



SPARKEN HILL  
ACADEMY

# PREGNANCY AND MATERNITY LEAVE POLICY

**ADOPTED: SEPTEMBER 2021**  
**REVIEWED: JUNE 2025**  
**NEXT REVIEW DATE: JUNE 2027**

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# MATERNITY POLICY

## Introduction

Maternity leave and pay is governed by a wide range of legislation and these guidelines cover both the statutory provisions and the contractual issues relating to maternity leave entitlement and maternity pay entitlement. In order to qualify for certain entitlements, employees must have complied with the conditions as set out in this policy. In addition, there are some general issues affecting employees during pregnancy, of which employers should take account.

Any pregnant employee is entitled to 52 weeks maternity leave provided they inform their employer by the end of the 15<sup>th</sup> (or 11<sup>th</sup> where the burgundy book applies) week before the expected week of childbirth (EWC) that

- They are pregnant.
- The expected date of childbirth.
- The date they expect to start their maternity leave.

The two categories of maternity leave (ordinary maternity leave and additional maternity leave) are retained each for 26 weeks and must run consecutively. This entitlement is regardless of the length of service or the hours worked.

This policy is not applicable to the self-employed or workers from agencies who are carrying out duties within the academy.

The academy reserves the right to vary the terms within this policy from time-to-time, subject to meeting the minimum statutory requirements and any national occupational schemes as adopted by the governing board.

The enhanced national occupational maternity scheme available to teachers, and offering further entitlements, as set out in the conditions of service for school teachers (burgundy book), is also addressed in these guidelines.

Full contractual terms and benefits, other than pay, are retained by employees throughout their ordinary and additional maternity leave.

There are two types of maternity pay – statutory maternity pay and occupational maternity pay – each of which is addressed in these guidelines. Although there are provisions governing pay during the maternity leave, accumulated rights are not affected and consequently this has particular implications for pay progression and threshold application.

Rates for statutory maternity pay may vary from year-to-year. The rates will be applied in accordance with the relevant statute (Social Security Contributions and Benefits Act 1992, as amended from time-to-time). The standard rate for SMP is reviewed every April. The current rates can be located at [www.gov.uk/employers-maternity-pay-leave](http://www.gov.uk/employers-maternity-pay-leave).

## **Ordinary maternity leave**

The governing board requires that notification of the intention to take maternity leave be given by the end of 15<sup>th</sup> (or 11<sup>th</sup> where the burgundy book applies) week before the expected week of childbirth (EWC). Such notification shall be in writing to the principal and shall state:

- That the employee is pregnant.
- The expected week of childbirth.
- When the employee wishes to start their maternity leave.

The principal shall respond to the employee's notification of their maternity leave plans within 28 days setting out the date on which the employee is expected to return to work if they take their full maternity entitlement.

While the right to maternity leave applies regardless of the employee's length of service, the length of service will affect pay entitlements as described in these terms.

The employee can start maternity leave at any time from 11 weeks before the baby is due (unless there is a premature birth) and can work up until the week of childbirth if fit and deemed appropriate/safe to do so. The latest date maternity leave may start is the day of childbirth. The employee will be able to change their mind about when they want their leave to start provided they give the employer at least 28 days' notice, unless this is not reasonably practicable.

A period of two weeks' compulsory maternity leave from the date of childbirth must be taken, in accordance with legal requirements.

If requested by the academy, the employee will be required to provide medical evidence of the EWC.

Employees are not required to give notice of their return to work unless it is earlier than their maximum entitlement (26 weeks for ordinary maternity leave, plus 26 weeks for additional maternity leave – see below), in which case they should give 21 days for teachers (Burgundy book) / 21 days for support staff (Green book).

An employee's maternity leave will start automatically if they are absent from work for a pregnancy related illness during the four weeks before the start of the EWC, regardless of when they said they actually want maternity leave to start.

## **Additional maternity leave**

All employees are entitled to a further 26 weeks' additional maternity leave. During the initial 13 weeks of this period, employees will normally continue to receive statutory maternity pay (SMP). Leave may be passed in total, or in part, to the father or partner of the mother, provided they have secondary care responsibility. Parents who meet the eligibility criteria have the option to take shared parental leave instead of maternity leave.

The employee should provide notice in writing and comply with all other conditions as set out in the ordinary maternity leave section of this policy. This includes the requirement to provide the employer with at least 21 days for teachers (Burgundy book) / 21 days for support staff (Green book) written notice of the date of return to work if the employee wishes to return to work before the end of the maximum period of maternity leave to which they are entitled, that is, 52 weeks.

