



MATERNITY LEAVE, PAY AND FAMILY FRIENDLY ISSUES POLICY

I SUMMARY OF MATERNITY LEAVE AND PAY FOR ALL CATEGORIES OF STAFF

- 1. Introduction**
- 2. Entitlement to Maternity Leave and Pay for all Categories of Staff with Less than 26 weeks Service as at the 15th week before the EWC**
- 3. Entitlement to Maternity Leave and Pay for all Categories of Staff with More than Twenty-six weeks Service as at the 15th week before the EWC but less than 1 Year's Service as at the 11th week before the EWC**
- 4. Entitlement to Maternity Leave and Pay for all Categories of Staff with More than One Year's Service as at the 11th week before the EWC**
- 5. Miscellaneous Provisions**
- 6. Health and Safety**
- 7. The Administration of Maternity Leave**
- 8. Risk Assessment Form**

II MATERNITY SCHEME FOR TEACHERS

- 1. To whom this scheme applies**
- 2. Initial obligations on the teacher**
- 3. Ante-natal care**
- 4. Rights of the teacher to time off from work (Maternity leave)**
- 5. Return to work**
- 6. Maternity pay**
- 7. Subsequent obligations on the teacher**
- 8. Relationship with sickness**
- 9. Definitions**
- 10. Other absences**
- 11. Other provisions**
- 12. Superannuation Scheme**
- 13. Application by a Teacher for Maternity Leave and Pay**
- 14. Teaching Maternity Entitlements**

III SUPPORT STAFF MATERNITY SCHEME: NOTES OF GUIDANCE AND APPLICATION FORM

- 1. Introduction**
- 2. Maternity Leave**
- 3. Maternity Pay**
- 4. Right to Return to Work**
- 5. Notice Requirements**
- 6. Superannuation Scheme**

- 7. Application by a Support Staff Employee for Maternity Leave and Pay**
- 8. Support Staff Maternity Entitlements**

IV MATERNITY SUPPORT LEAVE

- 1. Introduction**
- 2. Entitlement to Maternity Support Leave and Pay**

V ADOPTION LEAVE AND SUPPORT LEAVE

- 1. Introduction**
- 2. Entitlement to Adoption Leave and Pay**
- 3. Adoption Support leave**

VI FLEXIBLE WORKING

- 1. Introduction**
- 2. Scope of Request**
- 3. The Procedure**

POLICY REVIEW

The ELM Committee will review this Policy in line with EPM reference documents on their Web site on an Annual basis.

I SUMMARY OF MATERNITY LEAVE AND PAY FOR ALL CATEGORIES OF STAFF

1. Introduction

1.1 The information contained within this section automatically applies to all staff who were employed by the Local Education Authority at the school at the time of the transfer to Grant Maintained status, now known as Foundation status. For staff appointed after the transition to Grant Maintained status, it is also expected that the scheme will be applied unless the Governing Body have decided otherwise after consultation with the appropriate staff representatives. In the exceptional case that the scheme is not applied to all staff, the statutory provisions of this section will automatically apply, the contractual provisions will only apply as determined by the Governing Body.

1.2 Maternity leave and pay entitlement are a complex area. The tables overleaf give a summary of the different entitlements and the qualifying requirements. Statutory entitlements are those provided for by employment law; contractual entitlements are part of the employee's contract of employment.

1.3 The Employment Act 2002 has made further statutory changes to the Parental Leave Regulations 1999 and the Maternity Regulations 1999 which affect the entitlements and obligations of schools and employees where the **Expected Week of Child birth (EWC)** is on or after 6th April 2003.

1.4 The contract of employment

The status of the employee's contract of employment during the maternity leave period is treated as if she is temporarily absent from work. This means that all contractual benefits, except pay, must continue as normal. Annual leave entitlement will accrue as normal.

2. Entitlement to Maternity Leave and Pay for all Categories of Staff with Less than 26 weeks Service as at the 15th week before the EWC

2.1 Women who have been employed for less than 26 weeks as at the 15th week before the EWC are entitled to Ordinary Maternity Leave (unpaid) of up to 26 weeks *regardless of the number of hours worked*. There is a requirement to give the employer at least 28 days notice of the date on which the absence will begin. If the employee wishes to resign her employment the normal contractual notice period applies. In all cases schools are advised to request notification as early as possible although the statutory requirement is for the employee to notify the employer of the intention to take maternity leave by 15 weeks before the EWC. The employer is required to respond to the request within 28 days of the request being made.

2.2 The woman is not required to give notice of her intention to return to work following maternity leave unless she returns before the end of the 26 week period in which case she must give 28 days' notice of her intention to return.

2.3 A summary of the entitlements and obligations to maternity leave and pay is set out in tables 1 and 2 overleaf.

Table 1

Entitlements			Obligations			
Category of Staff	Period with employer	Length of Absence	Pay	Period of notice by employee to employer of intention to cease work	Notice by employee to employer of date maternity absence begins	Period of notice by employee to employer of intention to return to work
SUPPORT	Less than 26 weeks service as at 15 weeks before EWC	Up to 26 weeks	No contractual or statutory maternity pay. Form SMP1 to be provided by payroll provider to apply for statutory maternity allowance	By 15th week before EWC if not earlier	28 Days	None unless returning before 26 weeks, then 28 days
TEACHERS	Less than 26 weeks service as at 15 weeks before EWC	Up to 26 weeks	No contractual or statutory maternity pay. Form SMP1 to be provided by payroll provider to apply for statutory maternity allowance	By 15th week before EWC if not earlier	28 Days	None unless returning before 26 weeks, then 28 days

EWC: Expected Week of Childbirth

SMP: Statutory Maternity Pay

3. Entitlement to Maternity Leave and Pay for all Categories of Staff with More than Twenty-six weeks Service as at the 15th week before the EWC but less than 1 Year's Service as at the 11th week before the EWC

3.1 In addition to the maternity entitlement for employees set out above, for those with more than twenty-six weeks service as at 15 weeks before the EWC, but less than one year's service as at 11 weeks before the EWC, there is a further entitlement to Additional Maternity Leave (AML).

