



## **MATERNITY**

**Date Policy Created: June 2012**

**Committee Date: 16<sup>th</sup> July 2012**

**Reviewed: September 2014**

**Review Schedule: 2 years**

**Next review Date: July 2016**

**Responsibility: Finance and Premises Committee**

## Useful Contacts and Information

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Support Staff 01392 383000  
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[www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

**HM Revenue & Customs** <http://www.hmrc.gov.uk>

**Department for Work & Pensions** <http://www.dwp.gov.uk>

**Devon Information on Services For Children (DISC)** 0845 1551013  
<http://www.devon.gov.uk/disc.services.htm>  
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**Directgov** <http://www.direct.gov.gov.uk/en/index.htm>

Useful Policies listed below can be found at:

F:\Public\Policies CVCC Academy Policy Folder:

- Flexible Working Request Policy
- Health & Safety Policy

F:\Public\Policies CVCC Academy Policy Folder\Maternity

- Risk Assessment
- Expectant and New Mothers at Work Guidance
- Keeping in Touch days (Maternity Leave)
- Maintaining Contact and Keeping in Touch days (Paternity/Adoption Leave)

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# MATERNITY

## 1.0 Introduction

- 1.1 This policy applies to all pregnant staff employed by Clyst Vale Academy Trust (known as Clyst Vale Community College (CVCC)), including school support staff and teachers regardless of the number of hours worked per week.

## 2.0 Policy

- 2.1 This policy sets out the rights of Clyst Vale Community College employees to maternity leave and pay in accordance with national, local and statutory conditions of service. Nothing in the provisions shall be construed as providing rights less favourable than statutory rights.

## 3.0 Principles

- 3.1 Employees are not discriminated against on the grounds of their pregnancy in addition to being free to exercise their rights to maternity leave, paid time off for ante-natal care, maternity pay and the right to return to work.
- 3.2 Full consideration is given to the full range of flexible working arrangements when requested by women returning to work after maternity leave and these are arranged wherever possible in response to such requests.
- 3.3 An employee who is the child's father, or is the partner or nominated carer of an expectant mother, is allowed to take paid maternity support leave at or around the time of the birth in accordance with the local conditions of service.
- 3.4 Around or after the time of the birth, requests by the child's father or the partner or nominated carer of an expectant mother for flexible working arrangements are treated sympathetically.

## Procedure

### 4.0 Notification of pregnancy

- 4.1 The employee should notify her line manager as soon as possible so that the employee can find out about her entitlements and the employee and manager can identify any potential health and safety implications by completing a risk assessment and the manager can begin to prepare appropriate maternity cover. Please see guidance on Expectant & New Mothers at Work at F:\Public\CVCC Academy Policy Folder\Maternity
- 4.2 The employee should contact Payroll. Payroll will send the employee a Maternity Pack, which includes notification form MAT5 (MAT6 for teachers).
- 4.3 The employee should complete the MAT5 (MAT6 for teachers) notification form and send the original to Payroll as soon as possible, but at least by the 15<sup>th</sup> week before her EWC. A copy should be given to the line manager who must arrange for it to be placed on her personnel file.
- 4.4 The College Manager, on behalf of the line manager, will respond to the notification within 28 days, setting out the date on which the employee is expected to return to work if she takes her full entitlement to maternity leave.
- 4.5 The employee will be able to change her mind about when she wishes to start her maternity leave providing she gives at least 28 days notice in advance (unless this is not reasonably practicable).
- 4.6 The employee should give the College Manager her MAT B1 form. The College Manager should forward copies of the MAT B1 to Payroll and to the employee's personnel file. (The employee will receive the MAT B1 from her GP or Midwife stating when the baby is due, not before 20 weeks before the expected date of birth.)
- 4.7 If a performance appraisal is due whilst the employee will be on maternity leave, the line manager should agree with the employee to either carry this out before she starts her leave or upon her return.
- 4.8 Employees should discuss the management of their annual leave with the College Manager at the earliest opportunity so that they are able to take their annual leave around the needs of the College.

### 5.0 Ante-natal care

- 5.1 In order to exercise her right to time off, the employee must notify the line manager/College Manager of her pregnancy and obtain her line manager/College Manager's authorisation to take time off and provide evidence of her ante-natal appointments, if requested (an appointment card will suffice as evidence). It is recommended that the manager maintains a record of the appointments through the normal processes for recording employee absences.

## **6.0 Commencing maternity leave**

- 6.1 If the employee is absent from work due to a pregnancy related illness during the four weeks before the EWC, her maternity leave will commence automatically.
- 6.2 When the employee actually begins maternity leave, the Cover Administrator, on behalf of the College Manager, must ensure that the 'Online Absence Report' is completed stating the date that the employee commenced maternity leave. The Cover Administrator, on behalf of the College Manager should also make a note of when the employee is expected to return, to ensure a further 'Online Absence Report' is completed at that time, notifying Payroll of her return to work.
- 6.3 If a temporary replacement is required to cover the employee's maternity leave, the temporary employee must be informed in writing that his/her employment will be terminated on the return to work of the employee from maternity leave.

