



## **Maternity and Paternity Leave Policy**

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## **Purpose**

The maternity leave provisions are designed to allow pregnant women to take extended leave of absence from work to undertake responsibilities associated with early childcare and to encourage their return to work with the school. **Please see the Shared Parental Leave Guidance (Section 8e) for further information regarding other options for taking Maternity Leave & Statutory Maternity Pay.** [Shared Parental Leave Guidance](#)

## **Rights**

### Antenatal Care – Pregnant Employees

Any pregnant employee has the right to paid time off to attend antenatal care. This can include parent craft and relaxation classes provided it is on the advice of a registered medical practitioner, nurse or midwife. The employee must produce evidence of any of these appointments if requested to do so.

Leave must be requested via email to [personnel@clystvale.org](mailto:personnel@clystvale.org), who will direct the request to the Principal or College Manager as appropriate, and a record of appointments will be retained.

### Antenatal Care – Fathers or Partners

Fathers or partners of expectant mothers are able to request unpaid time off to attend up to 2 antenatal appointments. The Principal/ College Manager should establish whether the employee wishes to take time off using flexible working arrangements as an alternative to unpaid time.

If an employee takes unpaid antenatal leave, this must be recorded via EduPay as unpaid leave.

Should it be required, the employer can ask the employee to provide a signed declaration stating the date and time of the appointment, that they qualify for the unpaid time off through their relationship with the mother or child and that the time off is for the purpose of attending an antenatal appointment with the expectant mother that has been made on the advice of a registered medical practitioner, nurse or midwife.

### Maternity Leave

All female employees regardless of service are entitled to a total of 52 weeks maternity leave provided they comply with the notification procedures.

Maternity leave comprises a period of 26 weeks Ordinary Maternity Leave (OML) and a further period of 26 weeks Additional Maternity Leave (AML). The AML will commence at the end of OML. The leave can commence at any time from the 11th week before the expected week of childbirth (EWC).

Compulsory maternity leave refers to the 2 weeks commencing with the day of childbirth, when a woman is not allowed to work by law. This forms part of the OML period.

### Contractual Rights

Full contractual rights (except remuneration) will be maintained throughout the maternity leave period.

## **Maternity Allowance**

This is paid by the Department of Work and Pensions (DWP) direct to the employee if she does not qualify for Statutory Maternity Pay (SMP) and if she has earned an amount that is equal to or greater than the lower earnings limit for National Insurance contributions for at least 26 weeks in the 66 weeks ending with the week before the baby is due. The Maternity Allowance is paid for up to 39 weeks at the standard rate of Statutory Maternity Pay. The employee can obtain details of how to claim Maternity Allowance from the DWP.

## **Statutory Maternity Pay (SMP)**

### Eligibility

The main eligibility criteria for SMP, included in the Employment Act 2003, are that the employee:

1. is still pregnant 15 weeks before the EWC or if the baby has already been born at that time;
2. has been employed by the Local Authority/Academy for at least 26 weeks continuing into the 15th week before the EWC;
3. average weekly payments over the last 8 weeks (2 months) before the 15th week are equal to or more than the lower earnings limit for payment of National Insurance Contributions;
4. provides [personnel@clystvale.org](mailto:personnel@clystvale.org) with notification of the pregnancy and the date when she intends to start her OML, on or before the 15th week before the EWC. If this is not practicable, she should provide the notice as soon as reasonably practicable. The employee may change her mind as to the date the leave is to start by giving 28 days' notice. (National negotiations have agreed that employees covered by Green Book terms and conditions need only inform their Manager of their pregnancy 28 days before they intend to start maternity leave);
5. Returning to work is not an eligibility criterion for SMP.

### Maternity Pay Period (MPP)

The period during which SMP may be paid is called the Maternity Pay Period (MPP).

The MPP cannot start earlier than the 11th week before the EWC. After this date, the employee can choose when she leaves work, and therefore when the MPP starts.

Statutory Maternity Pay is paid for 39 weeks.

### Payment

The Local Authority/Academy is statutorily responsible for the payment of SMP.

SMP is paid at 2 rates (higher and standard).

