



# The Bishop Konstant Catholic Academy Trust

Learning Communities, Inspired by Faith

## Trust Maternity Policy & Procedure 2023/2024



The Bishop Konstant Catholic Academy Trust,  
St. Wilfrid's Catholic High School & Sixth Form College  
Cutsyke Road  
Featherstone  
WF7 6BD

**Telephone:** 01924 802285  
**Email:** [admin@bkcat.co.uk](mailto:admin@bkcat.co.uk) **Website:** [www.bkcat.co.uk](http://www.bkcat.co.uk)



<b>POLICY DOCUMENT</b>	Trust Maternity Policy & Procedure
<b>Legislation/Category: Academy Schools</b>	<b>Legally Required</b>
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## Mission Statement

*All policies are written in line with our Trust Mission statement:*

With Jesus Christ at the centre of the life of the Trust, we seek to provide learning communities offering the highest possible standards of education. We are committed to working in partnership and trust for the common good. We strive to encourage and empower children and young people to recognise and realise their God-given potential and to discern their vocation in life. As learning communities inspired by faith, we celebrate achievement, offering each other challenge and support, as together we follow Christ in self-giving love and service.



## Change Control

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Changes</b>
1.2	June 2023	Trust HR Officer	Updated with and checked for any legislative changes 2023
1.1			
1.0			



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## 1. Introduction

This document provides information and guidance to managers and employees with regard to the Trust's Maternity Policy & Procedure.

## 2. Scope

This Policy & Procedure applies to all Bishop Konstant Catholic Academy Trust employees, including teachers and others working in our academy schools under the direction of a Governing Body.

Employees that have transferred to the Trust in accordance with TUPE will be subject to the statutory provisions reflected within this Policy & Procedure; however, if they have retained on transfer, terms and conditions relating to an entitlement to Maternity Leave and Pay which differ to those contained within this Policy & Procedure, then those terms and conditions will continue to apply until any agreement is reached with those employees to adopt this Policy & Procedure.

Agency workers with continuous service of 12 weeks or more are entitled to the provisions for Antenatal Appointments as set out in section 5.

## 3. Data Protection

The Trust processes personal information/data collected in the application of this Maternity Policy & Procedure in accordance with its legal obligations set out in the Data Protection Act 2018 and the General Data Protection Regulations 2016, which are confirmed within the Trust's Data Protection Policy.

Information/data specifically obtained to address issues raised under this Maternity Policy & Procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of addressing these issues. Inappropriate access or disclosure of an employee's personal information/data constitutes a data breach and should be reported in accordance with the Trust's Data Protection Policy immediately. It may also constitute a matter which will be considered in accordance with the Trust's Disciplinary Policy.

## 4. Responsibilities

### Line Managers

- Must ensure workplace risk assessments are up to date for pregnant employees and new mothers;



- Must take action to reduce and/or eliminate risks to pregnant employees;
- Must approve pregnant employees' requests for Antenatal Appointments (see section 5);
- Must bring this Policy & Procedure to the attention of a pregnant employee, once the employee notifies them of their pregnancy;
- Must maintain appropriate and agreed contact with the employee during their Maternity Leave;
- Must update absence records to correctly record time off for antenatal appointments;
- Must ensure that the Maternity Leave and Pay Notification form (Form A) is submitted to Designated Maternity Leave Contact (DMLC) for them to send to the payroll provider in accordance with payroll deadlines to effect the start and end of maternity leave, and ensure that payroll are notified of changes in circumstances (for example if the employee's Maternity Leave has commenced earlier than expected); and
- Must authorise payment for any Keeping In Touch (KIT) days (up to a maximum of 10) agreed with the employee and worked during Maternity Leave in accordance with section 7.

## Employees

- Should take responsibility for their own health and wellbeing during their pregnancy;
- Should notify their manager early in their pregnancy, and no later than 15 weeks before their child is due to be born, of their pregnancy in order that workplace risk assessments can be undertaken;
- Must obtain a MATB1 document from either their Doctor or Midwife and provide a copy of this to DMLC, along with the notification of their intention to take Maternity Leave as soon as possible but at least 15 weeks before their child is due to be born;
- Must comply with the notice requirements detailed in sections 6 and 8 of this Policy & Procedure;
- May agree with their manager to work up to 10 KIT days during their Maternity Leave and, if any KIT days are worked, must keep a record of all KIT dates and times worked (see section 7); and
- Should seek advice from DMLC if they have any queries about this Policy & Procedure.

