



## Occupational Maternity Scheme – Support Staff

<b>Policy lead:</b>	<b>Director of Human Resources</b>
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## **Occupational Maternity Scheme**

### **ELIGIBILITY**

1 This scheme is applicable to all school support staff.

2 Reference in this scheme to the payment of Statutory Maternity Pay (SMP) is dependent on:

- You having been continuously employed by the Trust for at least 26 weeks continuing into the 15th week before the week the baby is due. The 15th week is known as the qualifying week (QW);
- Your average weekly earnings being not less than the lower earnings limit for the payment of National Insurance contributions. (As a general rule, earnings are averaged over eight weeks up to and including your last pay-day before the end of the fifteenth week before your expected week of confinement);
- You still being pregnant at the beginning of the eleventh week before your expected week of confinement;
- You having started your maternity leave;
- You having given at least 28 days' notice, in writing of your intention to stop work because of pregnancy; or as much notice as was reasonably practicable;
- You having produced a MAT B1 form.

SMP will be paid by the Trust on behalf of the relevant Government Department.

3 If you cannot satisfy any of the above conditions or would like clarification please consult your Headteacher/manager.

### **POINTS TO CONSIDER**

4 To qualify for BOTH occupational maternity pay (OMP) from the Trust and SMP you must continue to be employed by the Trust until immediately before the beginning of the eleventh week before your expected week when your baby was due

5 You will be eligible for SMP if you remain at work until immediately before the beginning of the fourteenth week before your expected week. If, however you start your maternity absence before the beginning of the eleventh week before your EWC you would NOT be entitled to occupational maternity pay from the Trust or the right to return to work. Therefore, you are advised not to commence your maternity leave until after the beginning of the eleventh week before your expected week when your baby is due, or from the time of childbirth if that is earlier.

6 Provided you are medically fit to remain at work, the date you actually start your maternity leave will be at your discretion. If, however you become absent with a pregnancy-related illness at any time after the beginning of the 4th week before the expected week when your baby is due the maternity leave period must start from the day after the first full day of absence. This applies even if the day of absence is before the date you originally specified as the date on which you intended your leave to start.

7 You must notify your Headteacher/manager, in writing, at least 28 days before your absence begins stating:

- the date on which your absence will begin.
- your expected date of confinement. A certificate from your doctor or midwife (this will normally be on form MAT B1) confirming this date should also be enclosed or submitted as soon as it is available. If you are able to give more than 28 days' notice this would be helpful.

### **IF YOU INTEND TO RETURN TO WORK**

8 If you have complied with the requirements set out in the paragraphs above and intend to return to work you are entitled to the following:-

## **(A) Maternity Pay/Salary**

1. Employees who have at least 12 months' continuous Local Government Service at the 11th week before the baby is due.

Who have been employed by the Trust continuously for at least 26 weeks continuing into the 15th week before the baby is due. A combination of Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) for a period of 39 weeks made up as follows: -

- For each of the first 6 weeks of absence, 90% of a week's pay less normal deductions (i.e. income tax, national insurance, pension etc.).
- For each of the next 12 weeks of absence you will receive half a week's pay less normal deductions plus payment of SMP at the "standard rate", (or 90% of average weekly earnings if this is less than SMP). Note: The payment of the half pay plus the SMP must not exceed full pay, if this situation occurs an amount equal to full pay will be paid for the remaining 12 weeks.
- For each of the next 21 weeks of absence you will receive SMP at the "standard rate", (or 90% of average weekly earnings if this is less than SMP).

Note: The standard rate of SMP is updated annually by the Department for Work & Pensions. The entitlement to the 12 weeks at half pay only applies if you declare your intention to return to work for at least three months' at the end of your maternity leave period.

(ii) Who have not been employed by the Trust continuously for at least 26 weeks continuing into the 15th week before the baby is due but who have at least 12 months' continuous Local Government service, there is no entitlement to statutory maternity pay but there is an entitlement to occupational maternity pay.

Occupational Maternity Pay for a period of 18 weeks paid as follows: -

- For each of the first 6 weeks of absence, 90% of a week's pay less normal deductions (i.e. income tax, national insurance, pension etc.).
- For each of the next 12 weeks of absence you will receive half a week's pay less normal deductions.
- You may be entitled to Maternity Allowance – contact your local Jobcentre Plus for more information.

2. Employees with less than 12 months' continuous Local Government Service at the beginning of the 11th week before the baby is due.

