

Maternity Provisions for Teaching Staff



March 2008

MATERNITY PROVISIONS

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1 INTRODUCTION

Congratulations on your pregnancy.

The information in this maternity pack should answer most of your queries concerning your position at work both before and after the birth of your baby. Please refer to the contents page as some sections may not be of interest to you.

The rules and regulations about entitlements to maternity leave and pay are quite complex and you are encouraged to talk to People Services (Schools Team), as early as possible in your pregnancy so that you are very clear about your own position.

You are, of course, welcome to contact People Services (Schools Team) at any stage before or after the birth of your baby should you have a problem or a query. They will do their very best to help in whatever way they can. You are also encouraged to keep in contact with your Headteacher (or, in the case of peripatetic teams, with your Head of Centre) throughout your maternity leave.

Details on Paternity and Maternity Support Leave for Teachers can be found in the 'Leave of Absence Policy for School Staff'.

Contact Details:

People Services (Schools Team),
Human Resources
Saxon Court
502 Avebury Boulevard
Central Milton Keynes
MK9 3HS

Telephone: 01908 253644
Fax: 01908 253872

2 PROCEDURES

2.1 What must I do before the start of my maternity leave?

The first thing you must do is tell your Headteacher that you are pregnant indicating your expected week of childbirth (EWC) and when you intend to start your maternity leave. You should do this as soon as reasonably practicable but not later than **15 weeks** before the EWC.

Failure to give the required notification within the specified time limits may result in the loss of your rights.

It will generally be for you to choose when to start your maternity leave period. You must continue to work (unless you are sick or on annual leave) until at least 11 weeks before the week your baby is due. This is the earliest date your maternity leave or pay can start, although you can continue to work until nearer the birth provided your doctor will agree to this.

If you are sick because of your pregnancy, and there are fewer than 4 weeks before the baby is due, you will be deemed to have started your maternity leave.

2.2 How do I make an application?

You must complete the application for Maternity Pay and Maternity Leave form (Appendix C) and return it, via your Headteacher, to People Services (Schools Team), Human Resources, Saxon Court, 502 Avebury Boulevard, Milton Keynes MK9 3HS. Within 28 days you will receive a letter confirming your maternity leave entitlement, your chosen date for commencing maternity leave as well as the date on which you will be expected to return to work.

If you wish to change the date on which you start your maternity leave, you must give us 28 days notice and confirmation of the revision will be sent to you.

If you are entitled to apply for Statutory Maternity Pay you should complete the form even if you do not intend to return to work. If you have decided not to return to work you should notify your Headteacher as soon as possible.

Shortly after you have reached 26 weeks of your pregnancy, your General Practitioner or Midwife will issue you with a Certificate of Expected Childbirth known as a **Mat B1 form**. This document confirms your pregnancy and is authorisation for us to pay Statutory Maternity Pay (SMP) if applicable. You must forward the original document, via your Headteacher, to your Payroll Department and send a photocopy to People Services (Schools Team).

2.3 What must I do following the birth of my baby?

If you intend to return to work on the date specified by People Services (Schools Team), (which will be a full 52 weeks after you commenced your maternity leave) then you need do nothing more. Although clearly it is always advisable to keep in touch with your Headteacher and work colleagues.

However, if you wish to return to work at an earlier date then you need to write to your Headteacher to provide them with sufficient notice. Where possible you should provide the school with the full statutory notice period of **8 weeks** to allow the school sufficient time to plan for your return, especially if your post is being covered on a temporary basis. As a minimum you should give the school 21 days notice of the revised date for your return (this is the contractual notice required under the burgundy book).

In many instances a teacher will have discussed and agreed a return date with the Headteacher prior to commencing maternity leave. This date should be confirmed in writing to the Headteacher and any subsequent revision to this agreed date must be notified within the timescales above.

The above are your statutory obligations. However, again it would be helpful if you could keep in touch so that the school can properly plan for your return.

You may return to work at any time during the period of your entitlement so long as you provide the required notice. However, you must take a two week compulsory leave period after childbirth and you must be medically fit to return to work.