- For the first 6 weeks of maternity leave, SMP will be equivalent to 90% of the employee's average weekly earnings for National Insurance Contributions. This is known as the higher rate.
- For the next 33 weeks, SMP is paid at a fixed standard rate, which is set by the Government and is normally reviewed annually in April. (If 90% of weekly earnings is less than the fixed amount, then the lower amount will be paid).

An employee does not have to intend to return to work after the baby is born to qualify for SMP.

#### Disentitlement to SMP

An employee will not be eligible for SMP if she:

1. starts work in her MPP after childbirth for an employer other than the Local Authority/Academy;
2. is in legal custody at any time during her MPP.

It is the employee's responsibility to notify her Headteacher/Manager if any of the above events occur.

Where an employee notifies Personnel that 1 of these circumstances applies to her, SMP must cease. It is essential that the school ensures that the necessary action can be taken immediately.

#### **Contractual Maternity Pay (CMP)**

Contractual Maternity Pay is available to those employees who have completed 1 year's continuous service at the beginning of the 11th week before the EWC.

The contractual scheme provides maternity pay for 18 weeks. The first 6 weeks are paid at 90% of a week's pay (under Burgundy book provisions, teachers are paid full pay for the first 4 weeks of absence, and the next 2 weeks at 90% of full pay). However, the CMP due will be offset by any SMP paid during the first 6 weeks of maternity leave.

For each of the next 12 weeks, half a week's pay will be received plus SMP (provided that the combination of these 2 elements does not exceed the normal weekly pay) on condition that the employee has previously declared her intention to return to work for 3 months following maternity leave (13 weeks for teachers). The return to work is inclusive of agreed holidays and is unaffected by any change to the hours worked on return.

If the employee is unsure whether or not she will return to work, she can opt to receive the 12 weeks half pay on her return to work. In which case the employee will receive SMP only and upon returning to work the half pay element of CMP will be paid.

If an employee fails to return to work for a minimum of 3 months/13 weeks, the College will take the appropriate steps to recover the 12 weeks half pay element of CMP as necessary.

The debt resulting from the enforcement of these conditions will automatically be collected unless Personnel receives written authorisation from the Principal/College Manager stating the reasons not to do so.

Schools have the discretion to reduce the 3 months period of return to work, if they can demonstrate a good reason for doing so.

If CMP is being paid, SMP will be offset against it for the first 6 weeks. SMP will be paid in addition to half pay element of CMP, unless the combination of these 2 elements exceeds the employee's normal full weekly pay.

## **Right to Return to Work**

An employee is entitled to return to work at the end of Additional Maternity Leave (AML) without giving prior notice; it is assumed that the employee will take their full entitlement unless they give written notice to the contrary, i.e. if the employee has stated in writing that they intend to return to work before the end of AML, that is the expected return to work date. However, under the 'reasonable contact' arrangements, they should be encouraged to give, where possible, an indication of their anticipated return to work date.

Employees returning from OML are entitled to return to the same job, on terms no less favourable than if they had not been away, with the seniority, pension and similar rights protected.

After AML, employees have the right to return to the job in which they were employed before their absence unless:

- there is a redundancy, in which case they are entitled to be offered employment in a suitable alternative vacancy, where one exists. The work must be both suitable in relation to the employee and appropriate for them in the circumstances, and the place and capacity in which they are employed, and the terms and conditions of employment must not be substantially less favourable than before; OR
- it is not reasonably practicable for the employer to permit this, in which case employees must be offered suitable alternative work, on terms and conditions that are no less favourable than would have applied if the employee had not been absent.

## **Establishing a Return Date**

The employee is not formally required to give notice of the intended date of return if it is at the end of 52 weeks maternity leave. However, under the "reasonable contact" arrangements, she should be encouraged to give, where possible, an indication of her anticipated return to work date.

It should be automatically assumed that the employee will return following their full entitlement to maternity leave, i.e. after 52 weeks. The employee and the school will be advised of the expected date of return to work (i.e. the end of 52 weeks) automatically by the school's payroll provider.

However, prior to taking maternity leave the employee may voluntarily give notice and advise the school, in writing, that they intend to return on a date which is before the end of the full maternity entitlement, in which case this date is the formal expected date of return.

## **An Early Return to Work**

Whilst on maternity leave the employee may give 21 days' notice that they wish to return early. If the required notice period has not been given the employer may delay the return by the earlier date of up to 21 days or the end of the AML.

