

Royal Wootton Bassett Academy Trust Teachers Maternity Guidance

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Introduction

The following guidance outlines the effect of the statutory provision of Maternity Leave and Maternity Pay which are set out in the Work and Families Act 2006, the Employment Rights Act 1996 and other associated regulations. There are qualifying conditions for Maternity Pay and entitlement to Maternity Leave does not automatically give entitlement to Maternity Pay.

1. Maternity Leave

All pregnant employees are entitled to take up to one year's maternity leave made up of:

Ordinary Maternity Leave (OML)

You are entitled to 26 weeks' Ordinary Maternity Leave (OML), during which time your contract continues and they will continue to receive your contractual benefits (except pay).

This period is counted as continuous service for calculation of statutory employment rights, pension rights and other contractual payments relating to your length of service. This means that this period is included in the calculation of entitlement to sick pay.

If there has been a re-grading or pay award applied to your post during the period you were on OML then you are entitled to receive these benefits as if you hadn't been away.

At the end of OML you are entitled to return to the same job on the same terms and conditions (unless there has been a redundancy situation).

Additional Maternity Leave (AML)

You are entitled to 26 weeks' Additional Maternity Leave (as well as the Ordinary Maternity Leave). It will start immediately after the Ordinary Maternity Leave ends, i.e. there cannot be a gap between the OML and the AML.

At the end of AML you are entitled to return to the same job on the same terms and conditions unless there is some reason, other than redundancy, why this is not reasonably practicable, in which case you are entitled to be offered suitable alternative work.

Note: a suitable alternative job should be suitable and appropriate to the circumstances, capacity and place in which you are to be employed, with no less favourable terms and conditions of employment.

Compulsory Maternity Leave

You are not allowed to work for the two weeks following the birth of your baby.

Starting Maternity Leave

You can choose to start maternity leave any time from 11 weeks before the Expected Week of Childbirth right up the birth itself.

Sickness prior to taking Maternity Leave

If you are absent from work for a pregnancy related reason after the fourth week before the Expected Week of Childbirth, but before the date which you have notified as the intended start date for maternity leave the maternity leave will automatically begin on the day after the first day of your absence.

Contact during maternity leave

During the maternity leave period, reasonable contact may be made with you. The frequency and nature of the contact will depend on a number of factors including the nature of your post, what has been agreed and what important information arises. You should be informed of promotion opportunities and other information relating to your job that you would normally be made aware of if you were working. What constitutes "reasonable" will depend on the circumstances.

2. Maternity Pay

Maternity Pay takes several forms:

Statutory Maternity Pay (SMP)

Higher rate: 90% of your salary.

Lower rate: Reviewed annually, with effect from 2 April 2017 (currently £145.18 per week provided you earn more than this, otherwise it will remain at 90% of salary).

To qualify for Statutory Maternity Pay you have to fulfill certain conditions based on length of service (see below) and have earnings above the lower limit for NI contributions. Where you do not qualify for SMP you may qualify for Maternity Allowance if sufficient NI contributions have been paid.

Maternity Allowance (MA)

This is paid by The Department for Work and Pensions/Job Centre Plus to women who qualify, but do not qualify for SMP. It is based on recent employment and earnings record. Advice can be obtained from your local Department of Work and Pensions.

Occupational Half Pay (OHP)

You may also be entitled to OHP (see below) for which you will have to fulfill certain criteria, and which is conditional on a return to work at the same school for the equivalent of 13 weeks at the end of maternity leave. You can elect to receive this either after the first 6 weeks' SMP or MA (and concurrent with the lower rate SMP), or when you return to work at the end of maternity leave. If you do not return to work, you will be required to refund any overpayments (excluding the statutory maternity pay element).

Occupational Maternity Pay lasts for 18 weeks and is paid at

- Full pay for the first 4 weeks of maternity leave, if eligible this includes entitlement to statutory maternity pay.
- 90% of weekly pay for next 2 weeks, if eligible this includes entitlement to statutory maternity pay.
- Half pay for the next 12 weeks. If eligible entitlement to statutory maternity pay is paid on top of this amount, providing half pay plus SMP does not equal more than full pay.