## **7.0 Contact during maternity leave**

- 7.1 Managers will maintain contact with employees during their maternity leave period to discuss issues such as return to work and will keep employees informed of vacancies, any significant workplace developments and training opportunities.
- 7.2 Contact will not constitute 'work' and would not therefore count towards the 10 days 'Keeping In Touch' days and neither would contact bring the maternity leave period to an end.

F:\Public\CVCC Academy Policy Folder\Maternity

## **8.0 Following the birth**

- 8.1 Once the baby is born the employee should send a copy of the birth certificate to the line manager. The line manager/College Manager should then forward a copy of the birth certificate to the employee's personnel file.
- 8.2 If a premature, still birth or miscarriage occurs, the employee is advised to notify her line manager as soon as is reasonably practicable so that arrangements can be put in place to organise her maternity entitlements. The Cover Administrator, on behalf of the College Manager, should then liaise with Payroll.

## **9.0 Returning to work**

- 9.1 The employee cannot return to work in the two weeks following the day of childbirth. This is Compulsory Maternity Leave.
- 9.2 **Return at the end of Ordinary Maternity Leave** – If the employee chooses to return when the ordinary maternity leave period ends after 26 weeks, she does not have to give specific notice, although she should confirm to her line manager/College Manager the date she wishes to return so that arrangements can be made.

- 9.3 **Return during Ordinary Maternity Leave** – If the employee chooses to return before the 26 weeks have elapsed, she must give, in writing if requested, at least 21 days' notice before her return to the line manager/College Manager. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days' notice, but not beyond the end of the maternity leave period.
- 9.4 **Return at the end of Additional Maternity Leave** – If the employee chooses to return when the additional maternity leave period ends, she does not have to give specific notice.
- 9.5 **Return during Additional Maternity Leave** – If the employee chooses to return before the 52 weeks have elapsed she must give, in writing if requested, at least 21 days notice before her return. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days' notice but not beyond the end of the maternity leave period.
- 9.6 **Altering an early return date** – If an employee changes her mind about the date she intends to return, where she has already notified an early return date, she must give 21 days' notice before the new date, and at least 21 days before the original early return date to the line manager/College Manager.
- 9.7 **Return to work and sickness absence** – If the employee is unable to return to work on the expected date due to sickness, the employee has still exercised her right to return by complying with the notification procedure. She will then commence a period of sickness absence, and be treated as any other employee who is absent due to sickness, including the payment of sick pay.
- 9.8 The Cover Administrator, on behalf of the College Manager, should ensure that an 'Online Absence Report' is completed upon the employee's return to work.
- 9.9 The Personnel Officer and employee should calculate any entitlement to public/extra statutory holidays that occurred during the maternity leave period and make arrangements for the taking of any substitute days.
- 9.10 The line manager/College Manager and employee should review the risk assessment.

## **10.0 Flexible working requests**

- 10.1 An employee returning to work may make a request to work flexibly, as set out in the Corporate/Schools Flexible Working Requests Policy:  
F:\Public\CVCC Academy Policy Folder\Maternity  
Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

## **11.0 Choosing not to return to work**

- 11.1 The employee must give normal notice of resignation if she does not intend to return to work after her maternity leave.
- 11.2 The employee will have received a lower rate of maternity pay or will have to pay back any half pay received, as part of contractual maternity pay. Payroll will notify the employee of her particular circumstances.
- 11.3 The last day of maternity leave will be the last day of service, unless the employee has given written notice that she wishes to resign on an earlier date.
- 11.4 The College Manager will need to ensure that a Leaver's Form (Prism 2) is completed, confirming the end of the employee's employment.

## Guidance

### 12.0 Ante-natal Care

12.1 Any pregnant employee has the right to paid time off to attend ante-natal care. The employee will normally be required to attend ante-natal classes (such as relaxation and parenting classes), which are usually at set times during the week, and ante-natal appointments where the employee arranges the time with her midwife. The employee should liaise with her line manager regarding time off, giving as much notice as possible (see procedure).

### 13.0 Maternity leave and pay

13.1 Entitlement to maternity pay is based on the employee's length of continuous service. The flowcharts provide more detailed information (Section 26, appendix 1/2).

13.2 Maternity leave cannot commence more than 11 weeks before the Expected Week of Childbirth (EWC).

13.3 All women are entitled to both 26 weeks ordinary maternity leave and 26 weeks additional maternity leave, thus providing a right to one year's maternity leave in total, regardless of length of continuous service.

13.4 If the employee is absent from work due to a pregnancy related illness during the four weeks before the EWC, her maternity leave will commence automatically.

13.5 Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness absence.

