

Maternity Leave and Pay Policy for Teachers

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Please note that all Trust policies are reviewed annually. Should you have any queries regards this policy, note an omission or wish to propose an amendment, please email sconnor@strathmore.richmond.sch.uk.

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1. Scope

This policy applies to all female teaching staff employed at schools (academies) who are pregnant.

The recognised trade unions have been consulted.

2. Policy

The purpose of the policy is to ensure fair and consistent treatment of all pregnant teachers and support them to return to work after the birth of a child in order to continue in their chosen career and allow the school to retain trained and competent staff. This policy sets out the rights that apply to babies born on or after [5th April 2019](#).

Within the policy reference is made to 'the school's HR consultant'. Currently Clarendon uses [Action>HR](#) and Strathmore and Capella use [Schools HR](#). Contact details can be obtained from the respective School Business Managers.

3. Maternity Pay

3.1 Statutory Maternity Pay (SMP)

There are two rates of SMP:-

- Higher rate of SMP: 90% of your salary
- Lower rate of SMP: Currently [£148.68](#) or 90% of your salary whichever is the lower amount. This rate is reviewed each April.

SMP is paid by the employer in the same way, time and frequency as your normal salary and it is subject to tax and National Insurance deductions.

SMP cannot be paid earlier than the 11th week before the expected week of childbirth; except if your baby is born before the start of the 11th week in which case SMP will be paid from the day after the birth of your baby.

To qualify for SMP you have to meet conditions based on your length of service and level of earnings as below:-

- ❶ You must have at least 26 weeks' continuous service with the employer as at the 15th week before the expected week of childbirth
- ❷ Your earnings must be above the lower limit for National Insurance Contributions, currently [£118.00](#) per week before tax.

3.2 Maternity Allowance (MA)

If you do not qualify for SMP you may be able to claim MA from your Job Centre Plus office/Social Security Office, provided that you satisfy the National Insurance Contribution conditions based on your previous employment or self employment. Payments are made weekly for a maximum period of 39 weeks and are paid out at the same rate as SMP. If you have been assessed as not being entitled to SMP, you will be sent a SMP1 Form from your school's Payroll provider giving reasons why SMP cannot be paid to you.

3.2 Occupational Maternity Pay (OMP)

Entitlement to occupational maternity pay set out in this policy is in accordance with the Conditions of Service for School Teachers document, (the Burgundy Book).

OMP is conditional to you having not less than 52 weeks' local government service, at the 11th week before your expected week of childbirth, and on your returning to work for 13 weeks, or an equivalent extended period if returning on reduced hours, at the end of your maternity leave. OMP is paid at equivalent to 50% of your salary for a period of 12 weeks. You can choose to receive this payment as follows:-

- ❶ over a period of 12 weeks following the first 6 weeks' at SMP or MA (and concurrent with the lower rate SMP),
- ❷ spread over the 33 weeks following the first 6 weeks' at SMP or MA (and concurrent with the lower rate SMP)
- ❸ when you return to work at the end of your maternity leave when it will be paid to you as one lump sum.

In the event you do not return to work for the specified equivalent period after the end of your maternity leave, and OMP has been paid to you during your maternity leave, you will be required to repay the OMP element of the maternity pay including the corresponding National Insurance Contributions.

3.3 Entitlement to Maternity Pay

Entitlement to maternity pay and the corresponding qualifying criteria is set out below and in the Maternity Pay & Leave Chart at Appendix 1:-

Teachers with 52 weeks' continuous local government service at the 11th week before the expected week of childbirth, and meet the qualifying criteria for SMP as stated above, will receive maternity pay as follows:-

- *4 weeks at full pay, offset against payments made by way of SMP
- 2 weeks at 90% of salary, offset against payments made by way of SMP
- 12 weeks at 50% of salary (OMP) plus lower rate SMP
- 21 weeks at lower rate SMP

The remaining period of maternity leave i.e., 13 weeks will be on an unpaid basis.

*If you are not returning to work after your maternity leave, the first 4 weeks will be paid at 90% of salary.

Teachers with 52 weeks' continuous local government service at the 11th week before the expected week of childbirth, but do not meet the qualifying criteria for SMP as stated above, will receive maternity pay as follows:-

- *4 weeks at full pay, offset against payments made by way of MA
- 2 weeks at 90% of pay, offset against payments made by way of MA
- 12 weeks at 50% of salary (OMP) plus MA if eligible
- There is no entitlement to SMP
- You may be entitled to MA for the remaining 21 weeks. (Eligibility for MA will be assessed and paid by your local Job Centre Plus/Social Security Office.)