3.2 The entitlement is to take leave for up to a further twenty-six weeks, commencing immediately after the Ordinary Maternity Leave. There is no statutory entitlement to pay for this additional period.

3.3 Depending on the Employee meeting certain conditions, she may also be eligible to be paid Statutory Maternity Pay (SMP). To qualify for SMP the following conditions must be met:

The Employee must have been continuously employed by their current employer for at least 26 weeks by the beginning of the 15th week before the expected week of childbirth. This 15th week is called the qualifying week.

The employee must have average weekly earnings in the calculation period (which is the 8 weeks or 2 months before the end of the qualifying week) at or above the lower earnings limit for payment of National Insurance contributions. The lower earnings limit is reviewed in the April of each year. The employee must still be pregnant at the 11th week before the expected week of childbirth or have had the baby by that time.

4. Entitlement to Maternity Leave and Pay for all Categories of Staff with More than One Year's Service as at the 11th week before the EWC

4.1 For those employees with more than a years service as at the 11th week before the EWC, in addition to the above maternity leave and pay entitlements there is an entitlement to receive contractual maternity pay inline with the conditions of service for either teaching staff or support staff.

4.2 A summary of the entitlements and obligations to maternity leave and pay for all categories of staff with **more than one year's service** as at the 11th week before the EWC is set out in table 2 below.

4.3 Full notes of guidance on the contractual schemes for teachers, support staff are given in sub-sections II and III of this section.

Table 2

ENTITLEMENTS			OBLIGATIONS			
Category of staff qualifying	Period of continuous service with employer	Length of absence	Pay	Period of notice by employee to employer of intention to cease work	Period of notice by employee to employer of date absence begins	Period of notice by employee to employer of intention to return to work
SUPPORT	1 Year with any Maintained school as at 11 weeks before EWC	A total of up to 52 weeks; of which: up to 11 weeks before EWC	6 weeks at 90% of average earnings, followed by 12 weeks half pay & lower rate SMP followed by 8 weeks lower rate SMP. Remainder unpaid	By 15th week before EWC if not earlier	28 Days	None unless returning before 26 weeks, then 28 days

TEACHERS	1 Year with any Maintained school as at 11 weeks before EWC	Up to 52 weeks; of which: up to 11 weeks before EWC	4 weeks at full pay, 2 weeks at 90% of average earnings, followed by 12 weeks half pay & lower rate SMP. Remainder unpaid	By 15th week before EWC if not earlier	28 Days	None unless returning before 52 weeks, then 28 days
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NB All Statutory Payments subject to National Insurance Contributions
All half pay payments are conditional on a return to work
EWC: Expected Week of Childbirth
SMP Statutory Maternity pay

5. Miscellaneous Provisions

5.1 Ante-natal care

All pregnant employees have a right to reasonable paid time off to attend antenatal care appointments. They should produce evidence of appointments if requested to do so.

5.2 Premature Birth

Where a baby is born prematurely the employee should ensure that the Headteacher is informed. Discretion should be used as to whether it is appropriate to extend the maternity leave period or take any other special action as necessary.

5.3 Death of a Baby and Still Birth

If the baby dies or is still-born after 24 weeks' pregnancy the provisions of the relevant scheme apply. Where this occurs before 24 weeks (miscarriage) consideration as to the circumstances should be made and where necessary special leave or sick leave should be granted. The decision should be made with consideration given to the needs of the employee and medical advice.

5.4 Dismissal Protection

Recent changes to the law have extended and strengthened the protection against dismissal to all employees when they are pregnant or during maternity leave regardless of hours worked or length of service. Only when a dismissal would have occurred, regardless of the fact that the employee is pregnant or on maternity leave, would a dismissal not be automatically unfair.

6. Health and Safety

6.1 Pregnant employees must be given specific health and safety protection under UK Health and Safety Legislation. The main provisions are set out below.

6.2 Risk Assessment

Employers must assess all workplaces for risks to the health and safety of their employees and others affected by their work activities. In particular, they must consider if there are specific or enhanced risks for new and expectant mothers who are defined as "an employee who is pregnant, who has given birth or miscarried within the previous six months, or who is breast feeding". Such risks would include exposure to certain harmful substances or microbial agents/infectious diseases; extremes of heat and cold; noise;

movement and posture; lifting/handling loads; and potential exposure to violence (including verbal abuse).

