

<b>Title</b>	Maternity
<b>Associated Policies</b>	<ul style="list-style-type: none"> <li>• Paternity (TPO/STA/07)</li> <li>• Adoption (TPO/STA/01)</li> <li>• Parental Leave (TPO/STA/06)</li> <li>• Staff Absence (Illness) (TPO/STA/13)</li> <li>• Special Leave of Absence (TPO/STA/14)</li> <li>• Shared Parental Leave – Birth (TPO/STA/29)</li> <li>• Flexible Working (TPO/STA/28)</li> </ul>

REVIEWED: JUNE 2019

NEXT REVIEW: JUNE 2022

**1. Policy Statement**

- 1.1 This policy outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth and sets out the arrangements for ante-natal care, pregnancy-related sickness, health and safety, and maternity leave.
- 1.2 This Policy does not form part of any employee’s contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the Trust.

**2. Who does this policy apply to?**

- 2.1 This policy applies to female members of staff.

**3. Who is responsible for carrying out this policy?**

- 3.1 The implementation and application of this policy will be monitored by the Senior Leadership Team and governors of the Academy and will remain under constant review by Brooke Weston Trust.
- 3.2 Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success. Brooke Weston Trust will share information relating to the application of this policy with recognised trade unions on an annual basis.

**4. Definitions**

- 4.1 The definitions in this paragraph apply in this policy:
  - **Expected Week of Childbirth:** the week, starting on a Sunday, in which your doctor or midwife expects the employee to give birth
  - **Qualifying Week:** the fifteenth week before the Expected Week of Childbirth

**5. Notification**

- 5.1 The employee must inform us as soon as reasonably practicable that they are pregnant. This is important as there may be health and safety considerations (see paragraph 8, Health and safety).
- 5.2 Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, the employee must tell us:
  - That they are pregnant
  - The Expected Week of Childbirth; and

- The date on which the employee would like to start their maternity leave (**Intended Start Date**) (see paragraph 10, Starting maternity leave)

5.3 The employee must provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming their Expected Week of Childbirth.

## 6. Time off for ante-natal care

6.1 If the employee is pregnant the employee may take reasonable paid time off during working hours for ante-natal care. This may include any relaxation or parenting classes that the employee's doctor, midwife or health visitor has advised the employee to attend. The employee should try to give the Academy/Trust as much notice as possible of the appointment.

6.2 We may ask the employee to provide the following, unless it is the first appointment:

- A certificate from the doctor, midwife or health visitor stating that the employee is pregnant; and
- An appointment card

6.3 Where the partner of the pregnant employee is also an employee of Brooke Weston Trust, provision will be made, where practicable, to allow them to attend appointments with their partners.

6.4 Agency workers are entitled to paid time off to attend antenatal appointments after passing the 12-week qualifying period.

## 7. Sickness

7.1 Periods of pregnancy-related sickness absence shall be paid in accordance with the employee's contract of employment, in the same manner as any other sickness absence. Any payment of sick pay in excess of this as a result of pregnancy-related sickness shall be entirely at our discretion.

7.2 Periods of pregnancy-related sickness absence from the start of the employee's pregnancy until the end of their maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions.

7.3 If the employee is absent for a pregnancy-related reason during the four weeks before their Expected Week of Childbirth, their maternity leave will usually start automatically. This is consistent with the provisions within the Burgundy Book.

## 8. Health and Safety

8.1 We have a general duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have given birth within the last six months or are still breastfeeding.

8.2 Following a discussion with and contribution from the employee, we will provide the employee with information as to any specific risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If we consider that, as a new or expectant mother, the employee would be exposed to health hazards in carrying out their normal work we will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:

- Changing the employee's working conditions or hours of work, not to the detriment of the employee's remuneration;
- Offering the employee suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
- Suspending the employee from duties, which will be on full pay unless the employee has unreasonably refused suitable alternative work.

