Maternity Guide

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1 Introduction

This guidance applies to all Academies within Spencer Academies Trust and outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave. It does not apply to agency workers or the self-employed.

2 Definitions

The definitions in this paragraph apply to this guide.

Expected Week of Childbirth: the week, starting on a Sunday, in which your doctor or midwife expects you to give birth.

Qualifying Week: the fifteenth week before the Expected Week of Childbirth.

A Weeks Pay: the amount payable to the employee under the current contract of employment. If there are significant variations in the employee’s salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week’s salary.

3 Notification

You must inform the Principal in writing as soon as possible that you are pregnant. This is important as there may be health and safety considerations (see paragraph 0 to paragraph 0).

Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, you must inform the Principal that you wish to absent for maternity leave and you must provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming your Expected Week of Childbirth.

You must notify the Principal in writing as soon as practicable but not later than 21 days where the Burgundy book applies (teachers) OR 28 days where the green book applies (support staff) before you wish to start maternity leave:

(a) that you are pregnant;
(b) the Expected Week of Childbirth; and
(c) the date on which you would like to start your maternity leave (Intended Start Date) (see paragraph 0 to paragraph 0.)
4 **Time off for ante-natal care**

If you are pregnant you may take reasonable paid time off during working hours for ante-natal care. This may include any relaxation or parenting classes that your doctor, midwife or health visitor has advised you to attend. You should try to give us as much notice as possible of the appointment.

We may ask you to provide the following, unless it is the first appointment:
(a) a certificate from the doctor, midwife or health visitor stating that you are pregnant; and
(b) an appointment card.

5 **Sickness**

Periods of pregnancy-related sickness absence shall be paid in accordance with the statutory sick pay scheme in the same manner as any other sickness absence.

Periods of pregnancy-related sickness absence from the start of your pregnancy until the end of your maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions.

If you are absent for a pregnancy-related reason during the four weeks before your Expected Week of Childbirth, your maternity leave will usually start automatically (see paragraph 0 to paragraph 0).

6 **Health and safety**

We have a general duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.

We will provide you with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If we consider that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work we will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:
(a) changing your working conditions or hours of work;
(b) offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
(c) suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work.

7 **Entitlement to maternity leave**

All employees are entitled to up to 52 weeks' maternity leave which is divided into:
(a) Ordinary maternity leave of 26 weeks (OML); and
(b) Additional maternity leave of a further 26 weeks immediately following OML (AML).
Starting maternity leave

The earliest date you can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless your child is born prematurely before that date).

You must notify us of your Intended Start Date in accordance with paragraph 3.3(c). We will then write to you within 28 days to inform you of the date we will expect you to return to work if you take your full entitlement to maternity leave (Expected Return Date).

You can postpone your Intended Start Date by informing us in writing at least 21 days where the Burgundy book applies (teachers) OR 28 days where the green book applies (support staff) before the original Intended Start Date, or if that is not possible, as soon as reasonably practicable.

You can bring forward the Intended Start Date by informing us at least 21 days where the Burgundy book applies (teachers) OR 28 days where the green book applies (support staff) before the new start date, or if that is not possible, as soon as reasonably practicable.

Maternity leave shall start on the earlier of:
(a) your Intended Start Date (if notified to us in accordance with this policy); or
(b) the day after any day on which you are absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or
(c) the day after you give birth.

If you give birth before your maternity leave was due to start, you must let us know the date of the birth in writing as soon as possible.

The law prohibits you from working during the two weeks following childbirth.

Shortly before your maternity leave starts we will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.

Subsequent Obligations on Teachers

A Teacher must return to her job for at least 13 weeks following maternity leave (including periods of Academy closure) as a qualifying condition to occupational maternity pay. This requirement may be reduced at the sole discretion of the Academy. The 13 week period starts from the date the teacher returns to work or the date during the Academy holiday on which the teacher is declared medically fit to be available to work. If agreed, a full time teacher may return to work on a part time basis for a period which equates to 13 weeks of full time service or a part time teacher may return to work on a different part time basis for a period which equates to 13 weeks part-time service relating to her previous contract.
**Statutory maternity pay**

Employees who have less than one year’s service at the beginning of the 11th week before EWC shall be entitled to Statutory Maternity Pay only. Statutory maternity pay (SMP) is payable for up to 39 weeks. SMP will stop being payable if you return to work (except where you are simply keeping in touch in accordance with paragraph 0 to paragraph 0). You are entitled to SMP if:

(a) you have been continuously employed for at least 26 weeks at the end of the Qualifying Week and are still employed by us during that week;

(b) your average weekly earnings during the eight weeks ending with the Qualifying Week (the Relevant Period) are not less than the lower earnings limit set by the Government;

(c) you provide us with a doctor’s or midwife’s certificate (MAT B1 form) stating your Expected Week of Childbirth;

(d) you give at least 28 days’ notice (or, if that is not possible, as much notice as you can) of your intention to take maternity leave; and

(e) you are still pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.

