



Holy Trinity C of E Primary Academy

Vision Statement

Inspired by and rooted in Christian values and teachings, Holy Trinity CE Primary Academy will provide a caring, sharing environment which affirms the unique importance of each individual. The school will enable everyone to develop their skills, abilities and talents so that all are equipped to take their place as responsible citizens of the world.

POLICY DOCUMENT	MATERNITY SCHEME FOR TEACHING STAFF
Status	
Legislation	The Maternity and Parental Leave etc. Regulations 1999
Lead Member of Staff	Headteacher
Lead Governor (Monitoring)	Chair of Governors
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Chair of Governing Body signature	
Supporting documents	

At the Full Governing Body Meeting on the 10th February 2015 it was agreed to adopt the attached Policy.

MODEL MATERNITY SCHEME FOR TEACHING STAFF ACADEMIES

This model policy will apply to teaching staff working in Wiltshire Schools / Academies and has been agreed with the following recognised unions: ATL, NUT, NAHT, NASUWT, ASCL, Unison, Unite and GMB

How to use this model scheme

Teaching staff remain subject to the Conditions of Service for Schoolteachers in England and Wales (the Burgundy Book) and

- the School Teachers' Pay and Conditions Document
- the Education (Teachers) Regulations 1993
- the School Standards and Framework Act 1998

For the purpose of assessing entitlement of existing teachers under these maternity provisions, the academy will recognise previous employment across and between academies, VA, Foundation and Community schools.

The model scheme for eligible teachers is more generous than the statutory maternity leave pay scheme.

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Introduction

1. This model scheme will set out the statutory minimum entitlement and then also the occupational entitlement that applies to teachers under the Burgundy Book scheme. Academies are recommended to continue to observe the same contractual entitlements that have been adopted for Teachers employed by Wiltshire Council.
2. Following the introduction of the Work and Families Act 2006, this policy sets out the rights and responsibilities of Employees who are pregnant, the help and support the academy trust will give them and the law and conditions of service (Burgundy Book) relating to maternity entitlements.
3. This model scheme reflects the local agreement between academies and schools within Wiltshire on the recognition of continuous service. Where the model scheme has been adopted by academies based outside of the Wiltshire local authority who purchase Wiltshire Council HR services, it is recognised that these academies will need to refer to their own agreements and rules on continuous service for maternity purposes.

TUPE & Academy conversions in Wiltshire

4. The Academy Trust (a charitable company limited by guarantee) is the legal entity that is responsible for the running of the school and entering into contracts. An Academy Trust has the freedom to determine its own terms and conditions of employment for its staff. In respect of teaching staff the Academy Trust needs to state its intentions by confirming what measures it intends to take over the terms and conditions after the transfer date. Where no intended measures were stated it means that the Academy will continue to observe and adopt the pay scales, terms and conditions set out in the national arrangements called the School Teachers Pay and Conditions Document (STPCD) whilst those arrangements continue to exist. This also means that employment of teachers remains subject to the Conditions of Service for Schoolteachers in England and Wales (the Burgundy Book). This includes the teachers' maternity and adoption scheme arrangements. For those academies who converted and stated their intention to observe the School Teachers Pay and Condition Document (STPCD) and the Conditions of Service for Schoolteachers in England and Wales (the burgundy book) as an academy this model scheme will still apply. Where academies stated alternative arrangements in their measures on conversion that affected their individual maternity and adoption schemes this model scheme will not be relevant.

Scope

Who is included in these arrangements?

5. The model scheme applies to all eligible teachers whether full time, part time or on a temporary contract in academies.

Who is excluded from these arrangements?

6. The Agency Workers Regulations specifically excludes such agency workers from maternity, paternity or adoption leave pay schemes run by the hirer
7. Self-employed workers and consultants are also excluded from entitlements to maternity, paternity or adoption leave pay

Statutory Maternity Leave Entitlement

8. To be eligible for maternity leave teachers must comply with the notification requirements for maternity leave set out in this scheme.
9. All pregnant employees are entitled to take up to 26 weeks Ordinary Maternity Leave (OML) followed immediately by 26 weeks Additional maternity leave (AML) a total of up to 52 weeks leave provided that they adhere to the notification procedure. This entitlement is regardless of hours worked and length of continuous local government service.