## 5. Health and Safety Considerations

Managers must identify, as part of the workplace risk assessment process, any specific risks to new and expectant mothers. These risks could be from any process, working conditions and/or physical, biological or chemical agents present in the workplace.

The workplace risk assessment must take account of any identified risks to the new or expectant mother, or their baby, once the Trust has been notified by an employee that:

- They are pregnant; or
- They have given birth within the previous 6 months; or
- They are breastfeeding;



Where a risk cannot be avoided by taking preventive and/or protective measures, the manager must take action to remove, reduce and/or control the risk. If it is not possible to remove the risk then the following steps will be taken (in the order they appear below):

- Temporarily adjust the employee's working conditions and/or hours of work with no detriment to pay; or if that is not possible
- Offer the employee suitable alternative work (on the same, or not substantially less favourable, terms and conditions as their original job) if available; or if that is not feasible
- Suspend the employee from work on full pay for as long as necessary, to protect their health and safety, and that of their child.

## 6. Antenatal Appointments

Pregnant employees (and agency workers with at least 12 weeks continuous service) are entitled to reasonable **paid** time off to attend antenatal care clinics arranged on the advice of their Registered Medical Practitioner, Midwife or Health Visitor.

Employees should provide as much notice as possible of appointment times and, where able, make their appointments near the start or end of the day or such other times to minimise disruption to service delivery. Appointments (with the exception of the first one) should be supported by a card or letter confirming the appointment details.

Managers must record absences for paid Antenatal Appointments onto the absence reporting system. It is important that the line manager selects the appropriate paid option for this.

## 7. Entitlements to Maternity Leave and Pay

The entitlements and eligibility criteria for Maternity Leave and different elements of Maternity Pay are summarised in the table in Appendix 1.

### Maternity Leave

Pregnant employees irrespective of their length of service have the statutory right to take up to 52 weeks Maternity Leave (26 weeks Ordinary Maternity Leave (OML) followed immediately by 26 weeks Additional Maternity Leave (AML)) if they give the necessary written notice by the end of the 15<sup>th</sup> week before the baby is due.

Maternity Leave can start no sooner than 11 weeks before the expected week of childbirth (EWC).

### The Start Date of Maternity Leave

- Maternity Leave will normally commence on the date given by the employee – this cannot be earlier than 11 weeks before the EWC





- The employee may change the date when they wish to commence Maternity Leave by giving 28 days' written notice
- If the baby is born before the Maternity Leave was due to start, then Maternity Leave will start on the day after the date of birth
- If the employee is absent from work due to a pregnancy-related illness in the 4 weeks before the EWC then Maternity Leave will start on the day after the first day of such absence in this period
- If the employee is medically suspended from work for maternity reasons in the period from the 4th week before the EWC, advice will be sought from Occupational Health about the employee's fitness to work and the reasons for concern which led to the medical suspension. Maternity Leave may then start in accordance with the medical opinion provided .

It is up to the employee to determine how much of their 52 week entitlement of Maternity Leave to take and also when they intend to start their Maternity Leave, subject to the rules below. Some employees may choose to continue to work close to their EWC, providing that they are fit to do so and capable of doing their job.

The 2 weeks following the date of childbirth is called Compulsory Maternity Leave and the employee must not work during this period.

It is recommended that employees discuss with their manager how to make best use of Annual Leave when determining their Maternity Leave dates. For example, some employees choose to extend the paid period of leave by using Annual Leave immediately before or following Maternity Leave.

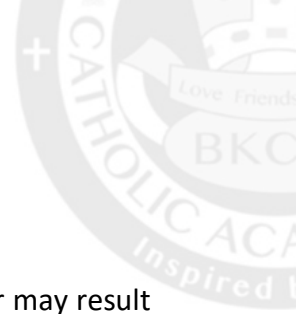
### Notification Requirements

To be able to take Maternity Leave, the pregnant employee must provide their MATB1 Certificate (from their Doctor or Midwife, usually provided after the 20th week of pregnancy, that confirms the EWC) and give written notice to their line manager and DMLC using the Initial Notification of Maternity Form of the following by the end of the 15th week before their baby is due:

- Confirmation of the pregnancy;
- The EWC; and
- The date on which they intend to start their Maternity Leave.

DMLC will provide the employee with a maternity pack containing the relevant key dates and maternity forms that need to be completed in respect of maternity leave and pay, once this confirmation has been received.

