



EVERYONE MATTERS  
SCHOOLS TRUST

# Maternity Leave Policy and Procedures

## Everyone Matters Schools Trust Central Policy



<b>Policy Owner</b>	Principal and Trustees
<b>Scope of the Policy</b>	This policy applies to all of the school community
<b>Last reviewed by trustees</b>	<b>May 2023</b>
<b>Next review due</b>	<b>May 2025</b>
<b>Summary of key changes</b>	No changes
<b>Committee Responsible</b>	

## **1. SCOPE OF POLICY AND PROCEDURE**

- 1.1 This Policy and Procedure applies to all employees of Everyone Matters Schools Trust.
- 1.2 The purpose of this policy is to inform employees of their statutory and contractual rights in relation to maternity leave and pay. The policy also provides relevant information relating to other issues which may arise in connection with maternity leave.

## **2. RIGHTS OF PREGNANT EMPLOYEES PRIOR TO COMMENCING MATERNITY LEAVE**

### **2.1 Antenatal Care and Time Off for Appointments**

Legal provisions have existed for a number of years which provide a pregnant employee with the right to take paid time off work for antenatal care. In addition, since 1 October 2014 legislation has provided that an expectant father or the partner (including same sex) of a pregnant woman will be entitled to take unpaid time off work to accompany the woman to up to 2 of her antenatal appointments. 'Partner' includes the spouse or civil partner of the pregnant woman and a person (of either sex) in a long-term relationship with her.

Further details regarding these rights are provided below.

#### **2.1.1 Mother**

A pregnant employee has the right to take paid time off work for antenatal care. The legal right to paid time off work for antenatal care is contained in ss.55 to 57 of the Employment Rights Act 1996. The right applies only to employees and not to workers who do not have a contract of employment with the employer.

Once an employee has advised her line manager that she is pregnant, she will be entitled not to be unreasonably refused paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

To be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations.

The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

### 2.1.2 Prospective Father or Mother's Partner

An employee who wishes to accompany the expectant mother to her ante natal appointments is entitled to unpaid leave for 1 or 2 appointments. The amount of time off work is capped at 6.5 hours' for each of the ante natal appointments.

This right applies to all employees, irrespective of length of continuous service of employment.

Employees will also retain the right to request annual leave to attend any additional ante natal appointments, over and above the legal maximum of 2 unpaid appointments. Annual leave requests should be made in accordance with normal approval procedures.

Where an employee does not have an annual leave entitlement to utilise, for example in the case of Teachers, or where an employee is employed on a term time only basis, special leave and leave of absence provisions will apply. Please see the Director of Business and Finance for further details.

## 2.2 Health and Safety Risk Assessments

The Trust has a 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 recently given birth or are breastfeeding where the work is of a kind that could involve a risk of harm or danger to her health and safety or the health and safety of her baby and the risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace.

If applicable, the Trust will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out her normal job duties, the Trust will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible for the Trust to alter the employee's working conditions to remove the risks to her health and there is no suitable alternative work available to offer her on a temporary basis, the Trust may suspend her from work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

## 2.3 Sickness Absence During Pregnancy

If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify her line manager and the Director of Business and Finance in writing of this as soon as reasonably practicable

## 3. ENTITLEMENTS TO MATERNITY LEAVE AND PAY

### 3.1 Maternity Leave

All pregnant employees (regardless of length of service) have the right in law to take up to 26 weeks' ordinary maternity leave and up to a further 26 weeks' additional maternity leave and to resume work afterwards. The employee is therefore entitled to a total period of 52 weeks' maternity leave. Additional maternity leave follows on immediately from the end of the period of ordinary maternity leave.

All employees who take maternity leave have the right to return to work at any time during either ordinary maternity leave or additional maternity leave (except during the first two weeks from the day of childbirth, when a period of compulsory maternity leave applies), subject to their following the correct notification procedures as set out below.

Ordinary maternity leave can start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If the employee gives birth before her maternity leave was due to start, she must notify the Director of Business and Finance in writing of the date of the birth as soon as reasonably practicable.

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child, as outlined above.

## 3.2 Maternity Pay

In order for an employee to qualify for Statutory Maternity Pay (SMP), certain eligibility criteria must be satisfied. In addition to Statutory Maternity Pay, an employee may also qualify for Occupational Maternity Pay (OMP).

Entitlement to Occupational Maternity Pay will be dependent on an employee's individual length of continuous local government service, whilst the amount of Occupational Maternity

Pay will be determined by reference to the employee's terms and conditions of employment.