*If you are not returning to work after your maternity leave, the first 4 weeks will be paid at 90% of salary.

Teachers with less than 52 weeks' continuous local government service at the 11th week before the expected week of childbirth but who meet the qualifying criteria for SMP as stated above, will receive maternity pay as follows:-

- 6 weeks at 90% of salary i.e., higher rate SMP
- 33 weeks at lower rate SMP
- There is no entitlement to OMP

The remaining period of maternity leave i.e., 13 weeks will be on an unpaid basis.

4. Maternity leave

All pregnant employees are entitled to take up to 52 weeks' maternity leave regardless of length of service and number of hours worked.

4.1 Ordinary maternity leave (OML)

You are entitled to 26 weeks' OML during which time your contract continues and you will continue to receive your contractual benefits except for pay. You are entitled to return to the job in which you were employed before your absence on terms and conditions not less favourable than those which would have been applied if you had not been absent (unless a restructuring or redundancy situation has arisen).

4.2 Additional maternity leave (AML)

You are entitled to 26 weeks' AML. This will start immediately after OML i.e., there cannot be a gap between OML and AML. You continue to receive your contractual benefits except for pay. You are entitled to return to the job in which you were employed prior to your maternity, or, if that is not reasonably practical, to another job which is both suitable to you and with the terms and conditions not less favourable than those held previously.

4.3 Compulsory maternity leave (CML)

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

4.4 Starting your maternity leave

You can choose to start your maternity leave any time from the 11th week before the expected week of childbirth right up to the birth itself.

Maternity leave will start automatically if you are off work for a pregnancy related illness in the 4 weeks before the baby is due irrespective of what has been previously notified or agreed. Maternity leave will start the day after the first day of sickness absence.

If your baby is born earlier than the 11th week before EWC or before the date notified as the intended start date of maternity leave, your maternity leave will start the day after the birth of your baby.

4.5 Keeping in touch (KIT) days

You may, by agreement with the school, work for up to 10 days during your maternity leave, except during the 2 weeks' of Compulsory Maternity Leave, without losing maternity benefits.

The KIT days do not have to be consecutive and may be used for an activity, which would normally be classed as work under your contract of employment, for which you would be paid and can include training events, attending meetings etc. Any work and the type of work undertaken during the maternity leave period must be by agreement with the school and yourself; there is no obligation on either party for work to be offered or accepted respectively. Part days worked will count as whole days and you will be paid your normal daily rate of pay for days worked.

Forms at Appendix G and H can be used to record KIT days and to submit for payment respectively.

4.6 Reasonable contact during maternity leave

Your manager is allowed to make reasonable contact during maternity leave to discuss such issues as your return to work. This does not constitute 'work' and would not therefore count towards the 10 KIT days. This is also useful in order to keep you informed of other issues such as job vacancies, significant developments in the workplace and training opportunities.

4.7 Accrual of annual leave during maternity leave

As a result of developments in case law and Working Time Directive Legislation, the London Government Employers have sought Leading Counsel opinion on whether teachers taking maternity leave continue to accrue rights to annual leave whilst on maternity leave.

After consideration of the opinion, and based on the law as it currently stands it has been agreed that:-

- Although teachers do not have a contractual entitlement to paid annual leave nor a specified annual leave year, they are entitled to 28 days' statutory annual leave under the Working Time (Amendments) Regulations 2007. A teacher who takes maternity leave must be able to take the 28 days' statutory annual leave at a time outside of her

maternity leave and that any part of the teacher's maternity leave period i.e., Ordinary Maternity Leave (OML) or Additional Maternity Leave (AML) cannot be treated as annual leave. The annual leave year, for the purposes of establishing annual leave entitlement for teachers on maternity leave, will be 1st September to 31st August to coincide with the academic school year.

- The entitlement to 28 days' statutory annual leave is not an additional entitlement on top of the current school closure arrangements. Annual leave entitlement must be offset by any period of school closure that has taken place in the leave year in question both before and after the maternity leave period.
- 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 the annual leave entitlement for that year, or overlaps into the next leave year, the balance of the leave can be carried over to the following leave year.
- It is not possible to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e., in school closures.
- As an employee has 28 days' annual leave under the Working Time Regulations, the accrual of leave is not affected by what stage of maternity leave an employee is at or whether they are receiving pay.
- Teachers do not have a contractual entitlement to paid leave on public or bank holidays. The May Day bank holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the May Day bank holiday will be classed as a school closure which counts against the statutory annual leave entitlement of 28 days.
- Under the Working Time Regulations it is not possible for payment in lieu of annual leave that has not been taken except on termination of employment, e.g., if the teacher decides not to return to work following her maternity leave. Please see Scenario 4 of Appendix J.
- Please see Appendix J for examples of scenarios in respect of accrued annual leave.