13.6 Employees may be eligible for one or more of the following payments:

- **Statutory Maternity Pay (SMP)** - An employee is eligible for SMP providing she meets certain criteria. Payroll will advise the employee of her entitlement. SMP payments are higher rate SMP (90% of average weekly earnings) for the first six weeks, then flat rate SMP for the next 33 weeks or nine tenths' average weekly earnings if this is less. Current rates are available from the Directgov website.
- **Maternity Allowance (MA)** - Where the employee is not eligible for SMP she may be able to claim MA from the Department for Work & Pensions. Payroll will send the employee a claim form to complete. MA payments are flat rate for 39 weeks. Current rates are available from the Directgov website.
- **Contractual Maternity Pay (CMP)** - This will depend on the employee's length of service (Section 26, appendix 1/2).

13.7 If an employee has declared that she will be returning to work following the birth, she must return to employment with CVCC for a period of time in order to 'protect' her Contractual Maternity Pay (CMP).

The period for which the employee must return is three months for Support Staff service and for teachers 13 weeks, regardless of the number of hours worked. Contractual maternity payments are made at the normal pay interval (less normal deductions) or withheld until the employee returns to work, when the amount is paid as a lump sum (less normal deductions).

13.8 If an employee decides not to return to work (ie resigns) or the contract ends for a reason other than redundancy whilst on maternity leave, CMP ceases when the employment ends. The employee is required to repay the half pay elements of CMP (12 weeks) paid up to and including the last day of employment if she does not return to CVCC employment (as set out in 13.7). Payroll will notify the employee of the amount. (This applies to employees on permanent and fixed term contracts.)

If an employee holds more than one post and chooses to return to one or more but not to all posts, she will be required to repay the half pay elements, if applicable, paid against the post(s) which she chooses to not return to (as set out in 13.7).

13.9 If an employee is made redundant whilst on maternity leave, CMP ceases on the last day of employment. The employee is not required to pay back any half pay elements of CMP (12 weeks) paid up to and including the last day of employment. (This applies to employees on permanent and fixed term contracts.)

13.10 The employee will not have to refund SMP/MA payments.

13.11 To be eligible for maternity leave and pay employees must meet specific notification requirements (see procedure).

## **14.0 Health & Safety**

14.1 The manager and/or the relevant risk assessor is/are required to carry out specific risk assessments for all employees of childbearing age.

14.2 When an employee notifies her manager that she is pregnant it is important that this risk assessment is reviewed, in consultation with the employee and the risk assessor. F:\Public\CVCC Academy Policy Folder\Maternity for further information.

14.3 A further review should take place when the employee returns to work following maternity leave.

14.4 Should the risk(s) be significant the line manager will need to take action, in consultation with the College Manager and Wellbeing@Work. This may include:

- i) Removing the hazard(s) or avoiding the employee's exposure to the risk(s)
- ii) Advising the employee of the risk
- iii) Informing the employee of any action you will take to ensure that the employee is not exposed to a risk that could cause harm

14.5 Removing the employee from the workplace if the level of risk is greater than the level of risk expected outside the workplace. This can be done by temporarily adjusting her working conditions and/or hours of work, offering the employee suitable alternative work (if any is available) or if neither of these is feasible, suspending the employee from work (with pay) for as long as necessary to protect her safety and that of the child.

14.6 The Health and Safety Executive (HSE) has advised that 'pregnancy should not be equated with ill health, it should be regarded as part of everyday life and its health and safety implications can be adequately addressed by normal health and safety procedures'.

## **15.0 Risk of Rubella**

15.1 If in the early months of pregnancy the employee is advised by an approved medical practitioner to absent herself from school because of the risk of rubella, she shall be granted leave with full pay, provided that she does not unreasonably refuse to serve in another school where there is no such undue risk.

## **16.0 Annual leave entitlement during maternity leave** (not applicable to teachers or term time staff)

16.1 Maternity leave does not affect annual leave entitlement, ie when taking maternity leave the employee will still be entitled to her full annual leave allowance within the year(s) in which the maternity leave falls.

16.2 If an employee's maternity leave spans two annual leave years, she will be able to carry forward her contractual entitlement into the new leave year. However, the manager should be proactive about managing the amount of leave that the employee will have, and discuss the options available as early as possible (see procedure). These options could be to:

- take annual leave before the start of the maternity leave
- start the maternity leave earlier than anticipated and fit in the annual leave before returning to work
- return before the end of the maternity leave so that the remaining leave can be taken before the end of the annual leave year

16.3 During maternity leave annual leave will accrue in the same way as it did before the absence began. If the employee returns to work on a reduced hours basis, on the date of return to work the annual leave will begin to be calculated at the new pro-rata rate.

16.5 If the employee decides not to return to work, annual leave will accrue up to the final date of service.

16.6 If during the maternity leave period the employee subsequently decides not to return to work and too much annual leave has been taken, there will be a requirement to pay back some of the annual leave taken in advance.

