

Maternity Leave Policy For Teachers



Version	Date	Action
1	October 2014	New Policy for babies due after 5 th April 2015
2	August 2018	Agreed at JCC 14.11.18
3	March 2021	Amended in line with Stonewall feedback
4	September 2021	Adopted by The Beam Trust
5	June 2022	Section 12 on pensions has changed as teachers are no longer able to pay pension on unpaid leave.

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1. Policy Statement

- 1.1 It is the aim of The Beam Trust to ensure that as far as possible all teachers are able to combine their work and family responsibilities. The Beam Trust recognises that parenthood brings additional responsibilities and this policy contains information to ensure that all teachers are given their full rights when they are pregnant or have recently given birth.
- 1.2 The Beam Trust values the contributions of all its teachers and every effort is made to support teachers throughout the maternity period and to encourage the employee to return to work from maternity leave.
- 1.3 The Beam Trust recognises that arrangements for cover during the period of maternity leave, as well as arrangements for communication during maternity leave, are important for ensuring smooth transitions at every stage.

2. Scope

- 2.1 This policy applies to all Teaching staff.
- 2.2 This policy is recommended for adoption by all schools to be applied to teaching staff.

3. Notification

- 3.1 Teachers must inform their manager/headteacher as soon as possible and (at least 14 weeks) before their expected week of childbirth (EWC):
 - That they are pregnant;
 - The week that the baby is expected to be born;
 - The start date of maternity leave (the date should not be earlier than the beginning of the 11th week before the EWC).
- 3.2 Teachers must keep their manager/headteacher informed at a number of key stages during pregnancy. Teachers should complete the Maternity Leave Option Form and hand this to their manager/headteacher. Teachers are required to give all notifications regarding their pregnancy in writing to ensure they receive the correct entitlements.
- 3.3 The manager/headteacher should inform Employee Services/Payroll provider of the teacher's pregnancy and forward a copy of the completed Option Form.
- 3.4 Employee Services/Payroll provider will write to the teacher, within 28 days of being notified of the pregnancy, confirming the teacher's entitlement to maternity leave and pay and the date that the teacher is expected to return to work, assuming they take their full entitlement to leave under the appropriate maternity scheme.

- 3.5 If teachers wish to change the date that they start their maternity leave, they must give at least 21 days' notice of the revised date, unless this is not reasonably practicable.
- 3.6 The teacher's GP or midwife will issue a MATB1 Form (medical certificate) at or around the 21st week of pregnancy (the 20th week before the EWC). It is essential that teachers pass this document (original not a photocopy) to Employee Services/Payroll provider, in order to ensure receipt of Statutory Maternity Pay (SMP) and to ensure copies are placed on the teacher's file.
- 3.7 Checklists for both expectant teachers and managers/headteachers are available.

4. Antenatal Care

- 4.1 Teachers are entitled to paid time off to attend antenatal care appointments.
- 4.2 This entitlement does not automatically include relaxation or parent craft classes, however, if they are recommended as necessary by a health visitor, midwife or GP, and classes cannot be found outside of normal working hours, then teachers may have paid time off.
- 4.3 A pregnant employee's spouse/partner (irrelevant of gender) or father of the child qualifies for the statutory right to attend up to 2 antenatal appointments. This time is unpaid.
- 4.4 Evidence of all appointments should be produced and the necessary arrangements made with the manager/headteacher.

5. Health, Safety and Welfare

- 5.1 The Beam Trust has a legal obligation to take account of risks at work to pregnant employees and employees who have recently given birth under Regulation 16(a) of the Management of Health and Safety at Work Regulations 1999.
- 5.2 The Beam Trust will assist in ensuring that a teacher and their baby remain healthy and safe throughout the pregnancy and after the birth. If you have any concerns about your health and safety at any time, you should let your manager/headteacher know immediately.
- 5.3 Teachers will need to inform their manager/headteacher, in writing, that they are pregnant as soon as possible so that a risk assessment can be carried out.
- 5.4 It is the responsibility of the manager/headteacher to carry out the risk assessment.
- 5.5 The assessment will look for specific hazards that may affect teachers, including physical, chemical and biological agents, and will review the general working conditions.

