



ROCHDALE
BOROUGH COUNCIL

TEACHERS' MATERNITY POLICY

Revised September 2013

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Foreword

This handbook explains the rights of pregnant women to maternity leave and the different qualifying criteria.

Teachers working in schools should inform the Headteacher of all relevant information relating to their pregnancy and maternity leave.

Teachers working in school support services should inform their Head of Service.

Headteachers and Heads of Service should forward all documentation and information to the **Operational HR Team** as soon as possible following receipt.

The rights to maternity provisions described in this document apply to all permanent teachers and where applicable some temporary teachers, employed within schools and the support services of the Authority, regardless of the number of hours worked per week or length of service.

The revised National Conditions of Service take into account the statutory changes in employment legislation arising from the European Union Pregnant Workers Directive and Employment Relations Act 1999, the Employment Act 2002 and the Statutory Maternity Pay, Maternity Allowance (Amendment) Regulations 2006, and Working Time Regulations 2006. Supply teachers and temporary teachers, excluded from the national agreements, are covered by the Statutory Maternity regulations, if the qualifying criteria are met.

GENERAL INFORMATION

Maternity Leave

All teachers regardless of length of service or hours worked are entitled to a period of maternity leave. Under employment legislation this statutory entitlement is 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML) providing a right to one year's maternity leave in total.

Statutory Maternity Pay (SMP)

SMP is a statutory payment which must be paid to all pregnant women during their maternity leave by their employer for 39 weeks, subject to the teacher satisfying the qualifying criteria.

Occupational Maternity Leave (OML)

National Conditions of Service provides for one years maternity leave and occupational maternity pay for (see 1.2).

Expected Week of Confinement (EWC)

Is the week in which the baby is expected and usually runs from Sunday to Saturday. This can be mid-week in the case of sickness or an early birth. The Maternity Certificate (MATB1) is issued by the Medical Practitioner or Midwife from the 20th week of pregnancy and confirms the Expected Week of Confinement.

Half Pay

A weeks' pay is based on the amount paid to a teacher under her current contract of employment or, in cases where there are significant variations to a teacher's salary, the average over the 12 weeks' preceding the date of absence.

Right to Return to Work

The teacher's right to return to the job in which she was employed under her 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. It is necessary that the teacher indicates her intention to exercise her right to return in writing at least 28 days before the leave is to commence.

Statutory Sick Pay (SSP)

A payment which an employer is obliged to pay to most employees aged 16 or over who have been sick for four or more days in a row.

Keeping in Touch (KIT) days

Opportunity to work for up to 10 days during maternity leave without bringing maternity leave to an end or losing maternity pay.

Compulsory Maternity Leave

An employee must take a minimum of 2 weeks leave after the birth of her child.

1. MATERNITY LEAVE AND MATERNITY PAY

All teachers are entitled to take up to 52 weeks maternity leave regardless of the length of qualifying service with the employer. This means that the qualifying condition in paragraph 4 of section 5 of the Burgundy Book should be ignored. Leave is composed of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML). It can commence at any time but no earlier than the 11th week before the Expected Week of Childbirth (EWC).

Provided the qualifying criteria are met, teachers will be entitled to receive 39 weeks Statutory Maternity Pay (SMP), made up of 6 weeks at 9/10ths of a week's pay plus 33 weeks at standard rate SMP. The remaining 13 weeks leave are unpaid. The qualifying criteria are that the teacher must have 26 weeks continuous service with the employing local authority at the 15th week before the EWC and be in employment during the qualifying week. In addition, earnings must be above the lower limit for the payment of NI Contributions.

Teachers with one years continuous service with one or more local authorities at the 11th week before the EWC will receive 18 weeks Occupational Maternity Pay (OMP), as follows:

- 4 weeks at full pay (SMP offset)
- 2 weeks at 9/10ths of a week's pay (SMP offset)
- 12 weeks at half pay (+ SMP)

This will be followed by 21 weeks Statutory Maternity Pay (SMP). The remaining 13 weeks leave are unpaid.

Occupational maternity pay (paid during the first 18 weeks of maternity leave, outlined above) is only payable on condition that the teacher returns to work for at least 13 weeks (see section 5 of the Burgundy Book).