6.3 Where an unacceptable risk is identified the employer must take any protective or preventative measures required by other health and safety legislation to remove it. See Section 8 for the risk assessment form. Where this would not prevent the employee from being at risk, a hierarchy of measures should be followed:

- if it is reasonable to do so, working conditions or hours of work should be altered to avoid (or minimise) the risk;
- if this is not possible, or the risk cannot be avoided by this, the employee should be offered suitable alternative employment on existing, or not substantially less favourable, terms and conditions;
- if no suitable alternative work is available, the employee should be given leave of absence with full pay. If the employee refuses an offer of suitable alternative work, the leave may reasonably be unpaid.

6.4 **Period of Protection**

These provisions apply from the time the school receives written notification that the employee is pregnant until 6 months after the date of childbirth, or until the employee stops breast feeding if she continues to do so beyond this six month period. The paid leave of absence provisions will not apply during the maternity leave period. The employee will receive whatever maternity pay she is entitled to as normal.

7. **The Administration of Maternity Leave**

7.1 When the employee notifies the Headteacher (or other designated person) that she is pregnant she should be given the appropriate application form and Notes of Guidance. For teachers the relevant document is MII; for support staff the relevant document is MIII.

7.2 The school is advised to make it clear that it is the responsibility of the employee to notify the school by, at the latest, the 15th week before the expected week of childbirth, of the intended date maternity leave is to commence and of the scheme she wishes to take i.e. 26 weeks or 52 weeks maternity leave. Should the employee decide she intends to commence maternity leave at an earlier date, she is required to give a minimum of 28 days notice of the revised date.

7.3 When the Headteacher has received formal confirmation of an employee's intention to take maternity leave, the completed maternity application form should be forwarded to the Personnel Adviser immediately to enable a response to be sent to the employee within, the statutory required, 28 days.

7.4 If the employee chooses to return before the end of either the 26 week or 52 maternity leave period, the employee is required to give a minimum of 28 days notice of the revised return date, in writing, to the Headteacher.

7.5 When the school has been informed of the above, then the Personnel Adviser for the school should be notified in order that any maternity cover arrangements may be terminated and the employee's full pay re-commenced as appropriate.

8. Risk Assessment Form
For completion by the pregnant employee's manager/supervisor

I confirm that:

- (a) I am the manager/supervisor* of the employee named on this application for maternity leave; and
- (b) the work activities undertaken by the employee have been risk assessed and that the risk assessment(s) has been reviewed immediately following the employee's notification of her pregnancy; and
- (c) the risk assessment review has identified that (tick box for appropriate category):

(i) risks are adequately controlled under existing arrangements and the employee is not exposed to enhanced or special risks
or

(ii) the risks require further control measures which have been implemented so that the employee is not exposed to enhanced or special risks

or

(iii) the risks require the employee to be transferred to suitable alternative work because they present an enhanced or special risk which cannot be controlled in any other way and

the employee has been given paid leave of absence until suitable alternative work is found *

the employee has been deployed to suitable alternative work*

or

(iv) the risks require the employee to be given paid leave of absence because they present an enhanced or special risk which cannot be controlled in any other way and there is no suitable alternative work available

or

(v) the employee has provided a doctor's certificate which requires her to be transferred from night work because it presents an enhanced or special risk to her health and safety which cannot be controlled in any other way

(d) I received notification of the pregnancy on

(e) The risk assessment was reviewed on

NAME OF MANAGER/SUPERVISOR (PRINT): -----

JOB TITLE (PRINT): -----

DATE: ----- **SIGNATURE:** -----

* delete as appropriate

II MATERNITY SCHEME FOR TEACHERS

As set out in the Conditions of Service for School Teachers in England and Wales (*"The Burgundy Book"*)

1. To whom this scheme applies

The occupational maternity scheme shall apply to all pregnant teachers regardless of the number of hours worked per week. These guidance notes assume that the Governing Body extend the provisions of the Burgundy Book to all teaching staff which should be checked with the Headteacher before the application for maternity leave is completed.

2. Initial obligations on the teacher

- (a) Continue to be employed by the employer (whether or not at work) immediately before the start of her absence;
- (b) Notify the employer in writing as soon as practicable but not later than 15 weeks (unless there is good cause) before the expected week of childbirth (EWC) that she wishes to be absent for maternity. She must produce a certificate from a registered medical practitioner or a certified midwife stating the expected week of childbirth;
- (c) Notify the employer in writing by the 15th week before the EWC, if not earlier:
 - (i) that she is pregnant
 - (ii) of her expected week of childbirth
 - (iii) when she wishes to start leave
- (d) The beginning of the teacher's absence shall:
 - (i) be no earlier than 11 weeks before EWC; and
- (e) Declare in writing at the time of notification of her intended absence (under (b) above), that she intends to return to work with her employer (if that is her intention and if she is able to return to work with her employer); and
- (f) Not remain at work if certified medically unfit to do so (taking into account the provisions of the Management of Health and Safety at Work (Amendment) Regulations 1994).

3. Ante-natal care

Any pregnant teacher has the right to paid time off to attend for ante-natal care and must produce evidence of appointments if requested to do so by her employer.

4. Rights of the teacher to time off from work (Maternity leave)

4.1 All teachers, irrespective of length of service, are entitled to remain absent for up to 26 weeks Ordinary Maternity Leave (OML) if the EWC is on or after 6 April 2003 (previously 18 weeks maternity leave). A teacher will not be allowed to commence their maternity absence earlier than 11 weeks before the EWC or to return to work earlier than two weeks after the day of childbirth.

