



Academy Maternity Policy – Teachers

(In Accordance with Conditions of Service for School Teachers in England & Wales)
“Burgundy Book”

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Maternity Policy - Teachers

Contents

1.	Introduction	3
2.	Scope	3
3.	Stages of leave	3
	3.1 "Ordinary Maternity Leave" (OML)	3
	3.2 "Additional Maternity Leave" (AML)	4
	3.3 "Compulsory Maternity Leave"	4
4.	Statutory Maternity Pay (SMP)	4
5.	Start date of maternity leave	4
6.	Notice to be given by the employee	5
7.	Teachers with Less Than 1 Years' Continuous Service	5
8.	Teachers with More Than 1 Years' Continuous Service	5
9.	Issues affecting all teachers	6
	9.1 <i>Birth Before the Expected Week of Confinement (EWC)</i>	6
	9.2 <i>Return to Work before the end of the Maternity Period</i>	7
	9.3 <i>Time off for Ante-natal care</i>	7
	9.4 <i>Health and Safety considerations</i>	7
	9.5 <i>Working with VDU's during pregnancy</i>	7
	9.6 <i>Pension contributions whilst on maternity leave</i>	7
	9.7 <i>Breaks in service</i>	8
	9.8 <i>Still birth</i>	8
	9.9 <i>Vacancies with the Academy whilst an employee is on maternity leave</i>	8
	9.10 <i>Keeping in Touch</i>	8
	9.11 <i>Returning to work</i>	8
	9.12 <i>Returning to work part time</i>	9
	9.13 <i>Inability to return because of sickness</i>	9
	9.14 <i>Other reasons for not being able to return to work</i>	9
	9.15 <i>Not returning to work</i>	9
	9.16 <i>Adoption Leave</i>	9
10.	Guidance for the Principal	9
	Appendix 1 – Application for maternity leave	11
	Appendix 2 – Expectant Mothers Risk Assessment	13
	Appendix 3 – Contacts	17

1. Introduction

- 1.1 As the employer of staff in our Academies, Northern Education Trust (NET) recognises the statutory responsibilities related to employment. Day to day management of staff is delegated to the Principal and line managers in each Academy. Throughout this document reference is made to the responsibilities held by the Governing Body/Principal for operational purposes. Ultimate responsibility rests with the Trust.
- 1.2 The Trust is committed to equality of opportunity in employment for all its employees and to developing work practices and human resource policies that support work-life balance.
- 1.3 This policy is intended to inform employees of their rights to maternity leave and pay. It covers all teachers who have a contract of employment with the Trust and work in Trust academies.
- 1.4 Please note where reference is made to the Principal, this is either the Principal or the nominated person in the academy.
- 1.5 Further policies on Paternity Leave and Maternity Support Leave, Shared Parental Leave, Parental Leave and Adoption Leave and are also available. The Shared Parental Leave regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family and should be read in conjunction with this policy.
- 1.6 For clarification regarding continuous service:
 - For Statutory Maternity Pay, HMRC regulations stipulate that continuous service is only counted with the current employer, i.e. the Trust. For those who TUPE transferred to the Trust, continuous service with the predecessor school is counted.
 - For Occupational Maternity Pay, the Trust recognises continuous service with any body listed on the modification order as long as the service with those employers was subject to the provisions of the Burgundy Book.

2.0 Scope

- 2.1 The Statutory Maternity Scheme applies to all pregnant women employed under School Teachers Pay & Conditions (STP&CD).
- 2.2 The scheme is made up of **Ordinary Maternity Leave (OML)**, and **Additional Maternity Leave (AML)**. All women are entitled to take both six months Ordinary Maternity Leave and six months Additional Maternity Leave providing a right to one year's maternity leave (52 weeks) in total regardless of length of service.
- 2.3 The Employment Rights Act 1996 also provides for **compulsory** maternity leave.

3.0 Stages of Leave

3.1 "Ordinary Maternity Leave" (OML)

Provided that an employee complies with the notification procedure detailed on the next page all women are entitled to OML of 26 weeks.