Who have been employed by the Trust continuously for at least 26 weeks continuing into the 15th week before the baby is due. There is no entitlement to occupational maternity pay but statutory maternity pay is payable for up to 39 weeks at the following rate: -

- For the first 6 weeks, the equivalent of 90% of your normal weekly earnings.
- For the remaining 33 weeks, SMP at the "standard rate" (or 90% of average weekly earnings if this is less than SMP).

*Who have not been employed by the Trust continuously for 26 weeks continuing into the 15th week before the baby is due. Because of your length of service, you will have **no entitlement** to Occupational Maternity Pay (OMP) or Statutory Maternity Pay (SMP).*

You may be entitled to Maternity Allowance – contact your local Jobcentre Plus for more information.

## **(B) Payment of Salary**

Your SMP will be paid at the same intervals as you currently receive your wage/salary and will be paid at the same time as your half-pay referred to above. Please note that SMP is subject to normal deductions, (e.g. tax, National Insurance).

For salaried (monthly paid) staff occupational maternity pay is converted into complete weeks, the number of weeks paid at any one time will depend upon the number of complete weeks that fall within each of the months for which payment is due relative to the day of the week on which maternity leave starts

Example - If maternity leave starts on a Thursday the number of weeks paid will depend on the number of Wednesdays that fall within each of the months for which payment is due. As an alternative to receiving 1/2 pay (less deductions) for 12 weeks, you may request to have the equivalent sum (i.e. 6 weeks at full pay) over a different timescale within the Ordinary Maternity Leave period, e.g. 3/10ths over 20 weeks, subject to agreement.

### **(C) Additional Maternity Leave Period (Unpaid)**

There is an entitlement to 52 weeks' maternity leave in total. The amount of which is unpaid will depend on your entitlement to maternity pay (see above).

### **WHAT YOU THEN HAVE TO DO**

9 It will be assumed that you will return to work at the end of your full entitlement to maternity leave, i.e. 52 weeks. Your Headteacher/manager will write to you within 28 days of receiving your notification of your intention to take maternity leave to confirm the expected date of your return.

10 Many women choose not to take their full entitlement to maternity leave which is acceptable subject to a minimum period of two weeks being taken immediately following the birth. If at the start of your maternity leave you confirm the date upon which you will be returning, you do not need to take any further action.

However, if you are not able to do this or decide at a later stage that you wish to change the date of your return to work, you should note that you need to give at least 8 weeks' notice in writing to your Headteacher/manager.

11 If you do not give the necessary notice, your Headteacher/manager may postpone your actual return to ensure the required notice period elapses but not beyond the end of the maternity leave period.

12 Your return must be at the latest on the first day following the expiry of the 52-week period after your maternity leave commenced unless there is a medical reason which prevents this. In these circumstances, the normal notification and certification procedures apply (a doctor's certificate will be required after 7 days absence).

13 You must return to work for a period of at least three months. If you do not do this, you will be required to refund the maternity pay you received from the Occupational Maternity Scheme i.e. 12 weeks at half pay.

### **THE RIGHT TO RETURN TO WORK**

14 (a) If you have satisfied the above conditions, you have the right to return to the same or an equivalent job to the one in which you were employed before your maternity leave. This would be on terms and conditions not less favourable than those which would have applied had you not been absent.

14 (b) Where it is not practicable by reason of redundancy for the Trust to permit you to return to work in your existing job as defined in (a) above, you will be entitled to be offered a suitable alternative vacancy where one exists. This is provided that the work to be done in that vacant post is suitable to you and appropriate to the circumstances, and that the capacity and place in which you are to be employed and the terms and conditions of employment are not substantially less favourable to you than if you had been able to return to the job in which you were originally employed.

14 (c) Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if you had not been absent, necessitate a change in the job in which you were employed prior to your absence.

The work to be done should be suitable to you and appropriate to the circumstances and the capacity and place in which you are to be employed and the terms and conditions of employment should not be less favourable to you than if you had been able to return to the job in which you were originally employed.

#### **IF YOU DO NOT INTEND TO RETURN TO WORK**

15 If you do not intend to return to work following your confinement it will be necessary for you to resign your appointment.

16 Provided you do not resign earlier than the beginning of the fourteenth week before your EWC, you will still be eligible to receive SMP at the appropriate rate provided you satisfy the conditions set out in paragraphs 1 and 2.

The amount and method of payment will be as set out in paragraph 8.