4.2 In addition, all teachers, with more than 26 week's continuous service with their employer by the 15th week before the EWC are entitled to remain absent for up to a total of

52 week's, a further 26 weeks' Additional Maternity Leave (AML). A teacher will not be allowed to commence their absence earlier than 11 weeks before the EWC.

4.3 The basic principle of the leave provisions is that teachers have a right to choose when to start their maternity leave. The exceptions are:

(i) where the teacher is absent from work "wholly or partly because of pregnancy or childbirth" after the beginning of the 4th week before the EWC. In these circumstances, maternity leave will be automatically triggered; and

(ii) where the baby is born before maternity leave commences. In these circumstances, the date of childbirth should be regarded as the first day of maternity leave.

5. Return to work

5.1 Subject to sub-paragraph 5.2 below, a teacher's right to return to work is a right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had 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.

5.2 Where it is not practicable by reason of redundancy for the employer to permit her to return to work in her job as defined in sub-paragraph 5.1 above the teacher shall be 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.

5.3 A teacher who qualifies for ordinary maternity leave under sub paragraph 4.1 above shall notify the employer, in writing, at least 28 days before the day on which she proposes to return of the date of her intended return if this is before the end of the 26 weeks' maternity leave. Where this notification is not given, the employer can postpone her return for a period of up to 28 days, or until the end of her 26 weeks if this is sooner.

5.4 In the case of a teacher entitled to additional leave under sub-paragraph 4.2 above, she shall notify the employer in writing at least 28 days before the day on which she proposes to return of her intended return if this is before the end of the 52 weeks' maternity leave period.

5.5 Where this notification is not given, the employer can postpone her return for a period of up to 28 days, or until the end of the 52 weeks if this is earlier.

5.6 Where a teacher is unable to return to work at the end of her period of maternity leave due to sickness, the sick pay scheme as set out in Section 4 of the Conditions of Service for School Teachers in England and Wales (the "Burgundy Book") shall apply to such absence.

6. Maternity pay

6.1 Maternity Pay is dependent upon the employees length of continuous service and her national insurance contributions:

- An employee with less than 26 weeks continuous service as at the 15th week before the EWC has no right to contractual or statutory maternity pay during the 26 weeks maternity leave. She may be eligible to receive Maternity Allowance (MA) from the Benefits Agency and should receive form SMP1 from the school's payroll provider to forward to the Benefits Agency.

6.2 Teachers with at least or more than 26 weeks continuous service as a teacher with one or more LEAs, as at the 15th week before the EWC, but with less than 1 years continuous service as at the 11th week before the EWC as a teacher with one or more LEAs, and who earn more than the Lower Earnings Limit and therefore pay NI contributions shall be entitled to Statutory Maternity Pay (SMP) only:

- 6 weeks at 90% of a normal or average week's pay (Higher rate SMP) followed by
- 20 weeks at lower rate Statutory Maternity Pay.

6.3 Payment of salary to a teacher who has completed more than 1 year's continuous service as a teacher with one or more LEAs at the beginning of the 11th week before the EWC shall be in accordance with the provisions set out below and shall be made on the condition that she will be available, or able, to return to work for the required period specified in paragraph 8 below.

6.4 A teacher shall be entitled to maternity pay as follows

- (a) A teacher eligible for Statutory Maternity Pay (SMP) will have the payments made in the first six weeks of absence offset against the payments made under b) and c) below.
- (b) For the first four weeks of absence - full pay, offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP.
- (c) For the next two weeks of absence - 9/10ths of a week's salary, offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP
- (d) For the next 12 weeks of paid absence, half pay without deductions except by the extent to which the combined pay and SMP or MA exceeds full pay
- (e) For the following 8 weeks of absence, SMP only if eligible,
- (f) No pay for any remaining period of absence up to the date of return notified by the teacher.

6.5 In the event of the teacher not being available, or being unable, to return to her job for the required period, she shall refund such sum after the first six weeks' payment as the employer at their discretion may decide. Payments made by way of SMP are not refundable.

7. Subsequent obligations on the teacher

7.1 The teacher's subsequent obligation is to return to her job for at least 13 weeks equivalent to 13 weeks worked prior to commencing maternity leave (including periods of school closure) as a qualifying condition to occupational maternity pay. This requirement may be reduced at the discretion of the employer (see paragraph 8 below for entitlement to pay).

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

7.3 The 13 week period (or part-time equivalent) starts from the date the teacher returns to work or the date during the school holiday on which the teacher is declared medically fit to be available to work.

8. Relationship with sickness

8.1 Maternity leave will not be taken into account for the calculation of the period of entitlement to sickness leave.

9. Definitions

9.1 For the purpose of this scheme, a week's pay shall be treated as the amount payable to the teacher under the current 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.

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

9.3 Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

10. Other absences

10.1 If in the early months of pregnancy a teacher is advised by an approved medical practitioner to absent herself from school because of the risk of rubella, she shall 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.

10.2 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 normally governing such leave provided it is covered by a doctor's statement.

11. Other provisions

Notice provisions for pregnant teachers who do not intend to return to work are set out in paragraph 7 of Section 3 of the "Burgundy Book", as amended. Following a return to work, the normal provisions for termination upon notice in paragraphs 2 and 4 of Section 3 of the "Burgundy Book" shall apply.

12. Superannuation Scheme

12.1 Members of the Teachers' Pension Scheme who decide they will return after the 26 weeks ordinary maternity leave (OML) will pay contributions based on the actual maternity pay received during the first 26 weeks.