3.2 “Additional Maternity Leave” (AML)

All women are entitled to a further 26 weeks AML. This will start at the end of the OML period, i.e. entitled to 52 weeks leave in total.

3.3 “Compulsory Maternity Leave”

No employee may return to work within:

- a) Two weeks of the date of childbirth; or
- b) Until some later date if there are other statutory requirements which stop the employee from working due to the fact that she has just given birth.

4.0 Statutory Maternity Pay (SMP) (see clarification on service at para 1.6)

4.1 To qualify for SMP an employee must as a minimum:

- a) Have been employed continuously with Northern Education Trust (or predecessor school) for at least 26 weeks by the 15th week before the week the baby is due.
- b) Have average earnings at or above the Lower Earnings Limit for National Insurance calculated over a relevant period defined by statute.
- c) Provide proof of pregnancy with a valid form MAT B1.
- d) Have stopped working
- e) Provide the correct notice.

If the above criteria are met, there may be other circumstances specific to an individual which mean that they will be ineligible for SMP. Where, for any reason, an employee is not entitled to SMP, they will be notified accordingly by Payroll and may be able to claim maternity allowance from Job Centre Plus.

4.2 Where SMP is due it is payable for 39 weeks and is made up of:

- a) 6 weeks at 9/10ths (90%) of average earnings
- b) 33 weeks at a flat rate of £139.58 (April 2016) or 9/10ths (90%) whichever is the lower

5.0 Start date of Maternity Leave

5.1 Maternity leave can start:

- a) No earlier than 11 weeks before the expected week of childbirth or the day after the birth of the child if this is earlier.
- b) No later than the date the employee has agreed with the Principal that she will commence leave or the day after the birth of the child, whichever is the earlier.
- c) The 4th week before the expected week of childbirth if the employee is on pregnancy related sickness absence.
- d) The day after the birth of the baby if the baby is born early before the intended leave start date.

5.2 An employee can work up until their expected week of childbirth.

6.0 Notice to be given by the employee

- 6.1 An employee must notify the Principal in writing as soon as practicable but not later than 14 weeks before the expected week of childbirth (unless there is good cause) that she wishes to be absent for maternity reasons, The leave start date can be varied by giving 28 days notice to the Principal.
- 6.2 An employee must give 21 days' notice in writing to the Principal of the following:
- a) That they are pregnant
 - b) The expected week of childbirth (EWC)
 - c) The date of the beginning of their maternity leave
- 6.3 The employee will also be asked to provide a valid certificate from a Doctor or a registered Midwife stating the expected week of childbirth (MAT B1 certificate) which needs to be forwarded to the Principal along with the relevant notification forms which are enclosed at the end of this policy. **(See Appendix 1)**
- 6.4 Within 28 days of receiving notification from the employee, the payroll section will inform the employee of her 'expected date of return', calculated on the assumption that she will take the maximum amount of leave to which she is entitled.

7.0 Teachers with Less than 1 Years' Continuous Service (see clarification on service at para 1.6)

- 7.1 If an employee has less than one years' service at the 11th week before the expected week of childbirth, then the following is applicable:
- **Maternity Leave:** Provided the employee complies with the notification procedures they will be entitled to OML for up to 26 weeks and AML for up to 26 weeks (52 weeks leave in total)
 - **Maternity Pay:** Subject to meeting the qualifying criteria at 4.1 the employee will have an entitlement to SMP only, a maximum of 39 weeks paid leave.

8.0 Teachers with More Than 1 Years' Continuous Service (see clarification on service at para 1.6)

- 8.1 If an employee has more than one years' continuous service at the 11th week before the expected week of childbirth then the following is applicable:
- **Maternity Leave:** Provided the employee complies with the notification procedures they will be entitled to 26 weeks' OML and 26 weeks' AML (52 weeks leave in total)
 - **Maternity Pay:**
The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable to the employee 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 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.

Weeks 1 – 4 Full pay offset against payments made by way of SMP (or Maternity Allowance (MA) for employees not eligible to SMP).