If you are not sure whether you will return to work, you can ask for the half pay to be withheld until you have made a decision.

Entitlement to Statutory Maternity Pay

Detailed below are entitlements to pay, conditional upon length of service at the end of the Qualifying Week i.e. **at the end of the 15th week before the EWC**, and having earnings above the lower earnings limit for NI.

Continuous service

Previous service within the same Local Authority (LA) will count towards continuous service for SMP entitlements. Service gained with other LAs will also count.

A) Less than 26 weeks' continuous service as a Teacher with your Current Employer by the end of the Qualifying Week and less than one year's continuous service with one or more LAs at the beginning of the 11th week before the EWC:

No entitlement to Statutory Maternity Pay (SMP) or Occupational Half Pay (OHP). Maternity Allowance (MA) may be available (see above).

B) Less than 26 weeks' continuous service as a Teacher with your Current Employer by the end of the Qualifying Week and at least one year's continuous service with one or more LAs at the beginning of the 11th week before the EWC:

No entitlement to SMP but possible entitlement to MA. Entitled to OHP:
4 weeks at full pay (inclusive of MA if eligible);
followed by 2 weeks at 90% of week's salary (inclusive of MA if eligible);
followed by 12 weeks at OHP plus MA if eligible;
followed by 21 weeks of MA if eligible.

C) At least 26 weeks' continuous service as a teacher with your Current Employer by the end of the Qualifying Week, but less than one year's continuous service with one or more LAs at the beginning of the 11th week before the EWC:

6 weeks at higher rate SMP;
followed by 33 weeks at lower rate SMP.

D) At least 26 weeks' continuous service as a Teacher with your Current Employer by the end of the Qualifying Week and at least one year's continuous service with one or more LAs at the beginning of the 11th week before the EWC:

4 weeks at full pay (inclusive of higher rate SMP);
followed by 2 weeks at higher rate SMP;
followed by 12 weeks at OHP, plus lower rate SMP;

followed by 21 weeks at lower rate SMP.

Early Childbirth

If Childbirth occurs before the expected date of childbirth and you have not already started maternity leave, maternity pay will start automatically the day after the birth.

Pension Contributions

Where you are a member of the Teacher's Pension Scheme, pension contributions will continue to be deducted during paid maternity leave. Contributions will be based on the actual remuneration (including SMP) that you receive.

During the unpaid period of maternity leave you may choose to pay pension contributions. Employees wishing to do so should contact Teachers' Pension (Membership Section), 11b Lingfield Point, Darlington, DL1 1AX. Telephone 0345 6066166, Minicom 0345 6099899 or fax 01325 745789.

If pension contributions are not paid during the unpaid period of maternity leave, this period will not count as service for pension calculation purposes.

3. *What to do to receive Maternity Benefits*

You must inform your Headteacher that you are pregnant (see attached notification form which should be given to HR once completed) and you must let them have documentation showing that antenatal appointments have been made so that you can attend them.

This means that **at least 15 weeks before the expected week of childbirth (EWC)** you must tell your head teacher:

- That you are taking maternity leave
- The expected date of birth of your child
- You must also provide them with a completed MATB1 certificate

Within 28 days of receipt of that notification you will be notified of the expected date of return.

You may change the date you wish to start your leave as long as you give 28 days' notice in writing to the Headteacher via HR.

Should you wish to start your maternity leave before the notified date because:

1. You have given birth before the notified date, your maternity leave period automatically starts on the day after the day of the birth. You must notify the employer, through the Headteacher/HR, as soon as is reasonably practicable of the date of the birth.

2. You are absent from work due to a pregnancy related reason after the beginning of the fourth week before the Expected Week of Childbirth, but before the date that you have notified, your

maternity leave period begins automatically on the day after the first day of absence. You must notify the employer through the Headteacher/HR, in writing, that you are absent **wholly or partly because of pregnancy** and of the date that your absence began for that reason as soon as is reasonably practicable.