12.2 During the period of unpaid maternity leave, the employee has the choice as to whether to continue paying contributions. The employer's contributions will be made all the time the employee is contributing. An employee who resigns at the start of her maternity leave will cease to pay pension contributions on the day on which the termination of her contract of employment takes effect.

12.3 If the teacher intends to take any period of absence unpaid during their maternity leave, it is advisable that they read Teachers' Pensions leaflet 721 "Payment of Combined Contributions during an absence of pensionable employment", available from www.teacherspensions.co.uk.

Teacher Application for Maternity Leave and Pay

Please read the *Notes of Guidance* and the table overleaf, then complete and return the form below to the school office during or before the 15th week before your expected week of childbirth.

Name: _____ Payroll Number: _____
Home Address: _____ _____ _____
School: _____

Expected Week of Childbirth (EWC): _____
The MATB1 certificate is available from your midwife from the 20 th week of pregnancy onwards (<i>please tick</i>)
<input type="checkbox"/> I enclose my MATB1 certificate with this form
<input type="checkbox"/> I will forward my MATB1 certificate to the school as soon as possible and understand that I will not receive any maternity pay until I provide this

Maternity Options: Please circle one option below (Refer to table overleaf)					
Options	A	C	D	F	G
My first date of Maternity Leave is: _____ (I understand this date can be altered and I must give at least 28 days notice of the revised date maternity leave is to commence)					

Keeping in Touch Days	
You are entitled to "keep in touch" with the workplace for up to a maximum of 10 days during your maternity leave without affecting your entitlement to statutory or contractual maternity pay. The exact arrangements for "keeping in touch" must be discussed with your headteacher/line manager.	
<input type="checkbox"/>	I wish to discuss with my headteacher/line manager arrangements for "keeping in touch" days.
<input type="checkbox"/>	I do not wish to discuss arrangements for "keeping in touch" days but reserve the right to discuss this with my headteacher/line manager at a later date during my maternity leave.

Options	B	E	H
I do not intend to return to work and thereby wish to formally terminate my contract of Employment to take effect from (<i>please tick</i>)			
<input type="checkbox"/>	_____ (date)		
<input type="checkbox"/>	The end of my maternity pay period		

Completed form received by Headteacher:	
I confirm that an assessment to identify hazards that could be a risk to any new, expectant, or breastfeeding mothers has been or will be undertaken and I have discussed "keeping in touch" days with the employee if requested.	
Signed: _____	Date: _____
<i>Please return this completed form to EPM as soon as possible to enable a response to be provided to the employee within 28 days of this form being returned to the school office.</i>	
Please return to: EPM Ltd, St John's House, Spitfire Close, Ermine Business Park, Huntingdon, Cambs, PE29 8EP	

To be completed by all Teachers:	
I have read and understand the accompanying <i>Notes of Guidance</i> , which I have retained.	
Signed: _____	Date: _____
NB. If you are intending to take a period of unpaid absence during your maternity leave you should be aware that you will not pay contributions during this period. You are advised to contact Teachers Pensions to seek advice on the effect that a period of unpaid maternity leave will have as well as any options available to enhance your pension www.teacherspensions.co.uk	

TEACHING MATERNITY ENTITLEMENTS

What service do I have ?	What options are available to me?	How much maternity leave am I entitled to?	What maternity pay am I entitled to ?
Less than 26 weeks service (Irrespective of hours worked) as at the 15 th week before the expected week of childbirth.	A I would like to return to work	Up to 52 week's absence in total including up to 11 weeks before the expected week of childbirth	SMP 1 from payroll and apply to the Benefits Agency for Statutory Maternity Allowance
	B I would like to resign	Not applicable	As above
26 weeks or more as at the 15th week before the expected week of childbirth and less than 1 years service as at the 11 th week before the expected week of childbirth (EWC) (Irrespective of hours worked)	C I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP and the remainder unpaid.
	D I would like to keep my options open as I may choose to resign or to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP and the remainder unpaid.
	E I would like to resign	Not applicable	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP
At least 1 years continuous service (Irrespective of hours worked) as at the 11 th week before the expected week of childbirth	F I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth.	4 weeks at full pay and 2 weeks at 90% of full pay, followed by, 12 weeks half pay. You must return to work for a minimum of 13 weeks otherwise the 12 weeks half pay must be repaid. Plus, depending on salary and average earnings:- 33 weeks lower rate SMP to be paid alongside the 12 weeks at half pay
	G I would like to keep my options open as I may choose to resign or to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	4 weeks at full pay and 2 weeks at 90% Plus depending on salary and average earnings:- 33 weeks lower rate SMP and the remainder unpaid. The 12 weeks at half pay will only be paid if you return to work for a minimum of 13 weeks
	H I would like to resign	Not applicable	4 weeks at full pay and 2 weeks at 90% Plus depending on salary and average earnings:- 33 weeks lower rate SMP

SMP - Service for SMP is continuous service with the current employer only and is only payable if employed during the 8 week period 15 weeks before the expected week of childbirth.

III SUPPORT STAFF MATERNITY SCHEME: NOTES OF GUIDANCE AND APPLICATION FORM

1. Introduction

1.1 The provisions of the Maternity Scheme are established in the National Conditions of Service for support staff and apply to all non-teaching staff employed under the National Conditions of Service.