- Weeks 5 – 6** 9/10 (90%) of a weeks' pay including SMP (or MA payments if the employee is not eligible to SMP).
- Weeks 7 – 18** 12 weeks SMP entitlement. If the employee informs the Principal in writing that they intend to return to work they will also receive half pay in addition to their SMP, or Maternity Allowance if they are not eligible to SMP. The half pay and SMP added together cannot be more than the normal full pay except to the extent that SMP exceeds full pay. If the employee does not intend to return to work, they will be entitled to SMP only.
- Weeks 19 – 26** SMP entitlement for the remaining 8 weeks of OML.
- Weeks 27 – 39** SMP entitlement for 13 weeks of AML.
- Weeks 40 – 52** 13 weeks unpaid AML.

8.2 The additional half pay element is made on the understanding that the employee will return to employment with the Trust for at least 13 weeks following their maternity leave. If they do not return for at least 13 weeks, on either a full time or part time basis, they will need to repay the half pay part of the payment or such lesser amount as the Academy may decide. They will need to sign an undertaking to repay prior to starting maternity leave in order to receive the half pay element. **(See Appendix 1)**. It is also possible to have the half pay element paid over a mutually agreed period (a longer period than 12 weeks) or have the half pay element deferred until a later date if the employee is unsure whether they wish to return to work after maternity leave. Please contact Payroll to discuss this option further.

The Maternity Application Form must be completed prior to commencing your maternity leave and sent to the Principal.

8.3 There will be some circumstances where the half pay element will not be reclaimed should an employee not return to the academy following maternity leave; i.e., if the employee gains employment in another NET academy during their maternity leave; if the employee has a fixed term contract which expires prior to her being able to return to work from maternity leave and if the employee is dismissed on the grounds of redundancy. There may also be other occasions where the Principal can exercise discretion over how much of the half pay should be reclaimed; i.e. where an employee does return to work but not for the full 13 weeks; or where there are other exceptional mitigating circumstances. Advice should be taken from the Trust HR function.

9.0 Issues Affecting all Teachers

9.1 Birth before the Expected Week of Confinement (EWC)

9.1.1 If the baby is born before the intended start date of maternity leave then the maternity leave will automatically commence **the day after the birth of the baby**. An employee should notify the Principal (to inform Payroll) as soon as possible so they can make the appropriate adjustments to the maternity leave entitlement and maternity pay.

9.1.2 If the baby is born before the expected date of childbirth but after the start of maternity leave then this will not alter the maternity leave end date and the Principal does not need to be notified of the birth for pay purposes.

9.2 Return to work before the end of the maternity period

- 9.2.1 If an employee has decided to return to work after maternity leave, it will be assumed that they will be returning to work at the **end** of the AML. If they want to return before the end of the 52 weeks they must inform the Principal in writing at least 21 days before the day on which they intend to return.
- 9.2.2 If an employee gives less than 21 days' notice of their return the Principal may postpone the return to ensure that there is a 21 day period as long as this does not extend the period beyond the 52 week period. The employer's notification shall be conveyed to the teacher in writing before the date of return and shall give the reasons for postponing the return until the later date.

9.3 Time off for Ante-natal care

- 9.3.1 An employee has the right to paid time off for ante-natal care which includes medical examinations, midwife appointments, relaxation classes and parent craft classes. They must give evidence of appointments if the Principal asks for it. Applications for time off for Ante-natal care should be made using a Leave of Absence request form.

9.4 Health and Safety considerations

- 9.4.1 A Workplace Risk Assessment must be undertaken for pregnant or breast-feeding employees to identify the health, safety and welfare implications. It is a legal requirement for the Principal to ensure a Workplace Risk Assessment is undertaken and kept under regular review throughout an employee's pregnancy and following their return to work if they are breast-feeding. However, they can only undertake the Assessment once an employee has informed them in writing that they are pregnant. **(See Appendix 2).**
- 9.4.2 There are a number of infectious diseases which, if contracted by a pregnant woman, can pose a risk to the unborn baby. These include, but are not limited to, rubella and chickenpox. If there is an outbreak of these or other diseases in the academy which are known to pose a risk to the pregnant woman or unborn child, then medical advice should be sought. Redeployment should be considered to another academy or offices within the Trust and as a last resort, the employee should be medically suspended for the necessary timescales recommended by the GP or other medical practitioner.