4. *Return to Work*

At the end of maternity leave entitlement.

If you take the full year's maternity leave you do not have to give any further notification that you will be returning to work provided you return on the date notified by your employer (as detailed in your maternity letter).

Before the end of maternity leave entitlement.

If you wish to return before the end of your maternity leave period (as notified) you must give the Headteacher via HR at least 21 days' notice in writing. If you do not do this the Headteacher can delay the return until 21 days' notice has been received, or until the end of the maternity leave period (as notified) if that is earlier than 21 days.

If the employee decides not to return to work

You must give the normal contractual notice.

5. *Other entitlements/conditions*

Antenatal Care

Regardless of length of service you are entitled to time off for antenatal care paid at your normal rate of pay. You must provide evidence of the appointments. Antenatal care may include relaxation and parent craft classes, as well as medical examinations.

Ante Natal Appointments

From 1 October 2014, expectant fathers, or the partner of a pregnant woman, will be entitled to take paid time off work to attend up to two antenatal appointments with their partner.

The leave is designed for a person who has a relationship with the pregnant woman or her unborn child. Employees are entitled to time off to accompany an expectant mother to her ante-natal appointments if they are:

- a) the baby's father;
- b) the expectant mother's spouse, her civil partner, or partner (of either sex) in an enduring relationship; or
- c) intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of that child.

There is no qualifying period for employees. This is a “day one” right.

Extra time can be taken from annual leave.

Statutory Sick Pay (SSP)

You cannot receive sick pay throughout the whole of the 39 week period of entitlement to SMP. This rule applies even if you return to work during the 39 week period and then become ill before the end of it. You can go back to receiving SMP (or MA) if this happens. The SSP allowance will be considered afresh at the end of the 39 week period.

Fixed Term Contracts

The same maternity rights apply to those employees employed on a fixed term or temporary contract of employment.

If your fixed term or temporary contract ends before the qualifying week (15th week before the week the baby is due) you will not be entitled to receive SMP from the school, but you may be entitled to receive MA from your local JobCentre Plus.

If your fixed term or temporary contract ends during or after the qualifying week you will still be entitled, if eligible, to receive SMP from the school (provided you do not start working for a new employer during your maternity pay period, if you do, you will lose your entitlement to SMP from the school).

If your fixed term or temporary contract ends during your maternity leave and whilst you are in receipt of Occupational Maternity Pay (OMP), your OMP will stop when your contract is terminated. As the contract has been terminated, you will obviously not have the right to return to work at the end of your maternity leave.

Parental Leave

This a right for parents to take time off work to look after a child or make arrangements for the child's welfare. You must have 1 year's continuous services to qualify for this provision.

Parents are able to take 18 weeks' unpaid parental leave up to child's 18th birthday.

Adoptive/Foster parents are able to take parental leave up to the 5th anniversary of the date of placement, or the child's 18th birthday if this is earlier. Parents of disabled children are able to take 18 weeks' unpaid parental leave up to child's 18th birthday.

Shared Parental Leave

Additional Paternity Leave will be replaced by Shared Maternity Leave with effect from 5 April 2015. Please see the separate Shared Maternity Leave Policy.

Right to request Flexible Working Hours

If you have worked for your employer continuously for 26 weeks you can request:

- a change in hours;

- a change in the times you are required to work;
- to work from home.

provided the reason is to enable you to care for your child. (please see flexible working application and policy).

You must do this in writing to the Headteacher/HR (via the application form), setting out the working pattern requested and how it would work. A flexible working application can take up to fourteen weeks before a final decision is made. Therefore, please contact the school with your request as soon as possible to ensure enough time is available for your Headteacher to consider your proposals and make any necessary arrangements for your return.

Please refer to the Guidance on Flexible Working Applications document for further details.

Childcare Voucher Scheme

Childcare vouchers are a Government-led initiative designed to support working parents with their childcare costs. The childcare vouchers you order can be used in exchange for all types of registered or approved care. Childcare vouchers work by you registering on a form which alters the terms and conditions of your employment allowing your employer to supply part of your salary as vouchers. It is the employee's responsibility to stop their childcare vouchers whilst on maternity / adoption leave before they go onto statutory pay.

