



MATERNITY LEAVE AND PAY POLICY

Introduction

This policy sets out the statutory rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, health and safety during pregnancy, and maternity leave and pay. This policy is written in accordance with the latest legislation and has been updated in line with the *Maternity & Paternity leave etc. and the Paternity and Adoption leave (Amendment) Regulations 2008* and the *Equality Act 2010*.

Ardingly College recognises that employees may have questions relating to their maternity rights. It is Ardingly's policy to encourage open discussion with employees to ensure that any queries can be resolved as quickly as possible.

Notification of Maternity Leave

When an employee becomes pregnant she should contact the Human Resources Department who can explain the policy and procedure and answer any questions. The employee should also notify their line manager, Head of Department or Headmaster (for teaching staff) as soon as possible. This is important as there are health and safety considerations as detailed below.

To qualify for Maternity leave and pay employees must notify their manager in writing no later than the end of the 15th week before the expected week of childbirth (EWC). At that time the employee is also required to submit a form MATB1 which is issued by midwives or GPs and confirms the expected week of childbirth. Employees also need to tell the HR Department and the Head of Department / Headmaster:

- The fact that they are pregnant
- The expected week of childbirth (as written in the MATB1 form)
- The date that they intend to start maternity leave.

The HR Department and the Head should be advised in writing of any changes to the start date of maternity leave at least 28 days before the new start date or as soon as reasonably practicable.

Following receipt of this notification the HR Department will write with confirmation of maternity pay entitlement and the dates of the maternity leave.

Employees can choose to begin maternity leave any time from 11 weeks before the EWC up until the birth itself.

Health and safety during pregnancy

Employees should notify their Head of Department as soon as possible regarding their pregnancy so that the appropriate health and safety risk assessments can take place. Risk assessments are conducted by Heads of Department or the HSE and Compliance Manager. If the risk assessment reveals any specific health hazards, the College will look at reasonable measures to avoid these risks, including the alteration of working conditions. If it is not possible to remove health risks and there is no suitable alternative work available on a temporary basis, the College may suspend the employee on maternity grounds until such a time as there is no longer a risk to health. In these circumstances, all terms and conditions including entitlement to full salary and contractual benefits will continue throughout the period of suspension, unless the employee has refused an offer of suitable alternative employment.

Time off for antenatal care

Employees are entitled to attend antenatal appointments as advised by their doctor, registered midwife or registered health visitor. To qualify for this entitlement the employee must produce a certificate stating that they are pregnant (MATB1) or other evidence of the appointment, such as a medical certificate or appointment card.

Employees should give their manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them near to the start or end of the working day.

Sick absence during pregnancy

Absences from work during pregnancy owing to sickness, will receive normal statutory or occupational sick pay in the same manner as during other sick absence provided that maternity leave has not started. If however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before the expected week of childbirth, the maternity leave period will start automatically.

How much maternity leave can be taken?

All employees are entitled to take up to 52 weeks maternity leave providing that they have given the proper notice. This is regardless of the number of hours worked or length of service.

Statutory Maternity Leave (SML) is made up of 26 weeks' ordinary maternity leave (OML) followed immediately by 26 weeks' additional maternity leave (AML).

Ordinary Maternity Leave can start at any time after the beginning of the 11th week before the expected week of childbirth (unless the child is born prematurely before the date, in which case it will start from the date after the child is born).

Maternity leave will start on whichever date is the earlier of:

- the chosen start date
- the day after the birth of the child
- the day after any day the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child.

Statutory maternity leave remains at 52 weeks regardless of the number of children resulting from a single pregnancy.

In the tragic circumstance where an employee gives birth to a stillborn baby, she is still entitled to maternity leave if the birth happens after 24 weeks of pregnancy. If the baby is born alive at any point in the pregnancy but then later dies, the employee is still entitled to maternity leave.

Terms and conditions during maternity leave

The contract of employment continues throughout both ordinary maternity leave (OML) and additional maternity leave (AML) unless the employee expressly ends it or it was due to expire during the maternity leave period.

All employees are entitled to benefit from all their contractual terms and conditions, with the exception of wages or salary, throughout their entire maternity leave period ie during both OML and AML.

Both OML and AML count towards an employee's period of continuous employment.

Changing the start date of maternity leave

After giving notification, employees can change their intended start date as long as they notify their manager or Head of Department / Headmaster of the new start date. They must do this by whichever is the earlier of:

- 28 days before the date they originally intended to start their leave
- 28 days before the new date they want to start their leave

However, if it is not reasonably practicable to give us this much notice, employees should give as much notice as possible in writing.

If employees fail to give the required notification, they may lose their right to start maternity leave on their chosen date. The only exception to this where it is not reasonably practicable for the employee to give notice any earlier eg if the baby is born much earlier than expected. In these circumstances, employees still qualify for 52 weeks' statutory maternity leave.

Statutory Maternity pay

Statutory Maternity Pay (SMP) is payable whether or not the employee intends to return after maternity leave, but is subject to meeting the eligibility requirements. Statutory maternity pay is payable for the first 39 weeks of maternity leave. It is triggered automatically if maternity leave starts early.