2. Maternity Leave

2.1 All pregnant employees have the right to maternity leave. The length of the leave is determined by the employee's contractual entitlement and length of service:

- All employees with less than 26 weeks' continuous service, full or part-time (regardless of working hours), at the beginning of the 15th week before the Expected Week of Childbirth (EWC) are entitled to 26 weeks leave, subject to compliance with the notification requirements (see below).
- All other employees with more than 26 week's continuous service, full or part-time, at the beginning of the 15th week before the EWC are entitled to a maximum entitlement of 52 weeks (up to 11 weeks before the EWC), subject to compliance with the notification requirements (see below).

2.2 Continuous service refers to any service with a public authority, including Foundation schools, to which the Redundancy Payments Modification Order 1983 applies. Maternity leave can commence up to 11 weeks before the EWC. Employees with less than 26 week's service can be allowed longer than 26 weeks leave without pay in exceptional circumstances at the discretion of the Governing Body. Maternity leave will start automatically if a pregnancy related absence occurs after the beginning of the 4th week before the EWC.

3. Maternity Pay

3.1 Maternity Pay is dependent upon the employees length of continuous service (see 2.2 above) and her national insurance contributions.

- An employee with less than 26 weeks continuous service at the 15th week before the EWC has no right to contractual or statutory maternity pay during the 26 weeks maternity leave. However, she may be eligible for maternity allowance from the Benefits Agency and should receive form SMP1 from the school's payroll provider to forward to them.
- Employees with 26 or more weeks as at the 15th week before the EWC but less than one year's continuous service as at the 11th week before the EWC and who earn more than the lower earnings limit so that they pay NI contributions are entitled to Statutory Maternity Pay:-
 - 6 weeks at 90% of a normal or average week's (higher rate SMP) followed by
 - 20 weeks at lower rate statutory maternity pay
- Employees with 1 year or more continuous service as at the 11th week before the EWC and who earn more than the lower earnings limit so that they pay NI contributions are entitled to statutory and contractual maternity pay:
 - 6 weeks at 90% of a normal or average week's pay (higher rate

Statutory Maternity Pay) followed by

- 12 weeks at 50% of a normal pay plus lower rate Statutory Maternity Pay for a total of 20 weeks. The sum of these two payments must not exceed normal pay. The contractual pay (i.e. the 50% of normal pay) must be refunded by the employee if she does not return for work for at least 13 weeks after her maternity leave.

3.2 Employees who state that they do not intend to return to work, will receive Statutory Maternity Pay plus the first six weeks of contractual maternity pay providing the resignation is effective within 11 weeks prior to the expected week of childbirth, but not the 50% of a normal week's pay for the 12 weeks.

3.3 Normal pay is the amount an employee would normally receive for a week's work at the rate paid when maternity leave starts. Average pay is the average week's pay calculated for a period of 8 weeks up to and including the qualifying week (i.e. 15 weeks before the EWC). Both calculations are made and the highest of the two is paid for the 6 weeks at 90% pay. Please note that the 12 weeks half pay is paid at the normal contractual rate.

3.4 Statutory Maternity Pay is paid by the week on the employee's normal pay day. Therefore monthly paid staff may receive 4 or 5 weeks' pay at one time depending on the calendar month.

4. Right to Return to Work

4.1 The employee has the right to return to the job in which she was employed under her original contract of employment on terms and conditions not less favourable than those which would have been applicable if she had not been absent i.e. the employee should be able to return to the same job, at the same salary and in the same place.

4.2 If it is not practicable for the employee to return to her job because the post has been declared redundant, she should be offered any suitable alternative employment available. If the employee is made redundant, in addition to any redundancy payment, she is entitled to the contractual benefits i.e. 6 weeks at 90% and 12 weeks at 50% pay as if she was returning to work.

5. Notice Requirements

5.1 Employees must comply with the notification procedure set out below.

Notification of pregnancy:

Written notice, stating that the employee is pregnant and the expected week of childbirth, should be provided during or before the 15th week before the EWC. The employer must be informed that the employee is pregnant, of the EWC, and of the date that maternity leave is to commence.

A certificate of pregnancy from a registered medical practitioner or midwife (MAT.BI) should also be provided. However, this is not issued until the 20th week of pregnancy.

Notification of start of maternity leave:

Written notice of when maternity leave is due to start should be provided by the 15th week before the EWC. However, if the employee wishes to change

the date the maternity leave is to commence, the employer must be given at least 28 days written notice of the revised date.

Notification of return:

Employees who are only entitled to the 26 weeks leave do not have to give notice of when they intend to return, unless they intend to return early. The employee will simply return to work at the end of the 26 week leave period. Employees must give 28 days notice if they intend to return to work early from maternity leave.

Employees with the maximum entitlement of 52 weeks leave do not have to give notice of when they intend to return, unless they intend to return early, in which case employees must give at least 28 days notice of when they intend to return.

5.2 An employee cannot return to work less than two weeks after childbirth. If necessary, maternity leave should be extended for a further 2 weeks to allow for this provision.

5.3 An employee can postpone her return to work after the end of the maternity leave period by submitting a doctor's statement, stating that she is incapable of work. In this situation the conditions of the sickness scheme should be applied.

6. Superannuation Scheme

6.1 Members of the Local Government Superannuation Scheme who decide they will return after maternity leave will pay contributions based on the actual maternity pay received during the first 18 weeks.

