

**Joint Agreement on Guidance for
Maternity Leave
in Further Education Colleges**

Between

Association of Colleges (AoC)

AND

Association for College Management (ACM)

Association of Teachers and Lecturers (ATL)

GMB

Unite

University and College Union (UCU)

UNISON

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Joint Agreement on Guidance for Maternity Leave in Further Education Colleges

1 Introduction

- 1.1 The college recognises the need for effective joint agreements, which play a key part in supporting an appropriate work-life balance. Such policies are intended to: allow a more effective combination of home and work responsibilities; enhance equality of opportunity at work; maintain the competitive advantage of the organisation by retaining skilled & valued employees.
- 1.2 No existing employees shall be disadvantaged, as compared with their existing position, by the implementation of the terms of this agreement.

2 Scope

- 2.1 This scheme describes maternity rights, entitlements and obligations for all female employees at the college who are pregnant with an expected week of childbirth (EWC) on or after 5 October 2008. The most recent previous version of this agreement shall continue to apply to all female employees at the college who are pregnant with an EWC before 5 October 2008. Employees are also encouraged to refer to other related policies such as: {Family and parental leave, paternity leave, adoption leave, dependants leave and time off for public duties}.
- 2.2 The college has an obligation to pay Statutory Maternity Pay (SMP) on behalf of the Benefits Agency to all employees who are eligible to receive it. This scheme explains entitlements to both statutory and contractual maternity benefits.

3 Ordinary and Additional Maternity Leave

- 3.1 All employees, regardless of length of service and number of hours worked, have the right to statutory maternity leave provided that the conditions set out in this scheme are satisfied.
- 3.2 Employees who satisfy the conditions will be entitled to 26 weeks ordinary maternity leave (OML), immediately followed by a period of 26 weeks additional maternity leave (AML), making a total of up to 52 weeks maternity leave.
- 3.3 The maternity leave period must include the 2 weeks immediately after childbirth. This is known as the compulsory maternity leave period.

4 Giving Notice to Start Maternity Leave

- 4.1 A woman who wishes to take statutory maternity leave, must give the college notice by the 15th week before the EWC, of the following:
 - (a) that she is pregnant;
 - (b) if requested, she should produce a certificate from a GP or registered midwife (form MATBI);
 - (c) the expected week of childbirth (EWC);
 - (d) the date on which she wishes to start her maternity leave;

- (e) if she wishes to claim contractual maternity pay (see paragraph 7.4 below), she should also confirm that she intends to return to work at the end of the maternity leave period.
- 4.2 If it is not reasonably practicable for the woman to give this notice by the 15th week before the EWC, then she must provide the information as soon as reasonably practicable.
- 4.3 Once a college is in receipt of this information it should write to the woman within 28 days, setting out the date on which she is expected to return to work, if she takes her full entitlement to maternity leave.
- 4.4 Provided that she has given the required notice to the college, the employee may decide when she wishes to start her maternity leave, and she may start at any time after the beginning of the 11th week before the week in which childbirth is expected.
- 4.5 A woman may change her mind about when she wants to start her leave providing she writes to the college at least 28 days in advance of the intended start date for her maternity leave. If it is not reasonably practicable to give such notice of change of intention, the woman must provide the information as soon as reasonably practicable.
- 4.6 If a woman is absent from work with a pregnancy-related illness during the four weeks before the start of the EWC, the college may require her to start her maternity leave from the day of her first absence.
- 4.7 Where childbirth occurs before the notified leave date or before she has notified such a date, maternity leave will start on the day after the birth and the woman should notify the college that she has given birth as soon as is reasonably practicable after the birth.

