



*Maximising Potential*

## Maternity Leave Policy

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This procedure has been adopted by the governing body of the Rowan Learning Trust following consultation with staff and their trade union / professional association. This procedure supersedes any procedure previously in place in this School either formally or through custom or practice.

## **1. Scope and Purpose**

- 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 No-one will be discriminated against or subjected to a detriment for taking leave in accordance with this policy.
- 1.3 This policy does not form part of any employee's contract of employment and the Rowan Learning Trust may amend it at any time after consultation with our recognised Trade Unions.

## **2. Who is Covered by the Policy?**

- 2.1 This policy covers all employees at all levels and grades including senior managers, employees, trainees, part-time and fixed term employees (referred to as employees in this policy).
- 2.2 It does not apply to agency staff and self-employed contractors.

## **3. Who is Responsible for the Policy?**

- 3.1 The Trust has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Trust has delegated day-to-day responsibility for operating the policy to the Headteacher of each school.
- 3.2 The Senior Leadership Team at each school has 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.
- 3.3 The Chief Executive of the Trust will be responsible for administering the policy in relation to the Headteacher (where the policy is applied to the

Headteacher, all references to Headteacher should be replaced with Chief Executive of the Trust).

- 3.4 The Board of Trustees will be responsible for administering the policy in relation to the Chief Executive of the Trust (where the policy is applied to the Chief Executive of the Trust, all references to Headteacher should be replaced with Board of Trustees).

## **4. Definitions**

- 4.1 The definitions in this paragraph apply in this policy.
- 4.1.1 Expected Week of Childbirth means the week, starting on a Sunday, in which the employee's doctor or midwife expects the individual to give birth;
- 4.1.2 Qualifying Week means the fifteenth week before the Expected Week of Childbirth.

## **5. Notification**

- 5.1 An employee must inform her Headteacher as soon as possible that she is pregnant. This is important as there may be health and safety considerations.
- 5.2 Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, the employee must tell the Headteacher:
- 5.2.1 that she is pregnant;
- 5.2.2 the Expected Week of Childbirth; and
- 5.2.3 the date on which she would like to start her maternity leave (Intended Start Date).
- 5.3 The employee must provide a certificate from a doctor or midwife (usually on a MAT B1 form) confirming her Expected Week of Childbirth.

## **6. Time Off for Ante-Natal Care**

- 6.1 If an employee is pregnant, she 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 her to attend. The employee should try to give her Headteacher as much notice as possible of the appointment.

- 6.2 The Headteacher may ask for the following, unless it is the first appointment:
- 6.2.1 a certificate from the doctor, midwife or health visitor stating that the employee is pregnant; and
  - 6.2.2 an appointment card.

## **7. Sickness**

- 7.1 Periods of pregnancy-related sickness absence shall be paid in accordance with the contract of employment in the same manner as any other sickness absence.
- 7.2 Periods of pregnancy-related sickness absence from the start of the pregnancy until the end of the maternity leave will be recorded separately from other sickness records and will be disregarded for the purposes of the sickness absence policy triggers or in any future employment-related decisions.
- 7.3 If an employee is absent for a pregnancy-related reason during the four weeks before her Expected Week of Childbirth, the maternity leave will usually start automatically on the day following the first day of absence.

## **8. Health and Safety**

- 8.1 The Trust has a general duty to take care of the health and safety of all employees. The Headteacher, through his/her delegated authority, is therefore 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 The Headteacher will provide the employee with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If the Headteacher considers that, as a new or expectant mother, the employee would be exposed to health hazards in carrying out the normal work he/she will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:
- 8.2.1 changing working conditions or hours of work (which may involve moving the dates of routine observations depending on the risks identified);
  - 8.2.2 offering suitable alternative work on terms and conditions that are the same or not substantially less favourable; or
  - 8.2.3 suspending the employees duties, which will be on full pay unless she unreasonably refuses 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:
  - 9.1.1 Ordinary Maternity Leave of 26 weeks (OML).
  - 9.1.2 Additional Maternity Leave of a further 26 weeks immediately following OML (AML).

## **10. Starting Maternity Leave**

- 10.1 The earliest date an employee can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless the child is born prematurely before that date).
- 10.2 An employee must notify their Headteacher of her Intended Start Date in accordance with paragraph 5. The Headteacher will then write to the employee within 28 days to inform her of the date she is expected to return to work if she takes her full entitlement to maternity leave (Expected Return Date).
- 10.3 An employee can postpone her Intended Start Date by informing the Headteacher 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 An employee can bring forward the Intended Start Date by informing the Headteacher 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:
  - 10.5.1 the Intended Start Date (if notified to the Headteacher in accordance with this policy); or
  - 10.5.2 the day after any day on which the member of staff is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth; or
  - 10.5.3 the day after the member of staff gives birth.
- 10.6 If an employee is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth, she must let the Headteacher know as soon as possible in writing. Maternity leave will be triggered under paragraph 10.5.2 unless the Headteacher agrees to delay it.
- 10.7 If an employee gives birth before her maternity leave was due to start, she must let the Headteacher know the date of the birth in writing as soon as possible.