**9. Entitlement to maternity leave**

- 9.1 All employees are entitled to up to 52 weeks' maternity leave which is divided into:
- Ordinary maternity leave of 26 weeks (**OML**)
  - Additional maternity leave of a further 26 weeks immediately following OML (**AML**)

**10. Starting maternity leave**

- 10.1 The earliest date the employee can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless the employee's child is born prematurely before that date).
- 10.2 The employee must notify us of their Intended Start Date. We will then write to the employee within 28 days to inform the employee of the date we will expect the employee to return to work if they take their full entitlement to maternity leave (**Expected Return Date**).
- 10.3 The employee can postpone their Intended Start Date by informing us in writing at least 28 days before the original Intended Start Date, or if that is not possible, as soon as reasonably practicable.
- 10.4 The employee can bring forward the Intended Start Date by informing us at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.
- 10.5 Maternity leave shall start on the earlier of:
- The employee's Intended Start Date (if notified to us in accordance with this policy); or
  - The day after any day on which the employee is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or
  - The day after the employee gives birth
- 10.6 If the employee is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth, the employee must let us know as soon as possible. Maternity leave may be triggered unless a decision to delay it is mutually agreed..
- 10.7 If the employee gives birth before their maternity leave was due to start, the employee must let us know the date of the birth as soon as possible.
- 10.8 The law prohibits an employee from working during the two weeks following childbirth.
- 10.9 Shortly before the employee's maternity leave starts we will discuss with the employee the arrangements for covering their work and the opportunities for the employee to remain in contact, should they wish to do so, during their leave. These are to be referred to as 'Keeping in Touch' (KIT) days (see paragraph 16). There are no expectations for the employee to provide work during the time they are absent. In order to not treat the employee less favourably, they will remain on circulation lists for internal news, job vacancies, training and work-related social events.

**11. Maternity Pay**

- 11.1 Statutory maternity pay (SMP) is payable for up to 39 weeks. SMP will stop being payable if the employee returns to work (except where the employee is simply keeping in touch). The employee is entitled to SMP if:
- They have been continuously employed for at least 26 weeks at the end of the Qualifying Week and are still employed by us during that week;
  - Their average weekly earnings during the eight weeks ending with the Qualifying Week (the Relevant Period) are not less than the lower earnings limit set by the Government;

- The employee provides us with a doctor's or midwife's certificate (MAT B1 form) stating their Expected Week of Childbirth
- The employee gives at least 28 days' notice (or, if that is not possible, as much notice as they can) of their intention to take maternity leave; and
- The employee is still pregnant 11 weeks before the start of the Expected Week of Childbirth or have already given birth.

**11.2** SMP is calculated as follows:

- First six weeks: SMP is paid at the **Earnings-Related Rate** of 90% of the employee's average weekly earnings calculated over the Relevant Period;
- Remaining 33 weeks: SMP is paid at the **Prescribed Rate** which is set by the Government for the relevant tax year, or the Earnings-Related Rate if this is lower.

**11.3** SMP accrues from the day on which the employee commences their OML and thereafter at the end of each complete week of absence. SMP payments shall be made on the next normal payroll date and income tax, National Insurance and pension contributions shall be deducted as appropriate.

**11.4** The employee shall still be eligible for SMP if they leave employment for any reason after the start of the Qualifying Week (for example, if the employee resigns or is made redundant). In such cases, if the employee's maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

- The week following the week in which employment ends; or
- The eleventh week before the Expected Week of Childbirth

**11.5** If the employee becomes eligible for a pay rise before the end of their maternity leave, the employee will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that the employee's SMP will be recalculated and increased retrospectively, or that the employee may qualify for SMP if they did not previously qualify. We shall pay the employee a lump sum to make up the difference between any SMP already paid and the amount payable by virtue of the pay rise. Any future SMP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

**11.6 Entitlement to Maternity Leave and Pay for all Categories of Staff, with Less than 26 weeks Service as at the 15th week before the EWC**

**11.6.1** 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).

**11.6.2** 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.

**11.6.3** 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.

**11.6.4** A summary of the entitlements and obligations to maternity leave and pay for staff in schools is set out in appendix 1.

