



# **Maternity Leave Policy and Procedures**

**January 2017**

**(Maternity Pay updated August 2019 – Board ratification in October 2019)**

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Registered Office: King's Leadership Academy, Hillock Lane, Woolston, Warrington WA1 4PF  
Telephone: 01925 817939. [www.greatschoolstrust.org](http://www.greatschoolstrust.org)



## **Maternity Leave Policy and Procedures**

### **Purpose**

This policy sets out the Occupational Maternity Leave Scheme provided by the Trust to its staff and explains the statutory rights to Maternity leave and pay.

### **Aims**

The aims of this policy are:

- To support staff to balance work and family life
- To maintain contact with staff and assist them in their return to work
- To retain staff and thereby encourage equality and diversity within the workplace

### **Eligibility for leave**

All employees are statutorily entitled to Ordinary Maternity Leave (OML) for 26 weeks and Additional Maternity Leave (AML) for 26 weeks. 52 weeks in total, regardless of length of service.

From 3 April 2011 members of staff have been able to share the maternity leave with the father/partner. Up to 26 weeks may be taken as Additional Paternity Leave instead of Maternity Leave if the mother chooses to return to work and transfer her entitlement. The earliest that Additional Paternity Leave can commence is 20 weeks after the birth of the child. Full details and eligibility criteria are contained in the Paternity Leave Policy.

### **Eligibility for pay**

To qualify for paid leave a member of staff must have:

- Completed at least 26 weeks of continuous service with the Trust by the Qualifying Week (i.e. the 15th week before the expected week of confinement (EWC),

The EWC is the week, beginning at midnight between Saturday and Sunday, in which it is expected that the child will be born. The week in which the child is actually born is, of course, the Week of Childbirth.

### **Statutory Maternity Pay (SMP)**

SMP is a State benefit for women on maternity leave, the conditions for which and the amount of which are determined by the Government but it is paid by the employer:

- The first 6 weeks of Ordinary Maternity Leave are paid at 90% of the employee's average earnings
- Thereafter, employees receive the Standard Rate (£148.68 from April 2019), or 90% of average earnings if this is less, for 33 weeks.

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Average earnings are calculated based on earnings over a statutorily defined period prior to Maternity Leave. SMP may start on any day of the week.

All eligible staff will receive SMP whether or not they intend to return to work after Maternity Leave. To qualify she must have:

- Completed at least 26 weeks of continuous service with the Trust by the Qualifying Week,
- Average earnings above the lower earnings limit for National Insurance contributions, and
- Have followed the application procedures set out below in section 13.

A member of staff who does not meet the above criteria for SMP should contact her local social security/Jobcentre Plus office to enquire about eligibility for Maternity Allowance (MA). Unlike SMP it is not paid by the employer, instead payment is made by the social security/Jobcentre Plus office.

### **Occupational Maternity Pay (OMP)**

OMP is also paid for a continuous period of up to 39 weeks as follows:

- Full pay for the first 4 weeks during the period of Ordinary Maternity Leave, which will include any payments of SMP/ MA. Or SMP/MA alone where this is greater.
- Weeks 5 – 6 are paid at 90 per cent of salary, which will include any payments of SMP/MA.
- Weeks 7-18 are paid at 50% of salary plus the standard SMP rate (£148.68 from 1<sup>st</sup> April 2019).
- The remaining 21 weeks are paid at the standard SMP rate.

To qualify she must have:

- Completed at least 1 year and 11 weeks of continuous service with one or more local authorities by the Qualifying Week, and
- Have followed the application procedures set out below in section 13 informing the Trust, through her home academy, in writing that she intends to return to work at the end of the period of maternity leave for at least 12 weeks (excluding sickness absence and extended unpaid leave).

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### **Pension scheme membership during Maternity Leave**

During any period of OML on full pay, pension contributions will continue as usual.

During any period when the employee is receiving SMP only:

- a. Employee pension contributions are based on SMP. However, the Trust will make up the balance of employee contributions due on the difference between pre-maternity leave salary and SMP, plus employer contributions based on the pre maternity leave salary.

During any period of unpaid maternity leave pension contributions will not be made by the employee or the Trust and pensionable service will not be earned for this period. An employee may choose to make this period pensionable on her return to work. Any contributions will be based on the salary that would have been earned during this period; if the employee pays contributions for this period, the Trust will also pay its contributions to her pension scheme.