- 10.8 The law prohibits an employee from working during the two weeks following childbirth.
- 10.9 Shortly before maternity leave starts the Headteacher will discuss with an employee the arrangements for covering her work and the opportunities for her to remain in contact, should she wish to do so, during the leave. Unless an employee requests otherwise, she will remain on circulation lists for internal news, job vacancies, training and work-related social events.

## **11. Statutory Maternity Pay**

- 11.1 Statutory Maternity Pay (SMP) is payable for up to 39 weeks. SMP will stop being payable if an employee returns to work (except where she is simply keeping in touch) or makes a declaration to receive Shared Parental Leave.
- 11.2 An employee is entitled to SMP if:
  - 11.2.1 she has at least 26 weeks continuous service up to the end of the Qualifying Week;
  - 11.2.2 her 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;
  - 11.2.3 she provides the Headteacher with a doctor's or midwife's certificate ( MAT B1 form) stating the Expected Week of Childbirth;
  - 11.2.4 she gives at least 28 days' notice (or, if that is not possible, as much notice as she can) of her intention to take maternity leave; and
  - 11.2.5 she is still pregnant 11 weeks before the start of the Expected Week of Childbirth or has already given birth.
- 11.3 SMP is calculated as follows:
  - 11.3.1 first six weeks: SMP is paid at the Earnings-Related Rate of 90% of an employee's average weekly earnings calculated over the Relevant Period;
  - 11.3.2 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.
- 11.4 SMP accrues from the day on which an employee commences her 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.
- 11.5 An employee shall still be eligible for SMP if she leaves employment for any reason after the start of the Qualifying Week (for example, if she resigns or is

made redundant). In such cases, if the maternity leave has not already begun, SMP shall start to accrue in whichever is the later of:

11.5.1 the week following the week in which employment ends; or

11.5.2 the eleventh week before the Expected Week of Childbirth.

- 11.6 If an employee becomes eligible for a pay rise before the end of her maternity leave, she will be treated for SMP purposes as if the pay rise had applied throughout the Relevant Period. This means that the SMP will be recalculated and increased retrospectively, or that the employee may qualify for SMP if she did not previously qualify. The Trust 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.

## **12. Occupational Maternity Pay**

- 12.1 To qualify for Occupational Maternity Pay (OMP) an employee must:

12.1.1 Have at least one year's continuous service at the beginning of the 11th week before the Expected Week of Childbirth.

12.1.2 Declare in writing that she intends to return to work following maternity leave for a period of 13 weeks if she is a member of teaching staff and 3 months if she is a member of support staff. If an employee subsequently decides not to return to work, she must repay all of the Occupational Maternity Pay she has received.

- 12.2 Occupational Maternity Pay will be paid at the rates provided for in the Burgundy Book or the Green Book as applicable to the particular individual's employment from time to time. The Trust, whilst not directly bound by either the Burgundy or Green Book, has agreed to match the terms detailed therein in respect of employees entitled to receive Occupational Maternity Pay under this paragraph 12.

## **13. Terms and Conditions during Occupational Maternity Leave and Additional Maternity Leave**

- 13.1 All the terms and conditions of an employee's employment remain in force during OML and AML, except for the terms relating to her normal pay.

## **14. Annual Leave**

14.1 During OML and AML, annual leave will accrue. Annual leave cannot usually be carried over from one holiday year to the next.

14.2 This entitlement applies to all employees including term time only and teachers.

14.2.1 Term Time Only Workers – In order to calculate the entitlement to annual leave it is necessary to carry out a ‘Balance of Salary’ calculation at the start of the maternity leave period and a second calculation at the end of the employee’s leave period. This calculation takes into account the employee’s start date with the Trust and the number of completed weeks of the academic year up to the point the maternity leave began. The proportion of completed weeks will then be compared to the salary the employee has been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary. Once an employee returns to work, a second calculation is carried out to identify whether she is entitled to a payment in respect of annual leave she has accumulated whilst on maternity leave. Please note: The date on which an employee starts and ends her maternity leave can significantly affect the balance of salary calculation. Employees should contact the Establishment’s finance team to determine what impact this may have.

14.2.2 Teachers - The contract of employment makes no specific reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days leave per annum (based on an employee working 5 days a week 52 weeks a year) under the Working Time Regulations 1996. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of maternity leave will have acquired a right to additional annual leave. It is possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

14.2.3 The School’s holiday year runs from 1 April to 31 March

## **15. Pensions**

15.1 For details of the implication of OML and/or AML on pension, employees should contact the School’s HR Officer who will provide further advice.