Form A – Maternity Leave and Pay Notification Form must be completed by the employee and given to DMLC at least 28 days before their maternity leave starts. DMLC must approve and submit Form A to Payroll, confirming the Maternity Leave start date in time for the payroll deadline for the month



when the Maternity Leave starts. Failure to submit this information in a timely manner may result in incorrect payments being made to the employee. In circumstances such as the early birth of a baby, where it is not possible to give advance notification of the Maternity Leave start date, DMLC must contact payroll as soon as possible.

An employee may subsequently change their mind about the date they wish to start their Maternity Leave and if so must ensure that a revised Form A is received by DMLC at least 28 days prior to the earlier Maternity Leave start date – original or revised.

## Maternity Pay

The tables in Appendices 2 and 3 illustrate the different eligibility criteria for Maternity Pay depending on contract types and length of service.

Maternity Pay will be paid for up to 39 weeks of the 52 week Maternity Leave period, provided the employee meets the qualification criteria for length of service and weekly earnings. Two different payments may be made by the Trust, depending on the type of Maternity Leave (OML or AML):

- Statutory Maternity Pay (SMP); and
- Occupational Maternity Pay (OMP).

SMP and OMP are subject to deductions for tax, national insurance and pension.

Maternity Pay is calculated on the employees' average weekly earnings in the period 8 weeks prior to the qualifying week (the 15<sup>th</sup> week before the EWC). For further details please refer to [www.gov.uk](http://www.gov.uk).

## Statutory Maternity Pay (SMP)

To qualify for SMP, employees must have at least 26 weeks' continuous service with The Trust by the 15<sup>th</sup> week before the EWC. An employee must give at least 28 days' notice of when they would like the SMP to start, or if that is not reasonably practicable, give notice as soon as reasonably practicable.

To be eligible for SMP, an employee must have earnings above the National Insurance Contributions Lower Earning Limit. SMP is payable for up to 39 weeks (the Maternity Pay Period) and is paid at a rate of 90% of the employee's average weekly earnings (before tax) for the first 6 weeks, followed by 90% of their average weekly earnings or the standard SMP rate (whichever is lower) for the next 33 weeks.

If an employee is not eligible for SMP, DMLC will provide a Form SMP1 to the employee to explain why and the employee can use this to claim for Maternity Allowance.

If the employee is in legal custody, imprisoned or arrested (but not voluntarily helping Police with their enquiries, out on bail or serving a suspended sentence) during the Maternity Pay Period they must notify their line manager and any SMP will cease and will not be resumed.



## Occupational Maternity Pay (OMP)

To qualify for OMP, employees must have at least one year's continuous employment by the 11<sup>th</sup> week before the EWC. The amount of OMP payable depends on the terms and conditions of employment of the employee. It differs for teachers (see appendix 3) and other employees (see appendix 2).

A week's pay for the purposes of OMP is the employee's pay under their contract of employment (including contractual allowances) during their Maternity Leave. Changes to contractual pay that become effective during an employee's Maternity Leave are reflected in the OMP from the effective date onwards (for example increments and pay awards).

OMP for weeks 7 onwards of the Maternity Pay Period is only payable when the employee has declared that they will return to work for at least 3 months (13 weeks) following Maternity Leave. If the employee fails to return to work for the required period, any OMP that has been paid in respect of weeks 7 onwards must be repaid to the Academy Trust. This "return to work" that is required for teachers in schools, to retain OMP paid, means a return to the same job, in the same school on the same terms and conditions. All employees must return to the job they had prior to commencing their Maternity Leave.

If the employee returns to work on fewer hours than they were contracted to work prior to Maternity Leave they will be required to return to work for a proportionately longer period (to equate to their weekly contractual hours prior to Maternity Leave x 13 weeks). For example if the employee returns to work on half the contractual hours, they will be required to return to work for at least 6 months (26 weeks) following Maternity Leave.

## Maternity Allowance

A pregnant employee who does not qualify for SMP may be entitled to Maternity Allowance (MA), which is claimed from Jobcentre Plus for up to 39 weeks. For full and further eligibility criteria including Maternity Allowance rates please see [www.gov.uk](http://www.gov.uk).

## 8. Arrangements During Maternity Leave

Employees should maintain contact with their manager during Maternity Leave. This will allow them to discuss their proposed return date and be kept informed of issues affecting them.



## Keeping in Touch Days (KIT days)

An employee may work up to 10 KIT days during their Maternity Leave. These KIT days must be agreed with their manager.

If KIT days are worked, the employee must record these on the KIT day claim form and the manager must authorise all the time worked. The KIT day claim form must then be submitted to Payroll after the Maternity Leave has ended to claim for payment in relation to these KIT days.