17 If you resign later than the eleventh week before your EWC you will become entitled to occupational maternity pay, the amount of your six weeks at 90% will be at the higher rate between the occupational maternity scheme and the appropriate SMP rate.

#### **A FURTHER OPTION**

18 If you would prefer not to make a decision on your return to work at this stage, then the Trust has agreed that you may reserve the right to return to work and postpone making a decision. Under this option you would receive payment on the same basis as if you had resigned your appointment as set out in paragraph 16 above.

You would not receive 12 weeks at half pay under the occupational maternity scheme at that stage although you would receive standard rate SMP for this period.

19 If you then subsequently return to work, the 12 weeks at half pay will be paid on your return to work. This will then avoid the situation that could occur where you may receive 12 weeks at half pay, decide then not to return to work, and as a result be faced with owing the Trust money.

20 If you choose this option, you should inform your Headteacher/manager as soon as possible after the birth, whether or not you will be returning to work. This must be done within the 52-week maternity leave period.

21 The notice required in relation to your return to work (should you decide to do so) is as stated in paragraph 10 above.

22 If you decide not to return to work you must give notice of your resignation in accordance with your terms and conditions of employment. Should notice not be received and you fail to return to work following maternity leave (without notifying your Headteacher/manager of an absence reason, e.g. sickness) you will be treated as having unauthorised absence and this will be addressed under the Attendance and Absence Policy.

#### **HOW TO MAKE YOUR INTENTIONS KNOWN**

23 You will be asked to state in writing (on a maternity option form) which of the above options you wish to take. You may however require some further advice on this and if this is the case you should consult Headteacher/manager.

## **PENSION POSITION**

24 This is only applicable to those employees who pay local government pension contributions.

### **(A) If you intend to return to work**

Contributions will be deducted from all the pay you receive during the period of maternity leave. On your return to work, if you have a period of unpaid leave you may either:-

- (i) Pay full contributions for the whole period of unpaid absence on a notional figure as if you had continued to receive maternity pay. This election must be made within 30 days of returning to work.
- (ii) Any contributions not paid during your absence will be recovered by a lump sum from your pay when you return to work. OR Elect not to pay contributions for the period of unpaid leave and therefore, the remainder of the absence would, for pension purposes, be a break in service and would not count towards future benefits.

### **(B) If you do not intend to return to work**

You would still pay pension contributions on any SMP you receive. If you have less than three months' pensionable service, you may opt for a return of contributions. However, you should note that once a refund of contributions has been made, the relevant service will never again count in the calculation of your pension benefits.

If you are eligible for a refund of contributions, you are advised to withhold your application for these until you are certain that you will not be recommencing employment. In other cases, (i.e. more than three months' pensionable service) your benefits will be preserved and will normally become payable when you reach retirement age.

### **(C) If you reserve your right to return to work**

In the event of your reserving your right to return to work and this opportunity is taken, you will have the same options as in the paragraph above.

Payment of outstanding contributions will be recovered by a lump sum from your pay when you return to work.

## **WORK DURING MATERNITY LEAVE ('Keeping in Touch' or 'KIT' days)**

25 Except for the first two weeks of compulsory maternity leave starting from the date of birth when no work may be undertaken, you may undertake up to 10 days' work during your maternity leave without bringing your maternity leave to an end or losing your SMP.

Please note that work for part of a day will count as a full day. This can be used for training, keeping skills up to date, team away day sessions etc.

You cannot be required to work, nor can you insist that you are given work; the arrangement is by mutual agreement. If you do work it will not extend your maternity leave. Depending on its nature and the length of the work undertaken you may be paid. If so your SMP will be offset against your pay. This will need to be agreed in advance of the work being undertaken.

## **REASONABLE CONTACT**

26 You and your manager are allowed to make reasonable contact with each other during the period of maternity leave to discuss issues such as your return to work, keeping in touch with developments etc. This will not constitute work as defined above.

## **OTHER POINTS TO NOTE**

**27 Continuous Service Maternity** leave counts as continuous service. During the period of Ordinary and Additional Maternity Leave your contract of employment continues and you are entitled to receive all contractual benefits, except salary.

All benefits in kind (such as use of laptop, mobile phone and lease car) will continue. Annual leave will also continue to accrue.

**28 Annual Leave** (This does not apply to part-year staff, e.g. term-time only)

You will continue to accrue contractual annual leave as per your contract of employment during ordinary and additional maternity leave including entitlement to bank holidays, which will be accrued pro rata to contracted hours.

