Maternity Policy for Teachers

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CHAIR OF TRUSTEES:	
CEO:	

EPA Maternity Policy for Teachers

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Introduction

1. This Oxfordshire model policy has been drawn up following consultation with all the recognised trade unions and associations: ASCL, ATL, NAHT, NASUWT, NUT and Unison. Advice on the application of this policy is available from the HR team.

2. This policy should be read in conjunction with other relevant documents such as the School Teachers' Pay and Conditions Document (STPCD), and Conditions of Service for School Teachers in England and Wales (Burgundy Book).

3. It is recommended that academies who have chosen to continue to use the STPCD, Burgundy Book, and Green Book also adopt this model policy. Where an academy adopts this policy the word ‘school’ should be taken to refer to the academy.

4. The term 'relevant body' has been used throughout this policy. In academies this is the Board of Directors.

5. The term 'head teacher' has been used throughout this document, however depending on the size and structure of the school this role may be delegated to other members of the senior leadership team, school business managers or line managers as appropriate. Where the head teacher is subject to this policy, this will be managed by the CEO.

Who does this policy apply to?

6. This policy applies to all pregnant teachers working in schools or in other settings. School support staff have their own policy.

Working while pregnant

Health and Safety

7. Employees should inform their head teacher as soon as possible to let them know they are pregnant. Head teachers/line managers must carry out a risk assessment and this should be kept under review throughout the pregnancy and on return to work after the birth. The assessment should include agreeing timing and frequency of breaks and identifying somewhere for the pregnant employee to rest, if required.

8. Most teaching jobs do not present a risk to pregnant employees or their babies. However, special care must be taken when a job involves manual handling, a high level of physical activity, night work or contact with hazardous substances.

Time off for ante-natal appointments

9. All pregnant employees have the right to paid time off for their ante-natal care. Employees may be asked to provide an appointment card or other evidence of appointments.

Sickness absence

10. Sickness absence that is pregnancy related must be reported in the usual way,but will not be counted for the purpose of monitoring sickness absence under the EPA Managing Sickness Absence Policy.

11. If employees become ill while they are pregnant they will be entitled to sick pay in the normal way. However, if they are absent from work after the beginning of the fourth week before the week in which the baby is due, and the reason is related to their pregnancy, maternity leave will normally be considered to have started at that point.

Maternity Leave

The amount of maternity leave available

12. Employees are entitled to 52 weeks' statutory maternity leave, regardless of their length of service. Maternity leave is made up of:

    - Ordinary Maternity Leave - first 26 weeks
    - Additional Maternity Leave - last 26 weeks

13. Additional Maternity Leave must follow straight after Ordinary Maternity Leave.

14. Mothers don’t have to take 52 weeks maternity leave, but it is compulsory for them to take two weeks’ leave after the baby is born.

15. Employees are not entitled to Statutory Maternity Leave if they have a child through surrogacy but may be eligible for Adoption Leave.

Shared Parental Leave

16. Employees can (subject to eligibility) choose to bring their maternity leave to an end early and create Shared Parental Leave to enable them to share the care of their baby with their partner.

Start date for maternity leave and early births

17. The earliest an employee can choose to start their maternity leave is 11 weeks before the expected week of childbirth. This means employees have a total of 63 weeks

maternity leave available to them - up to 11 weeks before the expected date of childbirth and up to 52 weeks after.

18. If they are medically fit to do so, employees can decide to carry on working up until the date the baby is due (the date given by the GP or midwife on the MAT B1 certificate).

19. Leave will also start:

- the day after the birth if the baby is early
- automatically if the employees is off work for a pregnancy-related illness in the four weeks before the week (Sunday to Saturday) that their baby is due.

Maternity Pay

20. Pay for up to 39 weeks of maternity leave may be available to employees depending on certain eligibility criteria including continuous service. Pay while on maternity leave can include:

a) Statutory Maternity Pay (SMP) or Maternity Allowance
b) Teacher's Occupational Maternity Pay

Continuous service

21. Continuous service is when an employee has worked for one employer without a break. For teachers in maintained schools continuous service for occupational maternity pay is recognised between maintained schools and from one local authority to another and will be carried over in any transfer of employment under TUPE regulations, e.g. during academy conversion. However if an employee voluntarily changes employer in the maternity qualifying period or during the period of maternity leave then her entitlement to maternity pay may be affected. Advice on individual circumstances is available from the EPA HR team.