5. Antenatal care

Antenatal care includes routine doctor/midwife appointments and relaxation/parent craft classes. Time off for appointments, relaxation and parent craft classes will be paid when recommended by the doctor or midwife. A letter/appointment card will need to be shown to the line manager.

6. Stillbirths

Employees still qualify for leave and pay if the baby is stillborn after the start of the 24th week of pregnancy.

Schools may wish to consider support for the employee through confidential counselling through their employee assistance programme.

7. Responsibilities: Employee, Headteacher/Manager, Schools HR

Please see Appendix B for your specific responsibilities and those of your Headteacher/Manager and the school's HR consultant.

8. Notification of Pregnancy

If you fail to give the required notifications within the specified time limits you may lose your right to maternity pay and to start maternity leave on your intended start date.

It is in your best interest to notify the school of your pregnancy as soon as possible so that the school can carry out a risk assessment to identify any risk to you and/or your baby. Formal written notification of your intention to take maternity leave must be given by the 15th week before your expected week of childbirth using the Maternity Leave Request Form at Appendix D.

If you later wish to change the intended start date, you need to give at least 28 days' notice before the amended start date.

The school's HR consultant will write to you within 28 days of your written notification to start maternity leave, setting out your maternity pay and leave entitlement and your expected date of return based on maternity leave start date notified by you.

The Step by Step Notification Process and procedure is given at Appendix C.

9. Early Return to Work

If you wish to return to work from maternity leave earlier than the date originally agreed you must give 21 days' notice of the revised date of return to work. Failure to give the appropriate notice may result in the return being delayed. The Notification of Early Return to Work Form at Appendix I can be used.

10. Pension

If you are a member of the Teachers' Pensions Scheme, any paid part of your maternity leave will count as pensionable service. This means that deductions will be made from all maternity pay you receive. You can elect to pay contributions for the unpaid period of maternity leave when you return to work.

Teachers' Maternity Pay and Leave Chart

At least one year's continuous local government service at the start of the 11 th week before EWC	At least 26 weeks' continuous service with employer into the 15 th week before EWC	Entitlement to Maternity Pay	Entitlement to Maternity Leave
Yes	Yes	<ul style="list-style-type: none"> • *4 weeks' at full pay • 2 weeks' at 90% of salary • 12 weeks' at 50% of salary (OMP) plus SMP • 21 weeks' at lower rate of SMP 	26 weeks' OML 26 weeks' AML
Yes	No	<ul style="list-style-type: none"> • *4 weeks at full pay • 2 weeks at 90% of salary • 12 weeks at 50% of salary (OMP) plus MA if eligible • May be eligible for MA for remaining 21 weeks • No entitlement to SMP 	26 weeks' OML 26 weeks' AML
No	Yes	<ul style="list-style-type: none"> • 6 weeks at 90% of salary • 33 weeks at the lower rate of SMP • No entitlement to OMP 	26 weeks' OML 26 weeks' AML
No	No	<ul style="list-style-type: none"> • No entitlement to SMP • No Entitlement to OMP • May be eligible for MA 	26 weeks' OML 26 weeks' AML
<p>SMP Rate: 6 weeks at the higher rate (90% of your salary) 33 weeks at the lower rate of £145.18 or 90% of your salary whichever is the lower</p> <p>NB: Eligibility to MA will be assessed and paid by your local Job Centre Plus/Social Security Office</p> <p>*If you are not returning to work after your maternity leave, the 4 weeks will be paid at 90% of salary.</p>			

Key: SMP: Statutory Maternity Pay
MA: Maternity Allowance
OMP: Occupational Maternity Pay
OML: Ordinary Maternity Leave
AML: Additional Maternity Leave
EWC: Expected Week of Childbirth