If an employee works in excess of 10 KIT days it would effectively end their Maternity Leave and the employee would lose any SMP they were entitled to for any week in which they have worked in excess of the 10 KIT days.

Similarly, if an employee undertakes work for another employer, for whom they were not already working prior to taking Maternity Leave, they must notify their line manager immediately as this may end the payment of SMP to them.

### KIT Days

- There is no obligation by the Academy Trust to offer, or for the employee to take up the opportunity to work, KIT days
- A KIT day does not have to be a full day of work. Any period of work carried out in one calendar day will count as a KIT day.
- The maximum paid KIT hours (the Bank of paid KIT hours) for each employee for the total number of KIT days worked is calculated as 10 days at the employee's average daily contractual hours (this equates to 2 weeks of the employee's weekly contractual hours).
- Payment for KIT days will be made by reference to the actual hours worked on each KIT day, subject to the employee not having exceeded their maximum paid KIT hours (Bank of paid KIT hours), multiplied by the employee's actual hourly rate of pay.
- If a KIT day is worked on a day in which the employee is in receipt of SMP and/or OMP, payment for that KIT day will be reduced by SMP/OMP paid for that day. If the amount of SMP/OMP paid for that day is greater than the hours worked for that day multiplied by the employee's hourly rate, no KIT day payment will be made for that day.
- Any work carried out by an employee on their 10 KIT days in excess of their maximum paid KIT hours (Bank of paid KIT hours) will be recompensed by time off in lieu e.g. if an employee's contractual hours are 18.5 per week, their maximum paid KIT hours are 37 hours; if the employee has already claimed 36 hours of KIT time over 8 KIT days and then claims 6 hours of KIT time on a 9th KIT day, 1 hour of this 9th KIT day would be paid and 5 hours would be recompensed in lieu time; if the employee then carries out any work on a 10th KIT day, all of that work would be fully recompensed in lieu time.
- KIT days do not extend Maternity Leave



- Payment for KIT days will be paid on the employee's return to work from Maternity Leave following submission of an authorised claim form
- KIT days can be used for work, to talk about an employee's return to work, to keep up to date with changes at work or for training or team events
- Part time employees have the same eligibility to 10 KIT days as full time employees and a pro-rata entitlement to paid KIT hours.
- An employee with multiple jobs who works KIT days in more than one job must complete a separate KIT days claim for each job. Each job will have a separate Bank of paid KIT hours. Regardless of the number of paid or unpaid KIT hours worked in each job, the number of KIT days to be worked in total across all jobs must not exceed 10 days.

### Employees with Multiple Contracts with the Trust

Where an employee has more than one contract of employment with the Academy Trust and has accrued qualifying service in respect of each contract of employment, only one entitlement to SMP will be payable in addition to any OMP eligibility attached to each contract of employment. Only one set of 10 KIT days in total will be permitted to be worked regardless of the number of contracts of employment that exist.

### Employees with Third Party Employment

Where an employee has a contract of employment with another employer and meets the qualifying service criteria in respect of both contracts of employment, then they will be eligible for SMP, OMP (if applicable) and KIT days in respect of each contract of employment with each employer.

### Organisational Change during Maternity Leave

If a restructuring exercise takes place while the employee is on Maternity Leave, or is absent from work by reason of sickness due to maternity related illness, the manager must ensure the employee is kept informed of any organisational change to ensure that they do not suffer any detrimental treatment.

Pregnant employees are protected by law against detriment or dismissal for reasons relating to their pregnancy. It is also unlawful for women to be selected for redundancy on grounds relating to pregnancy, childbirth or taking Maternity Leave.



## Pregnancy during Maternity Leave

The fact that an employee is on Maternity Leave does not change their rights to further periods of Maternity Leave and Pay. The normal rules for the employee to qualify for Maternity Leave and Pay will apply. Where an employee's earnings are not sufficient in the relevant calculation period to qualify for SMP, they may be able to claim Maternity Allowance (see section 6).

## 9. Returning to Work from Maternity Leave

Employees can return to work at any time during their Maternity Leave, with the exception of Compulsory Maternity Leave, which is the first 2 weeks after the baby is born. In accordance with statutory requirements the employee must give at least 8 weeks' notice in writing of their intended date of return. The employee must submit to DMLC a Return to Work Form for this purpose.

Unless an employee states otherwise, the Academy Trust will assume that they will return at the end of their full Statutory Maternity Leave Period (52 weeks).

