

1. To whom this scheme applies

The occupational maternity scheme shall apply to all pregnant teachers regardless of the number of hours worked per week.

2. Initial obligations on the teacher

Continue to be employed by the employer (whether or not at work) immediately before the start of her absence;

Notify the employer² in writing as soon as practicable but not later than 14 weeks (unless there is good cause) before the expected week of childbirth (EWC) that she wishes to be absent for maternity. If requested by the employer¹, she must produce a certificate from a registered medical practitioner or a certified midwife stating the expected week of childbirth; Notify the employer¹ at least 21 days before she wishes to start maternity leave, or as soon as is reasonably practicable:

(i) that she is pregnant

(ii) of her expected week of childbirth, by means of a medical certificate if the employer requests it

when she wishes to start leave, in writing if requested

The beginning of the teacher's absence shall:

(i) be no earlier than 11 weeks before EWC; and

(ii) always be on a Sunday, except for the exceptions set out in subparagraph 4.3;

Declare in writing at the time of notification of her intended absence (under (b) above), that she intends to return to work with her employer (if that is her intention and if she is able to return to work with her employer); and

Not remain at work if certified medically unfit to do so (taking into account the provisions of the Management of Health and Safety at Work (Amendment) Regulations 1994).

3. Ante-natal care

Any pregnant teacher has the right to paid time off to attend for ante-natal care and must produce evidence of appointments if requested to do so by her employer.

4 Rights of the teacher to time off from work (Maternity leave)

All teachers, irrespective of length of service, are entitled to remain absent for up to 18 weeks. A teacher will not be allowed to commence their absence earlier than 11 weeks before the EWC or to return to work earlier than two weeks after the day of childbirth.

Teachers who have completed not less than 1 year's continuous service as a teacher with one or more LEAs at the beginning of the 11th week before the EWC shall have an entitlement:

(a) to 18 weeks' leave of absence with pay (as set out in paragraph 8 below); and

(b) to take additional leave for up to 29 weeks counting from the beginning of the week (i.e. the Saturday/Sunday night) in which her childbirth occurs.

Subject to the provisions of sub-paragraph 4.2, the basic principle of the leave provisions is that teachers have a right to choose when to start their maternity leave. The exceptions are:

where the teacher is absent from work "wholly or partly because of pregnancy or childbirth" after the beginning of the 6th week before the EWC. In these circumstances, maternity leave will be automatically triggered; and where the baby is born before maternity leave commences. In these circumstances, the date of childbirth should be regarded as the first day of maternity leave.

5 Subsequent obligations on the teacher

The teacher's subsequent obligation is to return to her job for at least 13 weeks (including periods of school closure) as a qualifying condition to occupational maternity pay. This requirement may be reduced at the discretion of the employer² (see paragraph 8 below for entitlement to pay).

Where the employer³ agrees, a full-time teacher may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where the employer² agrees, a part-time teacher may return to work on a different part-time basis for a period which equates to 13 weeks part-time service relating to her previous contract.

The '13 week period (or part-time equivalent) starts from the date the teacher returns to work or the date during the school holiday on which the teacher is declared medically fit to be available to work.

6 Return to work

Subject to sub-paragraph 6.2 below, a teacher's right to return to work is a right to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent.

"Job", for this purpose, means the nature of the work which she is employed to do and the capacity and place in which she is so employed.

Where it is not practicable by reason of redundancy for the employer to permit her to return to work in her job as defined in sub-paragraph 6.1 above the teacher shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.

7 Notification of return to work

A teacher who qualifies for ordinary maternity leave under sub-paragraph 4.1 or 4.2(a) above shall notify the employer, in writing, at least 21 days before the day on which she proposes to return of the date of her intended return if this is before the end of the 18 weeks' maternity leave. Where this notification is not given, the employer can postpone her return for a period of up to 21 days, or until the end of her 18 weeks if this is sooner.

In the case of a teacher entitled to additional leave under sub-paragraph 4.2(b) above, she shall notify the employer of the date of the child's birth.

Where the teacher does not notify the employer, the employer may write to the teacher no earlier than 21 days before the end of the ordinary maternity leave period referred to in sub-paragraph 4.2(a) above, asking her to confirm the date of birth and her intention to return to work. The letter must explain to the teacher how she determines when her additional maternity leave period will end and that she may be penalised for failing to respond to the letter. The teacher must respond within 21 days of receiving the request. If she does not, her employer may regard this as a disciplinary matter. The employer must then confirm the last possible date by which she must return.

A teacher who takes additional leave under paragraph 4.2(b) and who intends to return to work early shall notify the employer in writing at least 21 days before the day on which she proposes to return, of the date of her intended return. Where this notification is not given, the employer can postpone her return for a period of up to 21 days.

Where a teacher is unable to return to work at the end of her period of maternity leave due to sickness, the sick pay scheme as set out in Section 4 shall apply to such absence.

8. Maternity pay

Payments for teachers who have less than 1 years' continuous service as a teacher with one or more LEAs at the beginning of the 11th week before the EWC shall be their entitlement to Statutory Maternity Pay (SMP) only.

Payment of salary to a teacher who has completed not less than 1 year's continuous service as a teacher with one or more LEAs at the beginning of the 11th week before the EWC shall be in accordance with the provisions set out below and shall be made on the condition that she will be available, or able, to return to work for the required period specified in paragraph 5 above.

A teacher shall be entitled to maternity pay as follows:

A teacher eligible for Statutory Maternity Pay (SMP) will have the payments made in the first six weeks of absence offset against the payments made under b) and c) below.

For the first four weeks of absence - full pay, offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP;

For the next two weeks of absence - 9/10ths of a week's salary, offset against payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP.

For the next 12 weeks of paid absence, half pay without deductions except by the extent to which the combined pay and SMP (or, if not eligible for SMP, maternity allowance and any dependents' allowances) exceeds full pay.

No pay for any remaining period of absence up to the date of return notified by the teacher.

In the event of the teacher not being available, or being unable, to return to her job for the required period, she shall refund such sum after the first six weeks' payment as the employer at their discretion may decide. Payments made by way of SMP are not refundable.

9. Relationship with sickness

Maternity leave will not be taken into account for the calculation of the period of entitlement to sickness leave.

10 Definitions

For the purpose of this scheme, a week's pay shall be treated as the amount payable to the teacher under the current contract of employment. If there are significant variations in the teacher's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.

10.2 Childbirth means the birth of a living child, or the birth of a child whether living or dead after 24 weeks of pregnancy.

Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

11 Other absences

If in the early months of pregnancy a teacher is advised by an approved medical practitioner to absent herself from school because of the risk of rubella, she shall be granted leave with full pay, provided that she does not unreasonably refuse to serve in another school where there is no such undue risk.

Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity, shall be treated as ordinary absence on sick leave and

shall be subject to the conditions normally governing such leave, provided it is covered by a doctor's statement.

12 Adoption

The employer may at discretion extend to adoptive parents the relevant post-natal sections of this scheme.

13. Other provisions

Notice provisions for pregnant teachers who do not intend to return to work are set out in paragraph 7 of Section 3. Following a return to work, the normal provisions for termination upon notice in paragraphs 2 and 4 of Section 3 shall apply.