9.5 Working with VDU's during pregnancy

- 9.5.1 In the light of the scientific evidence, pregnant women do not need to stop working with VDU's. However, if an employee is concerned about this please discuss the matter with your Principal.

9.6 Pension contributions whilst on maternity leave

- 9.6.1 An employee must pay pension contributions on any maternity pay and SMP received during their maternity leave. In relation to unpaid maternity leave, an employee can choose if they wish to pay pension on this period. If an employee is still in receipt of pay, they are still in pensionable service. If the employee is not receiving any pay, they are no longer in pensionable service for the purpose of the

scheme – this is excluded service. Further guidance on this can be obtained from the website www.teacherspensions.co.uk

9.7 Breaks in service

9.7.1 Maternity leave is not counted as a break in service and employment is continuous for all services related to entitlements.

9.8 Still birth

9.8.1 If an employee has a still birth before the 24th week of pregnancy, the provisions of the maternity leave scheme do not apply. However, if the doctor certifies a period of sickness they would be covered by the sick pay provisions. If a still birth occurs after the 24th week they will be covered by the provisions of the maternity scheme as above.

9.9 Vacancies with the Academy whilst an employee is on maternity leave

9.9.1 If an employee wishes to see vacancies during their maternity leave all vacancies are advertised on the Academy website or to all staff by email. If an employee does not have access to the internet they should let the Principal know so that hard copies of any vacancies can be sent to the employee.

9.10 Keeping in Touch

9.10.1 The maternity leave regulations that came into effect on 1st April 2007 allow an employee to work for up to 10 days during their maternity leave without bringing the maternity leave to an end. They cannot be used during the first two weeks following the birth of the child (during the compulsory maternity leave period). These days are known as “Keeping in touch days”. Employees will receive a full day’s pay for any work undertaken during their maternity leave and this will be offset against the SMP for the day.

9.10.2 Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

9.10.3 Keeping in Touch days are arranged by mutual agreement. The Academy cannot insist that an employee carry out any work and they are protected from suffering a detriment or being dismissed for refusing to do so. Equally an employee cannot insist on being given any work to do during their maternity leave.

9.11 Returning to work

9.11.1 An employee has a right to return to the job in which they were employed under their original contract of employment and on terms and conditions no less favourable than those which would have been applicable to them if they had not been absent. “Job” for this purpose means the nature of the work which they are employed to do and the capacity and place in which they are employed.

9.11.2 If there is a redundancy situation or some exceptional circumstances such as general reorganisation and the Trust is unable to allow an employee to return to work in their job, as defined above, they will be entitled to be offered a suitable alternative vacancy within the Trust if there is one. This is provided that the work to be done in the post is suitable to the employee and appropriate to the circumstances

and the capacity and place in which they are employed. The terms and conditions of employment should not be substantially less favourable to the employee than if they had been able to return to the job in which they were originally employed.

9.12 Returning to work part time

9.12.1 If an employee wants to return on a part time basis they are advised to enter into informal discussions with the Principal in the first instance to see if mutual agreement can be reached before entering into the formal processes outlined in the the Academy's Flexible Working Procedure. A guide is available from the Academy.

9.12.2 The Principal will consider any changes to working arrangements following the process outlined in the Flexible Working Procedure.

9.13 Inability to return because of sickness

9.13.1 If an employee is unable to return on the expected day due to sickness their absence will be covered by the sickness pay scheme.

9.14 Other Reasons for not being able to return to work

9.14.1 If an employee is unable to return to work following maternity leave because of an interruption of work, industrial action or some other reason, it would be unreasonable to expect them to return on the due date. They may instead return when the work resumes, or as soon as reasonably possible after this.

