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This policy applies to the whole of CfBT Schools Trust (CST), including all schools.

Policy: Family Friendly & Leave of Absence Policy 1: Maternity Leave and Pay

Introduction and purpose

Maternity leave and pay is a complex issue. This document sets out the statutory and contractual entitlements.

Scope

This policy applies to all staff employed by CST, including directly employed central team staff, the Education Executive team (EET) (this term includes the CEO and Education Directors), Headteachers, teachers, NQTs and school support staff.

For the purposes of this policy the term ‘Headteachers’ includes Headteachers and Principals. In this policy, the term ‘teacher’ refers to classroom teachers, middle and senior leaders.

Accessibility

A copy of this policy and a copy of all relevant documents will be made available for all staff. The policy is also available in hard-copy on request and can be made available in large print or other accessible formats if required.

The Right to Maternity Leave

All pregnant women, irrespective of length of service or hours worked, have a right to:

- 26 weeks Ordinary Maternity Leave (OML); followed continuously by
- 26 weeks Additional Maternity Leave (AML).

Notification of Maternity Leave

Notification must be in writing. It is advisable for you to notify your manager as early as possible.

In all cases, you must notify your line manager no later than 15 weeks before the expected week of childbirth (EWC):

- that you are pregnant
- the expected week of childbirth
- the date you intend to start your maternity leave. This can be any date from the 11th week before your EWC.

MATB1

You must complete a Maternity Leave Application Form FFMLP and supply a certificate from your GP or midwife (MATB1). Both documents will immediately be forwarded to the Trust's HR provider. You will write to you within 28 days of receipt to confirm the end date of maternity leave.

Changing the start date of maternity leave

If you wish to change the date you start maternity leave you must do so in writing and give at least 28 days' notice of the revised date.

Antenatal Care

All pregnant employees are entitled to reasonable time off with pay for all hospital and antenatal clinic appointments resulting from the pregnancy. This includes relaxation classes, exercise and parent-craft classes where attendance has been advised by a registered medical practitioner. Line managers may request to see your appointment cards etc as proof that the appointment has been made. It is expected that you will provide as much notice as possible for all appointments.

Partners

An expectant father or partner of a pregnant women has the right to take time off work to attend two antenatal appointments (max 6.5 hours per appointment). Such leave will be with pay. Requests to attend additional antenatal appointments are welcomed and will be agreed at the discretion of the Headteacher or EET.

Sickness

If you are absent from work due to ill health before you have started maternity leave, the usual Sickness Absence procedures will apply. Statutory and ordinary sick pay will apply as normal. If you are absent due to pregnancy related illness 4 weeks before your EWC, maternity leave will start immediately.

Health & Safety

We wish to provide a safe and healthy working environment for you. It is important that you inform your manager of your pregnancy at the earliest opportunity. This enables help, advice and any necessary special arrangements to be provided to help protect you and your unborn baby.

The Trust is obliged to assess the risks to new and expectant mothers, including

- Heavy lifting or carrying
- Standing or sitting for long periods
- Exposure to toxic substances/infectious diseases
- Extremes of heat/cold
- Movement and posture
- Exposure to violence/verbal abuse
- Long working hours

As soon as reasonably possible after we have been notified that you are pregnant, we will arrange for a maternity risk assessment. Where an unacceptable risk is identified, we will take preventative or protective measures, as required by current health and safety legislation, to remove or reduce the risk. If such action would not prevent you from being at risk, the following measures will be taken (in order of consideration):

- Reasonable adaptations to working conditions or hours of work to remove or minimise the risk;

If this is not possible

- You will be offered suitable alternative employment on existing, or not substantially less favourable, terms and conditions;

If no suitable alternative work is available

- Leave of absence with full pay. If you refuse reasonable alternative work, the leave of absence will be unpaid.

These provisions will apply from the date of written notification until 6 months after the date of childbirth, or until you stop breastfeeding if later. The paid leave of absence provisions will not apply during the maternity leave period – you will receive the normal maternity pay entitlement.

Contract

All terms and conditions of employment will be maintained throughout the maternity leave period, with the exception of pay.

At the end of maternity leave, you have the right to return to your original job and on terms and conditions that are no less favourable than those that would have been applicable if you had not been absent.