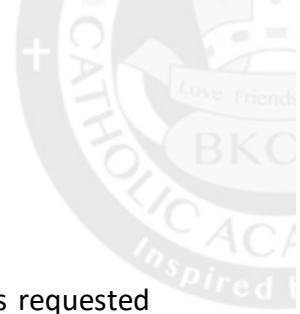
If an employee attempts to return prior to the end of their full Statutory Maternity Leave Period without giving the correct notice, the Academy Trust may request that they wait until the full notice period has been given.

Should the employee change their mind about their intended date of return, they should give at least 8 week's written notice of the new date.

If an employee returns to work within the first 26 weeks of Maternity Leave (during OML), they are entitled to return to the job in which they were employed prior to their Maternity Leave and on terms and conditions no less favourable than those that would have applied had they not been absent, unless a redundancy situation occurs while the employee is on Maternity Leave.

If the employee returns to work after the first 26 weeks of Maternity Leave (during AML), they are entitled to return to the job in which they were employed prior to their Maternity Leave and on terms and conditions no less favourable than those that would have applied had they not been absent, unless the Trust determines that it is not reasonably practicable for them to return to their former job, in which case the Trust may offer them an alternative job on no less favourable terms and conditions.

Employees can request flexible working arrangements prior to their return from Maternity Leave, in which case the Trust must consider the request. However, the Academy Trust is not obliged to



agree to such a request if it can demonstrate that the flexible working arrangements requested would have an adverse impact on service delivery.

If an employee is unfit to return to work due to medical reasons on the date they are due to return to work from Maternity Leave, this will still be treated as a return to work from Maternity Leave. The Sickness Absence Policy will thereafter apply for that period of sickness absence.

For a return to work DMLC must make the relevant changes on the Payroll system by the payroll deadline, stating the return to work date from Maternity Leave and detailing any changes to the employee's working arrangements from the return to work date. A variation to contract letter/new contract of employment should be issued to the employee.

### Not Returning To Work

Where an employee decides they no longer wish to return to work from Maternity Leave and would like to resign from their employment, they may do so by giving the appropriate contractual notice.

DMLC must then complete the changes on the Payroll system and notify DMLC in order that the necessary action is completed on the Payroll system. If an employee (other than a teacher contractually based within schools) has already been paid OMP from week 7 onwards of their Maternity Leave and has given notice that they will not be returning to work from Maternity Leave, or will not be remaining in employment for more than the required minimum of 13 weeks (or proportionately longer period of time if reducing their hours of work on return) following their return from Maternity Leave, then this OMP paid will automatically be recovered from the employee.

In accordance with the Conditions of Service for School Teachers in England and Wales, the Trust will recommend to schools that a similar recovery should be made from teachers who do not return to work; however, it will be for the school in question to make the final decision and notify Payroll accordingly.

An employee who is eligible for SMP and who does not return to work is still entitled to the full period of SMP, unless they start work for a new employer while on Maternity Leave after the baby is born. If this occurs, the employee must notify DMLC accordingly. In this situation, SMP will cease to be paid to the employee by the Academy Trust and the employee will be given form SMP1 to explain why they are no longer entitled to SMP.



## 10. Transferring / Sharing Maternity Leave and Pay

### Shared Parental Leave

An employee may choose to end their Maternity Leave early and convert the balance of this leave to Shared Parental Leave, provided both partners in the relationship meet the eligibility criteria.

Any remaining untaken SMP or MA can be taken as Statutory Shared Parental Pay (subject to eligibility). An employee choosing to end their Maternity Leave early and convert the balance of this leave to Shared Parental Leave must give 8 weeks' notice of this. For full details see the Trust Shared Parental Leave Policy and Policy & Procedure.

## 11. Other Provisions

### Breastfeeding

Employees intending to breastfeed upon their return to work should provide advance written notification to DMLC of their intention to do so. Upon receipt, a suitable private place where the employee can breastfeed/express milk (toilets/washrooms or first aid rooms are not suitable due to hygiene risks) should be sought and also somewhere for the milk to be stored, and discuss possible solutions with the employee.

Employees should discuss any requests for flexible working or temporary adjusted hours in conjunction with their requirements to breastfeed with their line manager prior to returning to work. Breaks taken to breastfeed/express milk will be unpaid.

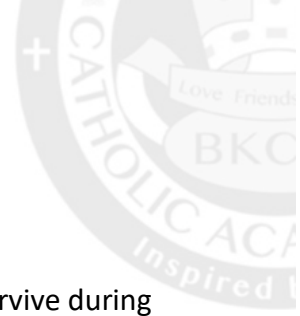
Any workplace risk assessment undertaken as part of a return to work plan should make reference to the agreed actions to facilitate breastfeeding and be periodically reviewed.