### **Commencement of Maternity Leave**

A member of staff may choose when to start her Maternity Leave, subject to the following constraints:

- a. The Maternity Leave period cannot start before the 11th week before the EWC
- b. The latest date Maternity Leave can start is the date of childbirth.
- c. The Maternity Leave period will be automatically triggered if the member of staff is absent from work wholly or partly because of pregnancy after the beginning of the 4th week before the EWC
- d. The Maternity Leave period will be automatically triggered if the baby is born early, in which case maternity leave will start the day after the day on which the baby is born

Staff will not be unreasonably requested by the Trust to undertake work that would have taken place during the maternity leave period prior to departing on maternity leave. This will not however prevent staff from assisting in the planning of coverage of their work in advance of the maternity leave period.

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## **Return to Work**

No-one is allowed to return to work during the first two weeks from the date of childbirth. This is classed as a period of Compulsory Maternity Leave.

A member of staff who intends to return to work at the end of full Maternity Leave (i.e. 52 weeks), will not have to give any further notification of her return to work. However, if she intends to return to work before the end of her Maternity Leave she must provide 8 weeks' notice, in writing, of her intended date of return to her line manager and to the Principal of her home academy.

A member of staff who is only taking the Ordinary Maternity Leave is entitled to return to the same job she was in before she went on leave, on terms and conditions that are no less favourable than those that would have applied had she not been absent.

A member of staff who has stated her intention to return to work after Additional Maternity Leave will normally be re-employed in her previous post, but if there are exceptional reasons why this is not possible she will be employed on similar work and on terms and conditions no less favourable than if she had not been absent.

A member of staff who fails to return to work after Maternity Leave will be treated as being on unauthorised absence, and the Trust will be entitled to take appropriate disciplinary action, which may include dismissal. The Trust will, in such circumstances, reclaim any payment made in excess of SMP.

If a member of staff leaves within 12 weeks of her return to work after Maternity Leave the Trust has the right to recover any payment made in excess of SMP. This shall not apply to staff on fixed term contracts whose date of contract expiry means that they cannot meet the requirement to return for 12 weeks.

## **Health and Safety**

The Academy in which a pregnant member of staff works is responsible for risk assessments in relation to her work and environment. Any health and safety concerns should be raised immediately within the Academy. Occupational Health may be consulted for confidential advice and guidance.

A member of staff who is pregnant, has recently given birth or is breast-feeding, and is unable to continue in her post on designated health and safety grounds, will be offered alternative work or, where none is available, will be suspended from work on full pay until such time as she is able to resume her duties.

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### **Ante-Natal Care**

Once a pregnancy has been confirmed a member of staff who has made an appointment to receive ante-natal care on the advice of a registered medical practitioner, registered midwife or registered health worker, will be entitled to take time off with pay to keep the appointment, provided she produces the documentation giving details of the appointment. This is irrespective of length of service or hours worked.

### **Annual Leave during Maternity Leave**

During the period of Ordinary and Additional Maternity Leave a member of staff will continue to accrue annual leave, including bank holidays and closure days, in the normal way.

Staff may take their annual leave at the beginning and/or end of Maternity Leave.

Annual leave accrued prior to the start of the Maternity Leave period must be taken within the current leave year.

Annual leave accrued during the Maternity Leave period should be taken during the current leave year wherever possible. Staff will normally only be allowed to carry over any accrued annual leave into the next leave year if it has not been possible to take it.

Staff transferring to part-time work on their return, must take their outstanding full-time annual leave allowance prior to returning.

### **Other Conditions**

Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to salary, throughout the 52 week period of Ordinary and Additional Maternity Leave. This includes benefits in kind.

Maternity leave is not treated as absence due to illness.

Periods of Maternity Leave are counted as periods of continuous employment.

There is no distinction between live and still births in the granting of maternity benefits if the pregnancy has lasted at least 24 weeks.

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## **Keeping in Touch during Maternity Leave**

During maternity leave, the Trust may offer members of staff the option to work for up to 10 KIT days without bringing Maternity Leave to an end or losing Statutory or Occupational Maternity Pay or Maternity Allowance. This is to enable staff to keep in touch and keep up to date with developments at work, and may include working, attending training or meetings.