5 The Right to Return to Work after Maternity Leave

- 5.1 It should be presumed that the employee will take her full statutory maternity leave entitlement, i.e. the full 52 weeks, unless she notifies the college of her intention to return early in accordance with paragraph 5.3.
- 5.2 An employee returning to work at the end of AML need not give the college any notice of her return. The employee can simply turn up to work on the first working day after the end of AML.
- 5.3 A woman has the right to return to work at any point before the end of ordinary or additional maternity leave. If she wishes to return early the employee must give the college at least 8 weeks notice of the date she intends to return. The employee's notice should be in writing. If the employee attempts to return to work earlier, without having given the 8 weeks notice, the college is entitled to postpone her return but not beyond the date on which the 8 weeks would elapse and not beyond the end of the statutory maternity leave period. The college will inform the employee in writing if it decides to postpone her return in these circumstances.
- 5.4 If a woman changes her mind about her intended date of return and has further leave to be taken, she is required to give 8 weeks notice of her new return date. The notice period to be calculated back from the original intended date of return.

- 5.5 A woman will not be allowed to return to work within the 2 weeks immediately after childbirth (i.e. during the compulsory maternity leave period).

Ordinary Maternity Leave

- 5.6 A woman who wishes to return to work at the end of her 26 weeks ordinary maternity leave period, is entitled to return to the same job that she left. Notice is required in accordance with paragraph 5.3.

Additional Maternity Leave

- 5.7 (a) A woman who returns to work from AML, has the right to return to the same job, with the same terms and conditions if this is reasonably practicable. However, if this is not reasonably practicable, she has the right to be offered an alternative job that is suitable and appropriate on terms and conditions not less favourable than her original contract.
- (b) A woman who wishes to return to work at the end of additional maternity leave does not have to give the college any notice of her return. However, if the woman wishes to return to work before the end of AML she must give the college at least 8 weeks notice in accordance with paragraph 5.3.

General Points

- 5.8 If the woman's job becomes redundant during the course of her maternity leave, the college will offer her any other suitable alternative work that becomes available. She will have the right to be considered for such work, even though she is on maternity leave. The offer will be made before her previous employment ends and (if accepted) the new employment will commence immediately. It must involve suitable work and the terms and conditions will not be less favourable than the old contract. If there is no suitable alternative work available, then she will be made redundant, and receive redundancy pay in line with her statutory and contractual entitlements.
- 5.9 If industrial action or any other interruption of work makes it unreasonable for the employee to return to work on the date which she has specified, she may, instead, return when work resumes.
- 5.10 If a woman returning from maternity leave wishes to return on a part-time basis, the college will give consideration to any such request. Returning to work on a part-time basis can be:
- either a phased return, or return to a reduced working day; or
 - on job sharing

Such arrangements could be either:

- a short-term arrangement; or
- a permanent reduction.

It could also be for a set period of time, leading to a return to full hours. Such arrangements will be on a fractional basis.

Where changes to working are not possible, the reasons will be fully discussed and

put in writing to the employee concerned.

6 Maternity Pay

Statutory Maternity Pay (SMP)

6.1 A woman will be eligible to receive statutory maternity pay (SMP) if she satisfies the following criteria:

- (a) she must have completed 26 weeks' continuous service at the 15th week before the expected week of childbirth; and
- (b) she must be earning an amount equivalent to at least the lower earnings limit for National Insurance contributions; and
- (c) she must still be pregnant at the 11th week before the expected week of childbirth; and
- (d) she must have stopped work wholly or partly because of her pregnancy, or childbirth.

6.2 For the first 6 weeks of maternity leave, SMP is payable at the rate of 90% of the employee's average weekly earnings. The remaining 33 weeks will be paid at the current SMP flat rate, or else 90% of the woman's average weekly earnings if this is less than the current SMP flat rate. In summary:

- 6 weeks at 90% of average weekly earnings
- 33 weeks at SMP or 90% of weekly earnings if this is less than the current SMP flat rate.

6.3 Not all employees will be eligible for SMP, in which case they should apply to their local Jobcentre Plus, to see whether they may be entitled to maternity allowance. An application form will be provided by the college.

6.4 If the employee is awarded a pay increase between the beginning of the original calculation period and the end of her period of statutory maternity leave, her normal weekly earnings for the purposes of calculating entitlement to SMP will be recalculated as if the pay increase applied in each week of the relevant period, regardless of whether SMP has already been paid. The employee will be paid retrospectively for any difference between the SMP already paid and the amount payable as a result of the pay increase. *This is in accordance with the Statutory Maternity Pay (General) (Amendment) Regulations 2005 [SI 729].*

Contractual Maternity Pay (CMP)

6.5 A woman will be entitled to receive contractual maternity pay (CMP) for part of the maternity leave period if:

- she has completed 26 weeks continuous service at the 15th week before the expected week of childbirth (EWC); and
- she satisfies the other qualifying conditions to be eligible for statutory maternity pay (SMP) as described in section 6.1.