Maternity Leave Pay

10. There are two types of Maternity pay:
 - Statutory Maternity Pay (SMP)
 - Occupational Maternity Pay (OMP)
11. The eligibility criteria for SMP and OMP are different and this means that where an employee qualifies for one type of pay they may not automatically qualify for the other.

Statutory Maternity Pay (SMP)

12. To be eligible for Statutory Maternity Pay an employee must:
 - Have 26 continuous weeks of employment with one or more academies or local maintained schools in the Wiltshire local authority area by the 15th week before the EWC;
 - Average weekly earnings for the 8 weeks up to and including the qualifying week of at least the lower earnings limit for NI contributions which is reviewed annually;
 - Have notified the academy of the date they want SMP to start at least 28 days before this date;
 - Have become pregnant and have reached, or been confined before reaching, the start of the 11th week before the week in which the baby is due;
 - Have produced medical evidence of the week in which the baby is due.
13. SMP average weekly earnings calculations will be recalculated to take into account any pay rises which occur during the maternity leave period (including the unpaid maternity leave period). Any increase will be back dated to apply from the start of paid maternity leave.

14. SMP is payable for 39 weeks. The rates are fixed by law, are subject to tax and National Insurance deductions and are paid at either 90% of an employee's average earnings or the standard rate, whichever is lesser.
15. Where an employee does not qualify for SMP they will be issued with a SMP1 form by the Education HR and Payroll Administration team or the academy's alternative payroll provider along with notification as to why they don't qualify for SMP. Information on eligibility to financial support such as child benefit can be found at www.hrmc.gov.uk

Occupational maternity pay for Teachers under the Burgundy Book

16. Entitlement to the provisions of the Burgundy Book maternity scheme and to occupational maternity pay during maternity leave, depend upon the length of continuous service with one or more local authorities. This includes continuous service at other maintained schools or under local arrangements other academies (for additional information about continuous service please see frequently asked questions below).
17. In Wiltshire our Foundation and Voluntary Aided Schools have also recognised previous continuous employment when assessing entitlement to Teachers Maternity Pay. When schools convert to academy status, teachers will retain their current contractual rights including continuous service as preserved in that Academy until such time these may be negotiated away by the new employer and replaced with alternative arrangements as agreed with the locally recognised teachers unions.
18. For the purposes of working out entitlements to Maternity pay teachers will fall in to one of the four entitlement categories set out below depending on their length of continuous service.

Entitlement 1 – Teachers who are eligible for statutory maternity pay (SMP) and occupational maternity pay (OMP)

19. Teachers who meet the eligibility criteria for SMP (set out above) and who have at least 1 year's continuous employment with one or more local authorities or maintained schools, or under local arrangements with academies at the beginning of the 11th week before EWC, will be entitled to the full entitlement under the occupational scheme.

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First 4 weeks	Weeks 1-4	Full pay (offset against SMP payments)
Next 2 weeks	Weeks 5-6	90% of pay (offset against SMP payments)
Next 12 weeks	Weeks 7-18	Half pay including SMP
Next 8 weeks	Weeks 19-26	SMP
Next 13 weeks	Weeks 27-39	SMP (as AML)
Next 13 weeks	Weeks 40-52	Unpaid leave (AML)

Teachers will be entitled to the following maternity pay benefits:

Entitlement 2 – Teachers who are not eligible for SMP but qualify for OMP

- 21. Teachers who do not meet the eligibility criteria for SMP (set out above) will not have an entitlement to SMP. However if they have at least 1 year’s continuous employment with one or more local authorities or maintained schools or under local agreements – other academies at the beginning of the 11th week before EWC they will be entitled to the full benefits of the Burgundy Book scheme.
- 22. Eligible teachers under entitlement 2 will be entitled to the following benefits:

First 4 weeks	Weeks 1-4	Full pay
Next 2 weeks	Weeks 5-6	90% of pay
Next 12 weeks	Weeks 7-18	Half pay
Next 29 weeks	Weeks 19-52	Unpaid leave

Entitlement 3 – Teachers who are eligible for SMP but not OMP

- 23. Teachers who meet the eligibility criteria for SMP (set out above) but do not have at least 1 year’s continuous employment with one or more local authorities or maintained schools or under local arrangements other academies at the beginning of the 11th week before EWC, will not be entitled to the occupational maternity pay provisions of the Burgundy Book, although they can benefit from maternity pay offered under the statutory maternity scheme.