The employee should return within a period of 52 weeks of the start of the maternity leave, unless taking up entitlement to any other statutory or contractual benefit.

### **Statutory maternity pay (SMP)**

Employees who are pregnant, and who meet the qualifying conditions, are entitled to receive SMP.

To qualify for SMP, the employee must:

- Have 26 weeks of continuous employment with the academy by the 15th week before the expected week of childbirth (EWC).
- Have average weekly earnings (during the eight weeks ending with the 15th week before the EWC) of not less than the lower earnings limit set by the government for the payment of national insurance contributions. This is subject to recalculation if there is a subsequent pay increase for the post.
- Still be pregnant at the 11th week before the EWC or have given birth by that time and have stopped work.
- Inform the employer by the end of the 15th week before the EWC of the date they intend to start taking their maternity leave.
- Provide the employer with medical evidence of the EWC. This will normally be a maternity certificate (form MATB1) but the employer can accept other medical evidence.

For the first six weeks, SMP is payable at the higher rate (equivalent to 90% of average weekly earnings) and for the remaining 33 weeks at the standard rate which is set by government. The statutory provisions would apply.

SMP and Statutory Sick Pay (SSP) cannot be paid to an employee for the same week. Once the maternity pay period (MPP) has begun, the employee receives SMP for each week regardless of whether or not they are sick. SMP may start on any day of the week. In the event of an early birth, SMP is paid from the day following the birth.

SMP payments will be made to the employee on the usual salary payment dates for the academy. Contributions for income tax, national insurance and pensions will be deducted as appropriate.

In the event that a pregnant employee leaves their post for any reason after the end of the 15th week before the EWC, for example through resignation or redundancy, they shall still be entitled to SMP for the remainder of the SMP period.

Where an employee becomes eligible for a pay rise before the end of the period of maternity leave, the pay rise will be taken into account for the relevant period. In such circumstances, the SMP would be recalculated and increased retrospectively.

Where a contractual term is better than the statutory entitlement, that contractual term will take precedence.

### **Contractual (occupational) maternity pay**

The governing board will abide by the appropriate contractual entitlements to maternity leave and pay applicable to individual employees as set out in the conditions of service for school teachers

(burgundy book) and in the national joint council conditions of service for local government workers (including support staff) – the green book.

- Teachers with at least 26 continuous weeks of employment at the school or academy, and less than one year's continuous local government employment, at the beginning of 11th week before EWC are entitled to:
  - First 6 weeks of absence – SMP at 90% of average weekly earnings.
  - Remaining 33 weeks – standard SMP at the statutory rate per week or 90% of average weekly earnings, whichever is lower.
- Teachers with at least 26 continuous weeks of employment at the school or academy and more than one year's continuous local government employment at the beginning of 11th week before EWC are entitled to:
  - First 4 weeks – full pay, inclusive of 90% SMP.
  - Next 2 weeks – SMP at 90% of a week's salary.
  - Next 12 weeks – half pay + SMP at the statutory rate.
  - Next 21 weeks – SMP at the statutory rate.

These employees are also entitled to a further 13 weeks unpaid maternity leave. They could also be entitled to unpaid parental leave after the maternity leave has been exhausted, subject to the relevant legislation, and/or consideration for flexible working if they request it.

As referenced in the section above 'additional maternity leave', there are also rights to share up to 26 weeks of the additional maternity leave with the father or partner, subject to having secondary care responsibility and satisfying the qualification requirements. Please see above regarding parents who meet the eligibility criteria under the shared parental leave regulations.

The gross payment can be spread over the initial 39 weeks by mutual agreement.

- Support staff having at least 26 continuous weeks of employment at the academy and less than one year's continuous local government employment by the qualifying date, are entitled to:
  - First 6 weeks – SMP at 90% of average weekly earnings.
  - Next 33 weeks – standard SMP at the statutory rate or 90% of average weekly pay, whichever is lower.
- Other employees (covered by the green book provisions) having at least one year's continuous local government service by the qualifying dates shall have a contractual entitlement as follows:
  - First 6 weeks – SMP at 90% of average weekly pay.
  - Next 12 weeks – 50% of weekly pay plus SMP at the statutory rate, except by the extent to which the combined pay and SMP (or maternity allowance (MA) and any dependant's allowances if the employee is not eligible for SMP) exceeds full pay.

- Remaining 21 weeks – standard SMP at the statutory rate.