Further details regarding Statutory and Occupational Maternity Pay can be found in sections 3.2.1 and 3.2.2 below.

### 3.2.1 Legal Position

Employees who have been continuously employed by the Trust for at least 26 weeks at the end of their qualifying week and are still employed during that week, will qualify for Statutory Maternity Pay, providing that:

- they are still pregnant 11 weeks before the start of the expected week of childbirth (or have already given birth);
- they have provided a MAT B1 form stating their expected week of childbirth; and
- their average weekly earnings are not less than the lower earnings limit for national insurance contributions. The lower earnings limit is set by the Government at the start of each tax year.

'Qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth.

Statutory Maternity Pay is payable for up to 39 weeks, with the first six weeks payable at 90% of the employee's average weekly earnings. The remaining 33 weeks is payable at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate. SMP is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Payment of Statutory Maternity Pay cannot start prior to the 11<sup>th</sup> week before the employee's expected week of childbirth. It can start from any day of the week in accordance with the date the employee commences her maternity leave.

Statutory Maternity Pay is payable whether or not the employee intends to return to work after her maternity leave.

Employees who are not entitled to receive Statutory Maternity Pay from the Trust may be entitled to receive Maternity Allowance payable directly by the Government. If an employee is not entitled to Statutory Maternity Pay, the Director of Business and

Finance will provide the employee with an SMP1 form to allow her to pursue a claim for Maternity Allowance with the Department for Work and Pensions (DWP).

### 3.2.2 Contractual Position

#### **All Employees Other Than Those Employed as a Teacher**

- **Less Than A Year's Service**

Employees who have less than a year's local government service at the 11<sup>th</sup> week before the expected date of childbirth will not qualify for Occupational Maternity Pay.

In these circumstances, an employee may still be entitled to Statutory Maternity Pay provided that the employee (i) will have been continuously employed by the Trust for

at least 26 weeks at the end of the 15<sup>th</sup> week before the expected week of childbirth (and remains employed during that week), and (ii) that the employee's average weekly earnings are not less than the Lower Earnings Limit (LEL) for national insurance contributions.

Further advice regarding whether an employee qualifies for SMP can be obtained from the Director of Business and Finance.

- **More Than A Year's Service**

Employees who have more than a year's local government service at the 11<sup>th</sup> week before the expected date of childbirth will qualify for Occupational Maternity Pay. There are two options available in respect of Occupational Maternity Pay:

#### **Option A**

Option A provides an employee with 18 weeks' Occupational Maternity Pay as well as any Statutory Maternity Pay to which the employee may also be entitled.

- 6 weeks at 9/10ths of average weekly earnings, followed by
- 12 weeks at half pay plus Statutory Maternity Pay (if eligible), followed by
- 21 weeks of Statutory Maternity Pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

Where an employee is entitled to receive both Statutory and Occupational Maternity Pay, the total amount of maternity pay payable to an employee will not exceed the Occupational Maternity Pay element. Further advice regarding this is available from the Director of Business and Finance.

If an employee chooses Option A, the employee will be required to return to her post at the end of the maternity leave period for a minimum of 13 weeks.

Where an employee receives the half pay element of Occupational Maternity Pay, and subsequently fails to return to work for the required period of 13 weeks, the employee will be required to repay the half pay element to the Trust.

### **Option B**

Option B provides an employee with the following maternity pay:

- 6 weeks at 9/10ths of average weekly earnings, followed by
- 33 weeks of Statutory Maternity Pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

If an employee chooses Option B, there is no requirement for the employee to return to her post at the end of the maternity leave period. An employee may wish to choose this option if her intention to return to work following maternity leave is unknown at the commencement of the maternity leave.

Where an employee chooses Option B, and subsequently returns to work following the period of maternity leave, the employee will be entitled to receive 12 weeks' half pay as if she had chosen Option A. In these circumstances the employee would need to remain in her post for a minimum of 13 weeks to retain the right to the half pay element.

### **Teachers Employed in Accordance With The Conditions of Service for School Teachers in England and Wales**

- **Less Than A Year's Service**

Employees who have less than a year's local government service at the 11<sup>th</sup> week before the expected date of childbirth will not qualify for Occupational Maternity Pay.

In these circumstances, an employee may still be entitled to Statutory Maternity Pay provided that the employee (i) will have been continuously employed by the Trust for at least 26 weeks at the end of the 15<sup>th</sup> week before the expected week of childbirth (and remains employed during that week), and (ii) that the employee's average weekly earnings are not less than the Lower Earnings Limit for national insurance contributions.

Further advice regarding whether an employee qualifies for SMP can be obtained from the Director of Business and Finance.