## **17.0 Annual leave entitlement during maternity leave** (applicable to teachers only)

- 17.1 The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 September to 31 August.
- 17.2 Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect on 1 October 2007, the statutory leave entitlement has increased to 28 days (5.6 weeks), pro-rata for those working part time. This is not an additional entitlement to annual leave on top of the current school closure arrangements.
- 17.3 Teachers on maternity leave are entitled to the statutory annual leave under the Working Time Regulations. A teacher who takes maternity leave must be able to take the statutory annual leave at a time outside of her maternity leave. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question ie both before and after the maternity leave period.
- 17.4 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 school closures to accommodate 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 the entire annual leave entitlement, a teacher must be allowed to carry over any balance of leave to the following leave year. A teacher can be required to take this during the remaining periods of school closure after the statutory annual leave for that leave year has been accommodated.
- 17.5 It will not be possible for a teacher to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. However, payment in lieu may be necessary if a teacher does not return to her job following maternity leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

**See Section 24, Appendix 4 for further guidance.**

## **18.0 Pension contributions during maternity**

### **18.1 Teachers:**

- During the period of paid maternity leave, pension contributions will be paid and deducted from the teachers pay in the usual manner.
- Any unpaid period will not be pensionable/reckonable.
- Contact Teachers Pensions on 0845 6066166 and ask for the factsheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

### **18.2 All Other Employees:**

- During any period of paid or unpaid statutory maternity leave, employees who are members of the Local Government Pension Scheme will pay basic pension contributions on the pay actually received but CVCC will pay pension contributions on the pay the employee would have received had she been at work (Assumed Pensionable Pay - APP). The service will

count as normal for pension purposes, ie as if the employee had been at work.

- During any period of unpaid Additional Maternity Leave, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the 'lost' pension. If an employee elects to buy the 'lost' pension by paying an APC within 30 days of returning to work, the employer must pay two thirds of the total cost with the remaining one third being paid by the employee. If the election is not made within the 30 day period then the employee will pay the full cost, unless the employer chooses to contribute towards the cost. If the employee wishes to buy the 'lost' pension they need to read the employee factsheet (ABSENCES – Buying lost pension from 1<sup>st</sup> April 2014 by paying Additional Pension Contributions (APC)) which can be found on the Peninsula Pensions website, which explains how to calculate the costs and then what the process is.
- Where an employee works on a Keeping in Touch Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day. The day will count in full for pension purposes.

**See Section 24, Appendix 5 for further guidance.**

### **19.0 Working during maternity leave/'Keeping in Touch' days**

19.1 An employee can work for 10 days during her maternity leave without bringing her maternity leave to an end. Working for part of a day will count as one day.

19.2 Work is defined as any work carried out under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

19.3 A manager cannot insist that an employee carries out any work and equally an employee cannot insist on being given any work to do.

19.4 An employee's maternity leave will not be extended due to the fact that she has carried out some work during this period.

19.5 An employee will not lose any SMP for working up to 10 days.

19.6 An employee will be paid her normal rate of pay for any work carried out under the contract of employment and this will be offset against any SMP due for each day.

19.7 An employee will lose her SMP for any week in which she does any further work.

19.8 An employee cannot carry out any work during the first two weeks following the birth of her child.

**See F:\Public\CVCC Academy Policy Folder\Maternity**

## **20.0 Public and extra statutory holiday entitlement during maternity leave (not applicable to teachers)**

- 20.1 **Full time employees** - During both periods of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML), an employee is entitled to accrue public holiday entitlement as those public holidays and extra statutory days fall, with a substitute day of paid leave being provided at another time.
- 20.2 **Part time employees** - During both periods of OML and AML an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given substitute paid leave at another time. Eg, where an employee works three days per week, they will receive an entitlement to three fifths of the total number of public holiday and extra statutory days that fall during their whole maternity leave period.
- 20.3 Term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OML period. This should be managed locally, in the same way as the additional day of annual leave after 10 years continuous service.

For those employees whose EWC is on or after 5 October 2008, term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OML and AML period.

- 20.4 Substitute days of leave may be taken immediately following the end of the period of maternity leave, which should allow for any maternity cover arrangements to be managed most effectively. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work. In all cases, this should be recorded on leave cards (see Procedure).

## **21.0 Maternity rights in the event of a still birth or miscarriage**

- 21.1 **Stillbirth or miscarriage before the 25<sup>th</sup> week of pregnancy** - If an employee miscarries or has a stillbirth earlier than the 25<sup>th</sup> week of her pregnancy, she will commence a period of sickness absence and be treated as any other employee who is absent due to sickness, including the payment of sick pay.
- 21.2 **Stillbirth from 25<sup>th</sup> week onwards of pregnancy** - A woman who has a stillbirth from the 25<sup>th</sup> week of pregnancy onwards, will be eligible to full maternity scheme benefits.
- 21.3 **Birth of a live child before the 25<sup>th</sup> week of pregnancy** - A woman who gives birth to a live child, even if the child later dies, at any point in her pregnancy will be entitled to full maternity scheme benefits.

## **22.0 Right to return to work**

- 22.1 Employees have the right to return to work, following maternity leave; subject to specific requirements (see Procedure).

22.2 'Return to work' means to the job in which the employee was employed under her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. 'Job' for this purpose, means the nature of the work that she is employed to do and the capacity and place in which she is so employed.