Entitlement 4 – Teachers who are not eligible for SMP or OMP

- 24. Teachers who do not meet the eligibility criteria for SMP or OMP (set out above) will be entitled to take up to 52 weeks’ maternity leave but will have only limited statutory entitlements to pay.

Eligibility for Half Pay

- 25. In order to qualify for 12 weeks half pay, employees must return to employment within the Academy for at least 13 weeks. This period may be varied by the Principal on good cause being shown. Any parental leave or unpaid leave taken within this period will not be counted towards the 13 weeks. Employees will need to sign an agreement stating that a failure to return to employment within the Academy will result in a recovery of the half pay.
- 26. The 13 weeks period starts from the date the employee returns to work or the date during the school holidays on which the employee is due to return to work.
- 27. The options for payment of half pay are either to be paid after the employee returns from maternity leave or, during maternity leave which commences the 7th week of maternity leave and continues for a 12-week period.

Teachers Pensions

28. For members of the Teachers Pension Scheme (TPS), where a teacher is in receipt of Statutory Maternity Pay (SMP) or at least half-pay (including occupational maternity pay where the pay is half of the full time equivalent or more) this will be counted as pensionable. No contributions will be paid, by either the Academy or the teacher, during any period of unpaid maternity leave or where any pay is less than half of a full time equivalent. This will not be counted as pensionable employment. Further information on the teacher pension scheme please contact Teachers Pensions directly. (<http://www.teacherspensions.co.uk/>).

Notification of Maternity Leave

29. To be eligible for maternity leave the employee must notify their principal/line manager in writing as soon as possible and at least by the end of the 15th week before the EWC of the following:
- They are pregnant and the EWC, and;
 - The date on which their maternity leave will start. The employee should do this on the ML1 notification form. On the form there is the declaration that they will repay their 12 week's half pay should they not return to the Academy's employment for 13-weeks.
 - Employees need to also provide a certificate from their Doctor or Midwife confirming the date their baby is expected this is known as a MATB1 form.
30. Within 28 days of submitting the ML1 form, the employee will receive written notification of the end of their maternity leave period.
31. Employees can change the start date of their maternity leave, they must however, inform their Principal/line manager in writing at least 28 days before their absence begins, or, as soon as is reasonably practicable.

Starting Maternity Leave

32. Maternity Leave can be started at anytime from the beginning of the 11th week before the EWC.
33. Maternity leave can start any day of the week. It starts on the day the employee specified in their notice.
34. Employees who become ill whilst pregnant are entitled to sick pay in the normal way, whether or not the illness is pregnancy related. However, if an employee is absent from work on account pregnancy after the start of the 4th week before the EWC this will cause their ordinary maternity leave period to begin automatically.
35. In this situation, or if the child is born before the intended maternity leave start date, the employee must notify their principal/line manager in writing as soon as is reasonably practicable. Their maternity leave (and payment of SMP) will start from the day following

the first day they are absent from work on account of pregnancy or, in the case of an early birth, the day following the birth.

Stillbirths

36. Where the child dies or a stillbirth occurs before the end of the 24th week of pregnancy, the employee is not covered by the maternity scheme and SMP is not payable. In these cases the provision of the sick pay scheme applies. Where the child dies or a stillbirth occurs after the end of the 24th week of pregnancy, the employee is still entitled to the provisions of the scheme, (maternity pay and leave according to their eligibility). Prior to a return to work medical advice may be required to confirm fitness for an early return.

Working during Maternity Leave (KIT days)

