



South York
MULTI-ACADEMY TRUST

MATERNITY LEAVE POLICY & PROCEDURE

Title	Maternity Leave Policy & Procedure
Author	HR Business Partner
Issue date	Sept 2022 (Previous conditions of service via TUPE 2018**)
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Scope:	This policy applies to all teaching and support staff in schools.
Links to other procedures:	Parental Leave, Shared Parental Leave

The policy and entitlements were those which applied prior to TUPE transfer into SYMAT in 2018 and therefore carried over at the establishment of SYMAT. A minor revision to the Policy was agreed in September 2022 by the SYMAT Board.

This policy applies to each School operating within the South York Multi-Academy Trust unless specific conditions and applications are identified within this policy.

This policy will be monitored regularly by the Multi Academy Trust Board in line with the agreed timetable for policy review or sooner as events or legislation changes require.

SYMAT MATERNITY LEAVE POLICY & PROCEDURE

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1.0 Introduction

These notes of guidance are divided into three sections; maternity leave, maternity pay and general conditions (plus appendices).

This scheme applies to all pregnant employees regardless of the number of hours worked per week. Benefits under the scheme will vary depending on the amount of continuous service each employee has.

Such service must be service without a break with SYMAT or other organisations covered by the Redundancy Payments (Modification) Order 1999 if this was immediately prior to joining SYMAT.

If the employee has service with another body which they think may count for such purposes, she should bring this to the attention discuss this with HR who will clarify the position for them.

Calculating continuity of service:

- (i) For purposes of SMP, continuous service is calculated by reference to service with SYMAT only.
- (ii) For purposes of eligibility to leave and occupational maternity pay, continuous service is calculated by reference to service with SYMAT or other organisations covered by the Redundancy Payments (Modification) Order 1999 employers.

Maternity leave

1.1 All pregnant employees are entitled to take up to one year's (52 weeks') maternity leave regardless of their length of service.

1.2 There are three levels of maternity leave:

Ordinary Maternity Leave (OML): All pregnant employees are entitled to OML - there is no qualifying period. The length of the leave is 26 weeks. The allowances payable are SMP or MA (see Part Two) and the paid period now extends into part of the additional maternity leave period (see below).

Compulsory leave: This is a period of two weeks immediately after giving birth during which the woman is not permitted to work. This is part of the ordinary maternity leave period, not additional to it.

Additional Maternity Leave (AML): Begins from the end of the OML and is for a period of a further 26 weeks. There is no qualifying period of employment for AML. Part of AML is unpaid.

2.0 Beginning maternity leave

2.1 The employee can begin their Ordinary Maternity Leave (OML) no earlier than the beginning of the 11th week before their expected date of childbirth, or the day after childbirth if that is earlier.

2.2 The employee may begin their maternity leave on any day of the week.

- 2.3 If the employee's maternity leave has not already started, it will be triggered by the birth of the child, or pregnancy-related absence from the beginning of the 4th week before the expected week of childbirth. If triggered by the birth of the child, OML will begin on the day that follows the date of childbirth. In either of these situations, the employee must notify their headteacher as soon as reasonably practicable, who in turn must inform HR, that they have given birth or that they are absent wholly or partly because of pregnancy. If the employee does not do so, they may lose their right to maternity leave.

3.0 Notification procedures

- 3.1 The employee should tell the Headteacher / HR that they are pregnant at the earliest possible date, in order to protect their health and safety and in order to receive paid time off for ante-natal appointments.
- 3.2 The employee must notify the Headteacher / HR, in writing, of the following:
- That they are pregnant
 - The expected week of childbirth (EWC)
 - The date they want their Ordinary Maternity Leave to start
 - The employee must also provide a certificate from a Registered Medical Practitioner or Certified Midwife stating the expected week of childbirth – MATB1 form. This is not normally available earlier than 20 weeks before the EWC

In order to qualify for occupational maternity pay, the employee must also declare their intention to return to work at the end of their period of maternity leave

- 3.3 The employee must provide the above notification to the headteacher/governing body no later than the 15th week before the EWC.
- 3.4 Headteacher / HR must then write to the employee within 28 days of receiving the above notification (copy to personnel file), to tell them their expected date of return from maternity leave, (see Appendices).
- 3.5 Headteacher / HR must also write to the employee within 28 days of receiving their notification (copy for personnel file), to confirm their expected date of return if the employee's maternity leave has been triggered by childbirth or a pregnancy-related absence.