To be eligible to receive maternity pay, employees must:

- have worked for the College continuously - full or part-time - for at least 26 weeks up to and into the qualifying week, which is the 15th week before the week the baby is due

- have average earnings in the 8 week period preceding the qualifying week at least equal to the lower earnings limit for national insurance contributions (which until April 2016 is £112 a week).
- have provided the right paperwork confirming the pregnancy, this being the MATB1 form and sufficient notice of when they would like the SMP payments to start

Employees who are not entitled to Statutory Maternity Pay (SMP) may be entitled to receive maternity allowance payable by the Government. Further information on this can be found at www.direct.gov.uk, Jobcentre Plus or by contacting the Citizens Advice Bureau.

SMP is paid for 39 weeks. The first 6 weeks are paid at 90% of average weekly earnings, the subsequent 33 weeks are paid at either the statutory rate (which until April 2016 is currently £139.58 per week), or 90% of average earnings whichever is the least.

SMP can start from the 11th week before the baby is due up until the day following the birth. SMP is treated as earnings and is therefore subject to PAYE and national insurance contributions.

Occupational Maternity Pay

To qualify for enhanced Occupational Maternity Pay (OMP) an employee must have been employed for a minimum of 26 weeks by the end of the qualifying week (15th week before EWC) and intend to return to work at Ardingly College after their period of maternity leave.

OMP is paid as follows:

- Full pay for the first four weeks of maternity leave
- 90% pay for the next two weeks of maternity leave
- Half pay for the next 12 weeks of maternity leave plus lower rate SMP *
- Lower rate SMP for the next 21 weeks of maternity leave*

* or 90% pay if this is lower.

Employees who do not intend to return to work after maternity leave are only entitled to Statutory Maternity Pay. If OMP is paid and then the employee decides not to return to work for a period of two terms then the difference between OMP and SMP will become repayable by the employee in full.

Salary sacrifice

A salary sacrifice arrangement is in place where an employee agrees to sacrifice part of their salary in exchange for a non-cash benefit. Ardingly College currently offers Childcare Vouchers and Ardingly College School Fees payment under salary sacrifice arrangements.

The reduction in pay associated with a salary sacrifice arrangement may impact entitlement to Statutory Maternity Pay and Occupational Maternity Pay. Sacrificed cash will not count as part of average earnings for the calculation of maternity benefits, so benefits may be reduced as a result of salary sacrifice.

However the benefit provided by salary sacrifice will remain throughout maternity leave, even where Occupational Maternity Pay and Statutory Maternity Pay has been exhausted.

Shared Parental Leave

Employees with an expected week of childbirth on or after 5th April 2015 are entitled to share up to 52 weeks of leave and up to 39 weeks of statutory pay on the birth or adoption of a child, allowing statutory maternity pay to be shared with a spouse or partner. Further details can be found in the Shared Parental Leave policy.

Annual Leave

Employees are entitled to accrue annual leave throughout the maternity leave period. Where possible, it is advisable to take any outstanding annual leave before the commencement of maternity leave. Any outstanding annual leave accrued whilst on maternity leave can be taken before returning to work or paid on return to work. For term-time only staff, including teachers, annual leave is assumed to be at the statutory minimum annual leave rate of 5.6 weeks per annum.

Keeping in Touch (KIT) days during maternity leave

Except during the first two weeks after childbirth, employees may, with agreement, work (or attend training) for up to ten days during maternity leave. These are known as Keeping in Touch or KIT days. These days can be taken and paid at full pay without affecting the right to maternity leave or pay.

This work can be normal day to day work or could be attending conferences, training or team meetings.

Payment for these days will be full contractual pay for a whole day or based on the number of hours worked. If the employee is within the paid part of their maternity leave payment should be offset against maternity pay. During unpaid maternity leave the employee will receive payment for actual hours/days worked.

Keeping in Touch Days must be agreed with the employee's line manager before any work is undertaken. Keeping in Touch Days do not extend the period of maternity leave.

Returning to work

Unless the employee has notified their manager otherwise, the date on which they return to work will normally be the first working day 52 weeks after their maternity leave began.

Employees wishing to return to work prior to this date must give at least eight weeks notice in writing. Failure to do so may postpone the return to such a date as will give eight weeks notice.

On resuming work up to 26 weeks after maternity leave, the employee is entitled to return to the same job on the same terms and conditions of employment as before they were absent.

On resuming work after 26 and before 52 weeks of maternity leave, the employee is still entitled to return to the same job. However, if it is not reasonably practicable for the College to allow return to the same job, a suitable alternative position will be offered on terms and conditions that are no less favourable than would have applied if the employee had not been absent.

An employee who worked full-time prior to maternity leave has no automatic right to return to work on a part-time basis or make other changes to work patterns. However, all requests for part-

time work or other flexible working arrangements will be considered in line with the College Flexible Working Policy.

Employees who decide not to return to work after their maternity leave must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment. If the notice period would expire after the maternity leave has ended, the employee may be required to return to work for the remainder of the notice period.

Further Information

For any questions regarding this policy, please contact the HR Department.

Other Relevant Policies

Paternity Leave and Pay Policy
Adoption Leave and Pay Policy
Shared Parental Leave and Pay Policy
Flexible Working Policy

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Policy Owner: Human Resources