It is not possible to delay a woman returning to work whether this is a date they have formally given to return to work or at the end of their full entitlement (52 weeks), if no date has been given.

## **Not Returning to Work**

An employee can change her mind, and decide not to return to work. However, if she says she will not be coming back, she should give the appropriate written notice and in doing so

she has no right to change her mind. Most women keep their options open until the end of their full entitlement.

### Sickness on Return Date

If the employee is unable to return after AML due to ill health, as certified by a doctor, her employment continues as if she had returned from maternity leave. The absence will be treated as sick leave and handled in accordance with the Sickness Absence Management Policy.

If the employee returns to work during the maternity pay period of 39 weeks, but takes time off work due to sickness, entitlement to maternity pay, where eligible, will be resumed for complete weeks of absence only. There will be no entitlement to SSP.

### Flexible Working Request

The School has extended its legal obligation and gives the right to request flexibility in working arrangements to all employees in relation to hours of work and times of work. Please refer to <\\CI2ksrv01\staffonly\Public\POLICIES CVCC Academy\Flexible Working Request Policy App 28.02.2018.pdf>

### Keeping in Touch

It is mutually beneficial, for the employee and the school, for contact to be maintained throughout maternity leave; to keep the employee informed of any changes and to better support the return to work. This is encouraged under the “reasonable contact” arrangements of the Maternity Regulations.

The Regulations also provide that a woman can request, or be offered (without obligation) to work a maximum of 10 days during her maternity leave without bringing her maternity leave to an end. These days are known as “Keeping in Touch” (KIT) days.

Working part of a day counts as 1 full day for KIT purposes and any pay received will be offset against any SMP (daily rate) or CMP (hourly rate), which may be due.

KIT days may not be worked during the 2 weeks compulsory maternity leave period.

### Advice to the Employee

When an employee informs [personnel@clystvale.org](mailto:personnel@clystvale.org) that she is expecting a child, Personnel should issue the Maternity Leave Application Form – Park 1 (See Appendix 1). On completion and return of the Application form, Personnel will then arrange to meet with the staff member to complete a New and Expectant Mothers Risk Assessment.

The employee should meet with Personnel to;

- confirm the date of continuous service in order that she is advised appropriately;
- discuss the dates when she can start her maternity leave;
- ensure that she understands maternity pay and leave entitlements;
- arrange for a New and Expectant Mothers Risk Assessment;
- discuss annual leave; its accrual during maternity leave and the effect the carry over policy;
- pension arrangements.

It is important to ensure that the employee fully understands her rights and responsibilities with regard to giving notice of her impending leave and return to work, as well as the requirement for a MAT B1 certificate (certificate of expected date of childbirth) to be given to the school's payroll provider before starting her maternity leave.

She should also be aware that if she receives full CMP she must repay the 12 weeks half pay to the employer if she fails to return to work for the appropriate period.

It is essential the college's payroll department be informed about any changes to contractual benefits during maternity leave.

### **Sick Leave Before Childbirth**

Statutory Sick Pay (SSP) cannot be paid during the Maternity Pay Period, or for any period of sickness absence that is related to the pregnancy after the 4th week before the EWC. If an employee is absent due to illness connected with the pregnancy before the 4th week before the EWC, the absence should be treated as sick leave. If the employee is absent with a pregnancy related illness after the 4th week before the EWC then maternity leave and pay will commence on the first day of sickness.

If an employee is absent from work due to illness unrelated to the pregnancy after the 4th week before the EWC, the absence will be treated as sick leave provided it is covered by a Sickness Declaration and Return to Work Form or Statement of Fitness for Work.

### **Temporary Cover for Maternity Leave**

When an employee exercises her right to return to work consideration should be given to how to cover the post during the period of leave.

It may be covered by:

- recruiting a fixed term employee. If this occurs the contract of employment should state "the post is fixed because the current postholder is on maternity leave. The contract will expire on ..... or on the return of (.....) whichever is the earlier". It should also indicate under the terms of notice that 21 days' notice to terminate the contract will be given;
- by arranging for an existing employee to cover the work for which an additional contractual payment might be payable.