6.2 During the period of unpaid maternity leave, the employee has the choice as to whether to continue paying contributions. The employer's contributions will be made all the time the employee is contributing. An employee who resigns at the start of her maternity leave will cease to pay superannuation contributions on the day on which the termination of her contract of employment takes effect.

6.3 Further details can normally be obtained from the Pensions Section, Finance and Administration, Octagon 1st floor, Shire Hall, Cambridge.

SUPPORT STAFF MATERNITY ENTITLEMENTS

What service do I have ?	What options are available to me?	How much maternity leave am I entitled to?	What maternity pay am I entitled to ?
Less than 26 weeks service (Irrespective of hours worked) as at the 15 th week before the expected week of childbirth.	A I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth.	SMP 1 from payroll and apply to the Benefits Agency for Statutory Maternity Allowance
	B I would like to resign	Not applicable	As above
26 weeks or more as at the 15th week before the expected week of childbirth and less than 1 years service as at the 11th week before the expected week of childbirth (Irrespective of hours worked)	C I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP and the remainder unpaid.
	D I would like to keep my options open as I may choose to resign or to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP and the remainder unpaid.
	E I would like to resign	Not applicable	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP.
At least 1 years continuous service (Irrespective of hours worked) as at the 11 th week before the expected week of childbirth	F I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth.	6 weeks at 90% of contractual full pay followed by 12 weeks half pay. You must return to work for a minimum of 13 weeks otherwise the 12 weeks half pay must be repaid Plus, depending on salary and average earnings:- 33 weeks lower rate SMP to be paid alongside the 12 weeks at half pay
	G I would like to keep my options open as I may choose to resign or to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings:- 6 weeks at 90% of full pay followed by 33 weeks lower rate SMP and the remainder unpaid. 12 weeks at half pay will only be paid if you return to work for a minimum of 13 weeks
	H I would like to resign	Not applicable	Depending on salary and average earnings:- 6 weeks at 90% of full pay followed by 33 weeks lower rate SMP.

SMP - Service for SMP is continuous service with the current employer only and is only payable if employed during the 8 week period 15 weeks before the expected week of childbirth.

Support Staff Application for Maternity Leave and Pay

Please read the *Notes of Guidance* and the table overleaf, then complete and return the form below to the school office during or before the 15th week before your expected week of childbirth.

Name: _____ Payroll Number: _____
 Home Address: _____

 School: _____

Expected Week of Childbirth (EWC): _____
 The MATB1 certificate is available from your midwife from the 20th week of pregnancy onwards (please tick)

I enclose my MATB1 certificate with this form

I will forward my MATB1 certificate to the school as soon as possible and understand that I will not receive any maternity pay until I provide this.

Maternity Options: Please circle one option below
 (Refer to table overleaf)

Options	A	C	D	F	G
---------	---	---	---	---	---

My first date of Maternity Leave is: _____
 (I understand this date can be altered and I must give at least 28 days notice of the revised date maternity leave is to commence)

Options	B	E	H
---------	---	---	---

I do not intend to return to work and thereby wish to formally terminate my contract of Employment to take effect from (please tick)

_____ (date)

The end of my maternity pay period

Keeping in Touch Days
 You are entitled to "keep in touch" with the workplace for up to a maximum of 10 days during your maternity leave without affecting your entitlement to statutory or contractual maternity pay. The exact arrangements for "keeping in touch" must be discussed with your headteacher/line manager.

I wish to discuss with my headteacher/line manager arrangements for "keeping in touch" days.

I do not wish to discuss arrangements for "keeping in touch" days but reserve the right to discuss this with my headteacher/line manager at a later date during my maternity leave.

To be completed by all Support Staff:
 I have read and understand the accompanying *Notes of Guidance*, which I have retained.

Signed: _____ Date: _____

NB. If you wish to continue to pay pension contributions for any period of unpaid maternity leave please contact the Pensions Section for further information.

Completed form received by Headteacher:
 I confirm that an assessment to identify hazards that could be a risk to any new, expectant, or breastfeeding mothers has been or will be undertaken and I have discussed "keeping in touch" days with the employee if requested.

Signed: _____ Date: _____

Please return this completed form to EPM as soon as possible to enable a response to be provided to the employee within 28 days of this form being returned to the school office.

Please return to:
 EPM Ltd, St John's House, Spitfire Close, Ermine Business Park, Huntingdon, Cambs, PE29 6EP

IV MATERNITY SUPPORT LEAVE

1. Introduction

1.1 A new statutory entitlement takes effect from 6 April 2003 which entitles the child's father, or nominated carer, to up to 2 weeks' leave where the EWC is on or after 6 April 2003. The leave is to be taken before 56 days after the birth of the baby, or placement for adoption.

2. Entitlement to Maternity Support Leave and Pay

2.1 In order to qualify for Maternity Support Leave the employee will be required to have worked continuously for the employer for the 26 weeks leading into the 15th week before the baby is due, be the biological father of the child or the mother's husband or partner and be expected to have responsibility for the child's upbringing.

2.2 The employee will be required to inform the school of their intention to take maternity support leave by the fifteenth week before the baby is expected, unless this is not reasonably practicable. They will need to tell their employers the week the baby is due, whether they wish to take one or two weeks' leave and when they intend to start their leave.

2.3 All employees whose average weekly earnings are above the Lower Earnings Limit (LEL) will be entitled to receive Statutory Paternity Pay (SPP).