4.0 Changing the date on which maternity leave starts

- 4.1 If the employee later wishes to change the date on which their leave starts, they must give at least 28 days' notice. This is because 28 days' notice must be given to receive SMP, and to enable the headteacher to make arrangements for cover.
- 4.2 On receiving the employee's notification that they wish to change the date on which their leave starts, Headteacher / HR must write to the employee within 28 days to confirm their new expected date of return.

Returning from maternity leave

- 5.1 Employees who intend to return to work at the end of their full maternity leave entitlement will not have to give any further notification to the Headteacher / HR.
- 5.2 Employees who want to come back to work before the end of their full leave entitlement, must notify Headteacher / HR at least 28 days before the intended return date (56 days for school support staff). A longer period of notice of an early return is recommended to enable the headteacher to plan the return effectively.
- 5.3 If the employee does not give the minimum notice, Headteacher / HR may postpone the employee's return until eight weeks from the date they have informed the headteacher that they would like to return early (but not to a date after her full entitlement to maternity leave would have ended).

6.0 Deciding not to return

- 6.1 Unless mutually agreed otherwise, if the employee does not intend to return at the end of their period of maternity leave, the employee's contractual notice requirements will apply.

7.0 "Keeping in touch" days

- 7.1 By mutual agreement, employees may work during their maternity leave for up to 10 days without bringing their maternity leave to an end. During such work the employee will receive their normal contractual pay minus any maternity pay they may be in receipt of.

Maternity pay

8.0 Introduction

Entitlement to maternity pay is subject to qualifying periods. The qualifying period for Statutory Maternity Pay and Occupational Maternity Pay differ (see below). Schools' staff on Conditions of Service for School Teachers (Burgundy Book) have a different Maternity Pay entitlement from colleagues on NJC terms and conditions.

9.0 Statutory Maternity Pay or Maternity Allowance

- 9.1 In order to qualify for SMP, the employee must:
 - Have 26 weeks' continuous service with her employer assessed at the 15th week before the week the baby is due.
 - Have average weekly earnings in the eight weeks up to and including the qualifying week at or above the lower earnings limit for the payment of National Insurance contributions.
 - All schools staff (i.e. NJC contract holders and School Teachers Conditions of Service) who meet the criteria in 9.1, are entitled to receive SMP. The employee will still qualify for SMP if they leave the employment of CYC/academy, as long as the above requirements are met and they leave work after the start of the 15th week before the employee's baby is due.

- SMP is payable for 39 weeks, the first six weeks of which will be paid at 90% of average weekly earnings and the remainder at the lower statutory level (or 90% of the average weekly earnings if this is less than the lower level). SMP rates are normally increased in April each year.

9.2 Employees who do not qualify for SMP may qualify for MA: this is based on their recent employment and earnings record and is a state benefit which may be payable for 39 weeks. To establish whether they are entitled to this state benefit, the employee must take Form SMP1 to the Benefits Agency Office and they will inform the employee if they have any entitlements.

10. Occupational Maternity Pay (OMP) – NJC contract holders (support staff in schools) (See 12.4)

10.1. Employees who have completed one year's continuous service at the 11th week before the EWC are entitled to OMP. Such employees will be paid Statutory Maternity Pay (SMP) for 39 weeks at the applicable rates (subject to meeting SMP qualification criteria) plus Occupational Maternity Pay. The combined payment is made as follows:

Weeks 1-6

- For the first six weeks of absence, employees are entitled to 90% of a week's pay (higher rate SMP) or MA.

Weeks 7-18

- For the subsequent 12 weeks, employees who have declared in writing that they intend to return to work are entitled to receive 50% of a week's pay (OMP), in addition to lower rate SMP. The combined payment of SMP/MA and OMP will not exceed normal basic pay. As an alternative, the OMP may be spread over 20 weeks. The distribution of the payment should be agreed between the employee and HR, who will inform Payroll if an alternative distribution is agreed (for employees receiving MA their OMP is offset against payments made by way of maternity allowance).