22.3 Where it is not practicable by reason of redundancy for Clyst Vale Community College to permit the employee to return to work in her job, the employee shall be entitled to be offered a suitable alternative vacancy where one exists. The duties in that post should be suitable for the employee and appropriate to the circumstances. Also, the capacity and place in which she is to be employed and her terms and conditions of employment should not be substantially less favourable to her than if she had been able to return to the job in which she was originally employed. Suitable alternative employment as described above may also be offered if exceptional circumstances other than redundancy (eg a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence.

**Return to CVCC following a Break for Maternity Reasons** (not applicable to teachers)

22.4 Where an employee returns to CVCC following a break for maternity reasons, or reasons concerned with caring for children or other dependants, he/she will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened:

- Sickness provisions
- Maternity provisions
- Adoption provisions
- Period of notice to terminate employment

22.5 For the purpose of the calculation of entitlement to annual leave, the eight years' time limit does not apply, provided that no permanent paid full time employment has intervened.

22.6 The calculation of continuous service for rights against unfair dismissal or redundancy payments are not included within this contractual provision.

22.7 If an employee chooses to return to CVCC he/she will be asked to complete and sign a form confirming his/her service and that no permanent paid full time employment has intervened.

## 23.0 Costs

There may be a need to replace an employee on maternity leave. The formulas below will help managers to work out how many replacement hours they are able to employ an individual for, whilst still remaining within their staffing budget.

### 23.1 All employees except teachers

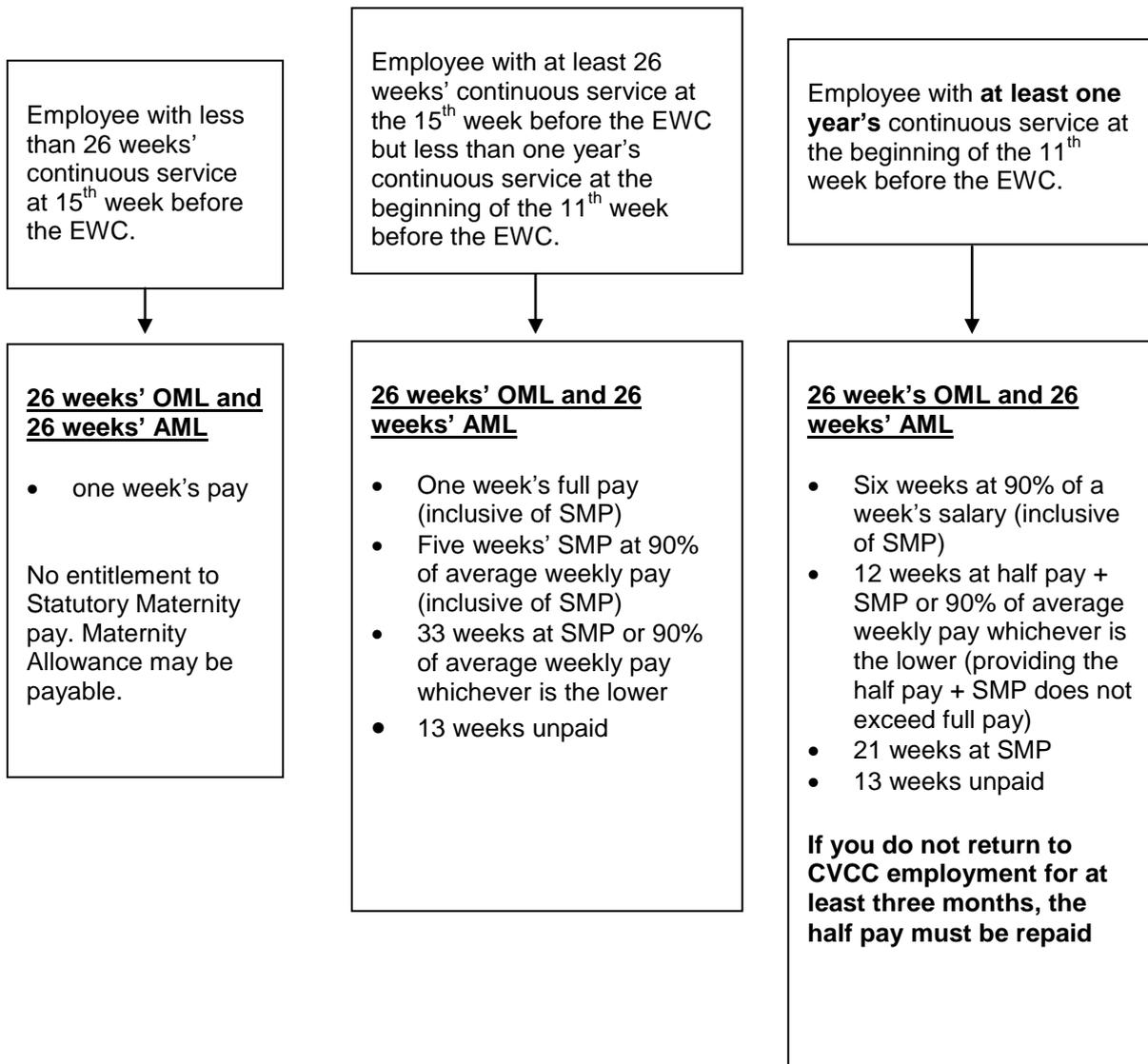
Length of service	Week	Employee Receives	Cost
At least 26 weeks' continuous service but less than one year's continuous service	1	Normal pay which when added to SMP (90% of average weekly earnings) or MA (flat rate) will secure the equivalent of normal pay	If entitled to SMP, 8% of the 90% plus the balance of normal salary If entitled to MA, normal salary less MA If no entitlement to statutory pay, one week's normal pay
	2 - 6	SMP - 90% of average weekly earnings	If entitled to SMP, 8% of the 90%
	7 - 39	SMP - flat rate (current rates are available from the Directgov website)	If entitled to SMP, 8% of flat rate (which may be less if employee is a low earner)
At least one year's continuous service	1 - 6	CMP / SMP - 90% of average weekly earnings	If entitled to SMP, 8% of the 90%
			If entitled to MA, 90% of normal pay less MA If not entitled to SMP or MA 90% of normal pay
	7 - 18	CMP - 50% of average weekly earnings + SMP - flat rate	50% of average weekly earnings + 8% of flat rate if entitled to SMP providing half pay + SMP does not exceed full pay
At least one year's continuous service and returning to work	19-39	SMP - flat rate	8% of flat rate if entitled to SMP