- 5.6 Any identified hazards will be eliminated or controlled. If this is not possible, other steps will be taken to safeguard the teacher's health. These may include temporarily altering working conditions and/or hours of work.
- 5.7 In the event of these steps being unfeasible, teachers have the right to be offered suitable alternative work, where this is available. Any alternative work will be on the same or no less favourable terms and conditions than the current contract of employment. Where suitable alternative work is available but this is refused, the decision may be taken to put the teacher on maternity suspension without pay.
- 5.8 Where there is no available alternative work, maternity suspension on full pay is the final step The Beam Trust would take to protect the health and safety of a teacher and/or their unborn baby.
- 5.9 If in the early months of pregnancy, the teacher is advised, by an approved medical practitioner, to be absent from school because of an identified health risk, for example, slapped cheek or rubella, she shall be granted leave with full pay, provided she does not unreasonably refuse to work in another school where there is no such undue risk.
- 5.10 The risk assessment will be repeated on a monthly basis for the duration of the pregnancy as the body changes, and post-natally for six months, or longer if the teacher is breast feeding their baby.
- 5.11 If teachers have any concerns about their work area whilst pregnant, the risk assessment process will take account of this and may recommend transferring to other suitable employment for the duration of the pregnancy.

6. Maternity Leave

- 6.1 All expectant teachers working for The Beam Trust, regardless of the number of hours they work or their length of service are entitled to 52 weeks leave comprising of 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML).
- 6.2 Legislation dictates that a two week leave period must be taken immediately following the birth of the baby. This is called Compulsory Maternity Leave (CML).
- 6.3 It is assumed that teachers will take their full entitlement to maternity leave, unless their manager/headteacher is informed differently.

7. Maternity Pay

- 7.1 There are three types of maternity pay, namely Statutory Maternity Pay (SMP), Maternity Allowance (MA) and Occupational Maternity Pay (OMP).

- 7.2 Where a teacher is in receipt of any payment (either SMP, MA, or OMP) this is referred to as the Maternity Pay Period (MPP). SMP and MA are paid regardless of whether a teacher is returning to work.
- 7.3 SMP and MA payments are made for a maximum of 39 weeks starting at a date after the 30th week of pregnancy (the 11th week before the EWC).

Statutory Maternity Pay

- 7.4 SMP is a payment made to an employee during pregnancy.
- 7.5 Payment of SMP is dependent upon all the following conditions being met:
- teachers are employed into the qualifying week, which is the 26th week of pregnancy (the 15th week before their EWC); and
 - teachers have at least 26 weeks' continuous local government service by the qualifying week; and
 - teachers' average weekly earnings are not less than the standard earnings limit for the payment of National Insurance contributions (average weekly earnings are calculated over an eight week period immediately prior to the qualifying week); and
 - teachers have started their maternity leave, i.e. the MPP has begun.
- 7.6 The current rate of SMP is available from Employee Services/Payroll provider.
- 7.7 The earliest date that SMP can start is from the 30th week of pregnancy (the 11th week before the EWC) and the latest from the day following the birth.
- 7.8 The date that a teacher starts their maternity leave and begins to receive SMP will be determined by one of the following:
- the date that a teacher has specified when notifying their employer; or
 - if the baby is born prematurely and this is earlier than the teacher had intended to start their maternity leave - the MPP will begin from the day after the teacher gives birth (under these circumstances, it is important that teachers inform their manager/headteacher as soon as is practicably possible of the birth date); or
 - if a teacher is absent with a pregnancy-related illness at any time from the 37th week of pregnancy (the 4th week before their EWC) and this is earlier than the teacher intended to start their maternity leave - the MPP will begin on the day after the first complete day of absence (under these circumstances, it is important that teachers inform their manager/headteacher that they are absent from work due wholly or partly to a pregnancy-related illness and submit a doctor's note to this effect).

If the illness is not pregnancy-related this will be classed as normal sickness absence and will not affect the chosen start date.

- 7.9 Teachers can choose to work late on into their pregnancy, even until the date the baby is due, without losing any SMP. Whenever a teacher leaves work, they are still entitled to payment of SMP for the full 39 weeks.
- 7.10 Teachers must inform their manager/headteacher immediately if either of the following situations occur as eligibility to SMP may be affected:
- a teacher works after the birth (during the MPP) for any other employer for whom they were not working during the 26th week of pregnancy (the 15th week before their EWC); or
 - a teacher is taken into legal custody at any time during the MPP.
- 7.11 If a teacher returns to work at any time when they are still receiving SMP, they will lose that whole week's SMP (unless the return is a 'keeping in touch' day).
- 7.12 For salaried teachers, maternity pay is converted into a weekly rate. Therefore, SMP is paid in complete weeks.

Maternity Allowance

- 7.13 MA is payable to teachers who do not meet the qualifying conditions of SMP but do meet the qualifying conditions on their recent National Insurance record. MA is paid at either the same level of the standard rate of SMP or 90% of weekly earnings if this is less.
- 7.14 Teachers must claim MA from either Jobcentre Plus or the Social Security office by completing SMP1 Form. Employee Services/Payroll provider will forward a copy of this form to the teacher with their MATB1 Form (which teachers will need to be able to claim MA).
- 7.15 Teachers not eligible to SMP or MA may be entitled to additional financial support through Incapacity Benefit, Housing Benefit, Council Tax Benefit, Tax Credits or a Sure Start Maternity Grant. Further information is available from Jobcentre Plus or the Council's Contact Centre.