37. Employees are able to work during maternity leave. Such days are 'keeping in touch days' (KIT days). They can be worked without bringing an end to the maternity leave or losing SMP. There is an entitlement of 10 KIT days for employees who are on maternity leave. If a part day is worked this will count as one **complete** KIT day against the 10 day allowance. When a KIT day is worked (either fully or partly to count towards a whole day.)
38. KIT days must be agreed in principle with the employee and the Principal, KIT days are an optional arrangement on **both sides**. The Principal does not have to offer these days and the employee is not obliged to accept them. Before a KIT day is worked the employee must discuss with their Principal the arrangements and basis on which the KIT day would be worked.
39. Employees will be paid for the actual hours worked on the KIT day at their standard hourly rate. Working on a KIT day should not result in employee receiving a weekly payment that is lower than the weekly rate of SMP to which they would have been entitled. SMP will be offset against KIT day payments during the period the employees are in receipt of SMP.
40. Employees are protected against any detrimental treatment for refusing KIT days. Statutory pay can be offset against the payment of a KIT day and therefore may wish to consider if they want to take a KIT day whilst they are in receipt of statutory pay.
41. Employees who work over the allowance of 10 KIT days (this includes part days counted as whole days) and are in receipt of SMP will lose SMP for the whole week in which they worked the additional day(s).
42. Maternity Leave will **not** be extended due to KIT days being agreed and taken.
43. A Maternity KIT day form should be completed and sent to the Schools HR Payroll and Administration team or your own payroll provider where KIT day/s are worked.

Contact with the academy during Maternity Leave

44. Principals are entitled to make reasonable contact with employees during maternity leave to discuss issues which could include the return to work or if required flexible working arrangements. Such contact does not count as a KIT day and there will be no impact on maternity leave or pay if contact is made during maternity leave. The employee must be informed of any proposed changes which might affect their substantive post, such as organisational changes. If there are any re-organisation or redundancy procedures instigated, whilst the employee is on maternity leave, they must be consulted with in line with the relevant Academy model scheme.
45. If it is the Principal who is on maternity leave, the Chair of the Academy Trust will be responsible for maintaining contact.

Returning from Maternity Leave

46. Employees are prohibited from working for two weeks after their baby is born and this period is included in their maternity leave entitlement.
47. Employees who intend to return to work at the end of their full maternity leave entitlement will not have to give any further notification. It will be assumed that they will return to work on the first available working day after the last date of their maternity leave.
48. Under the provisions of the Burgundy Book (Conditions of Service for School Teachers in England and Wales), teachers who want to return to work before the end of their maternity leave must give 21 days' notice of the date they intend to return to work.
49. Where an early return date has already been agreed and the employee wishes to change this date again a further period of 21 days' notice must be given.
50. Failure to give the correct notice of an early return may result in the employee's return being postponed for the period of the notice required, or until the end of their maternity leave entitlement, whichever is sooner. If the employee returns to work early, the payment of maternity pay will cease on their return.
51. If a teacher is unable to return to work at the end of their maternity leave due to sickness, normal sickness procedures will apply.

Contractual rights during maternity leave

52. Subject to certain exceptions (e.g. redundancy), employees have the right to return to the job in which they were employed under the original contract of employment and on terms and conditions not less favourable than those which would have applied if they had not been absent.
53. The contract of employment continues during maternity leave. The terms and conditions relating to notice periods, redundancy rights and disciplinary and grievance procedures continue to apply.

54. Where access to purchase Child Care Vouchers are provided for by the Academy as part of a salary sacrifice scheme, these will continued to be provided during statutory maternity pay period and any period of no pay.

Accrual of statutory annual leave during maternity leave

55. Teachers have no specific entitlement to annual leave, but will not normally be required to work during periods of Academy closure and public holidays. However, teachers taking statutory maternity, paternity or adoption leave will have a right to accrue statutory annual leave under the Working Time Regulations. When a teacher is on maternity leave their entitlement to this statutory annual leave continues to accrue.
56. The current statutory entitlement for teachers is 28 day annual leave under the Working Time Regulations. This is not an addition entitlement to annual leave on top of the current academy holidays.
57. This annual leave entitlement can be offset by any period of Academy closure that has taken place in the leave year in question i.e. both before and after the maternity leave period. The Principal should advise the teacher prior to commencing the maternity leave that their statutory entitlement to annual leave should be taken before or after the maternity leave period during Academy closure periods. On return from maternity leave, the teacher must be allowed to take any outstanding leave during term time if there are insufficient Academy closures to accommodate the statutory leave entitlement in that leave year.
58. Where the return from maternity leave is so close to the end of the leave year that there is not enough time for the teacher to take all their annual leave entitlement, the teacher must be allowed to carry over any balance of leave to the following year. The teacher is required to take this balance during the remaining periods of Academy closures after the 28 days Annual Leave for that leave year has been accommodated.
59. It is not possible for either the Academy to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e in academy closure periods or in term time.
60. Teachers who resign and do not, therefore, return at the end of their Maternity Leave period may, in some cases, be entitled to additional payment in lieu of their accrued annual leave entitlement. In the case of teachers who resign, any additional payment will help off-set any maternity pay that has to be repaid following a failure to return to work for 13 weeks.
61. It is not normally possible for a teacher to obtain payment of annual leave to offset not taking leave during the specified leave year.
62. It is recommended that any such accrued leave is taken during the period shortly after the return to work.