9.15 Not returning to work

9.15.1 If an employee resigns they may still be entitled to SMP, if eligible, even though they are no longer an employee. If they resign at some point during their maternity leave period, they will be required to repay the half pay element of their maternity pay if they have chosen to receive it. If they are unsure at the beginning of their maternity leave whether they will return to work, they can choose not to receive the half pay element of their maternity pay until they return to work.

9.16 Adoption leave

9.16.1 Adoption leave is different and a separate Adoption Leave Policy is available.

10.0 Guidance for the Principal

10.1. When an employee notifies the Principal that she is pregnant, they should be advised to contact the Academy Human Resources function in the first instance for advice in relation to their maternity leave and pay entitlements.

10.2 A Workplace Risk Assessment must be undertaken for pregnant or breast-feeding employees to identify the health, safety and welfare implications. It is a legal requirement for the Principal to ensure a Workplace Risk Assessment is undertaken and kept under regular review throughout the employee's pregnancy and following the her return to work if she is breast-feeding.

10.3 An employee must notify the Principal of the start date or their maternity leave at least 21 days before she intends it to commence.

- 10.4 The maternity leave regulations which came into force on 1st April 2007 state that an employee can work (if they choose to) for up to 10 days during her maternity leave without bringing her maternity leave to an end. However, an employee cannot carry out any work during the first two weeks following the birth of her child.
- 10.5 Both the Principal and the employee are allowed to make reasonable contact during maternity leave, to discuss such issues as the return to work. This would not constitute 'work' and would not therefore count towards the 10 "Keeping in Touch Days". Apart from discussing the return to work, an employee should be kept informed of other issues, such as job vacancies, significant workplace developments and training opportunities.

Statutory Maternity Pay & Occupational Maternity Scheme

Conditions of Service for Teachers in England & Wales

Application Form

Name:

Address:

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Post Title:

Academy:

Please Complete Section 1, 2 or 3 (please note you may wish to consult your trade union representative for advice before completing this form)

Section 1

I intend to exercise my right to return to work following the birth of my baby and provide the following information:

- 1. The date on which I intend to commence maternity leave is
- 2. I enclose my original form MATB1 Yes No
- 3. My expected date of childbirth is
- 4. I wish the equivalent of my 12 weeks half pay to be paid over an alternative period of time Yes No
If yes please state specified time period

Section 2

I do not wish to exercise my right to return to work following the birth of my baby.

- 1. The date on which I intend to commence maternity leave is
- 2. I enclose my letter of resignation Yes No
- 2. I enclose my original form MATB1 Yes No
- 3. My expected date of childbirth is

Section 3

I am unsure at the time of signing whether I wish to exercise my right to return to work following the birth of my baby, but will inform the Principal of my intentions at the earliest possible opportunity, having due consideration for the notice periods required in the Burgundy Book. I therefore wish to defer the half pay element of my maternity pay until a later date if I make a decision to return to work.

Please tick:

The Terms and Conditions of the Burgundy Book for School Teachers Maternity Scheme include a provision for payment of 12 weeks at the rate of half pay, providing the employee returns to work for a period of at least 13 weeks. This applies to employees who have more than one years' continuous service. Please note this applies to Occupational Maternity Pay (OMP) only. Statutory Maternity Pay (SMP) is not refundable.

As per section 8.2 of the Maternity Policy, the additional half pay element is made on the understanding that you will return to employment with the Trust for at least 13 weeks following your maternity leave. If you do not return for at least 13 weeks, on either a full time or part time basis, you will need to repay the half pay part of the payment or such lesser amount as the Academy may decide. It is also possible to have the half pay element paid over a mutually agreed period (a longer period than 12 weeks), or have the payment deferred to a later date if you are unsure whether you wish to return to work after maternity leave.

As per section 8.3 of the policy, there will be some circumstances where the half pay element will not be reclaimed should you not return to the academy following maternity leave, i.e. if you gain employment in another NET academy during your maternity leave, if you have a fixed term contract which expires prior to you being able to return to work from maternity leave, and if you are dismissed on the grounds of redundancy. There may also be occasions where the Principal can exercise discretion over how much of the half pay should be reclaimed, i.e. where you do return to work but not for the full 13 weeks, or where there are other exceptional mitigating circumstances.

