

Maternity Policy and Procedure for Teachers

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Document Control	
Title	Maternity Policy & Procedure for Teachers
Amendments	<p>This policy has been updated to reflect changes in Employment Legislations; the main changes are;</p> <ul style="list-style-type: none"> • Obligations • Surrogacy arrangements • Miscarriage, still birth, and neonatal death, • Redundancy protected periods • Added adoption policy and redundancy as linked policies • Gender neutral language
Related Policies/Guidance	<p>Conditions of Service for School Teachers in England and Wales (August 2000), (revised edition published June 2023) Employment Rights Act 1996, Employment Relations Act 1999, Employment Act 2002, Work and Families Act 2006, other “family friendly” policies, Attendance Management Policy, Shared Parental Leave Policy, Leave of absence Policy, equality policy.</p>
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1. Introduction

This policy applies to all teachers employed in maintained schools and those to whom the Conditions of Service for School Teachers in England and Wales (the “Burgundy Book”) apply. This includes teachers employed in academies and free schools who were subject to transfer under TUPE Regulations unless alternative terms and conditions have since been agreed. It may also be adopted for use in schools such as academies and free schools where the conditions of the Burgundy Book are being applied.

The document is divided into 9 main sections covering:

1. [Eligibility](#)
2. [Obligations](#)
3. [Antenatal](#)
4. [Maternity Leave](#)
5. [Surrogacy Arrangements](#)
6. [Maternity Pay](#)
7. [Returning to Work](#)
8. [Absences](#)
9. [Redundancy](#)

Under this policy, ‘childbirth’ means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy.

2. Eligibility

All teachers who are pregnant are entitled to maternity leave irrespective of length of service or hours worked each week. Benefits may vary depending on length of service, hours and/or pay.

3. Obligations

3.1 Employee

In order to be eligible for maternity leave the teacher must:

- Continue to be employed (whether or not at work) immediately before the start of the maternity absence
- Notify the school in writing (see [Appendix 1](#)) as soon as practicable but no later than the 14th week (unless there is good cause) before the expected week of childbirth (EWC) that they wish to be absent for maternity;
- If requested by the academy produce a certificate (**MATB1**) from a registered medical Practitioner or certified midwife stating the EWC (The earliest this can be issued is 20 weeks before the EWC).
- Notify the school at least 21 days before they wish to start maternity leave or as soon as reasonably practicable:
 - ✓ that they are pregnant;
 - ✓ of the EWC (by means of a medical certificate if requested)
 - ✓ when they propose to commence their maternity leave, in writing if requested. (The beginning of the absence shall be no earlier than 11 weeks before the EWC).

- Declare in writing at the time of notification of their intended absence, that they intend to return to work with the academy/trust (if that is the teacher's intention and if they are able to work with the academy/trust); 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 Regulations 1999).

If a teacher wishes to change the date on which their maternity leave starts, they must give the academy/trust at least 28 days' notice in writing.

3.2 Employer

Within 28 days of the initial notification from the teacher the school must write to her informing of:

- ✓ her rights to maternity leave and their return-to-work obligations;
- ✓ confirmation of the start and end of the maternity period;
- ✓ the pay entitlement during the period of maternity leave;
- ✓ the expected date of the teacher's return to work.

Where a teacher provides notification of a change of date for the start of their maternity leave, the Academy must write to them within 28 days of receipt of the notification to confirm the new start and end of the maternity period and the new expected date of the teacher's return to work.

There is a legal obligation under the Management of Health and Safety at Work Regulations 1999 for an employer to assess any risks to a pregnant teacher and her unborn child. As such the school should undertake or arrange a **risk assessment** within the first 4 weeks of notification of pregnancy and review it every 4 weeks (or earlier should it be required) until the teacher begins maternity leave. If risks are identified, the assessor should notify the teacher and:

- ✓ remove the element of the job that is causing the risk, if this is possible;
- ✓ explore the possibility of alternative work in consultation with the teacher; or
- ✓ arrange for the teacher to take paid leave if no suitable alternative work can be found.

4. Antenatal Care

4.1 time off during pregnancy

Teachers are entitled to a reasonable amount of paid time off during normal working hours for antenatal care made on the advice of a registered medical practitioner. This may include relaxation classes and parent-craft classes. Teachers should advise the school of any such appointments in advance and except for the first appointment, should show the employer (if requested) an appointment card or other documents showing that an appointment has been made.

5. Maternity Leave

5.1 Compulsory maternity leave

Teachers **must take a minimum of two weeks' maternity leave** following the birth of their child. They may not return to work during this time.