Responsibilities of Employees, Headteacher/Manager, Schools HR

Employees	Headteacher/Manager	The School's HR Consultant
<p>Employees have specific responsibilities they need to fulfil in order to be entitled to the appropriate maternity benefits:-</p> <ul style="list-style-type: none"> • To inform the Headteacher of her pregnancy in order that any work related risks can be fully assessed as early as possible. • To give formal notification to her manager of her intention to take maternity leave by the 15th week before the expected week of childbirth. • To provide 28 days' notice if she wishes to change her maternity leave start date from an earlier notified date. • To provide the original of the Maternity Certificate MAT B1 to the school. Both sides of the certificate must be completed. (This certificate is issued by the GP or midwife around the 20th week of pregnancy) • To inform the school of the child's birth date as soon as is practicable. • To provide 21 days' notice of her intention to return to work from maternity leave if this is earlier than the original notified date. 	<p>The Headteacher/Manager have a special duty of care towards employees who are pregnant, have recently given birth or are breast feeding:-</p> <ul style="list-style-type: none"> • To undertake a risk assessment with the pregnant employee in order to identify any risks to the employee and/or her baby. A New and Expectant Mothers Risk Assessment is available to be completed on the SmartSafe H&S support tool. Any necessary adjustments must be made as soon as possible following the assessment, and regular reviews must take place as necessary depending on the level of risk. • To provide any information related to the employee's pregnancy promptly to the school's HR consultant so that they can provide the necessary advice and written notices within set timescales. • Allow the employee to take paid time off to attend antenatal appointments/parent craft classes. • To ensure the employee does not return to work for the first 2 weeks following childbirth. • To keep in touch with the employee on a reasonably regular basis during the course of her leave so that she remains informed about developments at work. • To agree and arrange with the employee any necessary KIT days during the course of their leave. The School will also liaise with the school's HR consultant to ensure salary payments are made for KIT days. • To allow the employee to return to the same job on the same terms and conditions (unless a restructuring/redundancy situation has arisen, which the individual would have been fully consulted about). 	<p>The school's HR consultant has a duty to provide accurate information and advice to the school and employees on maternity related issues, and in particular:-</p> <ul style="list-style-type: none"> • To confirm maternity leave and pay entitlement in writing to the employee within 4 weeks of receiving written notification of pregnancy. • To notify the school's Payroll provider accordingly within the same timescales to ensure timely accurate payment. • To notify the employee in writing of her expected return date, based on the start date notified by the employee or the birth date if this is earlier.

Step by Step Notification Process & Procedure

Step 1 Employee advises manager of pregnancy

As soon as possible once she is aware of her pregnancy

Although this is left at your discretion it is in your best interest to do this as soon as possible so that a risk assessment can be undertaken to identify any risk to you and/or your baby.

Step 2 Employee formally requests maternity leave

By the 15th week before Expected Week of Childbirth

- You can use the Maternity Leave Request Form at Appendix D and send it to school
- Attach the original of the Maternity Certificate MAT B1 if available (if not, this must be forwarded as soon as possible and by the 11th week before EWC at the latest as SMP cannot be paid without this).

Failure to comply with this step could prejudice your entitlement to maternity benefits.

Step 3 Schools HR write to employee

Within 4 weeks of receipt of written notification

Schools HR will confirm to you in writing your entitlement to maternity pay and leave and your expected date of return.

Step 4 If you wish to change the start date of your maternity leave from a date notified earlier

Minimum 28 days' notice required before start date of revised date

If you wish to change your maternity leave start date, from a date you have notified earlier, you must notify the school in writing. You can use the form at Appendix E .

Step 5 Notification of actual birth date of your baby

As soon as possible after birth

You need to notify the school in writing of the actual birth date of your baby and send a copy of the birth certificate. See Appendix F.

Step 6 Notification of Early return from Maternity Leave

21 days' notice prior to the revised return date

If you wish to return to work earlier than the agreed date, you must notify the school in writing 21 days before the revised return date. Failure to give appropriate notice may result in the return being delayed. See Appendix I.

Step 7 Return to Work

On return date

Your manager is required to carry out a return to work interview and risk assessment with you.

Maternity Leave Request Form

School:

Employee Details

Name:

Post Title:

Telephone Number:

Pregnancy Details

My baby is due on:/...../..... (dd/mm/yy)

I would like to start my maternity leave on:/...../..... (dd/mm/yy)

Maternity Certificate (MAT B1) attached: Yes / No*
*(if No, please forward separately as soon as available)

Occupational Maternity Pay

If you qualify for Occupational Maternity Pay, please select one of the following options:-

- I intend to return to work after my maternity leave, and I would like OMP to be paid monthly, as half pay for 12 weeks following the 6 weeks at SMP/MA
- I intend to return to work after my maternity leave, and I would like OMP to be spread over the 33 weeks following the 6 weeks at SMP/MA
- I intend to return to work but cannot commit at this stage, and I would prefer for OMP to be paid to me as a lump sum on my return to work.
- I **DO NOT INTEND** to return to work following my maternity leave and am therefore not entitled to OMP.