In the event of sickness you may postpone your return after the end of the maternity leave period as long as you submit a doctor's statement stating that you will be incapable of work before the notified date of return. The sickness scheme shall apply to such absence.

2.4 What is my entitlement to time off for ante-natal care?

All pregnant staff, regardless of their length of service, are entitled to time off with pay for ante-natal care throughout their pregnancy. This will cover all ante-natal appointments with your General Practitioner, your clinic and the hospital. You must tell your Headteacher in advance the dates of your appointments and you may be asked to show your clinic/appointment card as proof of your appointment dates.

3 ENTITLEMENTS TO MATERNITY LEAVE AND MATERNITY PAY

Maternity leave and maternity pay are two separate entitlements.

3.1 MATERNITY LEAVE - what am I entitled to?

All pregnant employees, irrespective of length of service or hours of work, are entitled to **52 weeks' maternity leave** with the right to return to work. Maternity leave is a single continuous period made up of 26 weeks' Ordinary Maternity Leave (OML) immediately followed by a further 26 weeks' Additional Maternity Leave (AML).

The earliest you may start your maternity leave is at the 11th week before the expected week of childbirth.

3.2 MATERNITY PAY - how much am I entitled to?

In order to qualify for Statutory Maternity Pay, you must have completed at least 26 weeks' service with your current employer by the 15th week before the Expected week of Childbirth and have earnings at or above the lower earnings limit. Pregnant employees meeting these conditions are entitled to up to 39 weeks' Statutory Maternity Pay (SMP).

➤ **Employees with less than 26 weeks' service:**

You will not qualify for SMP from your employer. However, the payroll department will issue you with a SMP1 form so that you may apply to the JobCentre Plus Office for Maternity Allowance. This does not affect your right to maternity leave as outlined above.

➤ **Employees with at least 26 weeks' service but less than one year's continuous local government service:**

You are entitled to 39 weeks Statutory Maternity Pay (SMP) if you have completed 26 weeks continuous service by the 15th week before the Expected Week of Childbirth and have earnings at or above the lower earnings limit.

If you qualify for SMP you will receive:

- 90% of your weekly earnings for the first 6 weeks of maternity leave and
- the standard rate of SMP for the remaining 33 weeks.

Note: Statutory Maternity Pay is payable irrespective of whether or not you return to work.

➤ **Employees with at least one year's continuous service:**

If you have completed one year's continuous service by the 11th week before the Expected Week of Childbirth then you are eligible for enhanced maternity pay:

- First 4 weeks at Full Pay (inclusive of SMP)
- Next 2 weeks at 90% of weekly earnings (inclusive of SMP)
- Next 12 weeks at half pay plus standard rate SMP without deduction, except by the extent to which combined pay and SMP (or Maternity Allowance) exceeds full pay.
- 21 weeks at standard rate SMP.

Note: The 12 weeks at half pay is paid on the understanding that you return to the job that you left before you went on maternity leave (at the same school) for a period of at least thirteen weeks including periods of school closure. If you decide not to return to your job for this required period, you will have to repay this amount.

If a full time teacher returns to work on a part time basis, she must complete a period of service which equates to 13 weeks relative to the full time job that she left before she went on maternity leave. Similarly, if a part time teacher returns to work on a different part time basis, she must complete the period of service which equates to 13 weeks relative to her previous contract.

The above requirements may be varied at the discretion of the Headteacher in conjunction with the Human Resources Adviser. For example, consideration may be given to waiving this requirement if a teacher was unable to return as a result of being made redundant.

4. KEEPING IN TOUCH

- 4.1 'Keeping In Touch' days allows you to carry out work for the school for up to 10 days during your maternity leave. Your Headteacher is not obliged to offer the work and you don't have to accept it, but in some cases it may be a good opportunity to maintain your professional involvement during your maternity leave. You will need to discuss and agree any such arrangements, including payment, directly with your Headteacher. It is the expectation that payment for a keeping in touch day will be based on your normal salary.
- 4.2 The regulations also allow for employers to make 'reasonable contact' with an employee whilst they are on maternity leave for a number of reasons, such as to discuss arrangements for her return to work. In the same way an employee may make contact with their employer. The nature of contact will depend on a number of factors, such as the nature of your work, any agreement you might have reached before maternity leave began as to contact; and whether either of you needs to communicate important information. The contact between you and your headteacher can be made in any way that best suits you both, for example it could be by telephone , e-mail, letter or face to face.