5.2 Ordinary maternity leave (OML)

Regardless of the length of service or hours of work, Teachers are entitled to take up to 26 weeks' ordinary maternity leave (OML). Teachers have the right to choose when to start their maternity leave any time after the beginning of the 11th week before the EWC. The exceptions are:

- If the baby is born before maternity leave commences, maternity leave will start on the day following the date of childbirth;
- If the teacher is absent from work "wholly or partly because of pregnancy or childbirth" after the beginning of the 4th week before the EWC, maternity leave will start automatically on the day following the first day of such absence.

5.3 Additional maternity leave (AML)

In addition to ordinary maternity leave all Teachers have the right to take up to 26 weeks' additional maternity leave, beginning on the day immediately following the day on which ordinary maternity leave ends.

A total of up to 52 weeks maternity leave is available to all Teachers. Please refer to [Paragraph 7](#) for details of pay during maternity leave.

5.4 Miscarriage

If a pregnancy sadly ends in a miscarriage *after* the 24th week of pregnancy, the teacher will be entitled to maternity leave under the terms of this policy. If a pregnancy sadly ends in a miscarriage *before* the 24th week of pregnancy, the teacher will not be entitled to maternity leave, paternity leave or shared parental leave. If the teacher is not well enough to work due to the miscarriage, (which occurs outside the period of absence for maternity) they are entitled to take sick leave. Sick leave for a miscarriage shall be subject to the conditions normally governing absence due to sickness in accordance with the Trusts' Absence Policy and Procedure subject always to the Trust ensuring compliance with the Equality Act 2010. Sick pay (including statutory sick pay) will be paid in the same way as for any other employee.

5.5 Still Birth

If a pregnancy sadly ends in stillbirth *after* the end of the 24th week of pregnancy, the teacher remains entitled to maternity leave in accordance with the terms of this policy and any maternity pay that they qualify for, commencing from the day after the stillbirth. The teacher may also qualify for parental bereavement leave/pay. Please refer to Trust's Leave of Absence Policy.

If the pregnancy sadly ends in stillbirth *before* the 24th week of pregnancy, the teacher shall not be entitled to take maternity leave, paternity leave or shared parental leave.

5.6 Neonatal Death

If a baby sadly dies within the first 28 days of life this is considered to be a neonatal death. If a teacher's baby was born alive, at any time during the pregnancy, but did not survive, the teacher is entitled to maternity leave, and any maternity pay that they qualify for. The teacher may also qualify for parental bereavement leave/pay. Please refer to Trust's Leave of Absence Policy.

5.7 Contact during maternity leave

The Academy Lead/Line Manager will ensure that arrangements are made for keeping in touch with the teacher during their leave. The amount of contact will be dependent upon the

wishes of the teacher; however, the trust reserves the right in any event to maintain reasonable contact with the teacher from time to time during maternity leave. Reasonable contact may be to:

- ✓ discuss the teacher's plans to return to work;
- ✓ discuss any special arrangements to be made, or training to be given, to ease a teacher's return to work; and/or
- ✓ update the teacher on developments at work during their absence.

5.8 Keeping-in-touch (KIT) days

Except during the first two weeks after childbirth, a teacher can agree to work, or to attend training, for up to ten days during either ordinary maternity leave or additional maternity leave without bringing the period of maternity leave to an end and without loss of a week's OMP, SMP or MA. These are known as 'keeping-in-touch' (KIT) days. Any work carried out on a day constitutes a day's work for these purposes. Working for part of a day will count as one day. A teacher will be paid for any work undertaken and this will usually be at their normal daily rate of pay.

The trust cannot require a teacher to carry out any work, and the teacher has no right to undertake any work during their maternity leave. Any work undertaken is entirely a matter for mutual agreement between the trust and teacher. Any KIT days worked do not extend the period of maternity leave. Once the KIT days have been used up the teacher will lose a week's SMP for any week in which they agree to work for the school.

6. Surrogacy Arrangements

- 6.1 If a teacher becomes pregnant as part of a surrogacy agreement they will be managed under this policy.
- 6.2 Every pregnant teacher has the right to 52 weeks' maternity leave and to return to their job after this.
- 6.3 Being a surrogate does not affect a teachers' right to maternity leave, even after the child is born. However, a surrogate's partner is not eligible for paternity or parental leave.
- 6.4 The teacher must take at least two weeks of maternity leave (compulsory maternity leave) after the birth.
- 6.5 If a teacher is the intended parent and primary carer of a child born through a surrogacy arrangement, eligibility to leave will be the same as adoption leave. Please refer to the adoption leave policy for further guidance.