You are allowed to take your full annual leave entitlement before your maternity leave commences provided that:

- You intend to return to work;
- You are aware that if you do not return to work you will have to repay any leave you were not entitled to take;
- The leave is operationally convenient and agreed by your Headteacher/manager; and
- If you subsequently decide not to return to work, then the date used to calculate leave entitlement is your last day of employment.

You are encouraged to take any outstanding leave prior to commencing maternity leave, all holidays must be taken in the year it is earned and therefore if the holiday year is due to end during maternity leave, you should take the full years leave before commencing maternity.

A discretionary five days' leave may be carried over to the following leave year. Where you are unable to take your leave before commencing maternity leave due to the early birth of your child, or pregnancy related illness for example, or if the leave year runs in line with her maternity period exceptions may be made to carry over policies to allow you to carry the remaining period of leave into the next leave year.

## **29 Ante Natal Care**

During the period of your pregnancy, whilst you are still at work you are entitled to paid time off for antenatal care. This includes time off for antenatal appointments and medical examinations as well as classes recommended by your Doctor/Midwife, e.g. relaxation classes, parentcraft classes. You must make the necessary arrangements for this with your Headteacher/manager. You must produce evidence of all appointments (other than the first appointment) if requested to do so by the Governing Body/Trust.

## **30 New and Expectant Mothers at Work**

The Health and Safety of new and expectant mothers whilst they are at work is governed principally by regulations 16 -18 of the Management of Health and Safety at Work Regulations 1999. Under these regulations, your Headteacher/manager will ensure that the normal risk assessments for tasks undertaken by employees take account of the particular circumstances of pregnant or nursing mothers and their unborn or breast feeding children.

The Health and Safety Executive provides guidance on identifying possible risks to new and expectant mothers. Because the risk assessment obligation extends to any time in the pregnancy, all female staff of child bearing age need to be aware of any specific hazards identified which could cause difficulty if they were to become pregnant.



After being informed by you of your pregnancy, if your Headteacher/manager identifies serious risks that cannot be otherwise controlled, they will consider:-

- Adjusting your working hours
- Offering alternative work
- In extreme cases, suspension from your normal duties on full normal pay.

### **31 Premature Birth**

If your baby is born prior to the commencement of your maternity leave you must notify your Headteacher/manager immediately, or as soon as is reasonably practical, in order that your maternity leave and/or pay is triggered.

### **32 Death of a Baby or Still Birth**

In the unfortunate event of your child not living after a pregnancy lasting less than 24 weeks, you are advised to contact your Headteacher/manager. They will advise you on any entitlements you may have regarding pay and/or leave.

Special consideration will be given to individual circumstances and where necessary special leave or a period of sickness may be granted. This decision will be made having regards to individual needs which should be supported by medical opinion. You are strongly advised to discuss the position with your Headteacher/manager.

In the unfortunate event of a still birth after a pregnancy lasting at least 24 weeks or your child not living, you will be entitled to all the provisions specified in the schedule. You will need to follow the notification of return to work arrangements.

### **33 Notional Deductions**

In calculating your entitlement to Occupational Maternity Pay account will only be taken of the amount of SMP or Maternity Allowance actually received.

If you are not entitled to SMP, you may be eligible to receive Maternity Allowance. The Trust will issue you with an exclusion form SMP1, which you must send to your local Jobcentre Plus. You will be obliged to both claim and declare your entitlement to Maternity Allowance.

### **34 Return to work - Flexible Working Arrangements**

The school may have adopted some flexible working arrangements which may assist you in your return to work.

The schemes that may be available are:

- Right to Request Flexible Working (statutory rights)
- Parental Leave (statutory rights)
- Time Off for Dependants (statutory rights)

If you think you might be interested in taking advantage of one of these schemes please discuss the matter with your Headteacher/manager.

### **35 Childcare**

The Government provide assistance for childcare costs. To find out more and to apply for the government's childcare scheme visit the Childcare Choices website.

Childcare Vouchers - Employees who are members of the pre-existing Childcare Voucher Scheme can continue to receive vouchers.

### **36 Transfer of Maternity Leave**

If you wish to return to work without using your 52 weeks entitlement, you may be eligible to transfer up to 26 weeks maternity leave (and outstanding SMP) to your spouse, civil partner, or partner, or father of the child to be taken as additional paternity leave.

N.B. If you wish to return without using your 52 weeks you must give the employer at least 8 weeks' notice of the date in which you wish to return, failure to give the correct notice may result in your return to work date being postponed until the correct notice is served