



# The LETTA Trust

## Summary of Maternity Leave and Pay for All Categories of Staff

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<b>Reviewed by:</b>	TB Resources Committee	<b>Signed:</b>	



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## 1. Introduction

- 1.1. Maternity leave and pay entitlements can be a complex issue. The tables overleaf give a summary of the different entitlements and the qualifying requirements. Statutory entitlements are those provided for by employment law; contractual entitlements are part of the employee's contract of employment.
- 1.2. The status of the employee's contract of employment during the maternity leave period is treated as if she is temporarily absent from work. This means that all contractual benefits, except pay, must continue as normal. Annual leave entitlement will accrue as normal.

## 2. Entitlement to maternity leave and pay for all categories of staff, with less than 26 weeks' service as at the 15<sup>th</sup> week before the expected week of childbirth (EWC)

- 2.1. All employees are entitled to take up to one year (52 weeks) maternity leave from day one of employment. The 52 weeks leave consists of 26 weeks Ordinary Maternity Leave (OML) followed continuously by 26 weeks Additional Maternity Leave (AML). There is a requirement to give the employer at least 28 days' notice of the date on which the absence will begin. If the employee wishes to resign her employment the normal contractual notice period applies. In all cases schools are advised to request notification as early as possible although the statutory requirement is for the employee to notify the employer of the intention to take maternity leave by 15 weeks before the EWC. The employer is required to respond to the request within 28 days of the request being made.
- 2.2. The employee is not required to give notice of her intention to return to work following maternity leave unless she returns before the end of the 52-week period, in which case she must give 4 weeks' notice of her intention to return.
- 2.3. A summary of the entitlements is set out in table 1 below.

**EWC:** Expected week of childbirth

**SMP:** Statutory maternity pay

## 3. Entitlement to maternity leave and pay for all categories of staff with more than 26 weeks' service as at the 15<sup>th</sup> week before the EWC but less than 1 years' service as at the 11<sup>th</sup> week before the EWC

- 3.1. In addition to the maternity entitlement for employees set out above, for those with more than 26 weeks' service as at 15 weeks before the EWC there is a possible entitlement to be paid SMP, depending on the employee meeting certain conditions.
- 3.2. To qualify for SMP the following conditions must be met:



- The employee must have been continuously employed by her current employer for at least 26 weeks by the beginning of the 15th week before the expected week of childbirth. This 15th week is called the qualifying week
- The employee must have average weekly earnings in the calculation period (which is the 8 weeks or 2 months before the end of the qualifying week) at or above the lower earnings limit for payment of National Insurance contributions. The lower earnings limit is reviewed in the April of each year
- The employee must still be pregnant at the 11th week before the expected week of childbirth or have had the baby by that time

#### **4. Entitlement to maternity leave and pay for all categories of staff with more than one year's service as at the 11th week before the EWC**

- 4.1. For those employees with more than one year's service as at the 11<sup>th</sup> week before the EWC, in addition to the above maternity leave and pay entitlements there is an entitlement to receive contractual maternity pay in line with the conditions of service for either teaching staff or support staff.
- 4.2. A summary of the entitlements and obligations to maternity leave and pay for all categories of staff with more than one year's service as at the 11<sup>th</sup> week before the EWC is set out in table 1 below.



**Table 1**

	Entitlements			Obligations		
	Period with employer	Length of absence	Pay	Period of notice by employee to employer of intention to cease work	Period of notice by employee to employer of date maternity absence begins	Period of notice by employee to employer of intention to return to Work
S u p p o r t	1 year with any maintained school or academy as at 11 weeks before EWC	A total of up to 52 weeks leave of which up to 11 weeks may be taken before EWC	6 weeks at 90% of average earnings, followed by 12 weeks half pay & lower rate SMP followed by 21 weeks lower rate SMP only. Remainder unpaid	By 15th week before EWC if not earlier	28 days	None unless returning before 52 weeks, then a minimum of 8 weeks
T e a c h e r s	1 year with any maintained school or academy as at 11 weeks before EWC	A total of up to 52 weeks leave of which up to 11 weeks may be taken before EWC	4 weeks at full pay, 2 weeks at 90% of average earnings, followed by 12 weeks half pay & lower rate SMP followed by 21 weeks lower rate SMP only. Remainder unpaid	By 15th week before EWC if not earlier	28 days	None unless returning before 52 weeks, then a minimum of 8 weeks

All statutory payments subject to National Insurance contributions

All half pay payments are conditional on a return to work



## 5. Miscellaneous provisions

### 5.1. Ante-natal care

A pregnant employee has a right to reasonable paid time off to attend ante-natal care appointments. She should produce evidence of appointments if requested to do so

- 5.2. **Neonatal Care Leave** - Entitles eligible parents to take up to 12 weeks' neonatal care leave if their baby requires neonatal care. They will also be entitled to neonatal care pay if they meet further eligibility requirements. This entitlement is in addition to existing entitlements such as paternity leave and maternity leave.

### 5.3. Premature birth

Where a baby is born prematurely the employee should ensure that the HR Manager is informed. Discretion should be used as to whether it is appropriate to extend the maternity leave period or take any other special action as necessary

### 5.4. Death of a baby and stillbirth

If the baby dies or is still-born after 24 weeks' pregnancy the provisions of the relevant scheme apply. Where this occurs before 24 weeks (miscarriage) consideration as to the circumstances should be made and where necessary sick leave should be granted. The decision should be made with consideration given to the needs of the employee and medical advice.