The start of Maternity Leave

Maternity leave will start on

- The date notified in accordance with the rules above; OR
- 4 weeks before your EWC, if you are absent due to pregnancy-related illness; OR
- The day after the birth, if maternity leave had not started.

Maternity Pay

Statutory Maternity Pay (SMP)

Statutory Maternity Pay is a scheme for most women employees to get a basic amount of maternity pay from your employer. It is paid with Occupational Maternity Pay (OMP) if you are entitled to OMP. SMP is 'pay' and is subject to normal deductions e.g. tax and NI. SMP is paid for 39 weeks.

The earliest you can receive SMP is from the beginning of the 11th week before your EWC, but only if you stop work then. SMP is only payable when you are absent from work and is not normally payable for part weeks. SMP will start on the day you have specified as the start of your maternity leave, provided that leave does start on that date. However, it may start on another date, if triggered by the birth of your baby or pregnancy-related absence in the 4 weeks before your EWC.

Eligibility for SMP

You are eligible for SMP if you have stopped working and:

- have been continuously employed* by the Trust for at least 26 weeks by the end of the 15th week before your EWC (known as the Qualifying Week); and
- have average weekly earnings in the 8 weeks up to and including the Qualifying Week at or above the lower earnings limit for National Insurance contributions

*continuously employed means that you must have worked for all or part of each of the 26 weeks.

If you are entitled to SMP, you will receive:

- for the first 6 weeks – 90% of your average weekly earnings
- for the subsequent 33 weeks – the lesser of the standard rate of SMP or 90% of your average weekly earnings.

Any period of maternity leave over 39 weeks is unpaid.

Maternity Allowance (MA)

If you do not qualify for SMP, you may qualify for Maternity Allowance for 39 weeks.

Eligibility for MA

You may be eligible for MA if you

- have been employed or self-employed for at least 26 weeks* in the 66 weeks before your baby is due; and
- earn £30 a week, on average, in any 13 of those 26 weeks.

*the 26 weeks do not have to be consecutive

MA is an allowance claimed from Jobcentre Plus using form SMP1 which will be sent to you by the Trust's payroll provider.

Full details are available from www.gov.uk/maternity-allowance/eligibility

Contractual Maternity Pay (CMP)

To qualify for Contractual Maternity Pay you must have at least 1 years' continuous local government service by the 11th week before your EWC.

CMP is pay and is subject to normal deductions e.g. tax, NI. You may choose to receive the payments during maternity leave or as a lump sum when you return to work.

CMP Teachers only

If eligible for CMP, you will receive:

- 4 weeks at full pay, offset against SMP; then
- 2 weeks at 90% of a week's pay offset against SMP; then
- 12 weeks at half pay plus SMP*; then
- 21 weeks SMP

Any period of maternity leave over 39 weeks is unpaid.

*if half pay plus SMP is greater than full pay you will receive full pay offset against SMP

Having returned to work, you must work for a minimum period that equates to 13 weeks service under the contract prior to maternity leave. If you were previously full time and return on a part time basis, the period is extended to equate to 13 weeks of full time service. If you do not return to work for the stated period, you must refund such sum of CMP as the Trust may decide. You will, however, retain the first 6 weeks' payment of CMP. You will not have to refund SMP.

CMP non-teaching employees

If eligible for CMP, you will receive:

- 4 weeks at full pay, offset against SMP; then
- 2 weeks at 90% of a week's pay, offset against SMP; then
- 12 weeks at half pay plus SMP*; then
- 21 weeks SMP

Any period of maternity leave over 39 weeks is unpaid.

*if half pay plus SMP is greater than full pay you will receive full pay offset against SMP

Having returned to work, you must work for a minimum period of 3 months. If you do not return to work for the stated period, you must refund such sum of CMP as the Trust may decide. You will, however, retain the first 6 weeks' payment of CMP. You will not have to refund SMP.

Returning To Work

You have the right to return to work after a minimum of two weeks after the birth of your baby (compulsory leave).

You are not required to give notice of your intention to return to work following maternity leave unless you return before the end of the 52 week period.

If you wish to return to work earlier, the period of notice depends on which period of maternity leave you are returning from:

Ordinary Maternity leave: you must give at least 7 days' notice in writing of the date you wish to return. If you do not give the minimum notice, we may postpone the return (and pay) to a date which does provide the 7 days' notice, but is before the end of OML.