### **11.7 Entitlement to Maternity Leave and Pay for all Categories of Staff with More than Twenty-six weeks Service as at the 15th week before the EWC but less than 1 Years' Service as at the 11th week before the EWC**

**11.7.1** In addition to the maternity entitlement for employees set out above, for those with more than twenty-six weeks service as at 15 weeks before the EWC there is a possible entitlement to be paid Statutory Maternity Pay (SMP), depending on the employee meeting certain conditions.

**11.7.2** 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.

### **11.8 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**

**11.8.1** For those employees with more than one year's service as at the 11th 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.

**11.8.2** 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 11th week before the EWC is set out in appendix 2.

**11.9** If the employee does not qualify for Statutory Maternity Pay then the employee will usually be entitled to Maternity Allowance. The employee can claim Maternity Allowance as soon as they have been pregnant for 26 weeks and payments can start 11 weeks before the baby is due. The amount you get depends on the employee's eligibility. The employee could get either:

- £148.68 a week or 90% of your average weekly earnings (whichever is less) for 39 weeks
- £27 a week for 39 weeks
- £27 a week for 14 weeks

Employees can find out if they are eligible by following this link: <https://www.gov.uk/maternity-allowance/eligibility>

**11.10** An agency worker may be entitled to SMP if they have met the qualifying conditions and if they do not qualify for SMP they may be able to claim Maternity Allowance.

## **12. Terms and conditions during OML and AML**

**12.1** All the terms and conditions of the employee's employment remain in force during OML and AML, except for the terms relating to pay. In particular:

- Benefits in kind [such as life insurance, health insurance, gym membership and use of a company vehicle if applicable] shall continue
- Pension benefits shall continue

## **13. Annual leave**

**13.1** For support staff: Annual leave entitlement under the employee's contract shall continue to accrue.

**13.2** For teaching staff: Maternity leave does not affect the employee’s annual leave entitlement in the leave year(s) in which maternity leave falls. The employee is still entitled to 28 days annual leave in an academic year under the Working Time Regulations (ie statutory holiday entitlement) which runs from 1<sup>st</sup> September to 31<sup>st</sup> August.

Annual leave during ordinary maternity leave (first 26 weeks) can be taken before maternity leave begins and if any of the 28 days have not been used, these should taken within two months of the employee’s return to work, if possible, otherwise they will be paid.

Annual leave accrued in additional maternity leave (next 26 weeks) should be taken within two months of the employee’s return date and cannot be taken before maternity leave starts.

For any bank holidays that fall during the 26 weeks of ordinary maternity leave, a substitute day of paid leave will be given. For part time employees this will be pro-rata.

Example:

If maternity leave was from 15<sup>th</sup> June to 14<sup>th</sup> June, in the holiday period 1<sup>st</sup> September to 31<sup>st</sup> August when maternity leave starts on 15<sup>th</sup> June the following holidays will have been taken:

October Half Term	27 <sup>th</sup> – 31 <sup>st</sup> October	5 days
Christmas & New Year	20 <sup>th</sup> December to 5 <sup>th</sup> January	10 days
February Half Term	16 <sup>th</sup> to 20 <sup>th</sup> February	5 days
Easter	4 <sup>th</sup> to 20 <sup>th</sup> April	10 days
May Break	25 <sup>th</sup> to 29 <sup>th</sup> May	4 days (inc 1 Bank Holiday)

TOTAL = 34 days, therefore this is greater than the statutory minimum of 28 days annual leave and the employee would not be due any additional holiday for the year of the start of your maternity leave.

For the holiday period 1<sup>st</sup> September to 31<sup>st</sup> August where maternity leave ended on 14<sup>th</sup> June, this falls into the next academic year and the annual leave entitlement of 28 days can be used during the holidays from 24<sup>th</sup> July to 31<sup>st</sup> August which is 27 days, therefore the employee would be entitled to the balance of 1 day which could not be taken during this period. The employee would receive payment for the 1 day.

Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during the employee’s maternity leave, they should ensure that they have taken the full year’s entitlement before starting their maternity leave.