Any work during maternity leave must be by agreement, on agreed dates and neither the Trust nor staff can insist on it. Staff can work during Ordinary or Additional Maternity Leave but not during the two weeks of Compulsory Maternity Leave immediately after the birth. Working for any part of a day will count as one of the 10 KIT days available. KIT days will not extend the Maternity Leave period.

The Trust will pay staff at their normal hourly basic rate of pay (inclusive of Statutory and/or Occupational Maternity Pay) for the number of hours which the member of staff works on a KIT day.

In addition, during Maternity Leave, the Trust may also make reasonable contact with members of staff, for example, to discuss return to work arrangements or to communicate important information, such as news of changes at the workplace that might affect the employee on her return.

The Trust will ensure that members of staff are kept informed of promotion opportunities relevant to their job and any important changes in the workplace which may directly affect them on their return to work.

## **How to apply**

A member of staff should consult at the earliest opportunity with her line manager/ Principal regarding her pregnancy and her expected Maternity Leave, to take account of any risks to herself and her unborn child in the workplace and to enable planning for her absence to begin as soon as possible.

Form ML02 'Notification of intention to take Maternity Leave' must be completed and sent to the academy principal as soon as possible, but no later than the end of the Qualifying Week (i.e. 15th week before the EWC). A copy should also be sent to the Bursar.

The member of staff must also forward her original MAT B1 form to the Bursar, as soon as it is provided by her GP.

A member of the Administration Team will then confirm in writing, within 10 working days, the terms of the Maternity Leave and the date on which the employee is expected to return to work.

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## Form ML02 - Notice of Intention to take Maternity Leave

Please refer to the Maternity Leave Policy before completing this form

<b>Your details</b>	
Surname:	
First Name(s):	
Post title:	
Home Academy	
Employee Number (on payslip)	
<b>Dates for Pay and Leave</b>	
Expected Date of Childbirth:	
Do you intend to return to work after Maternity Leave?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undecided
Date intend to start Maternity Leave:	
Date intend to return to work:	
Dates of Annual Leave to be taken before or after Maternity Leave, but within the leave year. (Non-teaching staff only)	
<b>Declaration</b>	
Form MATB1 (provided by GP) attached:	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>I have read the Maternity Leave Policy and Procedures and accept the terms contained within them. In particular I agree that if I do not return to work for at least 12 weeks after my maternity leave, I will repay to the Trust any maternity pay that I have received (other than statutory maternity pay). I agree that the Trust may deduct any unpaid amount from any outstanding payments (including salary and holiday pay) due from the Trust to me.</p>	
Signed:	
Date:	

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### Form ML03 - Keeping in Touch Days

During Maternity Leave it is beneficial to maintain contact with the Trust as this eases your return to work. Please discuss, agree and record below the extent and nature of contact preferred (refer to the Maternity Policy for guidance)

Your Personal Details	
Employee Name:	
Employee Number: (on payslip)	
Post title:	
Home Academy	
Name of Principal	

Arrangements	
Keeping in touch Days:-	
Dates:	
Purpose	

Declaration	
Signed (Employee)	Signed (Manager)
Date	Date

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## **Form ML04 - Return to Work Interview Checklist for Maternity and Additional Paternity Leave**

Following a period of maternity or additional paternity leave it is important to ensure that the employee is supported back into work. They may feel they have lost touch with work and may find it difficult to adjust. The purpose of such an interview is to help them to settle back into their role as smoothly and quickly as possible. Please discuss the following issues. Agree and note down any further steps which should be taken.

How long have you been away from work?

Did you undertake any keeping in touch days? How beneficial were they?

Do you have any childcare issues causing you concern? Are you aware of the support available through the Trust? (childcare vouchers/ nursery fees salary sacrifice/ on site nurseries)

Have you had any health problems whilst away? Is there any condition which is still causing concern?

Do you need to be referred to Occupational Health, Counselling or Disability Support Office?

Are any adjustments in the workplace required? (e.g. for breast feeding)

Are you aware of the Peer Support Group organised through STDU? Discuss and clarify work pattern if returning to different hours Update on any changes which have occurred in the workplace during their absence (for example – introduce them to any new staff; explain any changes in structure, procedures, etc) Update on their role, any work that has been undertaken in their absence and what current work is required. Is any training required to bring you up to speed?

**Employee name**

**Manager name**

**Employee number (on payslip) Manager signature**

**Employee signature**

**Date completed**

Please send a scanned copy of the completed form to the Central Finance Unit for employee records.



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