- **More Than A Year's Service**

Employees who have more than a year's local government service at the 11<sup>th</sup> week before the expected date of childbirth will qualify for Occupational Maternity Pay. There are two options available in respect of Occupational Maternity Pay:

## **Option A**

Option A provides an employee with 18 weeks' Occupational Maternity Pay as well as any Statutory Maternity Pay to which the employee may also be entitled.

- 4 weeks at full pay, followed by
- 2 weeks at 9/10ths of average weekly earnings, followed by
- 12 weeks at half pay plus Statutory Maternity Pay (if eligible), followed by
- 21 weeks of Statutory Maternity Pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

Where an employee is entitled to receive both Statutory and Occupational Maternity Pay, the total amount of maternity pay payable to an employee will not exceed the Occupational Maternity Pay element. Further advice regarding this is available from the Director of Business and Finance.

If an employee chooses Option A, the employee will be required to return to her post at the end of the maternity leave period for a minimum of 13 weeks.

In accordance with School Teachers' Conditions of Service, where the employer agrees, a full-time teacher may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where the employer 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.

Where an employee receives the half pay element of Occupational Maternity Pay, and subsequently fails to return to work for the required period of time, the employee will be required to repay the half pay element to the Trust.

## **Option B**

Option B provides an employee with the following maternity pay:

- 4 weeks at full pay, followed by
- 2 weeks at 9/10ths of average weekly earnings, followed by
- 33 weeks of statutory maternity pay (if eligible), followed by
- up to 13 weeks of unpaid leave.

If an employee chooses Option B, there is no requirement for the employee to return to her post at the end of the maternity leave period. An employee may wish to choose this option if her intention to return to work following maternity leave is unknown at the commencement of the maternity leave.

Where an employee chooses Option B, and subsequently returns to work following the period of maternity leave, the employee will be entitled to receive 12 weeks' half pay as if she had chosen Option A. In these circumstances the employee would need to remain in her post for a minimum of 13 weeks to retain the right to the half



pay element. In accordance with School Teachers' Conditions of Service, where the employer agrees, a fulltime teacher may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where the employer 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.

## **4 PROCEDURE**

### **4.1 Notification Requirements**

There are a number of notification requirements with which a pregnant employee is required to comply, in terms of both the amount of notice to be given and the form in which such notice should be provided. Further details can be found below.

#### **4.1.1 Commencement of Maternity Leave - On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there are health and safety considerations for the Trust.**

In the case of all employees other than those employed as a Teacher, at least 28 days prior to commencement of maternity leave, or as soon as is reasonably practicable, the employee is required to inform the Trust in writing of:

- the fact that she is pregnant;
- her expected week of childbirth; and
- the date on which she intends to start her maternity leave.

Employees who are employed under the Conditions of Service for School Teachers in England and Wales are required to provide the information outlined above at 4.1.1 at least 21 days' prior to commencement of maternity leave, or as soon as is reasonably practicable.

The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The form must have either the doctor's name and address or the midwife's name and registration number on it. Please note that the Director of Business and Finance will be unable to process any statutory or occupational maternity payments if the MAT B1 form has not been provided.

The employee is permitted to bring forward her maternity leave start date, provided that she advises her line manager and the Director of Business and Finance in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises the Trust in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The Director of Business and Finance will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on

which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

If it is not possible for the employee to give the required amount of notice, for example if the baby arrives early, she should tell the Director of Business and Finance as soon as reasonably practicable.

#### 4.1.2 Return to Work Following Maternity Leave

An employee may return to work at any time during ordinary maternity leave or additional maternity leave, provided that she gives the appropriate notification. Alternatively, the employee may take her full period of maternity leave entitlement and return to work at the end of this period.

If an employee wishes to return before the full period of maternity leave has elapsed, she must give at least 21 days' notice in writing to the Director of Business and Finance of the date on which she intends to return. As well as being a contractual provision in accordance with both the NJC Terms and Conditions of Service and the Conditions of Service for School Teachers, this notice requirement ensures that there is sufficient time for the Director of Business and Finance to reinstate normal salary arrangements for the employee.

#### 4.2 Employment Rights During Maternity Leave

During ordinary maternity leave and additional maternity leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory maternity pay or occupational maternity pay if the employee is eligible.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue.

Further information regarding employment rights during maternity leave is provided in Sections 4.2.1 to 4.2.7 of this policy.

##### 4.2.1 Keeping In Touch (KIT) Days

Employees may work for up to 10 days without bringing the period of maternity leave to an end, but work during maternity leave will not have the effect of extending the maternity leave period beyond the legally prescribed maximum period of 52 weeks. These days are referred to as 'Keeping In Touch' (KIT) days.

