




# Maternity Policy and Procedure

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**November 2023**

<b>Signed (Chair Trustees):</b>	
<b>Date:</b>	<b>November 2023</b>
<b>Date of Review:</b>	November 2024

*The Arbor Academy Trust reviews this policy annually. The Trustees may, however, review the policy earlier than this, if the Government introduces new regulations, or if the Trust receives recommendations on how the policy might be improved. This document is also available in other formats e.g. e-mail and enlarged print version, on request to the School Offices and is displayed on the schools' websites.*

## **Section 1      Outline of Procedure**

### **1. Introduction**

- 1.1 This Maternity Procedure is appropriate for support staff whose babies are born on or after 5 April 2015.
- 1.2 All pregnant employees are entitled to Maternity Leave regardless of their length of service. All employees will be entitled to Statutory Maternity Pay or Maternity Allowance. Entitlement to Occupational Maternity Pay will be dependent on an employee's length of service.
- 1.3 Please note that this procedure has been updated in line with the Maternity and Parental Leave and the Paternity and Adoption Leave (amendment) Regulations 2008 and subsequent legislation.
- 1.4 The following definitions may be of assistance when considering this Procedure:

#### ***Mother***

The woman that gives birth to a child

#### ***Partner***

The child's biological father or partner of the mother. This can be a spouse, civil partner or a partner who is living in an enduring relationship with the mother and the child

#### ***Statutory Maternity Pay (SMP)***

Statutory Maternity Payments for eligible women on Maternity Leave.

#### ***Maternity Allowance (MA)***

Payment made by [Department of Works and Pension](#) for those employees not entitled to Statutory Maternity Pay.

#### ***Occupational Maternity Pay (OMP)***

Payment arranged by the School for eligible employees on Maternity Leave.

#### ***Expected week of confinement (EWC)***

This is the date when the baby is due to be born, as anticipated by healthcare providers

#### ***Qualifying Week (QW)***

This is the 15th week prior to the expected week of confinement.

#### ***Maternity Leave***

This is the length of maternity leave, {time off work}, that can be granted to pregnant employees. This is defined under two categories:

##### ***a) Ordinary Maternity Leave***

The first 26 weeks of Maternity Leave is called Ordinary Maternity Leave.

***Additional Maternity Leave (AML)***

This is the period referenced as the employee's final 26 weeks of Maternity Leave entitlement.

***Shared Parental Leave***

Shared Parental leave is where the mother / adopter can share their leave allocation with an eligible partner for a specified period of leave allowance in line with statutory requirements. Please refer to Shared Parental Leave Procedure for further information

**2 Ante-natal care**

- 2.1 Every pregnant employee has the right to paid time off to attend ante-natal care.
- 2.2 Employees who have a qualifying relationship with a pregnant woman or an expected child can take unpaid time off work to accompany that pregnant woman at up to two antenatal appointments.
- 2.3 Employees have the right from day one of their employment. The right to time off is capped at a maximum of six-and-a-half hours on each occasion, which can include travelling time, waiting time and attendance.
- 2.4 An employee has a qualifying relationship with a pregnant woman or her expected child if he or she:
  - a) is the husband or civil partner of the pregnant woman;
  - b) lives with the pregnant woman in an enduring family relationship, however is not her parent, grandparent, sister, brother, aunt or uncle;
  - c) is the father of the expectant child; or
  - d) is an intended parent in a surrogacy situation who meets certain conditions
- 2.5 The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse.

**3.0 Obligations under the procedure**

- 3.1 Both the School and its employees must be compliant with both its statutory and occupational scheme requirements, these are as follows:

**3.2 Obligations of employee**

- 3.2.1 The employee must advise her manager of the following information, by the beginning of the 15th week before the expected week of confinement:
  - a) That she is pregnant.
  - b) The week her baby is due.
  - c) When she wishes to commence Maternity Leave.

- 3.2.2 An employee's maternity leave commencement date may be amended as long as the employee gives 28 days' notice before the date originally notified or the new date, whichever is sooner. Please note that if you do not give enough notice employees may be required to delay their maternity leave until the 28 day notice has lapsed. In the case of a premature birth, this notification requirement will not be relevant.
- 3.2.3 The school will require the employee's MATB1 form. All pregnant employees will have this given to them by either their doctor or midwife.

### 3.3 ***Obligations of the School***

- 3.3.1 The school must respond to the woman's request to commence Maternity Leave within 28 days of her notification. This letter will outline her rights regarding her pay and leave conditions along with details regarding her pension payments. The Trust will also provide the expected return to work date following the completion of her Maternity Leave.