2.4 Support staff are entitled to up to 5 days paid leave for a child's father, or the partner or nominated carer of an expectant mother at or around the time of the birth. A nominated carer is the person nominated by the mother as the primary provider of support at or around the time of the birth. If necessary, a copy of the mother's pregnancy certificate, MAT .B 1, can be requested to verify a request for Maternity Support. This provision encompasses the Council's previous paternity leave entitlement. The Governors may wish to consider adopting this provision for teaching staff. For further information on parental leave please see Section N.

2.5 Employees who do not qualify for SPP, or who are normally low-paid, may be able to claim Income Support while on paternity leave. Additional financial support may be available through Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant. Further information is available from the local Job centre Plus office or Social Security office.

V ADOPTION LEAVE AND SUPPORT LEAVE

1. Introduction

1.1 For those who adopt on or after the 6th April 2003, a new right to paid adoption leave may be available to one member of the adopting couple. To qualify for adoption leave an employee must be newly matched with a child for adoption by an approved adoption agency and have worked continuously for their employer for no less than 26 weeks Service as at the 15th week before the EWC.

2. Entitlement to Adoption Leave and Pay

2.1 Adopters will be entitled to up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave - a total of up to 52 weeks leave. Statutory Adoption Pay (SAP) will be paid by employers for up to 26 weeks for those employees whose average weekly earnings exceed the Lower Earnings Limit (LEL).

2.2 Adopters will be required to inform their employers of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. The adopter will be able to change their mind about the date on which they want their leave to start providing they tell their employer at least 28 days in advance (unless this is not reasonably practicable). They will be required to tell their employer the date they expect any payments of SAP to start at least 28 days in advance, unless this is not reasonably practicable.

2.3 The adopting employee will be required to inform their employers when the child is expected to be placed with them and when they want their adoption leave to start. Employers will be required to respond to a request to take adoption leave within 28 days of receiving the notification.

3. Adoption Support leave

3.1 Following the placement of a child for adoption, the new rights to maternity support leave and pay will give eligible employees the right to take paid leave to care for their new child or support the adopter.

3.2 To be entitled to adoption paternity leave and pay the employee will need to have worked continuously for their employer for 26 weeks leading into the week in which the adopter is notified of being matched with a child, be the adopter's spouse or partner, and to have or expect to have responsibility for the child's upbringing.

3.3 Employers can ask their employees to provide a self-certificate as evidence that they meet these eligibility conditions.

3.4 The entitlement to Adoption Support leave and pay is the same as normal Maternity Support Leave, as outlined in Section IV, 2 above.

3.5 The member of staff should be expected to give as much notice as possible of his/her intention, and at least 21 days unless this is not reasonably practicable. The member of staff should indicate a likely date of return at the commencement of the absence and should be required to give a minimum of a week's notice of the actual date of return.

VI FLEXIBLE WORKING

1. Introduction

1.1 From 6th April 2003, the right to apply to work flexibly will apply to mothers and fathers of children aged under 6 years old, or disabled children aged under eighteen, and the employers will have a duty to consider the request.

1.2 To be eligible to apply to work flexibly the employee must have worked with their employer continuously for 26 weeks at the date the application is made, have or expect to have responsibility for the child's upbringing and be making the application to enable them to care for the child. Only one application can be made to the employer in a 12 month period and an accepted application will mean a permanent change to the employee's terms and conditions of employment.

1.3 The employee will be required to submit their request to work flexibly in writing to the employer and the application can be made no later than two weeks before the child's sixth birthday or 18th birthday if the child is disabled. The application must set out the desired working pattern and include an explanation of how the employer could accommodate this request.

2. Scope of Request

2.1 For those employees eligible, an application may request a change to the hours the employee works, a change to the times the employee is required to work, or a request to work from home.

2.2 Applications for a change in working pattern will not always require a significant alteration. For example, a parent may simply wish to start work half an hour later to take their child to school and make up the time later in the day.

3. The Procedure

3.1 Once an application has been received by the employer, within 28 days a meeting will need to be arranged with the employee. The purpose of the meeting will be to explore the desired work pattern in depth, and to discuss how best it might be accommodated. It will also provide an opportunity to consider other alternative working patterns should there be problems in accommodating the desired work pattern outlined in the employee's application. The employee will, if they so wish, be able to bring a companion to the meeting.

3.2 Within 14 days after the date of the meeting the employer will be required to write to the employee to either agree to a new work pattern and a start date or to provide a clear business ground(s) as to why the application cannot be accepted and the reasons why the ground(s) applies in the circumstances.

3.3 If a request to work flexibly is rejected the employer must provide a specific business reason, which must be one of the nine stated in the legislation;

- Burden of additional costs
 - Detrimental effect on the ability to meet customer demand
 - Inability to re-organise work among existing staff
 - Inability to recruit additional staff
 - Detrimental impact on quality
 - Detrimental impact on performance
 - Insufficiency of work during the period the employee proposes to work
 - Planned structural changes
 - Such other ground as the Secretary of State may specify by the regulations.
- The employer will be required to provide an explanation as to why the grounds apply in the particular circumstances.

3.4 An employee will have the right to appeal to the Governors Appeal Panel against the Headteachers' decision within 14 days of the outcome being notified to him/her in writing. The appeal process should be in keeping with the overall aim of the right of encouraging both parties to reach a satisfactory outcome at the workplace.