

### **Support Staff Maternity Pay and Leave Scheme**

<p>A. The scheme applies to:</p>	<p>All pregnant employees regardless of the number of hours worked per week.</p>
<p>B. Initial obligations on the employee</p>	<ul style="list-style-type: none"><li>a) Continues to be employed by the college (whether or not she is at work) until immediately before the start of her absence.</li><li>b) Notifies the college in writing as soon as practicable, but not later than the end of the 15<sup>th</sup> week (unless there is good cause) before the expected week of childbirth that she wishes to be absent for maternity and the expected week of childbirth (EWC). If requested by the college, produces a certificate from a registered medical practitioner or a certified midwife stating the expected week of childbirth.</li><li>c) Notifies the college in writing at least 28 days before her absence begins, or as soon as is reasonably practicable:<ul style="list-style-type: none"><li>i) of the date of the beginning of her absence which shall be no earlier than 11 weeks before the EWC and</li><li>ii) that she intends to return to work with her employer (if that is her intention)</li></ul></li><li>d) Notifies the college with at least 28 days notice of any change in a previously notified date for the beginning of her absence</li><li>e) Does not remain at work if certified medically unfit to do so [taking into account the provisions of the Management of Health and Safety at Work (Amendment) Regulations 1994].</li><li>f) On receipt of the employee's notification the college will write to the employee within 28 days stating her expected date of return from maternity leave. This will be either 26 or 52 weeks from the start of the leave (see D below).</li></ul>

C. Ante-Natal Care	Any pregnant employee has the right to paid time off to attend ante-natal care and must produce evidence of appointments if requested to do so by the college.
D. Rights of the employee to maternity leave	<p>If she complies with B. above:</p> <ul style="list-style-type: none"><li>a) All employees are entitled to 26 weeks' Ordinary Maternity Leave and a further 26 weeks' Additional Maternity Leave i.e. a total of 52 weeks' leave.</li><li>b) To commence Ordinary Maternity Leave not earlier than 11 weeks before the EWC.</li><li>c) To choose when to start her maternity leave, except that her maternity leave will automatically be triggered if:<ul style="list-style-type: none"><li>(i) she is absent from work "wholly or partly because of pregnancy or childbirth" after the beginning of the 4<sup>th</sup> week before the EWC.</li><li>(ii) where the baby is born before maternity leave commences. In these circumstances the date of childbirth shall be regarded as the first day of maternity leave.</li></ul></li></ul> <p><b>N.B.</b> The employee shall notify the college as soon as reasonably practical that she has given birth or that she is absent wholly or partly because of pregnancy.</p> <p><b>Note:</b> For the purposes of statutory leave continuous service is calculated at the end of the 15<sup>th</sup> week before the EWC.</p>

E. Maternity Pay

**Pay During Ordinary Maternity Leave**

**Statutory Pay**

Payment for employees with less than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC will be their entitlement to Statutory Maternity Pay.

If an employee is not entitled to SMP then the college must give her an SMP1 form so that she can claim Maternity Allowance from the Benefits Agency.

**Occupational Pay**

Employees with *at least 1 years' continuous service* at the beginning of the 11<sup>th</sup> week before the EWC will be entitled to the following:

Weeks 1-6 For the first four weeks full pay (inclusive of payments made by way of SMP or Maternity Allowance).

For the next two weeks 9/10ths of a week's pay (less payments made by way of SMP or Maternity Allowance).

Weeks 7-18 Where an employee has declared in writing that she intends to return to work she will receive half pay without deduction except to the extent that the half pay plus SMP (or MA and any dependent's allowances if the employee is not eligible for SMP) exceeds full pay. This is paid on the understanding that an employee will return to employment for at least 13 weeks.

For employees not intending to return to work, payment will be the employee's entitlement to SMP.

Weeks 19-39 For the remaining 21 weeks the employee will receive their SMP entitlement.

	<p><b>Pay During Additional Maternity Leave</b></p> <p>In the event of an employee not returning to the college's employment for a period of at least 13 weeks she shall refund such sum as the college at their discretion may decide (N.B. payments made by way of SMP are not refundable).</p>
<p>F. Subsequent obligations on the employee</p>	<p>a) To return to college employment for a period of at least 13 weeks as a qualifying condition for entitlement to the maternity pay payable after six weeks' paid absence (<i>see E above</i>). This requirement may be varied at the discretion of the college on good cause being shown.</p> <p>b) Where the college agrees, a full-time member of staff may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where the college agrees, a part-time member of staff may return to work on a different part-time basis for a period which equates to 13 weeks part-time service relating to her previous contract.</p> <p>c) The 13-week period (or part-time equivalent) starts from the date the employee returns to work or the date during the college holiday on which the employee is declared medically fit to be available for work.</p>
<p>G. Return to work:</p>	<p>a) It will be assumed that an employee will be returning at the end of Ordinary Maternity Leave, or if she is entitled to Additional Maternity Leave, at the end of that period. If an employee wishes to return earlier than this she must give notice of:</p> <p>(i) 8 weeks in the case of an employee entitled to OML, and</p> <p>(ii) 8 weeks in the case of an employee entitled to AML.</p> <p>Where the notice given is less than above, the college may delay the employee's return to ensure the appropriate notice, but not beyond the end of the maternity leave period.</p>