6.6 Contractual maternity pay is paid in addition to the SMP, and is paid at the rate of

half-pay plus the SMP for weeks 7-18 inclusive of the maternity pay period. This is subject to the combined SMP and half pay not exceeding the normal full pay.

Maternity pay for an employee who qualifies for CMP is:

- 6 weeks at 90% of average weekly earnings
- 12 weeks at 50% of average weekly earnings plus SMP
- the remaining 21 weeks at SMP.

- 6.7 Any additional maternity leave, beyond the 39 week period, shall be unpaid.
- 6.8 Any employee who does not return to work for a period of at least 13 weeks service following her maternity leave can be required to repay the 12 weeks half pay (in respect of weeks 7-18), or lesser amount if applicable, to be determined by the college. She cannot be required to repay any of the SMP. An employee who is uncertain about her return to work, may elect to have the 12 weeks half pay paid on her return to work.

Pension Contributions

- 6.9 A woman in receipt of remuneration, whether salary, or SMP, or both, during her maternity leave will be treated as though she is working normally for the purposes of access to occupational pension scheme membership and benefits. Member and employer contributions will continue during paid maternity leave according to the scheme rules. Further guidance should be obtained from the relevant pension authority.
- 6.10 Employees who wish to continue pension contributions during her period of unpaid maternity leave, should contact the pension authority to obtain the appropriate advice on how to do so.

Early Births

- 6.11 If the baby is born earlier than expected but after the employee has started to receive SMP (and CMP if applicable), SMP (and CMP) will continue to be paid. This should not affect the return to work date at the end of the maternity leave period. If the baby is born before the employee has started to receive SMP or commenced her maternity leave, the early birth will trigger maternity leave and entitlement to receive SMP (and CMP if applicable).

Late Births

- 6.12 If the baby is born after the EWC, SMP and maternity leave are not affected. All employees have the right to take statutory maternity leave of up to 52 weeks.

Stillbirths

- 6.13 In the unfortunate event of a stillbirth, the employee continues to be entitled to SMP and maternity leave, if the child is born after the 24th week of pregnancy. She will also be entitled to the maternity leave period. In the event of a miscarriage during or before the 24th week of pregnancy, the provisions and regulations of the sick pay scheme will apply.

Circumstances in which SMP is lost

- 6.14 An employee will lose her right to receive SMP if:
- (a) She is taken into legal custody.
 - (b) She starts work for another employer.
 - (c) She returns to work (excluding circumstances when a “keeping in touch day” is undertaken under Section 8).

7 Time off for Ante-Natal Care

- 7.1 A pregnant employee is entitled to take reasonable paid time off during her normal working hours for antenatal care appointments. Wherever possible she should arrange her appointments at the start or end of her working day. Evidence of appointments must be provided to the line manager upon request.

8 Keeping in Touch

- 8.1 Except during the 2 weeks immediately after childbirth (i.e. the compulsory maternity leave period) a “keep in touch” day may be used to enable the employee to attend work without losing her right to SMP or contractual maternity pay. Up to 10 keep in touch days may be undertaken during the maternity leave period without bringing the woman’s maternity leave to an end.
- 8.2 There should be no pressure on employees to come into work. There is no obligation on an employee to undertake work, nor is there any obligation on the college to provide work. The keep in touch days (and the amount of salary paid for work done on such keep in touch days) must only be arranged by mutual agreement. It is recommended that the employee should receive her normal salary for working on a KIT day.
- 8.3 If a KIT day is agreed, the purpose should be agreed in advance so that both parties are clear what the employee will actually do. This can include training, a meeting or other activities to help the employee keep in touch.