Weeks 19-39

- Lower rate SMP or MA

Weeks 39-52

- Unpaid.

10.2. The employee may request that their OMP is held over until after they have returned to work and fulfilled the obligations associated with OMP (please see 12.0).

10.3. For employees not intending to return to work, OMP is not applicable, only SMP (as defined above) will be paid beyond the initial six week period.

10.4. Please note that any changes to the employee's contract could potentially affect their payments for SMP/OMP – please see 12.4.

11.0 Occupational Maternity Pay (OMP) – School Teachers’ Conditions of Service (Teaching staff in Schools) (See 12.4)

11.1. All the entitlements and obligations specified and referred to in section above also apply to teaching staff in schools.

11.2. In addition, staff on School Teachers’ conditions are entitled to further payments which combined with the above entitlement are paid as follows:

Weeks 1 – 4

- Full pay, offset against higher rate SMP or MA

Weeks 5 –6

- 90% of an average weeks’ pay (higher rate SMP)

or MA Weeks 7-18

- 50% of an average weeks’ pay (OMP) plus lower rate SMP. However, the combined payment of SMP and OMP will not exceed normal basic pay.

Weeks 19 – 39

- Lower rate SMP or

MA Weeks 39 – 52

- Unpaid

12.0 Employees’ obligations related to OMP

12.1 OMP is paid on the understanding that the employee will return to SYMAT employment for a period of at least three months/13 weeks (including periods of school closure). In the event this does not occur, the employee will refund OMP monies paid. If an employee leaves part way through their obligation period, the full amount is not reduced pro-rata. The 13-week period (or part-time equivalent) starts from the date the employee returns to work or the date during the school holiday on which the employee is declared medically fit to be available to work.

12.3 If an employee does not receive OMP as there was no written undertaking that they were going to return to work, and they subsequently return to work for three months, the payment will be made in a lump sum after this time.

12.4 ** OMP Calculation

Occupational Maternity Pay shall be calculated on the basis of the employee's average weekly earnings during the period of at least 8 weeks leading up to the last payday prior to the 15th week before the expected week of childbirth, subject to the following qualifications:

- (a) In the event of a pay award or incremental progression being implemented before the paid maternity leave period begins, the maternity pay should be calculated as though the pay award or annual increment had effect throughout the entire Statutory Maternity Pay calculation period.

If such a pay award was agreed retrospectively, the Maternity Pay should be recalculated on the same basis.

- (b) In the event of a pay award or annual increment being implemented during the paid maternity leave period, the maternity pay due from the date of the pay award or annual increment should be increased accordingly.

If such a pay award were agreed retrospectively, the Maternity Pay should be recalculated on the same basis.

- (c) In the event of a reduction in salary after the calculation point (Perhaps because of the end of acting up arrangements) – maternity pay will not be re-evaluated and the original calculation point will be used.

13.0 Employee's other obligations

The employee has other obligations and is required to notify her employer if any of the following occur:

- The employee goes outside the European Economic Area at any time during their maternity pay period. Please note the Channel Islands and the Isle of Man are outside of the European Economic Area.
- If the employee is in legal custody at any time during their maternity pay period.
- The employee starts work with a different employer within their maternity pay period but after the birth of their child. (If the employee begins work for a new employer, they would not be entitled to SMP from the Authority unless the employee began employment with a related employer with no break in service).

General conditions and information

14.0 Introduction

There are certain general conditions that apply to all pregnant employees regardless of the length of continuous service or the number of hours worked in a week.

15.0 Health and wellbeing

15.1 Ante-natal care

Pregnant employees have the right to paid time off to attend for ante-natal care. Requests for time off to attend for ante-natal care must be made in writing and include evidence of the appointment. HR / Line managers may ask employees to rearrange ante-natal appointments for a more convenient time, but only if this is reasonable.

15.2 Premature birth

If the employee's baby is born prematurely the Headteacher / HR will discuss with them an appropriate date on which they might return to work.

15.3 Death of a baby and still birth

If the employee's baby dies or is still born after 25th week of pregnancy onwards, the Occupational Maternity Scheme still applies. If the employee's baby dies or is still born before the 25th week, Headteacher / HR should discuss with her sympathetically an appropriate date on which she might return to work.