### **Pensions**

If the employee is a member of the Local Government Pension Scheme, deductions for pension will be made automatically on all maternity pay received during the paid period of maternity leave. Consequently, periods of paid maternity leave will count towards pension. Any ordinary maternity leave (the first 26 weeks) also counts for pension purposes even if the employee does not receive pay during that period.

If an employee wishes, she can elect to pay contributions for the unpaid period of additional maternity leave when she returns to work in order that the period of additional maternity leave can be counted for pension purposes. If they elect to do this within 30 days of returning to work then the employer will pay two thirds of the cost of the lost pension.



If the employee elects to do this, more than 30 days after returning to work, the full cost of the lost pension is borne by the employee. The contributions payable will be based on the cost of paying for the pension lost during the unpaid period. Further information can be found by following the link: <http://www.peninsulapensions.org.uk/>

### **Accrual of Annual Leave during Maternity Leave**

For support staff paid all year round, annual leave entitlement including bank holidays will accrue throughout her maternity leave. If an employee does not return to work, she will be paid in lieu for any leave accrued but not taken, subject to the carry over policy.

Where an employee's maternity leave runs across the end of a leave year, leave can only be carried across to the new leave year in exceptional circumstances and at the discretion of the Principal. It is useful for the Principal/College Manager and the employee to discuss and agree, in writing, prior to maternity leave starting, how leave can be best taken. (The Principal/College Manager might allow leave to be carried forward into the New Year as long as the employee returns within a certain period after the beginning of the new leave year, e.g. a month).

### **For Employees on "Term-time only Contracts"**

Support staff paid on a term-time contract are in receipt of an extra payment, incorporated into their salary, which is paid in lieu of holiday entitlement. Consequently, instead of accruing holiday during maternity leave (where entitled) this element of salary will be paid on a pro-rata basis according to the period of maternity leave taken.

### **For Teaching Staff**

A Teacher who takes maternity leave must be able to take their statutory entitlement to annual leave (28 days, pro rata for part-time workers) outside of her ordinary and additional maternity leave.

A teacher should be advised, prior to commencing her maternity leave, that she has a statutory entitlement to 28 days annual leave and that it should be taken either before or after maternity leave periods **during school closure periods**.

Where the return from maternity leave is so close to the end of the leave year there is not enough time to take all her 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 school closure after the 28 days' annual leave for the leave year has been accommodated.

### **Miscarriage or Still Birth**

If the baby dies or is still born after the 24th week of pregnancy then normal maternity entitlements, will apply. Where miscarriage or still birth occurs earlier than the 24th week sympathetic consideration will be given to compassionate leave.

See the Miscarriage Association website for a 'Miscarriage and the Workplace Guide' which is for Principal/College Managers with employees who have been affected by miscarriage.

## **Health and Safety Provisions**

Pregnant employees, recent mothers or women who are breastfeeding are covered by special Health and Safety provisions. This additional protection applies from the time the employee notifies [personnel@clystvale.org](mailto:personnel@clystvale.org) that she is pregnant until 6 months from the date of childbirth, or until they stop breastfeeding, whichever is the later date.

A New and Expectant Mothers Risk Assessment should be carried out as soon as possible by the HR Officer <\\CI2ksrv01\staffonly\Private\Confidential Docs\Personnel\Maternity Leave\RA for new & expectant mother at work.docx> .

Where an unacceptable risk is identified in the workplace during the period detailed above, the HR Officer/College Manager must take any preventative or protective measures required by other health and safety legislation to eliminate the risk. Where this does not avoid the risk, then the following options will apply in the order stated to remove the employee from the risk:

1. Temporary adjustment of the working conditions; or if this is not possible;
2. redeployment to another job, or if this is not possible;
3. paid leave.

It is envisaged that in the majority of cases the first option will remove the risk, and that only in exceptional circumstances would the third option be used.

## **Protection Against Detriment/Dismissal**

It is automatically unfair to dismiss a woman on grounds relating to pregnancy, childbirth, maternity suspension or maternity leave.

An employee must not be subjected to any detriment by any act, or any deliberate failure to act, by her employer because the employee:

- is pregnant or has given birth;
- is subject to a suspension from work on maternity grounds;
- took or availed herself of the benefits of maternity leave.