The contractual benefits are only an entitlement if the employee is to return to work after maternity leave. If they do not return for at least three months (13 weeks) or equivalent or if they do not return on fewer hours at their request, the additional benefits above SMP or MA (see below) are repayable. If there is no undertaking to return to work after maternity leave, the entitlement will be paid as a lump sum upon return to work, which must be for the equivalent of 13 weeks calculated on the working time before leave was taken.

### **Maternity allowance (in the event of non-qualification for SMP)**

In any circumstances where an employee does not qualify for SMP, they should be referred to the Department for Work and Pensions to determine any entitlement to maternity allowance payments [www.gov.uk/maternity-allowance](http://www.gov.uk/maternity-allowance). Alternatively, the employee can be directed to the Department for Work and Pensions technical website at [www.dwp.gov.uk/publications/specialist-guides/technical-guidance/ni17a-a-guide-to-maternity/maternity-allowance-ma](http://www.dwp.gov.uk/publications/specialist-guides/technical-guidance/ni17a-a-guide-to-maternity/maternity-allowance-ma).

### **Keeping in touch (KIT) with the school during maternity leave**

The academy has the right to make reasonable contact with the employee while they are on maternity leave. However, this right does not extend to the two weeks' compulsory maternity leave following the birth of the child. Such contact should be for the purposes of keeping the employee informed and to agree plans for the return to work.

Normally the academy will make contact with the employee shortly before they are due to return to work after their maternity leave to discuss the arrangements for managing their return to work.

Under the statutory entitlements, any employee, including fathers and partners sharing the additional maternity leave, and the employer may now take advantage of the keeping in touch (KIT) days provision which allows the employee to work for up to 10 days during maternity leave, without impacting on the arrangements in place for maternity leave or pay. KIT days are optional and are arranged by mutual agreement between the academy and the employee. To benefit from this provision, the employee should contact the principal to discuss the possibilities and to make any necessary arrangements.

The work can be in a block or blocks or on individual days but shall be paid, with work on any part of a day counting as a whole day.

Payment for KIT days will be determined in advance and be appropriate to any work undertaken.

### **Additional general information**

#### **Protection from dismissal**

It is automatically unfair to dismiss a female employee or select them for redundancy for a reason connected with their pregnancy or maternity. An employee will not be dismissed for reasons connected with their pregnancy in any way.

#### **Suitable alternative employment**

Employees on maternity have a special right to be offered a suitable alternative post where their post is made redundant. Where a group of employees is at risk of redundancy, the employee on maternity leave would be given priority in relation to suitable alternative employment.

### **Antenatal care**

The governing board will agree to reasonable leave of absence for any employee who is pregnant to attend antenatal care/classes. The employee must produce the associated appointment card.

Employees who are in a qualifying relationship with a pregnant woman will have the right to attend antenatal appointments. This right is limited to two occasions, is unpaid and must be on the advice of a registered medical practitioner, midwife or nurse.

### **Pregnancy related sickness absence**

A separate record of any periods of pregnancy-related sickness absence will be maintained. Such absence will not be included within the record of other sickness absence and it will be disregarded in relation to any future employment-related decisions.

### **Pension contributions**

During ordinary maternity leave and additional maternity leave, the academy will continue to make the employer's pension contributions based on the pay the employee actually receives during this period. The employee may wish to make additional contributions to make up any shortfall and in accordance with normal salary. Such arrangements should be discussed with the relevant pensions administering body. Any periods of unpaid maternity leave will not count towards membership of a pension scheme, and employer's contributions will not be made, and any alternative arrangements should be discussed and agreed between the employee and the relevant pensions administering body.

### **Transfer of maternity rights**

The shared parental leave regulations are intended to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. The regulations enable both parents to be able to share the remaining part of maternity leave by electing to transfer it to shared parental leave. In doing this, parents may decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

To qualify for shared parental leave and pay, a mother must be entitled to maternity or adoption leave, or statutory maternity or adoption pay or maternity allowance and must share the main responsibility for caring for the child with the child's father or their partner.

To access shared parental leave, the mother elects to end their maternity leave and transfer their statutory provision to shared parental leave.

- A parent seeking to take shared parental leave must have been in continuous employment for at least 26 weeks at the end of the 15<sup>th</sup> week before the week in which the child is due (or at the week in which an adopter was notified of having been matched with a child or adoption) and be still employed in the first week that shared parental leave is to be taken.
- The other parent must have worked for 26 weeks in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold of £30 a week in 13 of the 66 weeks.
- That the employee must be the child's father or, if not, is married to or is the partner or civil partner of the child's mother and expects to have, other than the mother, main responsibility for the upbringing of the child.