15.4 Health and safety

SYMAT has a statutory duty to ensure the health, safety and welfare of all its employees while they are at work. This should include carrying out risk assessments for the duration of the pregnancy – usually 3 to coincide with the 3 trimesters of pregnancy.

Consideration will be given to any health and safety implications for pregnant or breast-feeding employees identified through workplace risk assessments.

Advice regarding protective measures, including suspension on Health and Safety grounds, should be sought from the Trust's H & S / Occupational health advisors.

16.0 Leave arrangements and other absences

Annual leave accrues over the whole of the employee's maternity leave period, i.e. during both the paid and the unpaid part. If the employee is intending to return to work, they may wish to take a proportion of their annual leave entitlement in advance, subject of course to the exigencies of the service. Please note, however, that if the employee does not return to work after their period of maternity leave for at least a three-month period, then the authority/academy will reclaim any monies owing in respect of leave taken in excess of entitlement.

16.1 Annual leave entitlement - NJC employees

In addition to continuing to accrue annual leave throughout the entirety of their maternity leave, employees are also entitled to be compensated for each public holiday that falls during their maternity leave (pro-rata for part time employees). The number of compensatory days will be calculated by the employee's manager and employees allowed to take any public holiday that falls during their period of maternity leave, either before or after their maternity leave.

16.2 Annual leave entitlement – School Teachers' Conditions of Service (Teaching Staff in Schools)

A teacher has a statutory entitlement to 28 days' annual leave to be taken either before or after the maternity leave period during school closure periods. Teachers do not have a contractual entitlement to paid leave on public or bank holidays. The May-Day bank holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the May-Day bank holiday will be classed as a school closure which counts against the statutory annual leave entitlement, which is currently 28 days.

Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all her outstanding annual leave entitlement, a teacher must be allowed to carry over any balance of her leave to the following leave year. A teacher can be required to take this during the remaining periods of school closure after the 28 days' annual leave for that leave year has been accommodated.

16.3 Relationship with sickness

Maternity leave will not be treated as sick leave and will not, therefore, be taken into account for the calculation of a period of entitlement to sickness leave.

If an employee falls sick before the fourth week before the expected week of childbirth, they will be entitled to statutory sick pay and occupational sick pay. If the employee is absent through sickness after the fourth week, they will only be entitled to statutory sick pay where the sickness is not related to the pregnancy. Where the sickness is pregnancy related, this will trigger statutory maternity leave and SMP will become payable. If the employee becomes sick during their maternity pay period they will have no entitlement to SSP because they will be receiving SMP.

16.4 Other absences

If in the early months of pregnancy, a 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 reasonably refuse to serve in another school where there is no undue risk.

17.0 Return to work arrangements

17.1 Right to return to work

Subject to sub-paragraph 17.2 below, the employee's right to return to work is a right to return to the job in which they were employed under their original contract of employment and on terms and conditions that are not less favourable than those which would have been applicable to the employee if they had not been absent. 'Job', for this purpose, means the nature of work which the employee is employed to do and the capacity and place in which they were employed to do it.

Where it is not practicable by reason of redundancy for the Trust to permit the employee to return to work to their job as defined above, the employee will be entitled to be offered a suitable alternative vacancy where one exists, providing:

That the work to be done in that post is suitable to the employee and appropriate to your circumstances.

That the capacity and place in which the employee are to be employed is not substantially less favourable.

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

Where more than one individual is being considered for the suitable alternative vacancy for reasons of redundancy, the employee covered by these Maternity guidelines will be given priority for the vacancy.

In exceptional circumstances, other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, where there is a change in the job the employee was employed to carry out prior to the employee's absence, suitable alternative employment must be offered to the employee. The alternative employment must be suitable to the employee and appropriate to the circumstances, the capacity and place in which the employee is to be employed and their terms and conditions of employment should be not less favourable to the employee than if the employee had been able to return to the job in which the employee were originally employed.

17.2 Return to work - flexible working arrangements

If so requested, the employer will consider wherever possible a full range of flexible working arrangements at the time of the employee's return, e.g. job share, part-time, reduced hours etc. Please note that if the employee wishes to return to work on a job share basis they should give the Headteacher / HR at least 3 months-notice in writing. There is no automatic right to a reduction in working hours but careful consideration must be given to each request and reasons for refusal must be reasonable and justifiable.