Fathers or partners who exercise, or seek to exercise, their right to statutory unpaid time off to accompany their spouse or partner to up to 2 antenatal appointments are protected in law from detriment arising from exercising that right.

**MATERNITY LEAVE APPLICATION**  
**Confirmation of Maternity Leave Dates**

<p>1. Initials:  Surname:</p>	<p>Service Area/School:  Workplace:</p>
<p>2. Employee number (SAP):  N.I Number:</p>	<p><b>Notes for Completion</b></p>
<p><b>3. Expected Week of Childbirth</b></p> <p>My baby is due on  ..... (Date) (EDC)</p> <p>I have attached my MAT B1 Form confirming this date: YES <input type="checkbox"/> NO <input type="checkbox"/></p>	<p>We require you to produce a certificate from your Doctor or Midwife giving the expected week of childbirth – normally the MAT B1.</p> <p>Please ask your Doctor or Midwife for this form at around the 20<sup>th</sup> week of your pregnancy. You will not receive Statutory Maternity Pay (SMP) if Personnel &amp; Payroll do not have your MAT B1.</p>
<p><b>4. Maternity Leave:</b></p> <p>I intend to take Ordinary Maternity Leave (OML) <u>only</u>: <input type="checkbox"/></p> <p>I intend to take Ordinary Maternity Leave and I also intend to take Additional Maternity Leave (AML): <input type="checkbox"/></p>	<p>Ordinary Maternity Leave (OML) lasts for 26 weeks and Additional Maternity Leave (AML) lasts for a further 26 weeks giving one year's leave in total.</p>
<p><b>5. Contractual Maternity Pay</b></p> <p>By the beginning of the 11<sup>th</sup> week before my baby is due (i.e. when I am 29 weeks pregnant) I will have at least one year's Local Government service</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>I intend to return to work at the end of my maternity leave</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>If entitled to contractual maternity pay, I wish to receive the 12 weeks half pay element when: I am on OML <input type="checkbox"/> <b>OR</b> I return to work <input type="checkbox"/></p>	<p>An employee who can answer yes to both questions is entitled to enhanced maternity pay (contractual maternity pay), during their OML period, on the condition that they return to work for 3 months.</p> <p>We are asking the second question therefore solely for the purpose of determining your eligibility for enhanced payment. Your answer will not in any way affect your employment with us in any other way.</p> <p>If you do not return to work for 3 months you will need to repay the 12 weeks half pay element received. Payroll can delay this payment until you return if you wish.</p>

<p>6. I wish my maternity leave to start on:  .....(Date)</p>	<p>This must be no earlier than the 11<sup>th</sup> week before the expected week of childbirth. You must give 28 days' notice of the date you intend to start maternity leave. <b>If this date changes you must inform <a href="mailto:personnel@clystvale.org">personnel@clystvale.org</a> ASAP.</b></p>
<p>7. I am entitled to Maternity Allowance  YES <input type="checkbox"/> NO <input type="checkbox"/></p>	<p>You will need to confirm to Personnel in writing the actual amount you are to be paid. This information can be obtained from your local Jobcentre Plus.</p>
<p>8. I am due back to work on .....(Date)</p>	<p>This is the date your AML ends.  If you cannot return because you are sick, normal rules on sickness absence leave will apply.  If you decide to return to work before the end of your maternity leave period you must give us 21 days' notice.</p>
<p><b>9. Shared Parental Leave</b>  I intend to curtail my Maternity Leave and take Shared Parental Leave  YES / NO / DON'T KNOW (delete as appropriate)</p>	<p>This section is non-binding but is intended to start a discussion between you and your Principal/College Manager regarding any intention to consider Shared Parental Leave.</p>
<p><b>10. Confirmation of Information</b>    Signed ..... (Date)</p>	<p>In signing this form, you are confirming that the details given are true and that you understand that by knowingly making a false declaration, you may render yourself liable to disciplinary action.  If you do not return to work for 3 months, you will be required to repay any contractual maternity pay received or it will be offset against any monies which may be due to you.</p>
<p><b>10. Authorisation</b>  To be completed by the HR Officer/College Manager  Signed ..... (Date)  Name (Print): .....  Contact Tel No: .....</p>	<p>Please ensure you have discussed arrangements for taking annual leave and completed a New and Expectant Mothers RA. You should discuss arrangements for 'keeping in touch' (including if eligible KIT days) whilst the employee is on maternity leave.</p>