### Miscarriage and Stillbirth

A miscarriage is where a baby does not survive beyond the end of the 24<sup>th</sup> week of pregnancy. The Maternity Leave provisions do not apply if an expectant mother suffers a miscarriage. The Academy Trust will, however, always give sympathetic consideration to the employee's circumstances.

An absence due to a miscarriage up to the 24<sup>th</sup> week of pregnancy will be dealt with either under the Sickness Absence Policy or, if more appropriate, as Special Leave.





Stillbirth is where a baby dies during or after the 25<sup>th</sup> week of pregnancy or does not survive during child birth. From the 25<sup>th</sup> week of pregnancy, if the baby is stillborn, or the baby is born alive and then dies, the employee is still entitled to all their Maternity Leave and Pay.

In these circumstances, the Maternity Leave will start on the day after the stillbirth.

## Annual Leave and Bank Holidays

Employees continue to accrue Annual Leave during Maternity Leave. Employees may wish to discuss with their manager how to make best use of their Annual Leave entitlement, i.e. taking Annual Leave immediately before or after their Maternity Leave.

Annual Leave should, where possible, be taken in the leave year in which it is accrued.

Employees who receive a separate entitlement to Bank Holidays will receive a compensatory day (pro rata for part-time workers) for each Bank Holiday that falls during their Maternity Leave. These can be taken on the employee's return or before Maternity Leave commences and should, where possible, be taken in the leave year which they relate to.

Where it is not possible due to sickness absence due to maternity related illness and/or Maternity Leave for an employee to take their Annual Leave in the leave year in which it is accrued, the employee will be allowed to carry forward the untaken balance of their statutory holiday entitlement into the next leave year.

Where employees have a separate Bank Holiday entitlement, this will mean that a maximum of 20 days (pro rata for part-time employees) Annual Leave can be carried forward to the next year. For teachers and any other employees that do not have a separate Bank Holiday entitlement, the maximum carry forward will be 28 days (pro rata for part-time employees and those on a term time formula).

If Annual Leave is carried over in these circumstances, the maximum carry forward period is limited to the end of the following leave year. Where a 15 month leave year applies then it will be 15 months from the last date of the leave year when the leave was accrued. For example, if the year for accruing leave runs from 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2020, the final date for taking the Annual Leave that is carried forward to the next year is 30<sup>th</sup> June 2021. Any carried forward Annual Leave untaken after that date will automatically be lost.

If an employee's contract of employment terminates before they have been unable to take all their accrued Annual Leave due to Maternity Leave, the employee will be paid in lieu for any untaken Annual Leave accrued in the current leave year and, if applicable, for any untaken statutory holiday entitlement which they had been permitted to carry over from the previous leave year.



Teachers accrue statutory holiday entitlement (28 days per year under the Working Time Regulations) during Maternity Leave. This statutory holiday entitlement can be offset by any school closure periods before or after Maternity Leave. It is likely that there will be enough school closure periods in the year outside of Maternity Leave to take up this holiday entitlement. If, however, this is not the case, any accrued entitlement up to the 28 days may be carried forward to the next year to be taken during periods of school closure in that year.

### Pregnancy Related Sickness Absence

Managers will disregard any pregnancy related<sup>1</sup> absences for the purposes of target setting and progression through the Sickness Absence Stages of the Policy & Procedure.

### Payments of Car Allowance

Employees designated as having 'Essential Car User' status, will continue to receive their lump sum payment for the whole of the paid occupational maternity period at full rate from the date that the maternity leave commences. Where the employee does not return to work from Maternity Leave, or does not work for the required minimum of 13 weeks (or proportionately longer period of time if reducing their hours of work on return) these payments will be recovered along with the OMP paid.

### Other Paid Work (inc. election duties)

If after the baby has been born, but before SMP ends an employee works for the Trust or any other new employer, SMP will end. This includes undertaking election duties. If this occurs, the employee must notify their line manager accordingly. In this situation, SMP will cease to be paid to the employee by the Trust and the employee will be given form SMP1 to explain why they are no longer entitled to SMP.

### Termination of Contract inc. Fixed Term Contracts

Where an employee resigns, or their contract is terminated, during their Maternity Leave (including the termination of a fixed term contract), this ends the employee's Maternity Leave and their entitlement to OMP. However, if the employee has qualified for SMP, the payment of this will continue until their full entitlement has been paid.