Additional Maternity Leave: you must give at least 21 days' notice in writing of the date you wish to return. If you do not give the minimum notice, we may postpone the return (and pay) to a date which does provide the 21 days' notice, but is before the end of OML.

Failure to return to work at the end of the maternity leave period without an explanation will be treated as unauthorised absence. The relevant disciplinary procedures will apply.

Should you wish to change your working pattern or reduce your working hours on return from maternity leave, you must discuss this with us at the earliest opportunity.

Resignation

If you do not wish to return to work, then you must give written notice in accordance with your contract of employment.

Unfit to return

If, for a reason connected to your health, you are not fit to return to work at the end of your maternity leave (including an earlier notified date), you will be treated as having returned to work and the usual sickness absence policy and procedures will apply.

Redundancy

If there is a redundancy situation while you are on maternity leave, you must not suffer any detriment because of your pregnancy.

- Unfavourable treatment of a woman because she is pregnant or on maternity leave is unlawful
- Selecting a woman for redundancy because of her pregnancy, maternity leave or a related reason is automatically an unfair dismissal as well as being unlawful discrimination
- A woman on maternity leave has the right to be included in the consultation and selection process as if she had not been absent
- A woman made redundant whilst on maternity leave is entitled to be offered suitable alternative employment.

Performance management

Wherever possible, a performance management review will take place prior to the start of your maternity leave. The review will be based on the evidence of performance to date in that performance review period. Where it was not possible to arrange the review prior to the leave commencing, the reviewer may consider the previous performance management period.

Pay progression

You will not be denied pay progression as a result of absence due to maternity leave. On your return to work from maternity leave, you will be given any pay increase that you would have received, following your performance review appraisal, had you not been on maternity leave.

Reasonable contact

Managers may make reasonable contact with you during the maternity leave period. This can be to discuss a range of issues such as arrangements for a return to work, training, to inform about important workplace developments etc. Contact can be by telephone, email, letter or visit to the workplace.

Keeping In Touch (KIT) Days

KIT days are not the same as reasonable contact (see above).

By mutual agreement, you may work for up to 10 days under your contract of employment during the maternity leave period (excluding the first two weeks after childbirth). During a KIT day, you may carry out work for us, for which you will be paid. KIT days do not bring maternity leave to an end and do not affect statutory maternity pay.

Neither party can insist that you undertake a KIT day. They are a matter for agreement between both parties. It is highly recommended that the work to be undertaken is agreed and documented in advance of the KIT day. A pro forma is provided as Appendix 1.

The work carried out may be an activity which would ordinarily be classed as work under your contract of employment.

Any work undertaken on an occasion during maternity leave period will count as using one KIT day. So, for example, if you attend a 3 hour training session and do no other work that day, you will have used a whole KIT day.

Payment can be made for half days or whole days so, in the above example, you would be paid for a half day (assuming you work a full day normally) but would use a full day from your allowance.

Premature birth

Where your baby is born prematurely, you must inform your line manager.

Death of a baby/stillbirth

If your baby dies or is still-born after 24 weeks of pregnancy, the provisions of this policy will apply.

Where this occurs before 24 weeks, special leave of absence or sickness absence should be granted where necessary. Managers should take into consideration your needs and medical advice.

Pensions

If you are a member of a pension scheme, contributions will be automatically deducted from maternity pay. We will continue to pay pension contributions whether or not you are in receipt of OMP.

During the unpaid period of AML, no contributions will be paid by you or us.

Some pension schemes permit contributions by the member to cover periods of unpaid maternity leave. You are advised to contact the scheme administrators for further details.

Annual Leave

Annual leave will accrue at the rate provided under your contract.

In some cases, the period of maternity leave will continue beyond the holiday year. Any holiday entitlement for that year that has not been taken, or cannot reasonably be taken before starting maternity leave, may be carried over to the next holiday year. It must be taken immediately before returning to work or within 3 months of returning to work unless agreed otherwise. You should try to limit the carry-over to a maximum of one week's leave. Carry-over of more than one week will be at our discretion.

Teaching staff have an entitlement to statutory annual leave of 28 days per academic year, which must be taken during school closure periods. It is highly unusual that a teacher returning from maternity leave will not have been able, or will not be able, to take that leave during school closure periods in the academic years either side of their maternity leave.

You should discuss your annual leave plans before starting your maternity leave. All annual leave dates are subject to approval by us.