**14. Pensions**

**14.1** The period of OML and any further period of paid maternity leave counts towards our final-salary pension scheme as pensionable service, provided the employee makes the necessary minimum contributions based on the maternity pay they are receiving.

**14.2** During unpaid AML the time shall not count as pensionable service under the final salary scheme. The employee does not have to make any contributions but they may do so if they wish, or the employee may make up for missed contributions at a later date.

**15. Redundancies during maternity**

15.1 In the event that the employee’s post is affected by a redundancy situation occurring during their maternity leave, we shall write to inform the employee of any proposals and shall invite the employee to a meeting before any final decision is reached as to their continued employment. Employees on maternity leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

**16. Keeping in touch**

- 16.1 We may make reasonable contact with the employee from time to time during their maternity leave.
- 16.2 The employee may work (including attending training) for up to ten days during maternity leave without bringing their maternity leave or SMP to an end. The arrangements, including pay, would be set by agreement with the Principal. The employee is not obliged to undertake any such work during maternity leave. In any case, the employee must not work in the two weeks following birth.
- 16.3 Shortly before the employee is due to return to work, we may invite the employee to have a discussion (whether in person or by telephone) about the arrangements for their return. This may cover:
  - Updating the employee on any changes that have occurred during their absence
  - Any training needs the employee might have; and
  - Any changes to working arrangements

**17. Expected return date**

- 17.1 Once the employee has notified us in writing of their Intended Start Date, we shall send the employee a letter within 28 days to inform them of their Expected Return Date. If the employee’s start date has been changed (either because they gave us notice to change it, or because maternity leave started early due to illness or premature childbirth) we shall write to the employee within 28 days of the start of maternity leave with a revised Expected Return Date.
- 17.2 We will expect the employee back at work on their Expected Return Date unless they tell us otherwise. It will help us if, during the employee’s maternity leave, they are able to confirm that they will be returning to work as expected.

**18. Returning early**

- 18.1 If the employee wishes to return to work earlier than the Expected Return Date, they must give us 21 days’ prior notice. It is helpful if the employee gives this notice in writing.
- 18.2 If not enough notice is given, we may postpone the employee’s return date until 21 days after they gave notice, or to the Expected Return Date if sooner.

**19. Returning late**

- 19.1 If the employee wishes to return later than the Expected Return Date, they should either:
  - Request unpaid parental leave, giving us as much notice as possible but not less than 21 days; or
  - Request paid annual leave in accordance with their contract, which will be at our discretion.
- 19.2 If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence and our Staff Absence (Illness) Policy will apply.
- 19.3 In any other case, late return will be treated as unauthorised absence.

**20. Deciding not to return**



- 20.1 If the employee does not intend to return to work, or are unsure, it is helpful if the employee discusses this with us as early as possible. If the employee decides not to return they should give notice of resignation in accordance with their contract. The amount of maternity leave left to run when the employee gives notice must be at least equal to their contractual notice period, otherwise we may require the employee to return to work for the remainder of the notice period.
- 20.2 Once the employee has given notice that they will not be returning to work, the employee cannot change their mind without our agreement.
- 20.3 This does not affect the employee's right to receive SMP.

**21. The employee's rights when they return**

- 21.1 The employee is normally entitled to return to work in the same position as they held before commencing leave. The employee's terms of employment shall be the same as they would have been had the employee not been absent.
- 21.2 However, if the employee has taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for us to allow the employee to return into the same position, we may give the employee another suitable and appropriate job on terms and conditions that are not less favourable.

**22. Returning to work part-time**

- 22.1 We will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave on a case-by-case basis. There is no absolute right to insist on working part-time, but the employee does have a statutory right to request flexible working and we will try to accommodate their wishes unless there is a justifiable reason for refusal, bearing in mind the needs of our business. It is helpful if requests are made as early as possible.
- 22.2 Any formal requests to change their working pattern must be submitted using the Trust's Flexible Working policy.

**23. Policy Review**

- 23.1 This policy will be monitored and reviewed in consultation with the recognised trade unions as part of the Academy's annual internal review and reviewed on a three year cycle or as required by legislature changes.