Teachers with one year's continuous service with one or more local authority at the 11th week before the EWC who do not meet the qualifying service for SMP will also be eligible for 52 weeks maternity leave (26 weeks OML and 26 weeks AML). The teacher, providing she returns to work for at least 13 weeks as before, will be entitled to receive 18 weeks OMP as follows:

- 4 weeks at full pay
- 2 weeks at 9/10ths of full pay
- 12 weeks at half pay

1.1 Refund of Maternity Payments

Where a teacher does not return to work for at least 13 weeks, (or part-time equivalent) she will be required to refund payments made to her, as follows:

- less than one years' service - not eligible for Occupational Maternity Pay therefore no refund due
- more than one years' service - refund of all or part of the 12 weeks at half pay to be made at the discretion of the LA

Payments made to a teacher by way of Statutory Maternity Pay are not refundable.

1.2 Action to be taken by the teacher

In order for a teacher to retain her rights during maternity leave, it is essential that the *notification procedures are complied with before, during and on return from maternity leave.*

To benefit from the Occupational Maternity Scheme, the teacher must continue to be employed by the LA (whether or not at work) immediately before the start of her absence.

Subsequent obligations on the teacher are as follows:

◆ **Notification of Pregnancy and Start of Maternity Leave**

The teacher should notify the Governing Body/LA, in writing, as soon as is practicable, but not later than 15 weeks, before the expected week of confinement, (unless there is good cause), that she wishes to be absent on maternity leave. The date on which this will commence shall be no earlier than 11 weeks before the expected week of confinement. The school/LA provides a notification form for this purpose (final page of this handbook). The teacher should also submit, as soon as possible, the Certificate of Expected Confinement (form MATB1), which is issued by the doctor or midwife after the 20th week of pregnancy. Following your application for maternity leave, you will receive a letter confirming maternity entitlement.

◆ **Variation of Commencement Date**

The date of commencement of maternity leave can be varied with 28 days notice, in writing, being given by the teacher (except in the case of sickness or early childbirth).

◆ **Notification of Exercise of Right to Return to Work**

The teacher should declare in writing, at the time of notification of her intended absence that she intends to return to work with her employer (if that is her intention and if she is able to return to work with her employer) - see attached notification form.

◆ **Notification of Early Return from Maternity Leave**

Teachers are required to give at least 28 days' notice, in writing, if they intend to return to work before the end of their maternity leave period. Failure to do this could delay the teacher's return for up to 28 days or until the end of the maternity leave, if this is sooner.

1.3 Working during Maternity Leave/'keeping in touch' days (KIT)

The maternity regulations provide a facility for a woman to work up to a maximum of 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.

SMP regulations are amended to allow women to work without suffering a detriment to their SMP for up to 10 days. If further work is undertaken (over 10 days) then the current rule will apply whereby SMP will be lost on the additional days worked.

Work is defined as any work done under the member of staffs' contract of employment and may include training and any activity undertaken for the purpose of keeping in touch with the workplace.

The school cannot insist that a woman carries out any work and she is protected from suffering a detriment or being dismissed for refusing to do so. Equally a woman cannot insist on being given any work to do. An employee cannot take a KIT day during compulsory maternity leave (the 2 weeks after the birth of the child).

Maternity leave cannot be extended due to the fact that she has carried out some work during the period.

Payment can be made to the individual on the days that she works, although this will be a matter of agreement between her and the school. The member of staff will continue to receive her SMP for the week in which she works, however, in most cases she should also be paid for any work she undertakes under her contract. Issues to take into account will include the nature of the work and its duration. It is open to the school to offset the SMP for the day against any pay due. Prior to any work being undertaken discussion and a clear agreement must be reached.

1.4 Reasonable Contact

The school or nominated officer can make reasonable contact with the member of staff during maternity leave to discuss issues and a return to work date. This would not constitute 'work' and would not therefore count towards the 10 (KIT) days.

Apart from discussing the return to work, the school should also ensure that the member of staff is kept informed of other issues, such as job vacancies, significant workplace developments and training opportunities.

2. ANTE-NATAL CARE

All pregnant teachers have a right to paid leave of absence to attend ante-natal appointments. The teacher is required to provide evidence of appointments, if requested to do so by the Headteacher/LA. The ante-natal appointments include relaxation classes, where they have been recommended by a doctor or a midwife.

3. HEALTH AND SAFETY

In accordance with Health and Safety Regulations employers are required to undertake risk assessments for all new and expectant mothers. This applies from the time the teacher notifies the Governing Body/LA that she is pregnant. Where an unacceptable risk is identified, protective or preventative measures to protect the teacher will be taken.