7. Maternity Pay

Maternity pay may be made up of the following elements subject to entitlement. Please also refer to [Appendix 2](#) (flow chart).

7.1 Statutory Maternity Pay (SMP)

SMP is a statutory entitlement for teachers whose average weekly earnings are not less than the lower earnings limit for National Insurance Contributions *and* who have completed 26 weeks' continuous service with their employer by the end of the 15th week before the EWC.

Teachers who have less than one year's continuous service as a teacher with one or more Local Authorities at the beginning of the 11th week before the EWC shall be entitled to SMP only.

SMP is treated as income and is therefore subject to deductions for Income Tax, National Insurance and pensions (where applicable). Payment of SMP is **not** conditional on the teacher returning to work.

Teachers are not entitled to SMP if either of the following apply during the period in which they are being paid SMP:

- ✓ they start working after the birth of the baby for another employer;
- ✓ they are taken into legal custody. (They will however, be able to claim MA).

It is the teacher's responsibility to notify the trust if either of the above events occur in the period in which they are being paid SMP. Any overpayment of SMP will be reclaimed by the trust.

SMP is paid by the trust and if eligible, forms part of a teacher's OMP (see paragraph 7.3 below).

7.2 Maternity Allowance (MA)

Teachers who do not meet the eligibility criteria for SMP may be entitled to Maternity Allowance (MA) paid directly by the Department for Work and Pensions (DWP). The trust's payroll provider will issue the teacher with a form SMP1 and advise that they apply to the DWP for MA.

7.3 Occupational Maternity Pay (OMP)

OMP is paid to teachers who have completed at least one year's continuous service by the 11th week before the EWC.

Occupational maternity pay is paid as follows:

- a) First four weeks' absence: full pay, offset against any payment made by the way of SMP or MA;
- b) Next two weeks' absence: 9/10ths of a week's pay, offset against any payments made by way of SMP or MA;
- c) Next 12 weeks' absence: half pay without deductions for SMP or MA except by the extent to which combined OMP pay and SMP or MA exceeds full pay;
- d) Next 21 weeks' absence: SMP or MA entitlement only;
- e) Any remaining period of absence will be without pay.

For the purpose of this scheme, a week's pay is treated as the amount payable to the teacher under the teacher's 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 will be treated as a week's salary. Any pay increases a teacher receives or would have received had they not been on maternity leave must be taken into account in the calculation of maternity related pay.

OMP is subject to a teacher returning to work for a period of 13 weeks following maternity leave (including periods of school closures). This is a qualifying condition and if the teacher does not return to work for the required period, they are required to refund the OMP

paid to them by the trust. SMP or MA is not refundable, even if the teacher does not return to work.

If the teacher is unsure whether they will be returning to work following maternity leave, they can request that the trust's payroll provider withhold the refundable OMP element of maternity pay. If the teacher subsequently returns to work for the qualifying period, they will receive the OMP due to them.

This requirement may be reduced at the absolute discretion of the trust.

In the event of a teacher not being available, or being unable to return to work for the required period, the teacher shall refund such sum after the first 6 weeks' payment at the CFO's discretion.

Payments of SMP and MA are not refundable, even if a teacher does not return to work.

If the teacher is unsure whether they will be returning to work following maternity leave, they can request that the trust's payroll provider withhold the refundable OMP element of their maternity pay. If the teacher subsequently returns to work for the qualifying period, they will then receive the OMP due to them.

Where the trust agrees, a full-time teacher may return to work on a part-time basis for a period which equates to 13 weeks' full-time service. Similarly, where the trust 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 actually returns to work or the date during the school holiday on which the teacher has notified the trust in writing that they are available to work, provided they actually returns to duty on the first day after the period of closure.

7.4 Pensions

If a teacher is receiving contractual or statutory pay, they will continue to accrue pension benefits. If they are not receiving any pay, they will become a deferred member of the Scheme. For more information, please contact <http://www.teacherspensions.co.uk>

7.5 Salary Sacrifice

Teachers who have sacrificed salary in return for benefits (e.g., childcare vouchers) may wish to review the arrangements in advance of their maternity leave. Advice should be sought from the trust's payroll provider or the benefit provider at the earliest opportunity.

8. Returning to Work

8.1 Returning after Ordinary Maternity Leave (OML)

After ordinary maternity leave, the teacher is entitled to return to the job in which they were employed under her original contract of employment and on terms and conditions not less favourable than those which would have applied to the teacher had they not been absent. "Job" for this purpose means the nature of the work which the teacher is employed to do and the capacity and place in which they are so employed.