Occupational Maternity Pay

- 7.16 OMP is an entitlement under a teachers' terms and conditions of employment and is dependent on length of continuous local government service.
- 7.17 In order to qualify for OMP, teachers must have at least 1 year's continuous local government service at the beginning of the 30th week of the pregnancy (the 11th week before their EWC). Teachers who qualify for OMP are entitled to:
- 26 weeks OML commencing at any time after the 30th week of pregnancy (the 11th week before the EWC). The entitlement will be made up of:
 - 4 weeks at full pay

- 2 weeks at 90% of average weekly earnings
- 12 weeks at half pay (OMP) plus the current standard rate of SMP if eligible (or 90% of weekly earnings if this is less) up to the level of current average weekly earnings
- 8 weeks at the current standard rate of SMP if eligible (or 90% of weekly earnings if this is less)
- 26 weeks AML:
 - 13 weeks at the current standard rate of SMP if eligible (or 90% of weekly earnings if this is less)
 - 13 weeks without pay

7.18 Anyone taking up the option of OMP will be required to return to their job for 13 weeks following their return from maternity leave. If a teacher does not return to their job for 13 weeks following their maternity leave, they will be required to refund the 12 weeks OMP. Anyone on a fixed term contract that is due to expire prior to the end of the 13 weeks may take the option of OMP, however if the contract is not extended then they will be required to pay back this element of the maternity pay.

8. Keeping in Touch

8.1 Teachers are able to attend work during their maternity leave for a maximum of 10 days without their leave or pay being affected. This includes carrying out any work under the contract of employment, training or any activity undertaken for the purpose of keeping in touch with the workplace. Any work carried out on the day or part of a day shall constitute 1 KIT day for these purposes.

8.2 Attendance at work must be agreed between the teacher and their manager/headteacher.

8.3 The manager/headteacher will need to consider whether the teacher should be paid for their attendance at work, dependent on the nature and duration of the work. Where a teacher undertakes work under their contract of employment, they are entitled to be paid for that work. Teachers will be paid their normal rate for the hours worked on that KIT day, regardless of whether they are in receipt of SMP. Any payment (inclusive of SMP) should not exceed a normal day's pay.

During the period of leave, the teacher and their manager/headteacher should make reasonable contact to discuss issues, such as the return to work. This would not constitute as 'work' and will not count towards the 10 days.

8.4 As well as the return to work, teachers should be kept informed of other issues, for example, job vacancies, workplace developments and training opportunities.

9. Ending Maternity Leave and Pay to Take up Shared Parental Leave

- 9.1 A teacher can elect to curtail (i.e. 'end') their Maternity Leave and pay (at any point after the compulsory two weeks of maternity leave) to take Shared Parental Leave with their partner, assuming they meet the qualifying criteria for Shared Parental Leave (See the Shared Parental Leave Policy for further details).
- 9.2 For shared parental leave to be taken maternity leave must come to an end and the teacher forfeit all benefits from this policy. A teacher must issue the employer with the appropriate notice in order to end Maternity Leave and take up Shared Parental Leave (see Shared Parental Leave Policy).
- 9.3 Once the teacher gives notice to end maternity leave and it is accompanied by a notice of entitlement to shared parental leave, then this notice is binding. The notice may be withdrawn only if they have not returned to work, the date to end the maternity leave has not passed and one of the following circumstances apply:
- Where it is discovered in the 8 weeks following the notice that neither the employee nor their partner has any entitlement to shared parental leave or pay.
 - In the event of the death of the partner
- 9.4 Further information on Shared Parental Leave can be found in the Shared Parental Leave Policy, which is available from School.

10. Returning to Work

- 10.1 Teachers have the right to return to the same job, on the same terms and conditions as if they had not been absent unless there is a justified reason for this not being possible (for example, redundancy or reorganisation), in which case teachers will be offered a suitable alternative position where one is available. If a reorganisation takes place whilst a teacher is on maternity leave they will be fully consulted and their rights explained.
- 10.2 Teachers may have the right to request to return to work on a flexible working basis. Further information regarding this process is contained in the School's 'Requests to Work Flexibly' Procedure, which is available from the school.
- 10.3 Teachers wishing to apply for flexible working arrangements to commence on return from their leave are advised to submit the request to their manager/headteacher for consideration as soon as possible in order for the process to be followed and any practical arrangements to be implemented in a timely manner. Teachers may wish to discuss the issue with their manager/headteacher prior to commencing leave.
- 10.4 If teachers are not sure whether or not they wish to return to work after maternity leave, they can (and are advised to) reserve the right to do so. This can be discussed further with the manager/headteacher or Human Resources, in

confidence. However, if teachers are eligible to OMP (12 weeks half pay) this would be withheld until after the return.