Please see your HR office for further guidance.

Keeping in Touch Days (KIT days)

It is important that you and the school maintain contact during the maternity leave. Should you and the Trust wish it you can do up to 10 days' work for the Academy during the maternity leave period. This cannot be during the two weeks' compulsory maternity leave period. These need not be limited to teaching days, but could be used e.g. for Training or Inset days.

You cannot be required to take up Keeping in Touch Days; it is up to you to choose. Neither does the employer have to offer them to you. You and the Headteacher must both agree that you will work these days and what you will be doing. Payment will be made at the usual hourly pay rate (full time equivalent salary divided by 1265 contractual hours per year) for the hours worked and will be offset against any SMP paid for these days.

Accrual of Annual Leave

Teachers do not have a contractual entitlement to paid annual leave. Locally it has been agreed that teachers' leave year runs from 1 September to 31 August. However, teachers are entitled to 28 days statutory annual leave under the working time directive. Therefore you are entitled to take the 28 days statutory leave in addition to any maternity leave. **This is not an additional entitlement on top of the current school holidays.**

Statutory annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question. i.e. both before and after your maternity leave period. On your

return from maternity leave you are entitled to take any outstanding leave during term time, if there have been insufficient school closures to accommodate your leave entitlement in that leave year. The number of instances when a teacher is unable to take their leave entitlement in school holidays will be exceptionally rare.

If you return from maternity leave so near to the end of the leave year that you cannot take your leave, then you are allowed to carry this leave over to the following leave year. You will be required to take your carried over leave during the school holidays.

6. *Health and Safety Provisions*

Introduction

Employees who are pregnant or recent mothers are covered by Health & Safety provisions, additional to those that apply to other employees (Management of Health & Safety at Work 1999, Regulations 16, 17 and 18).

This additional protection applies from the time that you notify the Headteacher that you are pregnant until 6 months from the date of the birth of the child, or until you stop breastfeeding, whichever is the later date.

Risk Assessment

Risk Assessments must be undertaken by the senior staff with your involvement as soon as you have notified your employer that you are pregnant and immediately upon your return to work from maternity leave. Such assessments must address additional or increased risks that may exist and instigate safety precautions. Risk Assessments should be kept under review whilst you are working.

7. *Problems arising during pregnancy*

Although the majority of pregnancies progress without any problems, premature births, miscarriages or very rarely stillbirth do occur from time to time.

The following information provides guidance should any of these circumstances arise.

Premature Birth

The premature birth of a baby can be a difficult time for employees who are either the parents or close relatives. Time off for the mother will be in accordance with the Maternity Policy with maternity leave commencing the day after the birth of the baby.

Request for time off from other family members will only affect a small proportion of employees at any one time. It is nonetheless important to handle each case with sensitivity. Leave for this purpose should be considered in accordance with the Trust's policy for dealing with requests for special leave. Flexible working options could also be considered.

Miscarriage and Stillbirth.

The miscarriage or stillbirth of a baby, regardless of when it occurs is bereavement and the employee may experience a variety of emotions. They will require understanding from the Trust management and colleagues.

The stillbirth or death of a baby before the 24th week of pregnancy is classed as a miscarriage and any absence following the miscarriage would need to be covered by a sickness certificate if the employee is absent for more than 7 calendar days.

A stillbirth from the 24th week of pregnancy onwards is classed as a 'birth' and the full provisions of the maternity scheme in terms of pay and leave will apply. In these circumstances advice can be obtained from the Payroll department.

If the baby dies after being born employee's still qualify for the full provisions of the maternity scheme in terms of pay and leave.

Mindful Employer Employee Assistant Programme can be contacted for support on 0300 555 600.

8. *Maternity and Unfair Dismissal Provisions*

All employees are protected against unfair dismissal for reasons of pregnancy or childbirth, regardless of hours worked or length of service. There are specific guidelines relating to this area, which must be followed.