## 23.2 Teachers

Length of service	Week	Employee Receives	Cost
Less than 26 weeks' continuous service with CVCC and less than one year's continuous service with one or more LEAs	1-26	Nil	Nil
Less than 26 weeks' continuous service with CVCC but at least one year's continuous service with other LEAs  If returning to work	1-4	Normal pay when added to flat rate MA will secure the equivalent of normal pay	If entitled to MA, normal salary less MA. If no entitlement to statutory pay, four weeks' salary
	5-6	90% of average weekly earnings	If entitled to MA, 90% of two weeks' salary less MA If no entitlement to statutory pay, two weeks' pay 90 %
	7-18	CMP - 50% of average weekly earnings provided half pay plus maternity allowance does not exceed full pay	50% of average weekly earnings
At least 26 weeks' continuous service with CVCC but less than one year's continuous service with other LEAs	1 - 6	90% of average weekly earnings	If entitled to SMP, 8% of the 90%
	7 - 39	SMP flat rate	If entitled to SMP 8% of flat rate
At least 26 weeks' continuous service with CVCC and at least one year's continuous service with other LEAs  If returning to work	1-4	CMP / SMP - normal pay when added to SMP (90% of average weekly earnings) or flat rate MA will secure the equivalent of four weeks' normal pay	If entitled to SMP, 8% of 90% plus the balance of normal salary If entitled to MA, normal salary less MA If no entitlement to statutory pay, four weeks' salary If entitled to SMP 8% of the 90% If entitled to MA 90% of normal pay less MA
	5-6	CMP / SMP 90% of average weekly earnings	50% of average weekly earnings plus 8% of flat rate if entitled to SMP
	7-18	CMP / SMP - 50% of average weekly earnings plus SMP flat rate	8% of flat rate if entitled to SMP
	19-39	SMP flat rate	

## 24.0 APPENDICES

### Appendix 1 All Employees (Excluding Teachers): Maternity Benefits Flowchart



**OML** = Ordinary Maternity Leave  
**AML** = Additional Maternity Leave  
**SMP** = Statutory Maternity Pay\*  
**EWC** = Expected Week of Childbirth  
 \*SMP is only payable if the employee earns enough to pay NI contributions. Current rates are available from the Directgov website.

## Appendix 2 – Teachers’ Maternity Benefits Flowchart

Teacher with less than 26 weeks’ continuous service with CVCC at the end of the 15<sup>th</sup> week before the EWC and less than one year’s continuous service as a teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC.

Teacher with less than 26 weeks’ continuous service with CVCC at the end of the 15<sup>th</sup> week before the EWC, but at least one year’s continuous service as a teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC.

Teachers with at least 26 weeks’ continuous service with CVCC at the end of the 15<sup>th</sup> week before the EWC but less than one year’s continuous service as a teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC.

Teachers with at least 26 weeks’ continuous service with CVCC at the end of the 15<sup>th</sup> week before the EWC and at least one year’s continuous service as teacher with one or more LEAs at the beginning of the 11<sup>th</sup> week before the EWC.

### 26 weeks’ OML and 26 weeks’ AML

- No entitlement to contractual or statutory maternity pay.
- Maternity allowance may be payable.