5. QUESTIONS AND ANSWERS

This section covers any other queries that you might have which have not already been answered.

Obviously it cannot cover every possible query arising from pregnancy and maternity rights, so if your query is still unanswered, please contact the school's Human Resources provider for advice.

What happens if I am absent due to sickness when I am pregnant?

You follow the normal rules on sickness absence up until the fourth week before your baby is due. If you work beyond the fourth week, and you become ill due to pregnancy, you will be considered to be starting your maternity leave. If your illness is unrelated to your pregnancy (e.g. cold) you follow the normal rules on sickness absence.

What happens if I work beyond 11 weeks before the birth?

It is for you to decide when you wish to start your maternity leave period after the 11th week before the expected week of childbirth. There is no penalty on your maternity pay or leave entitlement if you work beyond this point.

You may be asked to see the Occupational Health Physician to confirm that you are fit to continue working beyond 11 weeks before your Expected Date of Childbirth.

What about my pension contributions during maternity leave?

If you are a member of the Teachers' Pension Scheme and receiving contractual or statutory maternity pay, pension deductions will be based on the pay you receive and you will be credited with full service for superannuation purposes. Any period of unpaid maternity leave will not be counted as pensionable service.

What happens if my baby is born late or early?

The actual date your baby arrives does not affect the amount of paid maternity leave to which you are entitled.

What should I do if I decide I no longer want to come back?

Let your Headteacher and People Services (Schools Team) know **as soon as possible**.

If you have more than one year's service, you will have to repay the 12 weeks' pay at half pay only (but **not** the Statutory Maternity Pay). Therefore the earliest you let us know, the easier it may be to arrange repayment.

What if I am sick at the end of the maternity leave period?

Provided that you are covered by a doctor's medical certificate, you can defer the actual date of return in accordance with the normal rules on sickness absence.

What if I am unable to return at the end of the maternity leave period?

If the reason for your inability to return is not sickness, you may have lost the right to your job and your contract may be terminated.

If there is any likelihood that you will be in this situation, you are advised to seek advice as early as possible from your Human Resources Adviser.

Can I come back to work part-time?

If you think you may want to come back to work part-time, you should discuss this with your Headteacher **before** you go on maternity leave, or at the earliest possible opportunity. Your request should be made and fully considered under the statutory

rules on flexible working, however your application may not be granted where sufficient reason for not doing so exists.

It would need to be agreed whether part-time or job share is appropriate for your job. If it is not, you may be offered a part time post elsewhere, although there is no guarantee that a suitable alternative may be available.

The criteria on whether it is feasible for your post to be a job share will depend on operational requirements including:

- the nature of the job – whether it is feasible to share the duties of the job;
- the pattern of work required for the job and requested by the job holder.

What happens about my contractual maternity pay if I return to work part time

If you return to work on a job share or part time basis, having worked full time, you will be required to work for a period which equates to 13 weeks of full time to ensure that enhanced maternity pay cannot be reclaimed. Please refer to the section on Maternity Pay.

What happens if I become pregnant again before I am back at work for a year?

Your entitlement to maternity pay for a second pregnancy will be based on your total service and any previous maternity leave, paid or unpaid is counted as continuous service.

How long do I have to return to work to keep my maternity pay?

You must return to the job that you left before you went on maternity leave for at least thirteen weeks to avoid paying back your 12 weeks at half pay (refer to the section on Maternity Pay for full details). Statutory Maternity Pay is payable irrespective of whether you return to work or not.

What if I am concerned about health risks connected to my job?

Any concerns should be raised with your Headteacher in the first instance who may seek advice from the school's Occupational Health or Human Resources Adviser.

Your Headteacher can also carry out a risk assessment of your role. Further advice on conducting the risk assessment and a risk assessment form can be obtained from the school's Human Resources Adviser or the MKC Corporate Health and Safety team via the intranet (community schools only).