After 26 weeks the employee has the right to return to the job in which she 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 that nature of the work which she is employed to do and the capacity and place in which she is so employed. After 52 weeks she also has the right to return to the same job unless there is a reason why it is not reasonably practicable for her to return to her old job, in which case she should be offered a 'a similar' job on terms and conditions which are not less favourable than her original job.

- b) Where it is not practicable by reason of redundancy for the college to permit her to return to work in her job, the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.
- c) Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. 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. The work to be done should be suitable to her and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return in the job in which she was originally employed.
- d) Where the employee is unable to return to work due to sickness she will be regarded as having returned to work and the provisions of the sick pay scheme will apply.

## 1. Definitions

- 1.1 **A week's pay** for members of staff whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the college to the member of staff under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the member of staff's average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.
- 1.2 **Childbirth** means the birth of a living child, or the birth of a child whether living or dead after 24 weeks pregnancy.
- 1.3 **Continuous Service** shall be calculated in accordance with paragraphs 26 and 27 of the Conditions of Service Handbook.
- 1.4 Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

## 2. Adoption Leave and Pay

- 2.1 Statutory Adoption Leave is exactly the same as Statutory Maternity Leave with 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave. It can be taken by either the adoptive mother or father and one partner can take adoption leave and one can take 'Paternity' Leave. The statutory pay arrangements are the same as Statutory Maternity Pay. These are the statutory provisions but colleges may wish, however, to introduce their own adoption leave schemes, which could confer similar rights to those under the Occupational Maternity Scheme.
- 2.2 Colleges will need to see confirmation from the adoption agency and there are a lot of issues surrounding adoption that need to be considered. These are referred to in the Joint Guidance on Work-Life Balance in Sixth Form Colleges document issued to colleges.
- 2.3 If the adoption does not work out, the statutory scheme provides for the leave to continue for 8 weeks before the employee returns to work to provide for a recovery period.

## 3 Contact During Maternity and Adoption Leave

- 3.1 During the maternity leave period an employer may make reasonable contact with an employee, and in the same way an employee may make contact with her employer. The frequency and nature of the contact will depend on a number of factors,

such as: the nature of the work and the employee's post, any agreement that the employer and employee might have reached before maternity leave began as to contact; and whether either party needs to communicate important information to the other, such as for example news of changes at the workplace that might affect the employee on her return.

- 3.2 The contact between employer or employee can be made in any way that best suits either or both of them. For example, it could be by telephone, by email, by letter, involving the employee making a visit to the workplace, or in other ways.
- 3.3 Employers should note that they must, in any event, keep the employee informed of promotion opportunities and other information relating to her job that she would normally be made aware of if she was working.
- 3.4 Employers and employees will often find it helpful, before maternity leave starts, to discuss arrangements for staying in touch with each other. This might include agreements on the way in which contact will happen, how often, and who will initiate the contact. It might also cover the reasons for making contact and the types of things that could be discussed.
- 3.5 What constitutes "reasonable" contact will vary according to the circumstances. Some women will be happy to stay in close touch with the workplace and will not mind frequent contact with the employer. Others, however, will prefer to keep such contact to a minimum.

#### **4 Work During the Maternity and Adoption Leave Period – "Keeping In Touch Days"**

- 4.1 Employees may, by agreement with their employer, do up to ten days' work – known as "Keeping in Touch days" - under their contract of employment during the maternity leave period. Such days are different to the reasonable contact that employers and employees may make with one another – described in the section above – as during Keeping in Touch days employees can actually carry out work for the employer, for which they will be paid.
- 4.2 Any work done on any day during the maternity pay or maternity leave period will count as a whole Keeping in Touch day, up to the 10-day maximum. In other words, if an employee comes in for a one-hour training session and does no other work that day, she will have used one of her Keeping in Touch days.
- 4.3 The type of work that the employee undertakes on Keeping in Touch days is a matter for agreement between the two parties.

They may be used for any activity which would ordinarily be classed as work under the woman's contract, for which she would be paid, but could be particularly useful in enabling a woman to attend a conference, undertake a training activity or attend for a team meeting for example.