I, the undersigned employee hereby undertake as follows:

Having been advised of my rights and obligations under the Burgundy Book for School Teachers Maternity Scheme, I agree to repay all gross Occupational Maternity Pay paid to me after the first six weeks paid absence, or such lesser amount as the Academy may decide if I do not return to work for a period of at least 13 weeks:

a) At the end of my maternity leave period

Or

b) At the end of any period of leave beyond maternity leave, taken immediately after the end of maternity leave, as a result of an agreed postponement of return to work.

Signed:..... Date:.....

Please return this completed form with your original MAT B1 certificate to the Principal.

Appendix 2

Expectant and New Mother's Risk Assessment

Name:		Occupation:		Department:	
Line Manager:		Date Baby Due:		Date Baby Born:	

Date of Initial Assessment:		Completed by:	
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Maternity Leave Start Date:		Return to Work Date:	
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Is Employee Currently Nursing her Baby? (Breast Feeding)	
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Notification Details		
Has the employee notified the academy in writing of her condition? (If yes, attach a copy to this assessment.)	Yes	No
Has the employee produced a certificate from a medical practitioner or registered midwife to show that she should avoid/refrain from certain types of work? (If yes, attach a copy of the certificate to this assessment.)	Yes	No

Review Date(s)	Signatures	Position

Please continue with Risk Assessment

Does the Work Programme Expose the Employee to any of the following Hazards?	<u>Yes / No</u>	Risk Rating (High / Medium / Low)	Comments / Actions Necessary
Shocks , Vibration or Movement			
Manual Handling			Complete and attach the Manual Handling Risk Assessment
Ionising Radiation			
Noise			Regular breaks away from the situation should be enabled.
Extremes of Temperatures			Ensure access to refreshments and regular short breaks.
Movements & Postures Travelling, Standing & Sitting for Long Periods Working in Restricted Space or at Heights			Ensure employee is able to take short breaks and seating is available where possible.
Mental Fatigue Physical or Verbal Assault Stress & Anxiety			Discuss and agree workload and pace of work, hours of work. Refer to the stress risk assessment in the Health & Well Being Policy where necessary.
Biological Agents Hepatitis B, HIV, Rubella, Herpes, TB, Syphilis, Chickenpox & Typhoid., MRSA or Other			Refer to redeployment section in the policy where necessary.
Chemical Agents Substances Labelled R40, R45, R46 & R47			Complete and attach COSHH Assessments
Working with Lead			Working with lead (in pottery for example) must be avoided during the pregnancy and until breastfeeding has ceased.

Additional Comments

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Working Conditions

Does the Employees Work Pattern Involve Any of the Following?	<u>Yes / No</u>	Risk Rating (High / Medium / Low)	Comments / Actions Necessary
DSE (Working with Display Screen Equipment)			There are no known health issues in working with VDUs. However consideration should be given to whether a DSE assessment is required to ensure posture and positioning is suitable
Shift Work Early, Late, Nights, Quick Turn Around.			
PPE (Personal Protective Equipment) Suitability & Availability			
Standing & Sitting			
Exposure to Nauseating Smells			
Lone Worker			
Stress			
Yard duties/Break time duties in corridors/Bus duties			Discuss the risks associated with excitable children/large groups etc. Consider whether these duties are a risk in light of the context of the academy. Remove the pregnant employee from these duties where appropriate.
Any other condition in the context of the academy.			Stipulate specific condition, associated risks and actions necessary to minimise risk.

<p>Breast Feeding Appropriate private area for the employee to express milk, suitable refrigerated area for the expressed milk to be stored, consideration of the time away from the classroom / normal duties that the employee may need to express milk.</p>			
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Additional Comments

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Please ensure this Risk Assessment is returned to the Academy HR Function / Business Manager – thank you

CONTACTS

For advice on the content of this policy please contact:

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Employees are also encouraged to contact their trade union representative for advice and support where appropriate.