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<sup>1</sup> Relates to the period leading up to the point of child birth



Non-renewal of a fixed term contract is a dismissal in law and therefore it is unlawful for a fixed term contract not to be renewed for a reason connected with the Maternity Leave.

If an employee resigns for reasons relating to maternity and the raising of a family, and they return to the Trust within 8 years of leaving, then they may aggregate their service before and after the break with regard to calculating their sick pay and future OMP entitlement.

A similar provision will apply to the calculation of Annual Leave; however, in this case there is no time limit in which they must return. These provisions will only apply where the employee has not had permanent full time employment (over 30 hours per week) in the intervening period. These provisions will also apply in the case of new starters to the Trust who previously worked elsewhere within local government immediately prior to taking an extended break to raise a family.

## Pension

Where an employee receives SMP and/or OMP during their Maternity Leave, pension contributions will continue to be taken from their Maternity Pay and pension will continue to be accrued.

Pension contributions will cease if a period of Maternity Leave is unpaid. Employees in the Local Government Pension Scheme must decide if they want to pay contributions to buy back the lost pension.

Members of the Teachers' Pension Scheme are unable to continue paying their pension contributions during a no-pay period. As such this period will be classed as days excluded and will not be counted as pensionable service.

## 12. Associated Documents

Trust Adoption Leave Policy & Procedure

Trust Paternity Policy & Procedure

Trust Shared Parental Leave Policy & Procedure

Trust Data Protection Policy



## APPENDIX 1 - Summary of Entitlements and Eligibility for Maternity Leave and Pay

	Maternity Leave	Statutory Maternity Pay	Occupational Maternity Pay
<b>Length of service required</b>	No service required	26 weeks continuous Trust service at end of 15 <sup>th</sup> week before EWC	1 year's continuous service by beginning of 11 <sup>th</sup> week before EWC
<b>Other eligibility criteria</b>	Must have notified the School or Trust/provided MATB1 by 15 weeks before EWC	Average weekly earnings in the 8 weeks up to 15 <sup>th</sup> week before EWC must be at least the Lower Earnings Limit for National Insurance 28 days' notice must be given of the Maternity Leave start date	
<b>Duration</b>	Up to 52 weeks total	Weeks 1 to 39 (See appendix 2 as payments may be offset against any OMP entitlement)	Weeks 1 to 18 (nonteachers have option of stretching pay for weeks 7-18 to cover weeks 7 to 26)
<b>Restrictions</b>	<ul style="list-style-type: none"> <li>• Earliest start is 11 weeks before EWC (unless the baby is born early)</li> <li>• Compulsory Maternity Leave period of 2 weeks after birth of baby</li> <li>• Starts day after any absence for pregnancy-related reason in 4 weeks</li> <li>• before EWC</li> <li>• Starts day after birth date if baby is born early and Maternity Leave has not already started.</li> </ul>	<ul style="list-style-type: none"> <li>• Earliest start is 11 weeks before EWC (unless the baby is born early)</li> <li>• SMP ceases if employee is in Legal Custody during the Maternity Pay</li> <li>• Period</li> </ul>	<ul style="list-style-type: none"> <li>• Earliest start is 11 weeks before EWC (unless the baby is born earlier)</li> <li>• To receive and keep the OMP after the 1<sup>st</sup> 6 weeks the employee must return to work after Maternity Leave for the equivalent of 13 weeks at hours employed before their Maternity Leave employees must return to the same job.</li> </ul>