17.3 Exercising your right to return to work

Where the employee is unable to return to work on the expected day due to sickness, the normal contractual arrangements for sickness absence will apply, and the employee should notify their headteacher in the normal way as outlined in the Staff Handbook / Attendance Management Policy.

Where it is unreasonable to expect the employee to return on the notified day, because of an interruption of work (whether owing to industrial action or some other reason), the employee may return instead when work resumes, or as soon as reasonably practicable thereafter.

18.0 Line management

18.1 Schools should keep in regular contact with employees when they are on maternity leave and this can be agreed with the member of staff prior to the commencement of maternity leave.

18.2 Headteachers / HR must also inform employees who are on maternity leave of any proposed significant changes to the structure of the school or how the work is arranged/carried out.

19.0 Records

Records of maternity leave and associated documentary evidence and correspondence i.e. concerning time off for ante natal care, return to work dates etc., will be held on the employee's personnel file.

20.0 Pension

If you are on maternity leave but no longer entitled to any OMP or SMP, your contributions to the Teachers' Pension/Local Government Pension fund will cease during that period. If you wish to continue to pay into the fund during your period of unpaid leave you may elect to pay contributions so that the period of absence will count for pension purposes. For further details, contact your pensions provider directly.

APPENDIX 1 - Model letter for HR / Headteachers to acknowledge notification of maternity leave for NJC contract holders.

Dear [*name of employee*],

Congratulations and thank you for telling me about your pregnancy and the date that your baby is due. I am writing to you about your maternity leave and pay.

As we have discussed, you are eligible to 52 weeks' maternity leave.

Given your chosen start date of [*insert date*], your maternity leave will end on [*insert date*].

If you want to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date or 28 days before [*insert date leave starts*] (your original start date), whichever is sooner.

If you decide to return to work before [*insert date leave ends*], you must give me at least eight weeks (56 days) notice.

As we discussed, you have/have not [*delete as appropriate*] declared in writing that you intend to return to work.

Your maternity pay will therefore be:

6 wks at 9/10 of your average weeks salary
12 wks at SMP** plus 50% of an average weeks pay (OMP)
(However, the combined payment of SMP & OMP will not exceed normal basic pay)
21 wks of SMP only

followed by 13 wks unpaid leave

If you decide not to return to work you must still give me proper notice. Your decision will not affect your entitlement to SMP but it will mean that you are required to re-pay any half pay that you received.

I have enclosed the Schools Maternity Policy but if you have any further questions about any aspect of your maternity entitlement please do not hesitate to get in touch with me. I wish you well.

Yours sincerely,

**** Payment of SMP subject to earnings – please check entitlement with HR / Payroll**

APPENDIX 2 - Model letter for HR / Headteachers to acknowledge notification of maternity leave for School Teachers' contract holders.

Dear [*name of employee*],

Congratulations and thank you for telling me about your pregnancy and the date that your baby is due. I am writing to you about your maternity leave and pay.

As we have discussed, you are eligible to 52 weeks' maternity leave.

Given your chosen start date of [*insert date*], your maternity leave will end on [*insert date*].

If you want to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date or 28 days before [*insert date leave starts*] (your original start date), whichever is sooner.

If you decide to return to work before [*insert date leave ends*], you must give me at least 28 days' notice.

As we discussed, you have/have not [*delete as appropriate*] declared in writing that you intend to return to work. This, coupled with your length of service entitles you to:

- 4 wks at Full pay
- 2 wks at 90% of an average weeks' pay
- 12 wks at 50% of an average weeks' pay (OMP) plus SMP**
(However, the combined payment of SMP & OMP will not exceed normal basic pay)
- 21 wks at SMP only
- 13 wks unpaid leave

If you decide not to return to work you must still give me proper notice. Your decision will not affect your entitlement to SMP but it will mean that you are required to re-pay any half pay that you received.

I have enclosed the Schools Maternity Policy but if you have any further questions about any aspect of your maternity entitlement please do not hesitate to get in touch with me. I wish you well.

Yours sincerely,

**** Payment of SMP subject to earnings – please check entitlement with HR / Payroll**