### 26 weeks’ OML and 26 weeks’ AML

- Four weeks’ full pay, inclusive of maternity allowance if eligible
- next two weeks: 90% of a week’s salary, inclusive of maternity allowance if eligible
- next 12 weeks: half pay + maternity allowance if eligible (providing the half pay + MA does not exceed full pay)
- next 21 weeks on MA if eligible
- up to 13 weeks unpaid

**If you do not return to CVCC employment for at least 13 weeks the half pay must be repaid.**

### 26 weeks’ OML and 26 weeks’ AML

- Six weeks at SMP equal to 90% of a week’s salary
- 33 weeks at SMP or 9/10 of average weekly pay whichever is the lower
- 13 weeks unpaid

### 26 weeks’ OML and 26 weeks’ AML

- Four weeks’ full pay, inclusive of SMP
- next two weeks: 90% of a week’s salary, inclusive of SMP
- next 12 weeks: half pay + SMP or 9/10 of average weekly pay whichever is the lower ( providing the half pay + SMP does not exceed full pay )
- next 21 weeks at SMP
- 13 weeks unpaid

**If you do not return to CVCC employment for at least 13 weeks, the half pay must be repaid.**

**OML = Ordinary Maternity Leave    AML = Additional Maternity Leave**  
**SMP = Statutory Maternity Pay\*    EWC = Expected Week of Childbirth**  
 \*SMP is only payable if the employee earns enough to pay NI contributions. Current rates are available from the Directgov website.

### Appendix 3 - Terms and abbreviations

Actual Week of Childbirth (AWC)	This is the week the baby is born.
Additional Maternity Leave (AML)	An additional 26 weeks' maternity leave, immediately following ordinary maternity leave, which gives the right to one year's maternity leave in total to all pregnant employees, regardless of length of continuous service.
Childbirth	The live birth of a child, or a still birth after a pregnancy that has lasted at least 24 weeks.
Compulsory Maternity Leave	The two weeks commencing with the day of childbirth during which employers are prohibited from allowing the employee back to work.
Continuous service (excluding teachers)	Continuous service includes continuous previous service with any public authority to which the Redundancy Payments Modification Order (Local Government) 1983 (as amended) applies.
Continuous service (teachers)	Continuous service includes continuous previous service as a teacher with any Local Authority under the Redundancy Payments Modification Order.
Contractual Maternity Pay (CMP)	This is the payment made by CVCC over and above SMP, as part of the employee's Conditions of Service.
Expected Week of Childbirth (EWC)	This is the week the baby is expected to be born.
Job	For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which she is so employed.
MAT B1	This is the certificate issued by the employee's GP or Midwife (no earlier than 20 weeks before the EWC) to confirm the date of the EWC.
Maternity Allowance (MA)	Where the employee does not qualify for SMP she may be entitled to MA, which is paid directly by the Department for Work and Pensions.
Ordinary Maternity Leave (OML)	26 weeks' maternity leave. Available to all pregnant employees.
Qualifying Week	This is the 15 <sup>th</sup> week before the EWC. It is used to determine entitlement to SMP, as the employee needs to have worked for the same employer for at least 26 weeks up to and including the Qualifying Week (in addition to paying appropriate National Insurance Contributions).
Return to Work	Means to the job in which the employee was employed under her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent.
Statutory Maternity Pay (SMP)	Providing the Qualifying Week and National Insurance contribution criteria are met, the employee will be entitled to SMP. This payment is made by CVCC on behalf of the Department for Work and Pensions. Current rates are available from the Directgov website.
Week	A woman can start to receive her SMP on any day of the week.
Week's Pay	This is usually the amount payable by CVCC to the employee under her current contract of employment for working her normal hours in a week.

## Appendix 4 - Accrual of annual leave during maternity and adoption leave for teachers

Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect on 1 October 2007, the statutory leave entitlement has increased with effect from 1<sup>st</sup> April 2009 to 28 days (5.6 weeks), pro-rata for those working part time. This is not an additional entitlement to annual leave on top of the current school closure arrangements.

The leave year for teachers for the purpose of establishing annual leave entitlement whilst on maternity or adoption leave, is 1 September to 31 August. Please see the table below for information on school closures.

Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question ie both before and after the maternity or adoption leave period.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
School closures	-	1 wk	-	2 wks	-	1 wk	-	2 wks *	1 wk	-	2 wks	4 wks

\* March or April – amend as necessary

During the leave year for teachers, there are 13 weeks (65 days) during which there are school closures. In most cases teachers will have had their leave entitlement in periods of school closure before or after maternity or adoption leave. However, a number of helpful scenarios have been drawn up for guidance:

### Scenario 1

A teacher commences maternity/adoption leave in October and takes Ordinary Maternity Leave (OML) / Ordinary Adoption Leave (OAL) ie six months.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
School closures	-	1 wk	-	2 wks	-	1 wk	-	2 wks *	1 wk	-	2 wks	4 wks
		OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL					

In this scenario the teacher will benefit from up to nine weeks of school closure during April, May, July and August so there will be no additional entitlement to annual leave.