## APPENDIX 2 - Trust Employees' (non-teachers) Maternity Pay

Employees with over 1 year's continuous service at the 11 <sup>th</sup> week before EWC have the choice of 2 options of how to have their Occupational Maternity Pay (OMP) paid to them – see below table				
Under 26 weeks service at the 15 <sup>th</sup> week before the EWC and under 1 years' service at the 11 <sup>th</sup> week before EWC	<b>Weeks 1-39 No SMP</b> or OMP.  MA Only (where eligible) <u>must</u> be claimed through Job Centre Plus			<b>Weeks 40-52</b> No Pay
Employees with under 26 weeks service at the 15 <sup>th</sup> week before EWC, but more than 1 years' service at the 11 <sup>th</sup> week before the EWC	<b>Weeks 1-6</b> OMP that is 90% of the employee's average gross weekly earnings, offset by any MA payable (see note below)	<b>Weeks 7-18</b> 50% OMP (plus MA must not exceed full pay – may be adjusted downwards)  ----- <u>or</u> -----  <b>Weeks 7-26</b> 30% OMP (plus MA must not exceed full pay – may be adjusted downwards)	<b>Weeks 19-52</b> No Pay  -- <u>or</u> --  <b>Weeks 27-52</b> No Pay	
	<b>Weeks 1-39</b> MA (where eligible) <u>must</u> be claimed through Job Centre Plus			<b>Weeks 40-52</b> No Pay
Employees with more than 26 weeks service at the 15 <sup>th</sup> week before EWC, but under 1 years' service at the 11 <sup>th</sup> week before EWC	<b>Weeks 1-39</b> SMP or MA only (MA payable through Job Centre Plus)			<b>Weeks 40-52</b> No Pay
Employees with more than 26 weeks service at the 15 <sup>th</sup> week before EWC and more than 1 years' service at the 11 <sup>th</sup> week before EWC <b>Option 1 (or option 2 below)</b>	<b>Weeks 1-6</b> OMP that is 90% of the employee's average gross weekly earnings	<b>Weeks 7-18</b> 50% OMP plus SMP that is the <b>lower</b> of either 90% of the employee's average gross weekly earnings or standard rate SMP (half pay plus SMP must not exceed full pay)	<b>Weeks 19-39</b> the <b>lower</b> of either 90% of the employee's average gross weekly earnings or standard rate SMP	<b>Weeks 40-52</b> No pay
Employees with more than 26 weeks service at the 15 <sup>th</sup> week before EWC and more than 1 years' service at the 11 <sup>th</sup> week before EWC <b>Option 2 (or option 1 above)</b>	<b>Weeks 1-6</b> OMP that is 90% of the employee's average gross weekly earnings	<b>Weeks 7-26</b> 30% OMP plus SMP that is the <b>lower</b> of either 90% of the employee's average gross weekly earnings or standard rate SMP (30% OMP plus SMP must not exceed full pay)	<b>Weeks 27-39</b> SMP that is the <b>lower</b> of either 90% of the employee's average gross weekly earnings or standard rate SMP	<b>Weeks 40-52</b> No Pay

Note: Payment of SMP is dependent on 26 weeks service at the 15<sup>th</sup> week before EWC (see page 9). Where MA is payable by the Job Centre Plus in place of SMP then the level of OMP payable in the first 6 weeks is reduced by the amount of MA payable.



## APPENDIX 3 - Summary of Entitlements and Eligibility for Maternity Leave and Pay

### Teachers' Maternity Pay

Teachers with under 26 weeks service at the 15 <sup>th</sup> week before the EWC and under 1 years' service at the 11 <sup>th</sup> week before EWC	<b>Weeks 1-39</b> No SMP or OMP  MA Only (where eligible) <u>must</u> be claimed through Job Centre Plus			<b>Weeks 40-52</b> No Pay	
Teachers with under 26 weeks service at the 15 <sup>th</sup> week before EWC, but more than 1 years' service at the 11 <sup>th</sup> week before the EWC	<b>Weeks 1-4</b> Full pay offset by any MA payable	<b>Weeks 5-6</b> OMP that is 90% of the employees average gross weekly earnings, offset by any MA payable (see note below)	<b>Weeks 7-18</b> 50% OMP (plus MA must not exceed full pay – may be adjusted downwards)	<b>Weeks 19-52</b> No Pay	
	<b>Weeks 1-39</b> MA (where eligible) <u>must</u> be claimed through Job Centre Plus			<b>Weeks 40-52</b> No Pay	
Teachers with 26 weeks service at the 15 <sup>th</sup> week before EWC but under 1 years' service at the 11 <sup>th</sup> week before EWC	<b>Weeks 1-39</b> SMP (see page 9) or MA only (MA payable through Job Centre Plus).			<b>Weeks 40-52</b> No Pay	
Teachers with more than 26 weeks service at the 15 <sup>th</sup> week before EWC and over 1 years' service at the 11 <sup>th</sup> week before EWC	<b>Weeks 1-4</b> Full pay – offset by the amount of SMP payable	<b>Weeks 5-6</b> 90% Pay - offset by the amount of SMP payable	<b>Weeks 7-18</b> 50% OMP plus SMP that is the <b>lower</b> of either 90% of the employee's average gross weekly earnings or standard rate SMP	<b>Weeks 19-39</b> SMP that is the <b>lower</b> of either 90% of the employee's average gross weekly earnings or standard rate SMP only	<b>Weeks 40-52</b> No pay

Note: Payment of SMP is dependent on 26 weeks service at the 15<sup>th</sup> week before EWC. Where MA is payable by the Job Centre Plus in place of SMP then the level of OMP payable in the first 6 weeks is reduced by the amount of MA payable.