## Appendix 1: Maternity Entitlements

What service do I have?	What options are available to me?	How much maternity leave am I entitled to?	What maternity pay am I entitled to
<b>Less than 26 weeks service</b> (Irrespective of hours worked) as at the 15th week before the expected week of childbirth.	<b>A</b> I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	SMP 1 from payroll and apply to the Benefits Agency for Statutory Maternity Allowance.
	<b>B</b> I would like to resign	Not applicable	As above
<b>26 weeks or more as at the 15th week before the expected week of childbirth and less than 1 years service</b> as at the 11th week before the expected week of childbirth (Irrespective of hours worked)	<b>C</b> I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings: Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP and the remainder unpaid.
	<b>D</b> I would like to keep my options open as I may choose to resign or to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	Depending on salary and average earnings: Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP and the remainder unpaid.
	<b>E</b> I would like to resign	Not applicable	Depending on salary and average earnings:- Six weeks higher rate SMP at 90% of average earnings followed by 33 weeks lower rate SMP
<b>At least 1 years continuous service</b> (Irrespective of hours worked) as at the 11th week before the expected week of childbirth	<b>F</b> I would like to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth.	4 weeks at full pay and 2 weeks at 90% of full pay, followed by, 12 weeks half pay. You must return to work for a minimum of 13 weeks otherwise the 12 weeks half pay must be repaid. Plus, depending on salary and average earnings: 33 weeks lower rate SMP to be paid alongside the 12 weeks at half pay
	<b>G</b> I would like to keep my options open as I may choose to resign or to return to work	Up to 52 weeks absence in total including up to 11 weeks before the expected week of childbirth	4 weeks at full pay and 2 weeks at 90% Plus depending on salary and average earnings: 33 weeks lower rate SMP and the remainder unpaid. The 12 weeks at half pay will only be paid if you return to work for a minimum of 13 weeks
	<b>H</b> I would like to resign	Not applicable	4 weeks at full pay and 2 weeks at 90% Plus depending on salary and average earnings: 33 weeks lower rate SMP

SMP - Service for SMP is continuous service with the current employer only and is only payable if employed during the 8 week period 15 weeks before the expected week of childbirth.

## Appendix 2: Application for Maternity Leave and Pay

Please read the Notes of Guidance and the table overleaf, then complete and return the form below to the school office during or before the 15th week before your expected week of childbirth.

Name  Payroll Number   
Home Address   
School

### Maternity Options (Please tick one option below)

Options                      A                       C                       D                       F                       G

My first date of Maternity Leave is

(I understand this date can be altered and I must give at least 28 days notice of the revised date maternity leave is to commence)

Options                      B                       E                       H

I do not intend to return to work and thereby wish to formally **terminate** my contract of employment to take effect from

Date   The end of my maternity pay period

### Expected Week of Childbirth (EWC)

The MATB1 certificate is available from your midwife from the 20<sup>th</sup> week of pregnancy onwards

I enclose my MATB1 certificate with this form

I will forward my MATB1 certificate to the school as soon as possible and understand that I will not receive any maternity pay until I provide this.

### Keeping in Touch Days

You are entitled to “keep in touch” with the workplace for up to a maximum of 10 days during your maternity leave without affecting your entitlement to statutory or contractual maternity pay. The exact arrangements for “keeping in touch” must be discussed with your principal/line manager.

I wish to discuss with my principal/line manager arrangements for “keeping in touch” days.

I do not wish to discuss arrangements for “keeping in touch” days but reserve the right to discuss this with my principal/line manager at a later date during my maternity leave.

### To be completed by all Teachers

I have read and understand the accompanying *Notes of Guidance*, which I have retained.

Signed  Date

NB: If you wish to continue to pay pension contributions for any period of unpaid maternity leave, please contact the Teachers’ Pension Agency Section for further information.

### Completed form received by Principal

I can confirm that an assessment to identify hazards that could be a risk to any new, expectant, or breastfeeding mothers has been or will be undertaken and I have discussed “keeping in touch” days with the employee if requested.

Signed  Date

Please return this completed form to the Finance Officer or HR Administrator.