What happens if I have a miscarriage?

If the baby dies before the end of the 24th week of pregnancy you will be regarded as being on sick leave, and will need to provide a doctor's certificate for any absences of eight days or over.

What if there is a risk of rubella while I am pregnant?

If in the early months of pregnancy you are advised by your GP to absent yourself from your place of work because of the risk of rubella, you will be granted full pay, provided that you do not unreasonably refuse to serve in another location/school where there is no such undue risk.

What happens if my baby dies?

Should this happen after 24 weeks of pregnancy, and your baby is still-born, or dies soon after, you are entitled to take the full amount of maternity leave and pay.

What happens if my job is made redundant or there is a re-organisation while I am on maternity leave?

Where it is not practicable for you to return to your existing job because of redundancy or in other exceptional circumstances such as a re-organisation, you will be offered a suitable alternative vacancy, where one exists, provided that the work to be done in that post is suitable for you and appropriate to the circumstances, and that the capacity, place and terms and conditions of employment are not substantially less favourable than your current job. Your Headteacher and Human Resources Adviser will contact you if there is any likelihood of a redundancy or re-organisation situation arising.

How does maternity leave count for continuity of service?

Continuity of service for the purposes of superannuation will remain as long as contributions are paid. The full period of maternity leave shall be regarded as continuous service.

If I do not return to work, what is my termination date?

If you have notified the school in writing that you do not intend to return to work after childbirth, your employment will be terminated on the last day you worked under your contract of employment.

If, during maternity leave, you decide you are not going to return to work, your employment will be terminated from the date you notify the school of your decision.

Can my partner and I request shared maternity leave?

Where both parents are employees of the school, consideration will be given to shared maternity leave. Requests for shared leave will be subject to the agreement of the Headteacher concerned and both parents will not be allowed to take 'maternity' leave at the same time. Only the period of unpaid leave is included in this scheme.

Requests should be submitted as soon as possible and **before** the commencement of paid maternity leave.

For superannuation purposes, male employees taking shared 'maternity' leave will be required to make superannuation payments for the first 30 days leave in order to retain their entitlement under the scheme. Further details are available from your Human Resources Adviser.

Similarly, either parent may apply for unpaid Parental Leave at any time up until the child reaches 5 years of age, provided the appropriate notice is given.

What is my entitlement to maternity leave and pay if I am on a fixed term contract which expires whilst I am on maternity leave?

In order to qualify for Statutory Maternity Pay you must have completed at least 26 weeks' service with your current employer by the 15th week before the Expected Week of Childbirth (EWC) and have earnings at or above the lower earnings limit. Pregnant employees meeting these conditions are entitled to up to 39 weeks Statutory Maternity Pay (SMP).

If your employment terminates before the beginning of the 15th week before the Expected Week of Confinement (EWC), you will not be entitled to receive any Statutory Maternity Pay (SMP).

Once you qualify for SMP as per the paragraph above, you will be entitled to receive Statutory Maternity Pay (SMP) for 39 weeks although your employment will end on the date the contract terminates.

Under the Burgundy Book the Occupational maternity pay scheme is based on length of continuous service. Entitlement to the half pay element of maternity pay is also dependent on returning to the same job for 13 weeks after the end of the period of maternity leave. If your contract expires before you can fulfill this condition, you will not be entitled to the half pay element of the maternity pay.

Do I accrue annual leave under the Working Time Directive whilst on maternity leave?

Teachers do not have a contractual entitlement to annual leave but do have a statutory entitlement to leave under the Working Time Directive of 24 days per year (4.8 weeks) increasing to 28 days (5.6 weeks) from 1 April 2009. **This is not an additional entitlement to annual leave on top of the current school closure arrangements.**

The leave year for teachers starts on 1 September and ends on 31 August.

For a teacher on maternity leave this means she must be able to take the 24 days statutory annual leave at a time outside of her maternity leave. However it is offset by any period of school closure that has taken place in the leave year in question (either before or after the maternity leave period).