## Scenario 2

A teacher commences maternity/adoption leave in March and takes OML / OAL, ie six months.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
School closures	-	1 wk	-	2 wks	-	1 wk	-	2 wks *	1 wk	-	2 wks	4 wks
							OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL

In this scenario the teacher will already have had the benefit of four weeks (20 days) of school closure during October, December and February.

There will be an additional entitlement of eight days which will be carried over to the next leave year as the teacher is returning in September. The teacher will be required to use this entitlement during the remaining periods of school closure in the new leave year, in addition to the 28 days of annual leave entitlement for the leave year to which the teacher has returned.

## Scenario 3

A teacher commences maternity/adoption leave in October and takes OML/OAL and Additional Maternity Leave (AML)/Additional Adoption Leave (AAL) ie 12 months.

### **Leave year 1**

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
School closures	-	1 wk	-	2 wks	-	1 wk	-	2 wks *	1 wk	-	2 wks	4 wks
		OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	AML/ AAL	AML/ AAL	AML/ AAL	AML/ AAL	AML/ AAL

**Leave year 1** – in this scenario the teacher has had no annual leave but has an entitlement to 28 days which will be carried over to the next leave year on the teacher's return from maternity/adoption leave.

### **Leave year 2**

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
School closures	-	1 wk	-	2 wks	-	1 wk	-	2 wks *	1 wk	-	2 wks	4 wks
	AML/ AAL											

**Leave year 2** – in this scenario the teacher will benefit from 13 weeks of school closure. This will include the 28 days entitlement for that leave year which will be taken in October, December, February, April and first three days of the May school closure periods and the 28 days entitlement from leave year 1. Therefore, the teacher will not be entitled to any additional leave.

## Scenario 4

A teacher commences maternity/adoption leave in January and takes OML/OAL ie six months. The teacher resigns and does not return at the end of the maternity leave period.

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
School closures	-	1 wk	-	2 wks	-	1 wk	-	2 wks *	1 wk	-	2 wks	4 wks
					OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL	OML/ OAL		

In this scenario the teacher will already have had the benefit of four weeks' (15 days) annual leave in school closure periods. The teacher has not worked a full leave year and will only be entitled to a pro-rated statutory annual leave entitlement calculated as follows:

10 months' entitlement = **23 days**. Current statutory leave entitlement is 28 days for a full leave year.

In this situation the teacher will be entitled to eight days' pay in lieu, payable upon leaving.

## Frequently Asked Questions

### **If I am a part time teacher how do I calculate my entitlement?**

If you are employed on a part time contract for 50% of your time, you will only be entitled to 50% of the statutory annual leave entitlement.

### **What happens if I start maternity/adoption leave mid month and not at the beginning of the month as per the examples?**

You will need to establish the actual dates of school closure, which will vary slightly in each school, as to whether they fall within the start and end of your maternity/adoption leave.

For example, if a teacher commenced maternity/adoption leave on 15<sup>th</sup> October, for a period of six months, until 15<sup>th</sup> April the following year, and the October school closure is after 15<sup>th</sup> October, it could **not** be included as school closure for the purpose of annual leave entitlement as the maternity/adoption leave has commenced. In addition, if the two week school closure in April is before 15<sup>th</sup> April it could **not** be included as school closure for the purpose of annual leave entitlement as the employee is still on maternity/adoption leave.

## Appendix 5 - Pension contributions during OAL and AAL

Type of Leave		Member pays basic pension contributions on	Employer pays contributions on	How service counts under the LGPS	
<b>OAL (wks 1-26)</b>		Actual OAP (if any) and/or SAP (if any) received	Notional full pay	Counts in full as if the employee had been at work	
<b>Paid AAL</b>		Actual pay received	Notional full pay	Counts in full as if the employee had been at work	
Unpaid AAL	Employee opts to pay contributions to cover unpaid period	Notional pay - based on pay employee received or was entitled to receive before unpaid period began (ignoring any increase in pay due to a KIT day)			
		<u>If before AAL began, was entitled to receive:</u>	<u>Notional pay based on:</u>		
		SAP only	SAP	Notional full pay	Counts in full as if the employee had been at work
		SAP and OAP	SAP and OAP	Notional full pay	Counts in full as if the employee had been at work
		OAP only	OAP	Notional full pay	Counts in full as if the employee had been at work
	No SAP or OAP	Full pay received before OAL began	Notional full pay	Counts in full as if the employee had been at work	
	Employee does not opt to pay contributions for unpaid AAL period	Not applicable – no basic contributions are due	Not applicable – no contributions are due	Does not count	

**Note:** If an employee is paying additional regular contributions (ARCs) and/or additional pension contributions (APCs) to purchase extra annual pension, or is paying additional survivor benefit contributions (ASBCs) to uprate some or all of their pre 6 April 1988 membership so that it counts in calculating a surviving nominated co-habiting partner's pension, or is paying additional pension contributions to purchase added years of membership, those additional employee contributions continue to be paid throughout the whole period of any paternity leave on the employee's notional full pay (unless the employee opts to stop paying those contributions). AVCs continue to be paid on any pay received (unless the employee opts to stop paying those contributions).