### 5.5. Dismissal protection

The law protects an employee against dismissal when she is pregnant or during maternity leave regardless of hours worked or length of service. Only when a dismissal would have occurred, regardless of the fact that the employee is pregnant or on maternity leave, would a dismissal not be automatically unfair.

### 5.6. Keeping in touch days

Employees may, by agreement with their employer, do up to ten days' work – known as 'Keeping in Touch days' - under their contract of employment during the maternity leave period. Such days are different to the reasonable contact that employers and employees may make with one another, as during 'Keeping in Touch' days employees can carry out work for the employer, for which they may be paid.

Any work done on any day during the maternity pay or maternity leave period will count as a whole 'Keeping in Touch' day, up to the 10 day maximum. In other words, if an employee comes in for a one-hour training session and does no other work that day, she will have used one of her 'Keeping in Touch' days.

The type of work that the employee undertakes is a matter for agreement between the two parties. They may be used for any activity which would ordinarily be classed as work under her contract.



## 6. Health and Safety

Pregnant employees must be given specific health and safety protection under UK Health and Safety Legislation. The main provisions are set out below.

### 6.1. Risk Assessment

Employers must assess all workplaces for risks to the health and safety of their employees and others affected by their work activities. In particular, they must consider if there are specific or enhanced risks for new and expectant mothers who are defined as 'an employee who is pregnant, who has given birth or miscarried within the previous six months, or who is breastfeeding'. Such risks would include exposure to certain harmful substances, microbial agents or infectious diseases; extremes of heat or cold; noise; movement and posture; lifting or handling loads; and potential exposure to violence including verbal abuse.

6.2. Where an unacceptable risk is identified the employer must take any protective or preventative measures required by health and safety legislation to remove it. See <http://www.hse.gov.uk/risk/resources.htm> for risk assessment form templates. Where this would not prevent the employee from being at risk, a hierarchy of measures should be followed:

- If it is reasonable to do so, working conditions or hours of work should be altered to avoid or minimise the risk
- If this is not possible, or the risk cannot be avoided by this, the employee should be offered suitable alternative employment on existing, or not substantially less favourable, terms and conditions
- If no suitable alternative work is available, the employee should be given leave of absence with full pay. If the employee refuses an offer of suitable alternative work, the leave may reasonably be unpaid

6.3. These provisions apply from the time the Trust receives written notification that the employee is pregnant until 6 months after the date of childbirth, or until the employee stops breastfeeding if she continues to do so beyond this six month period. The paid leave of absence provisions will not apply during the maternity leave period. The employee will receive whatever maternity pay she is entitled to as normal.

## 7. The administration of maternity leave

7.1. When the employee notifies the HR Manager that she is pregnant she should be given the appropriate maternity leave application form and notes of guidance which can be found in Appendix 1- Teaching staff & Appendix 2 – Support staff.

7.2. The HR Manager will make it clear that it is the responsibility of the employee to notify the Trust by, at the latest, the 15<sup>th</sup> week before the expected week of childbirth, of the intended date maternity leave is to commence. Should the employee decide she intends to commence maternity leave at an earlier date, she is required to give a minimum of 28 days' notice of the revised date.



- 7.3. When the HR Manager has received formal confirmation of an employee's intention to take maternity leave, a response to be sent to the employee within, the statutory required, 28 days. HR payroll provides a schedule of maternity leave pay for the employee.
- 7.4. If the employee chooses to return before the end of the 52 weeks' maternity leave period, she is required to give a minimum of 21 days' notice of the revised return date, in writing, to the Trust.
- 7.5. When the Trust has been informed of the above, payroll will be informed, any maternity cover arrangements terminated and the employee's full pay re-commenced as appropriate.



## Appendix A: Maternity Leave Request Form Teaching and Support Staff

You should complete this form and return it to the HR Manager at least 28 days before you intend to begin your maternity leave

### 1. PERSONAL DETAILS

Title: \_\_\_\_\_ First name: \_\_\_\_\_ Surname: \_\_\_\_\_

Payroll No: \_\_\_\_\_ N.I. Number: \_\_\_\_\_

School: \_\_\_\_\_

Home address: \_\_\_\_\_

### 2. DETAILS OF MATERNITY LEAVE

My expected week of childbirth is: \_\_\_\_/\_\_\_\_/\_\_\_\_

I attach the original copy of my **MATB1** form  (Please tick box)

I wish to inform you that I intend to begin my Maternity Leave with effect from \_\_\_\_/\_\_\_\_/\_\_\_\_ and will be absent for:

- 39 weeks **Ordinary Maternity Leave**

Presently it is also my intention to take 13 weeks unpaid Additional Maternity Leave

I will return to work after my maternity leave Yes  No

If I decide to return back to work before my maternity leave ends, I must give the following days' notice:

- **Ordinary Maternity Leave** – must provide 8 week's written notice
- **Additional Maternity Leave** – must provide 8 week's written notice

I understand that if I do not return to work for a minimum period of 3 months after my maternity leave, I will pay back any money I owe to the Trust in respect of the overpayment of maternity pay.

Head teacher's Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_