## 4.0 **Maternity Leave**

- 4.1 All employees are entitled to 52 weeks Maternity Leave regardless of their length of service. (Week 1 to Week 26 Ordinary Maternity Leave and Week 27 to Week 52 Additional Maternity Leave)
- 4.2 Maternity leave can commence with effect from the beginning of 11th week before confinement up until the expected birth of the baby. Due to health and safety regulations all employees must take at least 2 weeks Maternity Leave after the baby is born.
- 4.3 Employees are entitled to a total of 52 weeks Maternity Leave from the date that leave commenced and not from the birth of the baby.

## 5.0 **Maternity Pay**

- 5.0.1 The Maternity Payments made by the school consist of 2 elements, Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP).

### 5.1 ***Statutory Maternity Pay (SMP)***

- 5.1.1 Employees must meet the following criteria to receive Statutory Maternity Pay (SMP):
- a) To have been continuously employed within Local Government Service for at least 26 weeks continuing into the 15th week before the expected week of confinement. {Count part weeks as full weeks.}
  - b) Have earnings above the lower earnings limit for the payment of National Insurance contributions, at nationally agreed rates
  - c) Statutory Maternity Pay will not be paid if the employee:
  - d) Is in legal custody at any time during the Maternity Pay period.
  - e) The baby is still-born prior to the 25<sup>th</sup> week of pregnancy

- 5.1.2 Statutory Maternity Pay may commence on any day of the week. Statutory Maternity

Pay will start from the employee's first day of Maternity Leave.

5.1.3 Please refer to section 7, Sickness during pregnancy for further information on the automatic start of Maternity Leave for employees.

5.1.4 The following Statutory Maternity Payments will apply depending on the length of service:

**i) Employees with less than 26 weeks local government service at the beginning the 15th week before confinement**

5.1.5 These employees do not qualify for Statutory Maternity Pay (SMP) however may qualify for Maternity Allowance (MA) or other benefits. These employees must contact their local Department of Works and Pensions for more information. In this situation, the School will still require a copy of the employees' MATB1 form.

**ii) Employees with less than 1 year's local government service at the beginning of 11th week before confinement, however more than 26 weeks at beginning of 15th week.**

5.1.6 These employees are entitled to Statutory Maternity Pay of

- a) **6 weeks** at 90% of average earnings \*
- b) **33 weeks** at Statutory Maternity Pay (SMP) set at the nationally agreed rates per week or 90% of earnings, whichever is lower will be made

\*Average earnings are calculated on the earnings of an employee over a week period prior to the Qualifying Week, (QW)

## **5.2 Occupational Maternity Pay (OMP)**

5.2.1 Employees with one year's service at the beginning of the 11th week of confinement are entitled to receive Occupational Maternity Pay.

5.2.2 This entitlement is based on 9 weeks' pay at 100% of the employee's \*average earnings. Employees have the option to elect for one of the following ways in which they wish to be paid.

{Please note that \*average earnings are calculated on the employee's earnings over the 8-week period prior to the Qualifying Week (15th week before confinement)}

For further information regarding this, please contact the HR team at the school.

5.2.3 Employees will be required to return to work for a period of 3 months.

5.2.4 Eligible employees have the following entitlement to statutory maternity pay and contractual pay.

### **For Support Staff**

- a) **For the First 6 Weeks of Absence:** 90% of the employee's average earnings\*.
- b) **For the 7th to the 26th Week of Absence:** 20 weeks at 45% of the employee's

monthly contractual pay **plus** the Statutory Maternity Pay amount per week or 90% of average earnings, whichever is lower will be made.

- c) **For the 27th to the 39th week of Absence;** Statutory Maternity Pay amount per week or 90% of the employee's earnings whichever is the lower will be made.

***For Teaching Staff***

- a) **For the First 4 Weeks of Absence:** full pay inclusive of SMP
- b) **For the 5<sup>th</sup> and 6<sup>th</sup> Week:** 90 % of the employee's average earnings\* inclusive of SMP.
- c) **For the 7th to the 26th Week of Absence:** 20 weeks at 45% of the employee's monthly contractual pay **plus** the Statutory Maternity Pay amount per week or 90% of average earnings, whichever is lower will be made.
- d) **For the 27th to the 39th week of Absence;** Statutory Maternity Pay amount per week or 90% of the employee's earnings whichever is the lower will be made.

5.2.5 Please be aware that Occupational Maternity Pay will be paid on the understanding that the employee returns to work for a period of 13 weeks. ***If the employee fails to return to work or resigns during the 13 week period they may be required to pay back Occupational Maternity Pay. If the employee returns to work on a part time basis the 13 week period will be extended depending on the reduction of hours worked.***

5.2.6 Any amendment to an employee's working arrangements, following Maternity Leave, will need to be based on the operational needs of the service and subject to management approval.

## **6.0 Shared Parental Leave and Pay**

6.1 Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share the time off work after their child is born or placed for adoption. This could involve returning to work for part of the time and then resuming leave at a later date.