In practice this means that in the majority of cases the teacher will already have received their leave entitlement in the periods of school closure before or after the maternity leave (see example below).

Example: The teacher starts maternity leave on 1 October and takes OML only.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
		OML	OML	OML	OML	OML	OML					
School Closures		1 wk		2 wks Xmas		1 wk		2 wks** Easter	1 wk		2 wks	4wks

** Easter falls in March or April

The teacher will benefit from up to 9 weeks of closure during Easter, July and August so there will be no additional entitlement to annual leave.

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 may carry over any remaining leave to the following leave year. The leave will be taken during the remaining periods of school closure after the 24 days' annual leave for that leave year has been accommodated.

If you have any questions regarding leave entitlement under the Working Time Directive you should contact People Services (Schools Team).

Timetable

Date	Action
Expected Week of Childbirth (EWC) Insert Date:.....	The expected week of childbirth is the week, beginning Sunday, in which it is expected you will have your baby.
The 15 th week before my Expected Week of Childbirth Insert Date:.....	At least 15 weeks before your EWC, notify your Headteacher that you are pregnant and the expected week of child birth. You also need to specify the date on which you intend to start your maternity leave. Ensure that the form MAT B1 is received from the GP or Midwife and handed to your Head Teacher.
11 weeks before the expected week of childbirth Insert Date:.....	This is the earliest you may start your period of maternity leave.
4 weeks before the expected week of childbirth Insert Date:.....	From this week if you are on sick leave because of a pregnancy related condition, you will automatically start your period of maternity leave.
Start of Maternity Leave Insert Date:.....	You may start your maternity leave any time from the 11 th week before your baby is due onwards
End of Statutory Maternity Pay (SMP) Insert Date:.....	If eligible, you will receive SMP for a total of 39 weeks; the remaining 13 weeks of your maternity leave will be unpaid. <u>If you decide to return to work when your entitlement to SMP ends, you must ensure that you provide your Headteacher with notice, as set out in section 2.3 above.</u>
End of Maternity Leave Insert Date.....	You are entitled to 52 weeks Maternity Leave and you will be expected to return to work on the day immediately after this period expires. If you wish to return earlier, <u>you will need to give the appropriate notice.</u>
Intended date of return to work Insert Date:..... <i>If returning earlier than 52 weeks, Latest date for Notice to Headteacher is</i> (8 weeks prior to return)	If you wish to return earlier than the end of the normal 52 week period, you should give the school the statutory 8 weeks' notice wherever possible (as a minimum you are required to give 21 days notice, see section 2.3). If you are unable to return to work, because you are sick, you should contact your Headteacher in the usual way and provide a medical statement. Your period of sick leave will start on the intended date of return.

APPLICATION FOR MATERNITY LEAVE AND/OR MATERNITY PAY

Please complete this form and return it to People Services (Schools Team), Human Resources, Saxon Court, 502 Avebury Boulevard, Milton Keynes MK9 3HS.

Full Name

Address

.....

.....

Place of Employment:

Payroll Reference No.
(see payslip)

My baby is due in the week beginning: Sunday

The MATB1 form confirming this: is enclosed will be given to you shortly

I intend to start my maternity leave on:

and I apply for 39 weeks SMP*

**If you do not qualify for Statutory Maternity Pay because you have less than 26 weeks employment or insufficient earnings, etc. you will be issued with a form SMP1 which will entitle you to apply for State Maternity Allowance from the JobCentre Plus Office, if applicable,*

If you intend to return to work following maternity leave and have at least 1 year's service, please complete the following section regarding Contractual Maternity Pay:

It is my intention to return to work (at the same school) for at least 13 weeks and therefore I am applying for 12 weeks half pay in addition to Statutory Maternity Pay. I accept that if I am unable to return to work for at least 13 weeks I will have to repay the half-pay element of the maternity pay.

You have a choice regarding the payment of Contractual Maternity Pay.
Please tick one of the options below:

A. I would like the 12 weeks half pay paid in full as it becomes due

B. I would like the half pay to be paid when I return to work

Option B should be ticked by those not absolutely sure as to whether or not they will be returning for the required 13 weeks.

Signed

Date