Declaration: I understand that in the event that I do not return to work and have elected to have OMP paid to me during my maternity leave, I will be required to repay the this element of the maternity pay and corresponding National Insurance Contributions.

Please return this form to school. Your written request for maternity leave must be received by the 15th Week of EWC or you may lose the right to maternity pay and to start maternity leave on the intended date.

Signed:

Dated:

Notification of Change in Start Date of Maternity Leave

School:

Employee details

Name:

Pay Number:

Post Title:

Telephone Number:

Start date of maternity leave

I wish to change the start date of my Maternity Leave.

The revised start date of my Maternity Leave will be:

Please return this form to the school. Notification of change to the start date of your maternity leave must be received at least 28 days' before the intended start date of your maternity leave. Failure to give meet the notice period may result in loss of your right to maternity pay and to start maternity leave on the intended date.

Signed:

Date:

Notification of Birth Date of Baby

School:

Employee details

Name:

Pay Number:

Post Details:

Telephone Number:

Birth details

My baby was born on (Date)

Please tick as appropriate:-

- This date was earlier than my due date. *Please confirm whether this affects my return to work date and let me know the revised date if appropriate*
- This date was on or after my due date. My return to work date is unchanged from the date previously notified to me.

Signed:

Date:

Please return this form to the school.

Keep in Touch (KIT) Days Record Form

School:

Employee details

Name:

Pay Number:

Post Title:

Telephone Number:

KIT details

This form should be used to record Keep in Touch Days worked by an employee on Maternity Leave. You may not exceed 10 KIT days during Maternity Leave

Start Date	End Date	Balance	Employee's Signature	Manager's Signature

Keep in Touch (KIT) Days Payment Form

School:

Employee details

Name:

Pay Number:

Post Title:

Telephone Number:

Details of KIT days for payment

KIT Days Worked		
Start Date	End Date	Total
Total Days to be paid		

Please send this form to the school in the month in which any KIT Days are worked so that payment can be made to the employee. Payment will be made at the employee’s normal daily rate of pay prior to starting maternity leave.

Signature:..... Date:
 (Headteacher)

Notification of Early Return to Work

School:

Employee details

Name:

Pay Number:

Post Title:

Telephone Number:

Return to work

This is to notify you that I will be returning to work from maternity leave earlier than the previously notified date of (date).

The revised date of my return to work from maternity leave will be (date).

Please return this form to the school. You must give at least 21 days' notice if you are returning to work earlier than the previously agreed return date. Failure to give the required period of notice may result in your return to work being delayed.

Signed:

Date:

Examples of Scenarios for Accrued Annual Leave

Scenario 1

The teacher is taking OML only and starts maternity leave on 1st October.

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

** March or April

The teacher will benefit from up to 9 weeks of school closure following her return from maternity leave to offset the statutory annual leave entitlement of 28 days (5.6 weeks). Therefore there is no additional entitlement to annual leave.

Scenario 2

The teacher is taking OML only and starts maternity leave on 1st March

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

** March or April

The teacher will already have had the benefit of 4 weeks of school closure prior to going on maternity leave. There will be an additional entitlement of 8 days which will be carried over to the next leave year as the teacher is returning on 1st September. This will be taken following the first 28 days of annual leave entitlement in school closure periods for that leave year.

Scenario 3

The teacher is taking OML and AML and starts maternity leave on 1st October

Leave Year 1

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

Leave Year 2

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

**March or April

Leave Year 1 – the teacher has had no annual leave but has an entitlement to 28 days (5.6 wks) which will be carried over to the next leave year on her return from maternity leave in October.

Leave Year 2 – the teacher will benefit from 13 weeks of school closure to offset her annual leave entitlement for both Year 2 (28 days, 5.6 wks) and following this the annual leave entitlement due to her for Year 1 (28 days, 5.6 wks) i.e., 11.2 wks in total. There will be no additional entitlement to annual leave.

Scenario 4

The teacher takes OML only and starts maternity leave 1st January but decides to resign and does not return at the end of the maternity leave period.

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

**March/April

The teacher has not worked a full leave year and will be entitled to a pro rated statutory annual leave entitlement i.e., 10 months (Sept to Jun). Pro-rata entitlement for 10 months = $28/12 \times 10 = 23$ days. The teacher will benefit from 3 weeks (15 days) of school closure prior to going on maternity leave and will therefore have an outstanding annual leave entitlement of 8 days. Therefore 8 days’ pay in lieu will be due on termination.