Antenatal Care

63. All pregnant employees are entitled to paid time off to attend antenatal clinics or classes. Employees may be asked by their principal/line manager to provide evidence of their appointments.
64. Details of the right to accompany a pregnant woman to antenatal appointments is set out in the paternity policy.

Health and Safety – Risk Assessments for new and expectant mothers

65. Principals/line managers need to undertake a risk assessment as soon as the employee notifies them of their pregnancy. This should be reviewed during the pregnancy and reassessed in the event that the employee returns to work within six months of giving birth and / or notifies them that she is breast feeding when she returns to work.
66. Any role which involves heavy lifting or any other risks which are identified must be discussed with the Academy's Occupational health provider as a matter of urgency.
67. Please see **Toolkit Appendix 2 – Risk Assessment for new and expectant mothers**. An employee who has concerns about the effect of their work on their own, or their child's, health should be able to contact the Academy's occupational health provider.

Maternity leave and unfair dismissal

68. All employees are protected against unfair dismissal for reasons related to taking maternity leave. Academies are advised to seek HR advice before taking any action to dismiss an employee who is on maternity leave.

Employees who decide not to return

69. Employees who decide not to return to work should resign in writing, giving the notice required by their contract of employment.

Right to request flexible working

70. Employees who meet the qualifying conditions have a right to make requests in line with the Right to request Flexible Working Policy.

Additional Unpaid Leave

71. Additional unpaid leave may be available to employees under the provisions of the parental leave policy.

Frequently asked Questions

72. **Does service with another school in a different authority count as continuous service for maternity purposes at the Academy?**

If an employee has TUPE transferred to an Academy on its conversion date then all previous service with a local authority school within the authority will count towards continuous service for SMP and Occupational Maternity Pay entitlements in the Academy where the LA has been the employer throughout.

If an employee was at a maintained school and has been appointed to a Wiltshire Academy through a recruitment process, so not TUPE transferred, their continuous service will be recognised for the purposes of continuous service for Occupational Maternity pay entitlements where the academy has adopted this model policy and has agreed to be part of the Wiltshire local agreement on continuous service. Where this is not the case employees should refer to the maternity scheme which applies to them and details of this should be available from the Academy.

Continuous service for the purposes of SMP will only relate to service between maintained schools and academies in the Wiltshire local authority area.

Academies may however choose to recognise previous employment under their own occupational maternity schemes where these replace the model offered by Wiltshire Council.

73. Does service with another Academy in a different local authority area count as continuous service for maternity purposes at the new Academy?

Academies can establish their own maternity provisions, provided that they observe the basic statutory rights. Academies may however choose to recognise previous employment in other academies or maintained schools under their own occupational maternity schemes. Continuous employment may, for example, be dated only from the date of appointment to the Academy as a new employee.

Where a Wiltshire Academy has adopted this model policy and has agreed to be part of the Wiltshire local agreement on continuous service then previous continuous service will be recognised from other Wiltshire Academies for the purposes of Occupational Maternity pay.

74. Does service in an Academy count for continuous service for maternity purposes with Maintained Schools or the LA?

A teacher voluntarily taking up employment with a maintained school immediately after leaving an Academy will not automatically retain continuous service for maternity entitlement reasons (please refer to first page of this guidance for information on recognising maternity entitlements).

If a Teacher returns to work at a maintained school but not under TUPE protections (i.e. they have applied for a job in the normal way) the service with the Academy does not have to be counted for calculating maternity entitlement. It is only service with Community and Voluntary Controlled Schools (those where the local authority is the legal employer) which is automatically recognised under the National agreement (please refer to first page of this guidance for information on recognising maternity entitlements).

75. Related academy HR policies and guidance

February 2015

- Paternity Leave
- Parental Leave
- Adoption Leave
- Flexible Working Policy