Please see below the key points to this legislation:

- a) Qualifying mothers and adopters continue to be entitled to Maternity and Adoption rights however they may also be able to choose to end this early and exchange it for Shared Parental Leave and Pay. They and their named partner will then need to decide how they want to share this new entitlement
- b) Two weeks of paid Paternity Leave continues to be available to qualifying fathers and the partner of a mother or adopter. However, Shared Parental Leave has replaced the Additional Paternity Leave entitlement

- c) These regulations came into force on 1 December 2014 and apply to eligible parents where a baby is due, or a child is placed for adoption, on or after 5 April 2015

Please refer to the Trusts Shared Parental Leave Procedure for further information.

## **7.0 Sickness during pregnancy**

7.1 An employee may choose to work beyond the 11th week before the expected week of confinement (EWC), if fit to do so without loss of benefit. However, Maternity Leave will automatically be triggered when a pregnancy-related absence occurs after the beginning of the 4th week before the Expected Week of Confinement regardless of when the employee intended to commence her maternity leave. It is important that Managers establish whether the illness during this period is pregnancy-related. If the illness is not pregnancy related then sick pay, if applicable, will be payable in the normal way.

7.2 It is recognised that it may be difficult to distinguish between illnesses that are and are not pregnancy related, please see below some of the conditions/ illnesses that are definitely attributable to pregnancy:

- a) Threatened Abortion
- b) Amenorrhoea
- c) Anaemia
- d) Emesis (vomiting) due to pregnancy
- e) Hydranmios
- f) Hyperemesisgravidarum
- g) Morning sickness
- h) Nausea of pregnancy
- i) Pregnancy complications
- j) Toxaemia

Managers must note that this is not a comprehensive list.

## **8.0 Stillbirth or miscarriage**

8.1 If the employee loses her baby earlier than the 25<sup>th</sup> week of pregnancy she will not qualify for Maternity Leave, Statutory Maternity Pay or Maternity Allowance. In this situation the employee may be granted leave in line with the School's Special leave arrangements.

8.2 If the employee has a stillbirth from the 25<sup>th</sup> week of pregnancy onwards, she would be eligible for Maternity Leave, Statutory Maternity Pay, Occupational Maternity Pay or Maternity Allowance in the usual way.

8.3 It is important for Managers to be supportive of employee's during this stressful time. If necessary, and if the employee wishes to, arrangements can be made for the employee to attend counselling. If the employee wishes to, they can contact the Employee Assistance Provider Work Place Options for free confidential advice and counselling.

## **9 Premature birth**

- 9.1 If a woman gives birth prematurely to a living child, even in cases where the baby later dies, at any point in her pregnancy, she will be entitled to Maternity Leave, Statutory Maternity Pay, Occupational Maternity Pay or Maternity Allowance from the date of birth and continuing until 12 months after the expected birth date.

## **10 Keeping in Touch (KIT) days**

- 10.1 Employees while on maternity leave can elect to have up to ten 'keeping in touch' (KIT) days without bringing their leave entitlement to an end or without losing any Statutory Maternity Pay (SMP) entitlement. Employees may wish to attend training events or appraisals during these days. Employees do not have to participate in 'keeping in touch' days and likewise the employee cannot insist on working if this is not suitable to the service requirements. The Manager and the employee must discuss the pay arrangements in relation to the 'keeping in touch days'.
- 10.2 If an employee elects to work their 'Keeping in Touch' days, the employee will be paid the difference between the actual rate of pay that they are receiving for that day and their daily rate of pay.
- 10.3 If an employee attends work as part of her 'Keeping in Touch' days it is important that a risk assessment is conducted. Employees cannot undertake a KIT day within two weeks of giving birth.

## **11 Reasonable contact**

- 11.1 The School may make reasonable contact with the employee while she is on maternity leave, as long as the amount of contact is not unreasonable, for example to discuss her plans to return to work, to keep her informed of important developments, promotional opportunities and / or vacancies.

## **12 The right to return to work**

- 12.1 All employees must have at least 2 weeks Maternity Leave for health and safety reasons. Please see below for details on both the employee and School's obligations when dealing with an employee returning to work.

### **12.2 *Obligation of the employee***

- 12.2.1 All employees on Maternity Leave will be given written confirmation of the latest date that they can return to work from Maternity Leave. If the employee wishes to return to work prior to this date then she must give the school:
- a) **8 weeks' notice** of returning from Maternity Leave for both Support staff and Teaching Staff.
- 12.2.2 If an employee elects not to return to work following her Maternity Leave, she will be required to give the appropriate contractual notice. Any entitlement to Maternity Pay will continue during the notice period. Please be aware that Occupational Maternity Pay will be paid on the understanding that the employee returns to work for a period of three months.
- 12.2.3 Employees may wish to return to work under different working arrangements following their



Maternity Leave; this will need to be discussed with the Head teacher and the request should be put in writing. Please refer to the Trusts Flexible Working Policy for further information.