If a teacher fails to return to work on the expected date after OML due to illness, the provisions of the trust's sick pay scheme and attendance management policy will apply to such absence. Please [see 9.1](#).

8.2 Returning after Additional Maternity Leave (AML)

After additional maternity leave, a teacher is entitled to return to either the job that they were in prior to maternity, or a suitable alternative job, if their original job is no longer available, on terms and conditions no less favourable than those which would have been applicable to them had they not been absent. ('Job', for this purpose, means the nature of the work which they are employed to do and the capacity and place in which she is so employed.).

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

If a teacher fails to return to work on the expected date after AML due to sickness, the provisions of the school's sick pay scheme and attendance management policy will apply to such absence (see [paragraph 9.1](#) below)

8.3 Notice Requirements

Before a teacher begins their maternity leave, the trust should notify the teacher of the date of their expected return to work (i.e., the end of their 52-week maternity leave period). The teacher is not required to give the school any further notice about their return to work if their intention is to return to work on this date.

If the teacher wishes to return *before* the end of their 52 weeks' maternity leave, they **must** notify the academy/trust in writing, **at least 21 days** before the day on which they propose to return. Where this notice is not given, the academy/trust **may** postpone the teacher's return for up to 21 days, or until the end of their maternity leave if this is sooner.

If a teacher does not return to work following their maternity leave on the specified date, their absence may be recorded as unauthorised except where they are unable to return due to sickness (please refer to [paragraph 9.1](#) below).

If a teacher does not wish to take maternity leave and instead intends to leave their employment, they may notify the school, in writing, that they wish to terminate their employment. This notification shall be given at least 21 days before such termination, or as soon as is reasonably practicable, to take effect within the period 11 weeks prior to the EWC.

8.4 Flexible Working

Teachers have the right to request a variation to their contract so that they can work more flexibly and thereby balance their childcare responsibilities with work commitments.

There is no automatic right for teachers to return to work following maternity leave on an adjusted working pattern, or on reduced hours, however careful consideration will be given to a teacher's request for a change to their terms and conditions of employment on receipt of a formal request made in accordance with the terms of the trust's Flexible Working Policy.

8.5 Continuous Service

Maternity leave is regarded as continuous service and does not constitute a break in service even when unpaid. Any period of unpaid leave however does not count towards pensionable service in the assessment of a teacher's retirement benefits.

During the time that a teacher is receiving maternity pay, National Insurance, Income Tax and pension contributions (where applicable) will be deducted from the gross pay.

9. Absences

9.1 Sickness

Maternity leave is not taken into account for the calculation of the period of entitlement to sick leave.

If a teacher is absent due to sickness or illness whilst pregnant, they should report this to their specific academy/line manager in the usual way. Such absences will be managed through the trust's Attendance Management policy.

If a teacher is absent through illness whilst pregnant and the illness is attributable to the pregnancy, including absence on account of miscarriage, and this occurs outside the period of absence for maternity, it will be treated as ordinary sickness and will be managed through the trust's Attendance Management Policy and the provisions governing such provided it is covered by a doctor's statement (e.g., Fit note). The trust will ensure compliance with the Equality Act 2010.

If a teacher is absent wholly or partly because of a pregnancy related illness, on or after the start of the 4th week before the EWC, their maternity leave will start automatically on the day following the first day of such absence.

If the teacher is unable to return to work on the expected date due to illness, they should report this to the specific academy/line manager in the usual way. Full entitlement to SMP has to be paid before Statutory Sick pay (SSP) can start. Absences will then be managed through the trust's Attendance Management policy and procedure.

9.2 Other absences

If, in the early months of pregnancy, a teacher is advised by an approved medical practitioner to absent themselves from work because of the risk of rubella (or other potentially serious viruses or infections) they will be granted leave with full pay. This is provided (in appropriate circumstances) that the teacher does not unreasonably refuse to serve in another academy where there is no such undue risk.

9.3 Fertility Treatment

There is no statutory right to time off to undertake fertility investigations or treatment e.g. in-vitro fertilisation (IVF). This should be requested through the normal processes detailed in the school's Leave of Absence policy for medical appointments.

When embryo transfer occurs, it is advisable that the teacher notify the trust that they have had an embryo transfer and may become pregnant. Once an embryo attaches itself inside a teacher's body they are legally regarded as pregnant and the provisions of this policy will apply. In these circumstances the teacher must inform the trust in writing of confirmation of their pregnancy as detailed in [section 3.1](#) of this policy.

