the employer to permit her to return to work in her job as defined in the above paragraph, the teacher 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.

12.0 Notice of return to work

12.1 A teacher will have been notified of her date of expected return to work by the Academy. The teacher is not required to give notice of her intended return on this date. However, if a teacher wants to return early from maternity leave they must give 21 days' notice.

12.2 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.

12.3 If the teacher does not return on the specified date, their absence may be considered unauthorised and the head teacher may make contact.

12.4 Where a teacher 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 Trust's attendance policy will apply.

13.0 Returning to work to qualify for occupational maternity pay

13.1 Under her terms of employment, immediately following the period of maternity leave, a teacher has an obligation to return to work for at least 13 weeks (including periods of school closure) in order to qualify for the 12 weeks' half pay (OMP).

13.2 Where the Academy agrees, a full-time teacher may return to work on a part-time basis for a period which equates to 13 weeks' full-time service. Similarly, where the Academy agrees, a part-time teacher 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.

13.3 The 13- week period (or part-time equivalent) starts from the date the teacher actually returns to work or the date during the school holiday on which the teacher has notified the Academy in writing that she is available to work, provided she actually returns to duty on the first day after the period of closure. If the teacher does not intend to return to work, she can delay making her decision whether or not to return to work until after the baby is born; the job is kept open up to the expected date of return.

13.4 If an employee resigns from her post without having returned to work for the requisite period of time she shall be required to refund the OMP payments made during her maternity, apart from those made during the first 6 weeks of maternity leave – such action will be considered on an individual basis by the Academy.

14.0 Flexible Working

14.1 Teachers also 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 such an adjustment, but careful consideration will be given on receipt of a request in accordance with the Trust's Flexible Working Policy.

15.0 Relationship with sickness

15.1 Maternity leave will not be taken into account for the calculation of the period of entitlement to sick leave. If a teacher is absent through illness whilst pregnant, they should report this to the Academy 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.

15.2 If they are unable to return to work on the expected date due to illness, they should report this to the Academy in the usual way. Full entitlement to SMP has to be paid before Statutory Sick pay (SSP) can start.

15.3 If, in the early months of pregnancy, a teacher is advised by an approved medical practitioner to absent herself from the Academy 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 Academy where there is no such undue risk, if requested to do so.

15.4 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.

15.5 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

16.0 Health and safety

16.1 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 a teacher has notified the head teacher/principal of her pregnancy, the headteacher/ Principal, or Education Director if it is the Principal who is pregnant, must undertake or arrange a risk assessment.

16.2 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.

16.3 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.

17.0 Statutory Annual Leave

17.1 A teacher who takes maternity leave must be able to take the 28 days' statutory annual leave at a time outside her maternity leave. An employer may not treat any part of the maternity leave period as annual leave.

17.2 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 her maternity leave a teacher should be advised that she has 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.

17.3 On her return from maternity leave, a teacher 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 her leave in that leave year.

17.4 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 teacher must be allowed to carry over any balance of her leave to the following leave year. A teacher 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.

17.5 It is not possible for either the teacher or the Academy 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.

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

18.0 Continuous service

18.1 Maternity leave is regarded as continuous service and does not constitute a break in service even when unpaid. Any period of unpaid leave does not count towards pensionable service in the assessment of retirement benefits.

18.2 During the time that a teacher is receiving maternity pay, National Insurance, tax and pension contributions (where applicable) will be deducted from the gross pay. For this scheme, a week's pay shall be treated as the amount payable to the teacher under the contract of employment. If there are significant variations in the teacher's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary. Continuous service is calculated as service as a teacher with one or more local authorities or schools without a break in service.

19.0 Salary sacrifice

19.1 Teachers 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.

20.0 Other

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

21.0 Review

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