## **16. Keeping in Touch**

- 16.1 The School may make reasonable contact with an employee from time to time during her maternity leave.
- 16.2 An employee may work (including attending training) for up to ten days during maternity leave without bringing her maternity leave or SMP to an end. The arrangements would be set by agreement with the Headteacher but any KIT days worked will be paid at the employee's normal rate of pay (less any maternity pay paid to them). An employee is not obliged to undertake any such work during maternity leave. In any case, an employee must not work in the two weeks following birth.
- 16.3 Shortly before an employee is due to return to work, the Headteacher may invite an employee to have a discussion (whether in person or by telephone) about the arrangements for her return. This may cover:
  - 16.3.1 updating her on any changes that have occurred during her absence;
  - 16.3.2 any training needs she might have; and
  - 16.3.3 any changes to working arrangements (for example if she has made a request to work part-time).

## **17. Shared Parental Leave**

- 17.1 An employee wishing to opt into the Shared Parental Leave (SPL) scheme, must give the Headteacher at least eight weeks' written notice to end her maternity leave (a curtailment notice) before she can take SPL. The notice must state the date the maternity leave will end. An employee can give such notice before or after she gives birth, but she cannot end her maternity leave until at least two weeks after birth.
- 17.2 An employee must also give the Headteacher, at the same time as the curtailment notice, a notice to opt into the SPL scheme in accordance with the procedure set out in the Trust's Shared Parental Leave (Birth) Policy or a written declaration that the other parent has given their employer an opt-in notice and that she has given the necessary declarations in that notice.
- 17.3 The other parent may be eligible to take SPL from their employer before the maternity leave ends, provided an employee provides the curtailment notice.
- 17.4 The curtailment notice is binding and cannot usually be revoked. An employee can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

17.4.1 she realises that neither her nor the other parent are in fact eligible for SPL or Shared Parental Pay, in which case an employee can revoke the curtailment notice in writing up to eight weeks after it was given;

17.4.2 if an employee has given the curtailment notice before giving birth, she can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or

17.4.3 if the other parent has died.

17.5 Once an employee has revoked a curtailment notice she will be unable to opt back into the SPL scheme, unless she revoked it in the circumstances in paragraph 17.4.2.

## **18. Expected Return Date**

18.1 Once an employee has notified the Headteacher in writing of her Intended Start Date, the Headteacher shall send her a letter within 28 days to inform her of her Expected Return Date. If an employee's start date has been changed (either because she provided notice to change it, or because maternity leave started early due to illness or premature childbirth) the Headteacher shall write to her within 28 days of the start of maternity leave with a revised Expected Return Date.

18.2 An employee will be expected to return to work on her Expected Return Date unless she tells the Headteacher otherwise. It will help the Headteacher if, during the maternity leave, an employee is able to confirm that she will be returning to work as expected.

## **19. Returning Early**

19.1 If an employee wishes to return to work earlier than the Expected Return Date, she must give the Headteacher eight weeks' prior notice. It is helpful if this notice is given in writing.

19.2 If not enough notice is given, the Headteacher may postpone an employee's return date until eight weeks after she gave notice, or to the Expected Return Date if sooner.

## **20. Deciding Not to Return**

20.1 If an employee does not intend to return to work, she should give notice of resignation in accordance with her contract of employment. Wherever possible, an employee should provide as much notice as possible in order to facilitate workforce planning.

- 20.2 Once an employee has given notice that she will not be returning to work, she cannot withdraw the notice without the agreement of the Headteacher.
- 20.3 If an employee has received Occupational Maternity Pay and does not return to work she will be required to repay the Occupational Maternity Pay as detailed in the Burgundy / Green Book (whichever is applicable).
- 20.4 If an employee returns for only part of the 13 week or 3 month period required of the particular employee, she shall be required to repay the appropriate proportion of Occupational Maternity Pay.
- 20.5 This does not affect an employee's right to receive SMP.

## **21. An Employee's Rights on Return**

- 21.1 An employee is normally entitled to return to work in the same position as she held before commencing leave. An employee's terms of employment shall be the same as they would have been had she not been absent.
- 21.2 However, if an employee has taken any period of AML or more than four weeks' parental leave, and it is not reasonably practicable for her to be permitted to return into the same position, the School may give her another suitable and appropriate job on terms and conditions that are not less favourable.
- 21.3 In the event of a redundancy situation, an employee on maternity leave shall be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

## **22. Returning to Work Part-Time**

- 22.1 The Headteacher 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 an employee does have a statutory right to request flexible working and the Headteacher will try to accommodate an employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the School. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the Trust's Flexible Working Policy.

## **23. Monitoring, Evaluation and Review**

- 23.1 The policy will be promoted and implemented throughout all Trust establishments.
- 23.2 The Trust will monitor the operation and effectiveness of arrangements referred to in this policy at each Trust establishment.
- 23.3 The Trust will review this policy every two years in consultation with each Trust establishment.