SMP is calculated as follows:

(f) First six weeks: SMP is paid at the Earnings-Related Rate of 90% of your average weekly earnings calculated over the Relevant Period;

(g) Remaining 33 weeks: SMP is paid at the Prescribed Rate which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower.

SMP accrues from the day on which you commence your OML and thereafter at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.

You shall still be eligible for SMP if you leave employment for any reason after the start of the Qualifying Week (for example, if you resign or are made redundant). In such cases, if your maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

(h) the week following the week in which employment ends; or

(i) the eleventh week before the Expected Week of Childbirth (EWC).

If you become eligible for a pay rise before the end of your maternity leave, you will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that your SMP will be recalculated and increased retrospectively, or that you may qualify for SMP if you did not previously qualify. We shall pay you a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the Earnings-Related Rate (if any) will also be increased as necessary.
Maternity Pay for Teachers [In accordance with the Burgundy Book]

A teacher who has not less than one year’s continuous service as a teacher with one or more Local Authority at the beginning of the 11th week before the Expected Week of Childbirth shall be entitled to maternity pay as follows:

(a) A teacher eligible for SMP will have the payments made in the first six weeks of absence offset against the payments made under b) and c) below.

(b) For the first four weeks of absence – full pay, offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP.

(c) For the next two weeks of absence – 9/10ths of a week’s salary, offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP.

(d) For the next twelve weeks of paid absence, half pay without deductions except by the extent to which the combined pay and SMP (or, if not eligible for SMP, maternity allowance and any dependants’ allowances) exceeds full pay.

(e) No pay (save for SMP or MA) for any remaining period of absence up to the date of return notified by the teacher.

In the event of the teacher not being available, or being unable, to return to her job for the required period of 13 weeks, she shall refund such sum after the first six weeks’ payment as the Academy at their discretion may decide. Payments made by way of SMP are not refundable.

Maternity Pay for Support Staff [in accordance with Green Book]

Payments for support staff employees, who have completed 1 year’s continuous service at the 11th week before the Expected Week of Childbirth shall be as follows:

(a) For the first six weeks of absence an employee shall be entitled to 9/10ths of a week’s pay offset against payments made by way of SMP or Maternity Allowance for employees not eligible for SMP.

(b) An employee who declares in writing that she intends to return to work will for the subsequent 12 weeks receive half a week’s pay without deduction except by the extent to which the combined pay and SMP (or MA) exceeds full pay and then SMP only for the next 21 weeks unless they return to work during this period (except for keeping in touch days).

(c) For employees not intending to return to work payments during subsequent 33 weeks shall be the employee’s entitlement to SMP unless they return to work during this period (except for keeping in touch days).

Payments made by the Academy to support staff during maternity leave under paragraph 12 shall be made on the understanding that the employee will return to the Academy for a period of at least three months. This requirement may be reduced at the sole discretion of the Academy. In the event of the employee not returning she shall refund the monies paid or parts thereof as the Academy may decide. Payments to an employee made by way of SMP are not refundable.

Maternity Allowance (if you don’t qualify for SMP)

Maternity allowance is usually paid if you don’t qualify for statutory maternity pay (have not
worked for your employer continuously for at least 26 weeks up to the ‘qualifying week’ - the 15th week before the expected week of childbirth) but meet Maternity Allowance criteria. You can claim Maternity Allowance as soon as you have been pregnant for 26 weeks and payments can start 11 weeks before baby is due. For further details please refer to the Government website [https://www.gov.uk/maternity-allowance](https://www.gov.uk/maternity-allowance) or speak to your HR contact in the Academy.

14 **Terms and conditions during OML and AML**

All the terms and conditions of your employment will remain in force during OML and AML, except for the terms relating to pay. In particular:

(a) *benefits in kind [such as life insurance, health insurance, gym membership and use of a company vehicle if applicable] shall continue*;

(b) *annual leave entitlement under your contract shall continue to accrue* (see paragraph 0); and

(c) *pension benefits shall continue* (see paragraph 0 to paragraph 16.2).
Annual Leave

The Working Time (Amendment) Regulations 2007 provide that all workers who work a 5-day week have the statutory right to leave of 28 days (5.6 weeks), pro-rata for part-time workers. Teachers and Teaching Assistants on an all-year-round contract are contractually required to be available during term time and their statutory leave forms part of normal holidays during Academy closure periods. Support staff who work on a term-time only basis have holiday pay included in their equated annual pay, which includes the statutory requirement.

During OML and AML, annual leave will accrue at the rate provided under your contract.

Our holiday year runs from 1 September to 31 August. In many cases a period of maternity leave will last beyond the end of the holiday year. Any holiday entitlement for the year that cannot reasonably be taken before starting your maternity leave can be carried over to the next holiday year and must be taken immediately before returning to work unless the Principal agrees otherwise or clause 15.4 below prevails. You should try to limit carry over to one week’s holiday or less. Carry-over of more than one week is at the Principals discretion.