If, in the early months of pregnancy, the teacher is advised, by an approved medical practitioner, to be absent 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.

A teacher must not remain at work if certified medically unfit to do so (taking into account the provisions of the Management of Health & Safety at Work (Amendment) Regulation 1994).

4. COMMENCEMENT OF MATERNITY LEAVE

The 39 weeks' maternity pay period will start on the day the member of staff has specified in her notice, provided she starts her leave on this day, and will continue for the full 39 weeks, or until such time that the teacher returns to work, whichever is the earlier.

Whilst it is possible for a teacher to work up until the day of the baby's birth, a teacher should seek the advice of her doctor as to when she should commence her maternity leave.

In cases where the baby is born before the maternity leave commences, the date of childbirth will be regarded as the first day of the teacher's maternity leave.

Statutory Maternity Pay is payable in the event of any birth of a living child, even if the baby only survives for an instant. If the baby is stillborn before the 24th week of pregnancy, Statutory Maternity Pay is not payable. In these cases the teacher will be entitled to Statutory Sick Pay.

If a baby is stillborn after the 24th week of pregnancy, the teacher will be entitled to 26 weeks' Occupational Maternity Leave, 26 weeks' Additional Maternity Leave. 39 weeks' out of the 52 weeks' leave with Statutory Maternity Pay (if applicable).

5. IN THE EVENT OF SICKNESS

Any period of sick leave, prior to the 4th week before the expected week of confinement, can be taken by a teacher without automatically commencing her maternity leave, even if it is pregnancy related.

However, in the 4 weeks before the expected week of childbirth, any period of sick leave which is pregnancy related, will trigger the maternity leave period. Therefore, in cases where the teacher is absent from work, wholly or partly, because of pregnancy or childbirth, after the beginning of the 4th week before the expected week of confinement, the maternity leave period will automatically be triggered.

During the 39 weeks' maternity pay period, a teacher is not eligible for payment of Statutory Sick Pay should she return to work and subsequently become ill. However, Occupational Sick Pay will be paid, in the event of absence through illness, following a teacher's return to work.

6. RETURN TO WORK FROM MATERNITY LEAVE

It is possible to return to work at any time, as long as the required notice of intended return has been given to the Governing Body/LA. However, it is a statutory requirement that a teacher does not return to work until at least two weeks' after the birth of a baby.

A teacher who intends to return to work before the end of their ordinary or additional maternity leave must notify the Governing Body/LA, in writing, at least 28 days before the day on which she proposed to return. Where 28 days' notice of return is not given, the LA can postpone the teacher's return for a period of up to 28 days. If no notification is received, it will be assumed that the teacher intends to take the maximum period of maternity leave and therefore will return to work on the date confirmed in the letter advising them about their entitlements.

A teacher is obliged to return to the post in which she was employed under her original Contract of Employment for at least 13 weeks (including periods of school closure) as a qualifying condition of entitlement to receive Occupational Maternity Pay. However, it may be possible, through agreement with the Governing Body/LA, for a full-time teacher to return to work on a part-time basis, for a period which equates to 13 weeks at full-time.

Similarly, a part-time teacher may return to work on a different part-time basis for a period which equates to 13 weeks' part-time service in relation to her previous contract.

The 13 weeks' period (or part-time equivalent) commences from the date the teacher returns to work, or the date during the school holidays on which the teacher would return to work.

The teacher has the right to return to the post in which she was employed under her 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 on maternity leave. However, in

situations where a return to a particular post is not practicable, for example, for reasons of redundancy, the teacher is entitled to be offered a suitable vacancy where one exists within the school. Should a situation occur where a teacher on, or about to commence, maternity leave is selected for redundancy, the school/LA would provide detailed advice on the appropriate procedures.

Where a teacher is unable to return to work due to sickness the provisions of the sick pay scheme will apply.

7. STATUTORY HOLIDAY ACCRUAL DURING MATERNITY LEAVE

Teachers have a statutory right of paid leave under the Working Time Regulations (WTR). The current entitlement is 28 days (5.6 weeks) which came into effect from 1st April 2009.

NB. 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).

8. DISMISSAL

For the duration of the pregnancy and maternity leave all employees have significant protection against dismissal for reasons connected with their pregnancy. This protection covers all employees, regardless of hours worked, or length of service. Any woman dismissed during her pregnancy, or while on maternity leave, is entitled to a written statement from the Governing Body giving the reasons for the dismissal, without having to request it.