**On completion, this form and the MAT B1 Certificate should be retained in the employees personnel file.**

**KEEPING IN TOUCH DAYS  
PAYROLL NOTIFICATION**

<b>To be completed by the employee and authorised by the Principal/College Manager at the end of each session.</b>			
<b>Initial:</b>		<b>School:</b>	
<b>Surname:</b>		<b>Department:</b>	
<b>Employee No:</b>			
<b>NI Number:</b>		<b>GL Code:</b>	

The above individual, who is currently on Maternity Leave, has worked the hours recorded below:

DATE		HOURS (Max 7.5 per day)	KIT DAYS (10)		AUTHORISED MANAGERS' SIGNATURE
From dd/mm/yy	To dd/mm/yy		Taken	Remaining	

Please forward this form, once authorised to Personnel, who will ensure payment is made and will retain a copy on file.

## **NEW AND EXPECTANT MOTHERS AT WORK HEALTH AND SAFETY GUIDANCE FOR LINE MANAGERS**

Many women work while they are pregnant, and many return to work while they are still breastfeeding. The Management of Health and Safety at Work Regulations (MHSWR) specifically require a dedicated risk assessment to be carried out for each new and expectant mother in order to take particular account of the risks associated with her work activities and to identify the measures necessary to control them. Risks include those to the unborn child or child of a woman who is still breastfeeding, not just risks to the mother herself.

The Regulations require an employer to undertake the dedicated risk assessment after being given written notification of the pregnancy (and/or breastfeeding) by the employee, but allow the employer to request confirmation from a registered medical practitioner or registered midwife if deemed necessary. However, it should be emphasised that the 'mainstream' risk assessments undertaken in accordance with the more general requirements of MHSWR should also take account of the risks to new and expectant mothers where appropriate. If, therefore, any activity involves 1 or more of the hazards identified in the risk assessment checklist shown on the following pages, the general risk assessment for that activity should state that the hazard(s) can have an adverse effect on new and expectant mothers or breastfeeding and unborn children and that the written notification should, as a result, be submitted as early as possible.

The phrase 'new or expectant mother' means an employee who is pregnant, who has given birth within the previous 6 months, or who is breastfeeding. 'Given birth' is defined in the Regulations as 'delivered a living child or, after 24 weeks of pregnancy, a stillborn child'. There is no time limit on the period of breastfeeding - this will be for the mother herself to decide.

If, after the introduction of control measures, there is still a significant risk at work which goes beyond the level of risk to be expected outside the workplace, it will be necessary to either a) change the employee's working conditions or hours, b) offer her suitable alternative work, or if that is not possible, c) give her paid leave for as long as necessary to protect her health and safety and/or that of her child. These actions will only be necessary where there is genuine concern. If there is any doubt, professional advice may need to be sought.

The situation will need to be reviewed regularly by the HR Officer/College Manager and appropriate action taken. Even with the hazards remaining constant, the risks arising from them could change depending whether the worker is pregnant, has recently given birth or is breastfeeding. Furthermore, the stage of pregnancy will have a bearing. Postural problems can develop and the growing unborn child can restrict blood flow to the mother's lower limbs. Dexterity, agility, co-ordination, speed of movement, reaches and balance may all be impaired because of her increasing size. Lone working becomes undesirable in the later stages of pregnancy. If there is any significant change to her work activity, a complete re-assessment will be necessary.

As well as the hazards covered in the accompanying dedicated risk assessment checklist, other aspects of pregnancy the HR Officer/College Manager may need to consider are shown in the table below.

<b>ASPECTS OF PREGNANCY</b>	<b>FACTORS TO CONSIDER</b>
Morning sickness	Exposure to nauseating smells Early shift work
Backache	Standing/manual handling/posture
Varicose veins	Standing/sitting
Haemorrhoids	Working in hot conditions
Frequent visits to the toilet	Difficulty in leaving job/site of work
Increasing size	Manual handling Work in restricted areas Use of protective clothing
Tiredness	Overtime Evening work
Balance	Problems working on slippery, wet surfaces
Comfort	Problems wearing tightly fitting work clothing