- 10.5 Once a firm decision has been made, the teacher should inform their manager/headteacher of their intentions.
- 10.6 Teachers can only be paid maternity pay based on a weekly rate. If a teacher returns to work at any time when they are still receiving SMP, they will lose that whole week's pay (unless this is a 'keeping in touch' day). In order not to lose any pay, teachers should ensure that they return to work at the end of their complete week of the Pay Period.
- 10.7 Where a teacher is unable to return to work on their expected return date due to illness, they will be covered by the School's normal sickness scheme from the date they should have returned.
- 10.8 Where a teacher is unable to return to work on their expected return date because of an interruption to their work, for example, the workplace being closed for repair (and where an alternative working site is not available), they will return when work resumes, or as soon as is reasonably practicable. They will be paid normal pay during this period.
- 10.9 It is assumed that teachers will take their full entitlement to maternity leave unless the manager/headteacher is informed differently. However, if a teacher decides to return to work before the end of the additional maternity leave period they are required to give notice, in writing, of the date on which they wish to return to work (7 days notice if returning early from OML or 21 days notice if returning early from AML or APL).
- 10.10 Where a teacher changes their mind about the date they intend to return to work, where they have already notified the School of an early return date, the required notice is as detailed above at 10.9 (where the return is earlier, the notice will apply from the early return date already specified by the teacher, where the return is delayed, the notice will apply from the original return date).
- 10.11 The School has the right to postpone early return to work where sufficient notice is not given. Any postponement will not take the leave period beyond the end of the maternity leave period. The School will inform the teacher of the postponement and the reason for it, in writing, before the intended return to work date.
- 10.12 If teachers are entitled to OMP and do not return to the post in which they were employed for at least a 13 week period, either on a full time or part time basis, they will be asked to refund the 12 weeks half pay (OMP). Any annual leave, parental leave or sickness absence taken during this period will count towards the service requirement.
- 10.13 A teacher wishing to continue breastfeeding their baby on their return to work must give their manager written notification 28 days prior to their return from maternity leave, so that provisions can be made. Managers/headteachers

should favourably consider requests from teachers who wish to continue to breastfeed after returning to work.

11. Statutory Holiday Accrual during Maternity Leave

- 11.1 Teachers have a statutory right to paid leave under the Working Time Regulations. The current entitlement is 28 days (5.6 weeks including bank holidays). This is not an additional entitlement to annual leave on top of the current school closure arrangements. For this purpose a year would commence 1st September (commencement of a new academic year).
- 11.2 Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question, both before and after maternity.

12. Pensions

- 12.1 The 39 week maternity pay period is treated as pay for pension purposes and contributions will be deducted from it, meaning that the period counts towards future pension calculations on retirement.
- 12.2 Provided you are receiving at least half your salary or Statutory Maternity Pay (SMP) your leave will be classed as pensionable employment. If you don't, then that period will not be counted as pensionable.
- 12.3 KIT days are pensionable if you are being paid at least half pay or statutory parental pay.

13. Special Circumstances

Premature Births

- 13.1 If the baby is born prematurely before maternity leave has begun, maternity pay and leave will commence from the day following childbirth. Leave entitlements will remain the same as if the baby had been born during the EWC. Teachers must inform their manager/headteacher as soon as is reasonably practicable of the date the baby was born.
- 13.2 If the baby is born before a teacher has given their manager/headteacher their MATB1 Form, they must take all reasonable steps to give notice of the date the baby was born within the following 28 day period. Pay and leave entitlements remain as in the case outlined above.
- 13.3 If the baby is born early but maternity leave has already commenced, then pay and leave entitlements remain the same.

Miscarriage and Stillborn Babies

- 13.4 If in the very sad event the baby dies or is stillborn, after the 24th week of pregnancy, entitlements regarding pay and leave is the same as for a live birth.
- 13.5 If this happens prior to the 24th week of pregnancy, teachers will not be entitled

to maternity leave and pay, however, absence will be treated sympathetically either under the School's Authorised Leave or Managing Attendance Policy.

IVF Treatment

- 13.6 Although there is no statutory right for employees to take time off work for IVF treatment, a manager should try to be flexible with working arrangements (see the Authorised Leave Policy).
- 13.7 Following implantation a pregnancy may or may not occur, but the employee is regarded as being pregnant from the point of implantation and is protected under the Equality Act 2010 pregnancy legislation. Employees should notify their manager/headteacher once they have reached this stage.
- 13.8 If the treatment is successful and the employee remains pregnant she will continue to be protected until the end of their maternity leave.
- 13.9 If the treatment is unsuccessful, the protection will end two weeks after the end of the pregnancy. A pregnancy test is taken 2 weeks after implantation and if the test is negative the protection period extends for a further 2 weeks.