9. TEACHER'S PENSION

Your Teacher's Pension Rights will continue during your period of maternity leave and to comply with the pension regulations your normal contributions for the whole period of paid absence will continue. Contributions in respect of the period of unpaid leave are voluntary and you should request leaflet 721 from People Management, if you wish to consider paying contributions during this period of unpaid leave. You can also purchase this missing service in future years as explained in leaflet 374.

10. CONTRACTUAL TERMS AND CONDITIONS

A teacher is entitled to benefit from all her contractual terms and conditions - except wages or salary - throughout her entire maternity leave period i.e. during both OML and AML.

11. Additional Information and Useful Contacts

The Family Information Service

The Family Information Service provides free information on the Childcare and Early Years Education in your area, including:-

- ◆ Childminders
- ◆ Parent and Toddler Groups
- ◆ Out of Schools Clubs
- ◆ Holiday Care/Play Schemes
- ◆ Pre-Schools/Playgroups
- ◆ Family Support and Advice Services
- ◆ Nursery Provision
- ◆ Children's Leisure Activities
- ◆ Creches
- ◆ Working Families Tax Credit
- ◆ Day Nurseries
- ◆ Early Years Education Grant

Telephone : 01706 719900 (answer machine available out of office hours)
e-mail : family.info@rochdale.gov.uk website : www.rochdale.gov.uk/familyhelp

You can also call in at one of the following Council Information Offices :

- Saddler Street, Middleton
- Ground Floor, Number One Riverside, Rochdale, Smith Street OL16 1YD

Link 4 Life

Regular Aqua Natal Swimming Classes are held at Rochdale Leisure Centre and Heywood Sports Village with a midwife in attendance.

Should you wish to attend these classes once you have commenced your maternity leave, details can be provided from :-

Rochdale Leisure Centre Tel : 01706 926000
Heywood Sports Village Tel : 01706 924000

Outside contacts which may be helpful to you

National Childbirth Trust Enquiry Line 0300 330 0700

Department for Work & Pensions 0845 302 1444

HM Revenue & Customs
Child Benefit Helpline 0300 200 3100

Child Benefit

In order to make a claim for Child Benefit, you should complete a claim form CH2 available online from HM Revenue & Customs.

Online guidance available from HMRC

- Babies and Children
- Expecting a Baby
- Bringing up Children
- Child Benefit
- A Guide to Maternity Benefit

Additional Benefit Help

During the period of your maternity leave, it is possible that you may be entitled to additional benefit help, dependent upon several factors including:-

Your National Insurance Contribution record.

Your family circumstances, e.g. how many other children you have and whether or not you are married or living with someone.

Any other income you may have coming into your household.

The types of benefit you may be entitled to include Income Support, Council Tax Benefit, Working Families Tax Credit and Housing Benefit.

If you would like your entitlement checking or you need information on how to claim - ring the Welfare Benefits Adviser at the Citizens' Advice Bureau for confidential advice on the following number:-

Rochdale (01706) 666676

Advice Line 0844 847 2638 or from a mobile 0300 330 0650

State Benefits are available when using Registered Childcare

If you require benefit advice you can contact **RMBC Revenues & Benefits on 0845 121 2970.**

12. MATERNITY SCHEME FOR TEACHERS

Notification of Intention to Commence Maternity Leave

Name: _____

Address: _____

Email: _____

School/Service _____ Payroll Number ET _____

Permanent/Temporary/Supply _____

Start Date of Continuous Service with Rochdale _____

Please Complete All Details Below

Expected week of confinement _____

Intended commencement date of maternity leave _____

I * do/do not qualify for Statutory Maternity Pay

I * wish/do not wish to exercise my right to return to work after the birth of my baby and therefore I* wish/do not wish to receive Occupational Maternity Pay (12 weeks at half pay) during my maternity leave.

I * enclose/do not enclose my maternity certificate (form MATB1).

I will give 28 days' notice of my return to work if I wish to return before the end of my 52 week maternity leave.

Signed _____ Date _____

Please return this form to your Headteacher or Head of Service.

Headteachers and Heads of Service should forward all documentation and information to the Operational HR Service, Floor 2, Number One Riverside, Smith Street, Rochdale OL16 1XU

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