### **12.3 *Obligation of the School***

- 12.3.1 Employees have the right to return to the post, in which they were employed under prior to commencing Maternity Leave, on their original contract of employment, and on the terms and conditions not less favourable than those which would have been applicable to them had they not been pregnant.
- 12.3.2 If a redundancy situation has occurred within their existing post, they will be offered an alternative suitable vacancy, where one exists. They will have the right to consider such work, even though they are on Maternity Leave. The offer will be made before their previous employment ends and the new employment will commence immediately. It must involve suitable work and the terms and conditions no less favourable than the previous contract. If there is no alternative employment available then the employee will be made redundant, and receive redundancy pay in line with their statutory and contractual entitlements.
- 12.3.3 If an employee is unable to return to work due to illness following their Maternity Leave, normal sickness procedures will apply.
- 12.3.4 If the School has not heard from the employee regarding their return date the school will assume that the employee will be taking their full Maternity Leave entitlement.
- 12.3.5 Employees who return to work prior to the first 26 weeks' Ordinary Maternity leave (OML) has expired, Managers must ensure that a Risk Assessment has been conducted before the employee can commence work.

### **13.0 *Leaving the school's employment***

- 13.1 Pregnant employees leaving the school's service for any reason prior to giving birth will be entitled to Statutory Maternity Pay as long as they:
  - a) Have been continuously employed within Local Government Service for at least 26 weeks continuing into the 15th week before the expected week of confinement. Count part weeks as full weeks.
  - b) Have earnings above the lower earnings limit for the payment of national insurance contributions, at nationally agreed rates
- 13.2 Statutory Maternity Pay is pensionable. Employees who are in the Local Government Pension Scheme {LGPS} and leave prior to commencing Maternity leave will have their pension scheme membership extended until the Statutory Maternity Pay ceases, 39 weeks later.
- 13.3 For example, an employee who resigns and leaves the school's service on 28 February, therefore the last day in service with the Council will be 28 February, however their Pension Scheme membership will cease 39 weeks later on 28 November.
- 13.4 These employees will not be entitled to receive Occupational Maternity Pay as they will not be able to fulfil the criteria of returning to work for the required 13 week period.

## **14 Contributions to the Pension scheme while on Maternity Leave**

- 14.1 Pension contributions are payable for the paid period of Maternity Leave, however, will be based on the rate of payment actually received.
- 14.2 Service will accrue and the \*notional pensionable remuneration will be as if the absence had not occurred.
- {\*Notional pension means the imagined / assumed pension contribution that would have been earned had the employee not been absent.}
- 14.3 If the employee is entitled to unpaid Maternity Leave she then has the choice as to whether she wishes any further unpaid leave to count for pension purposes. If no further contributions are paid, no further rights accrue.
- 14.4. Arrears of contributions can be paid for the unpaid absence and service continues to accrue as before. Employees may elect to continue or discontinue their contributions. Employee will be required to contact the Pension scheme administrator, Capita within 30 days of their return to advise the administrator if they want to pay pension contributions for the unpaid period of the maternity leave period. Pension contributions can then be arranged for the employee to repay any contributions in instalments.
- 14.5 Where an employee originally states an intention to return to work, however, she subsequently changes her mind, she may have already received some sort of maternity pay and will have contributed to her pension scheme, therefore employment and pension accrual do not cease until the end of the paid maternity period.
- 14.5 If employees have any queries regarding their pension contributions while on Maternity Leave, they can contact either Capita, the Pension scheme administrator on 0208 339 7063 or e-mail [lbwf.pensions@capita.co.uk](mailto:lbwf.pensions@capita.co.uk) or for Teaching staff please contact Teachers pension on 0345 6066166 or e-mail [tpmail@teacherspensions.co.uk](mailto:tpmail@teacherspensions.co.uk).

## **15 Health and Safety while at work**

- 15.1 The school has a responsibility to all pregnant employees to ensure the safety of both the mother and the unborn child whilst she is at work. The school has in place guidance and information regarding the working environment for an employee during pregnancy and while they are breastfeeding. Once an employee has advised the school of her pregnancy, the Manager must ensure that a further risk assessment is carried out on her post. HR manager must then discuss any specific areas of concern with her and what action needs to be taken, in light of the problems identified. The assessment made must be regularly monitored and reviewed to take into account possible risks that may occur at the different stages of pregnancy. For guidance on carrying out risk assessments please refer to the Health and Safety of pregnant employee's guidance for more information.
- 15.2 If employees have any concerns regarding this, they must raise their concerns with either their manager or contact the Trust's HR Team or their traded HR provider.