Teachers have a statutory entitlement to 28 days’ annual leave and this should be taken either before or after the maternity leave period during Academy closure periods. On return from maternity leave a teacher must be allowed to take any outstanding leave during term time during that leave year if there are insufficient Academy closures to accommodate her leave in that leave year. Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take annual leave entitlement, a teacher must be allowed to carry over any balance of her leave to the following leave year. A teacher will be required to take this during the remaining periods of Academy closure after the 28 days’ annual leave for that leave year has been accommodated. This also applies to Teaching Assistants employed on an all-year-round contract.

Support staff that are term-time only are paid on an equated weeks basis (holiday pay is included in the annual salary and split equally over 12 months) so there is not an opportunity for you to take the holiday accrued during your maternity leave as paid holiday. Instead you are entitled to be paid for the leave that you have accrued during your maternity leave. On return to work after maternity leave the payroll or HR team will calculate the amount of holiday pay due and this will be paid in the next pay month.

You should discuss your holiday plans with the Principal or your line manager as appropriate in good time before starting your maternity leave. All holiday dates are subject to approval in line with the Academy protocol for requesting annual leave.

Pensions

During periods of paid maternity leave pension contributions will be made in accordance with the pension scheme rules.

During periods of unpaid maternity leave contribution to the Local Government Pension Scheme (LGPS) or Teachers’ Pension Scheme (TPS) will not be made. Further information about the opportunity to cover ‘lost’ pension is available from: Nottinghamshire - www.lgps2014.org/content/how-do-i-buy-extra-or-lost-pension
Leicestershire
http://www.leics.gov.uk/index/pensions/information_for_current_pension_scheme_members/increasing_your_pension_benefits.htm

Derbyshire – http://www.derbyshire.gov.uk (facts and leaflets)

Teachers’ Pensions – www.teacherspensions.co.uk (additional pension benefits)

17 **Redundancies and/or Restructuring during maternity leave**

In the event that your post is affected by a redundancy or restructuring situation occurring during your maternity leave, we shall write to inform you of any proposals and shall invite you to a meeting before any final decision is reached as to your continued employment or changes to your contractual terms and conditions of employment. Employees on maternity leave, who are at risk if redundancy, shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

18 **Keeping in touch**

We may make reasonable contact with you from time to time during your maternity leave.

You may work (including attending training) for up to ten days during maternity leave without bringing your maternity leave or SMP to an end. [The arrangements, including pay, would be set by agreement with the Principal]. You are not obliged to undertake any such work during maternity leave. In any case, you must not work in the two weeks following birth.

Shortly before you are due to return to work, we may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may cover:

(a) *updating you on any changes that have occurred during your absence;*

(b) *any training needs you might have; and*

(c) *any changes to working arrangements (for example if you have made a request to work part-time; see paragraph 24).*

19 **Expected return date**

Once you have notified us in writing of your Intended Start Date, we shall send you a letter within 28 days to inform you of your Expected Return Date. If your start date has been changed (either because you gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to you within 28 days of the start of maternity leave with a revised Expected Return Date.

We will expect you back at work on your Expected Return Date unless you tell us otherwise. It will help us if, during your maternity leave, you are able to confirm that you will be returning to work as expected.

20 **Returning early**
If you wish to return to work earlier than the Expected Return Date, you must give us [21 days where the burgundy book and green book applies OR neither apply eight weeks] prior notice. It is helpful if you give this notice in writing.

If not enough notice is given, we may postpone your return date until 21 days OR eight weeks after you gave notice, or to the Expected Return Date if sooner.

21 Returning late

If you wish to return later than the Expected Return Date, you should either:

(a) request unpaid parental leave giving us as much notice as possible but not less than 21 days; or
(b) request paid annual leave in accordance with your contract, which will be at the discretion of the Academy.

If you are unable to return to work due to sickness or injury, this will be treated as sickness absence and the Trust Attendance Management Policy will apply.

In any other case, late return will be treated as unauthorised absence.

22 Deciding not to return

If you do not intend to return to work, or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should give notice of resignation in accordance with your contract. The amount of maternity leave left to run when you give notice must be at least equal to your contractual notice period; otherwise we may require you to return to work for the remainder of the notice period.

Once you have given notice that you will not be returning to work, you cannot change your mind without our agreement.

This does not affect your right to receive SMP but this will affect your right to occupational maternity pay in accordance with paragraphs 0 or 0.
23 Your rights when you return

You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.

However, if you have taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for us to allow you to return into the same position; we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

24 Returning to work part-time

We will deal with any requests by employees to change their working patterns such as working part-time after maternity leave on a case-by-case basis. There is no absolute right to insist on working part-time, but you do have a statutory right to request flexible working and we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the Academy. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the Trust Flexible Working Policy.