9.4 Statutory Annual Leave

Teachers are entitled to 5.6 weeks (28 days) statutory annual leave under the Working Time Regulations and they must be allowed to take this leave outside of their maternity leave. Teachers will accrue statutory annual leave during their maternity absence. Any entitlement to statutory leave will however be offset against periods of school closure. The annual leave

year for teachers runs from 1st September to 31st August. In most cases, therefore, periods of school closure before and after the maternity leave period will more than equal the 28 day annual leave entitlement.

If the return from maternity leave is close to the end of the leave year and there is insufficient time to offset any remaining statutory leave this may be carried forward and offset against school closures in the following school year.

10. Redundancy Protected Period

10.1 Pregnancy and maternity leave

The redundancy protected period during pregnancy and maternity starts when and teacher tells their employer that they are pregnant and ends 18 months from the exact date the baby is born.

If a teacher does not tell their employer the exact date, the protected period ends 18 months from the expected week of childbirth.

10.2 Stillbirth or miscarriage

The redundancy protected period starts when a teacher tells their employer that they are pregnant.

If a teacher has a miscarriage within the first 24 weeks of pregnancy, the redundancy protected period ends 2 weeks from the end of the pregnancy.

If a child is stillborn after 24 weeks of pregnancy, the redundancy protected period ends 18 months from the date of the birth.

10.3 Suitable alternative employment

In terms of a redundancy situation, if there are any suitable alternative vacancies an employer must offer them to teachers who have this redundancy protection, as they have priority over other teachers.

If there are not enough suitable vacancies for everyone who has this redundancy protection, the employer will have to decide who is most suitable for the role(s) they have. This may include considering a teacher: -

- Skills
- Job knowledge
- Experience

Further advice

The Academy Lead (or nominee) should seek advice from the HR & People Manager if they have any queries about the content or implementation of this policy.

Notifications of entitlement to pay and leave may be undertaken on behalf of the trust by the trust's payroll provider. The trust will ensure that all relevant documentation is provided in a timely manner to the payroll provider.

Relevant Associated Policies

- Attendance Management Policy
- Leave of Absence Policy
- Flexible Working Policy
- Shared Parental Leave Policy
- Redundancy policy
- Adoption leave policy

Appendix 1

Notification of Pregnancy

Employee Name	
Employment Start Date	
Job Title	
Expected date of Childbirth (confirmed by a medical practitioner in writing i.e. MATB1)	
Expected Week of Childbirth (EWC) (Sunday before the expected date of childbirth)	
MATB1 form Attached to this Notification? If not, when will this be supplied?	YES / NO Date MATB1 to be issued:
Requested maternity leave start date	
Do you intend to take the full 52 weeks maternity leave	YES / NO
If the answer is NO to the above, your requested maternity leave end date	
Any other information that the school may need to know regarding your pregnancy	

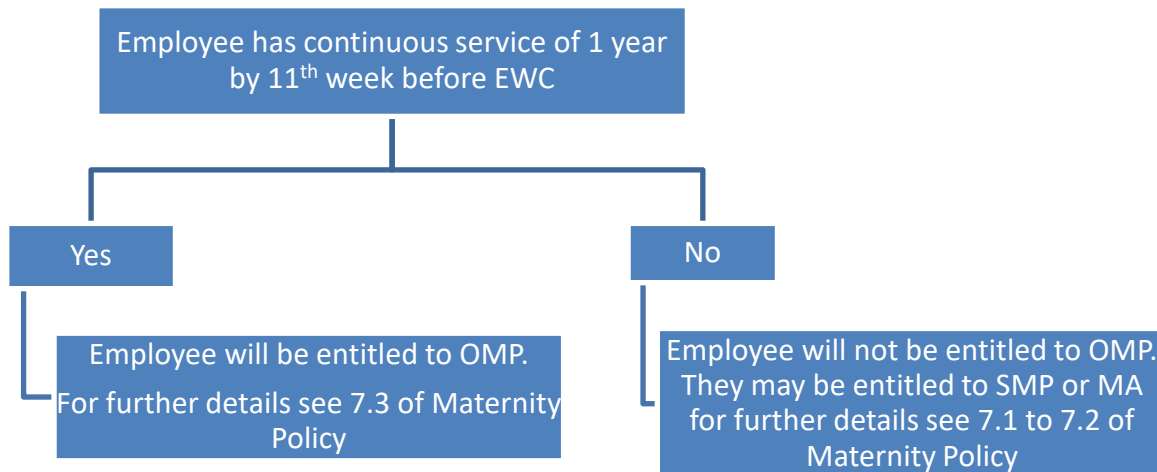
Date:

Signed:

Appendix 2

Occupational Maternity Pay (OMP) Entitlements

Is the employee entitled to OMP?



Does the employee need to pay back OMP following Maternity Leave?