If an employee undertakes any work whilst on a KIT day, payment will be received at the normal rate of pay for the day, inclusive of any statutory maternity pay (SMP) due for that day. Employees are under no obligation to work during maternity leave, and the Trust is under no obligation to offer work.

In addition to KIT days, the Trust is entitled to make reasonable contact with employees during maternity leave. This may be to discuss the employee's plans to return to work, or perhaps any changes in the workplace. The employee is also entitled to make

reasonable contact with the Trust, for example, to discuss any arrangements for your return to work.

#### 4.2.2 Annual Leave

During the period of maternity leave an employee will continue to accrue annual leave and bank holidays in line with the individual's contractual provisions. Where a period of maternity leave spans two leave years, an employee should aim to take the leave entitlement from the first leave year prior to commencing maternity leave. Leave entitlement from the second leave year will be available for the employee to use upon return from maternity leave.

Where an employee carries over annual leave from one leave year to the next as a result of a period of maternity leave, the employee will be required to use the carried over amount of leave within 3 months of her return from maternity leave, in line with Section 10.2 of the Trust's Working Time Policy Statement.

#### 4.2.3 Pension

Pension contributions will continue to be made by the Trust during the period when the employee is in receipt of pay, including Occupational Maternity Pay, Statutory Maternity Pay or Maternity Allowance, but not during any period of unpaid maternity leave.

Employees are able to continue to make their own individual pension contributions during a period of maternity leave.

Further details regarding pension payments during maternity leave are available from the Director of Business and Finance.

#### 4.2.4 Right To Return To Role Following Maternity Leave

In accordance with employment legislation, an employee has the right to resume working in the same job if returning to work from ordinary maternity leave (after 26 weeks' maternity leave).

If the employee returns to work after a period of additional maternity leave, that is, following a period of maternity leave which lasts for a duration of between 27 and 52 weeks, the employee is legally entitled to return either to the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions not less favourable.

The Trust's practice generally is to allow an employee to return to their own job following maternity leave, irrespective of the amount of maternity leave taken. The only exception to this will be in cases where a Service Review has been undertaken whilst the employee has been on maternity leave and the employee's original post no longer exists. In these circumstances the provisions of Section 9.5 of the Trust's Redundancy Policy will apply.

If the employee decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to the Trust as soon as possible and in accordance with the terms of her contract of employment.

#### 4.2.5 Right to Request Flexible Working

Full consideration will be given to requests from employees who wish to change their working pattern. Employees should submit their requests as far in advance of their desired start date as practicable, to allow adequate time for the request to be fully considered and, where appropriate, the necessary arrangements put in place.

Further information about the right to request flexible working and the process involved can be found in the Trust's Flexible Working Arrangements Guide which is available from the Document Library on the Trust's Intranet.

#### 4.2.6 Childcare Vouchers

Employees returning from maternity leave may wish to consider a Childcare Voucher Scheme, which provides a tax efficient way of assisting with childcare costs. Further details about the scheme can be obtained from the finance department.

#### 4.2.7 Employment Rights In A Redundancy Situation

Please refer to Section 9.5 of the Trust's Redundancy Policy for further information regarding employment rights in a redundancy situation.

#### 4.2.8 Baby Welcome Policy

This policy is intended for Trust employees and members of the public. It acknowledges the Trust's commitment to creating a supportive environment for nursing parents and is safe and comfortable for a breastfeeding mother and her child. Further details about the Policy can be found on the Trust's Internal Staff Shared Drive or by contacting the Director of Business and Finance.

## 5. ASSOCIATED POLICIES AND PROCEDURES

The following policies and procedures also provide relevant information to employees:-

- Shared Parental Leave Policy and Procedure
- Adoption Leave Policy and Procedure
- Paternity Leave, Maternity Support Leave and Adoption Support Leave Policy
- (Unpaid) Parental Leave – parental right to unpaid time away from work for up to maximum of 18 weeks to care for a child under the age of 18 years
- National Joint Trust (NJC) Conditions of Service
- St Helens Trust Local Conditions of Service
- School Teachers Pay and Conditions Document
- Baby Welcome Policy

## **6. FURTHER INFORMATION**

Any questions relating to this Policy or Procedure, or further guidance on issues connected with Maternity Leave and Pay can be obtained from the finance department.

## **7. REVIEW OF POLICY AND PROCEDURE**

This policy will be reviewed three years following implementation, or earlier in the event of further changes in legislation.