Shared parental leave may be taken at any time within the period which begins two weeks after the date the child is born or date of the placement and ends 50 weeks after that date. Leave must be

taken in complete weeks and may be taken either in a continuous period, which an employer cannot refuse, or in up to three discontinuous periods, which the employer can refuse.

Before leave can begin, the employee must give the employer at least eight weeks' notice and satisfy evidential requirements in support of the request. See the shared parental leave policy.

Within 28 days, the employer can ask for additional evidence in accordance with the relevant statute and the regulations that apply at that time.

## **Neonatal care leave and pay**

The statutory right to neonatal care leave and pay came into effect from 6 April 2025. This provides eligible parents with time off from work to care for their newborn baby who requires extended hospital care.

Neonatal care leave will be available to parents of babies who are admitted into neonatal care up to 28 days old and who have a continuous stay in hospital of seven full days or longer. Eligible parents are entitled to one week of neonatal care leave for each qualifying week their child spends in neonatal care, up to a maximum of 12 weeks. This leave is on top of any other leave they are entitled to, including maternity, paternity and shared parental leave.

Employees may also be eligible for neonatal care pay if they have a minimum of 26 weeks continuous service and earnings that meet the lower earnings limit.

Please see the neonatal care leave and pay policy for further details.

## **Health and safety issues**

### **Risk assessment**

Upon notification of *the employee's* pregnancy, the principal will make arrangements for a risk assessment to be conducted. Wherever possible, the risk assessment will be conducted within ten days of notification. Where an unacceptable risk is identified, protective or preventative measures will be taken to eliminate it. Should this not be possible, the employee will be offered suitable alternative work, where this is available. If there is no suitable alternative work available, the principal may suspend the employee on full pay for as long as the risk exists or until maternity leave starts, whichever happens first. If an offer of suitable alternative employment is made and unreasonably refused, the employee may be suspended on no pay.

### **Protection from exposure to hazards**

The governing board will carry out any necessary risk assessment where there is a potential hazard to any employee who is pregnant or breast-feeding and will apply the terms of any nationally agreed scheme in respect of particular categories of employee.

### **Infectious diseases**

In the event of a risk of infectious disease in the academy, it may be necessary to give a pregnant employee leave on full pay until the risk has been removed or until the maternity leave starts, whichever happens first. In addition, where a medical practitioner advises a pregnant employee not to attend the academy for precautionary reasons due to infectious disease in the academy, the employee is entitled to full pay during this period which is not reckoned against their other sick leave entitlement.

## **Return to work**

An employee returning at any stage during their ordinary maternity leave, or at its end, has the right to return to their contractual job, being treated as if the absence had never taken place.

An employee returning to work at any time after the 26 weeks of ordinary maternity leave, that is, between weeks 27 and 52, will be entitled to return either to their contractual post or, if that is not reasonably practicable, to a post which is both suitable and appropriate and, by law, affording the employee similar terms and conditions, pension and other rights, and level of seniority.

There is not an automatic statutory right to return on a part-time basis following maternity leave. However, the employee may explore the feasibility of such arrangements with the employer and they have a right to be considered for flexible working in accordance with the academy's flexible working policy.

If the employee decides not to return to work, notice by resignation should be given in accordance with the terms of the employee's contract. If this period is longer than the remaining period of maternity leave, the academy may require the employee to return to work to complete the notice period. In such circumstances, the employee retains the right to SMP; however, contractual entitlements may be affected.

Unless a redundancy situation has arisen, employees returning at the end of 26 weeks, that is, at the end of the ordinary maternity leave entitlement (or before with appropriate notification as indicated in this policy), have the right to return to their contractual post in accordance with the provisions in the burgundy book, being treated as if the absence had never taken place.

## **Redundancy during maternity leave**

If an employee is dismissed by reason of redundancy during their maternity leave, they will be entitled to a redundancy payment in the same way as they would have been had they not been absent, that is, based on their full salary. They will also continue to be entitled to their statutory maternity pay.

An employee who is made redundant while on maternity leave is entitled to be offered a suitable alternative vacancy before it is offered to any other redundant employee and before the end of their employment under their existing contract.

## **Protection from detriment**

Female employees have the right not to be treated unlawfully because of maternity-related matters.

## **Compulsory maternity leave**

No employee may return to work during the two weeks after childbirth. To allow or require such return is a criminal offence.

## **Parental leave**

An employee taking maternity leave, subject to statutory entitlement, can choose whether to take unpaid parental leave immediately following maternity leave or later. Entitlements regarding parental leave are addressed in the relevant policy.