9 Protection of New and Expectant Mothers

- 9.1 The college is committed to creating and maintaining a healthy and safe working environment. This is particularly important in relation to the safety of new and expectant mothers. As part of normal Health and safety practices the college will risk assess work areas. In addition the college will undertake the following in order to create a healthy workplace for new and expectant mothers:
- 9.2 Work areas will be risk assessed to take account of particular risks to new and expectant mothers. This will be carried out as soon as possible after notification of pregnancy.
- 9.3 Employees will have the right to transfer from hazardous work areas, or hazardous work, without loss of pay or status, to suitable alternative work and/ or alter hours / work conditions if suitable actions can not be identified to avoid an assessed risk.
- 9.4 An employee may be temporarily suspended, on full contractual pay, from the site in

order to maintain an appropriate level of safety if suitable temporary alternative employment can not be found, and/or the expectant mother is a night worker who has a medical certificate which recommends restricting her work schedule/times.

- 9.5 Suitable accommodation will be provided for new and expectant mothers to rest. This should be a smoke free area. Suitable accommodation will also be provided for nursing mothers to express and store milk. Toilet facilities are not suitable for this purpose.
- 9.6 Health and Safety management will be undertaken in accordance with the Workplace (Health, Safety and Welfare) Regulations 1992.

10 Terms and Conditions During Maternity Leave

- 10.1 During both the 26 weeks OML and the 26 weeks AML, the employee is entitled to benefit from the terms and conditions of her contract that would have applied had she not been absent except in relation to remuneration. The employee is bound by any obligations under her contract except those that are inconsistent with her rights to take maternity leave, such as the obligation to attend work.
- 10.2 Contractual annual leave that would normally accrue while the employee was at work continues to accrue during both OML and AML.

11 General Issues

- 11.1 Maternity leave is not sick leave, and will not be taken into account when calculating any period of sick leave entitlement for sick pay purposes.
- 11.2 The college will keep the woman informed of staff vacancies during the period of maternity leave.
- 11.3 The college is entitled to maintain reasonable contact with the employee during the maternity leave period should circumstances make this necessary. This entitlement is separate from the keeping in touch arrangements described in Section 8 above, and may be necessary to communicate and consult with the employee about issues relevant to her employment. For example:
- to communicate important news about the college or to update the employee on any developments which have occurred during her absence;
 - to keep the member of staff advised of any changes that may arise which could affect her job, such as mergers, restructuring or job evaluation; and
 - to discuss and plan the employee's return to work.

Communication could take the form of a staff newsletter, HR bulletin or individual letter.

- 11.4 Any employee who is unable to return to work at the end of their maternity leave period due to illness, will be treated as if they were on sick leave, and will therefore be entitled to sick pay.
- 11.5 Periods of maternity leave and maternity absence are regarded as continuous service for the purpose of calculating entitlements to employment benefits.

- 11.6 If in the early months of pregnancy, an employee is advised by an approved medical practitioner to absent herself from work because of the risk of rubella, she will be entitled to leave with full pay.
- 11.7 Women are protected from unfair treatment due to pregnancy, childbirth or taking maternity leave.
- 11.8 This scheme will be reviewed on a regular basis in accordance with legislative developments and the need for good practice within the Corporation.



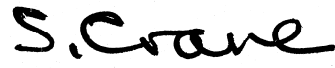

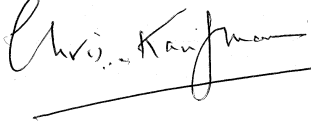


Commentary Notes:

This joint agreement has been updated in accordance with The Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2008.

The BERR have produced a useful guide *Pregnancy at Work: What you need to know as an employer (2008-2009)*.

**JOINT AGREEMENT ON GUIDANCE FOR
MATERNITY LEAVE**

SIGNATURES OF THE PARTIES TO THIS AGREEMENT

- | | | |
|-----|-------------------|--|
| (a) | AoC |  |
| (b) | ACM |  |
| (c) | ATL |  |
| (d) | GMB |  |
| (e) | Unite - the Union |  |
| (f) | UNISON |  |
| (g) | UCU |  |

Date of Commencement of this Agreement:

September 2008