Statutory Maternity Pay (SMP)

22. To qualify for SMP employees must:

- earn on average at least £123 a week
- have worked for the school continuously for at least 26 weeks up to the 15th week before the expected week of childbirth
- give the required notice to their head teacher
- provide a MAT B1 certificate giving proof of their pregnancy

23. SMP is paid for up to 39 weeks. Employees get:

    - 90% of their average weekly earnings (before tax) for the first six weeks
    - Flat rate SMP or 90% of their average weekly earnings (whichever is lower) for the next 33 weeks

Maternity Allowance (MA)

24. If an employee does not qualify for SMP, they can claim Maternity Allowance. Maternity Allowance is paid at a flat rate (or 90% of average weekly earnings if this is less) for 39 weeks.

25. The EPA payroll team will write to the employee letting them know if they are not entitled to SMP and will provide an SMP1 form for the employee to claim Maternity Allowance from Job Centre Plus.

Occupational Maternity Pay (OMP)

26. In addition to statutory maternity payments, teachers may qualify for occupational maternity pay in accordance with the Conditions of Service for School Teachers in England and Wales (‘the Burgundy Book’).

27. To qualify teachers must have completed 6 months continuous **local authority service** by the beginning of the 11th week before the week in which the baby is due.

28. Teachers who qualify for OMP will be paid:

    - Full pay for the first four weeks of maternity leave followed by
    - 90% of normal pay for the next two weeks and
    - 12 weeks at half pay normal pay

29. OMP of 12 weeks at half pay is made on condition that the teacher returns to duty after their maternity leave for a period of at least three months on a continuous contract; otherwise they will be required to repay this sum. Employees do not have to return to the same hours or to the same school, but they must return to the same employer.

30. If employees are undecided about coming back to work, they can opt to be paid this as a lump sum if they do return.

31. If half pay plus SMP entitlement is more than the employee's normal pay, it will be reduced accordingly.

Payment of maternity pay

32. Maternity pay including statutory maternity payments are paid by the school in the same way as an employee's salary on a monthly basis. Tax and National Insurance is deducted.

33. Maternity pay will start on the same day that the employee has chosen to start their maternity leave or:

    - automatically if the employee is off work for a pregnancy-related illness in the four weeks before the week that their baby is due or
    - the day following the birth if this is earlier than the date notified by the employee.

34. Once entitlement to maternity pay is exhausted (usually after 39 weeks), maternity leave is unpaid.

35. Where an employee works variable hours each week, maternity pay will be calculated using the average pay earned in the 12 weeks preceding the date on which the last complete week ended. This will exclude any week in which no pay was earned.

Giving notice to take maternity leave

36. At least 15 weeks before the baby is due, employees must notify their head teacher of the date their baby is due and when they want to start their maternity leave. Maternity leave can start any day of the week. Employees can change their mind about the date they want their maternity leave to start, but must give their head teacher 28 days' notice of the revised date.

37. Employees must complete the EPA Teachers Request for Maternity Leave and Pay Form (Annex B) and submit it to the head teacher who will notify the EPA HR and payroll team.

38. Employees must show the Mat B1 Certificate to the head teacher who will send a copy to the EPA HR and payroll team.

39. The EPA payroll team will write to the employee within 28 days, confirming the date maternity leave will start and end and their entitlement to maternity pay.

40. Employees are asked to give an indication of the date they intend to return to work. This helps the school plan cover arrangements. If no return date is given by the employee, it will be assumed that they intend to take their maximum leave entitlement and this will be confirmed to them in writing.

Early births, still-births and the death of a baby

41. Employees can still get Statutory Maternity Leave and SMP if their baby:

- is born early
- is stillborn after the start of their 24th week of pregnancy
- dies after being born.

Leave for fathers and partners

42. Employees can (subject to eligibility) choose to bring their maternity leave to an end early and create Shared Parental Leave to enable them to share the care of their baby with their partner.

Appraisal objectives

43. When planning for maternity leave appraisal objectives should be revised in advance to take account of the period when the teacher will be absent. If the teacher returns to work outside of the start of the academic year it may also be necessary to adjust objectives compared to colleagues as well. Any concerns which may impact on pay progression should normally be communicated before maternity leave commences.

Employment rights when on maternity leave

Terms and conditions of employment

44. Employees taking maternity leave have the right to return to the job in which they were employed, under their original contract of employment and on terms and conditions no less favourable than those which would have applied, had they not been absent. 'Job' for this purpose means the nature of the work which they are employed to do and the capacity and place in which they were employed.

45. Where this is not practicable, by reason of redundancy, the employee is entitled to be offered a suitable alternative vacancy, where one exists.

Keeping in touch days

46. Employees and head teachers or their line manager should remain in regular contact during maternity leave and agree at the outset how best to do this. Head teachers and managers can make a reasonable amount of contact with employees, for example to let them know about changes at school, job vacancies, training opportunities or staff events. Employees can be invited to school events but are under no obligation to attend.

47. Employees on maternity leave will be kept informed and consulted about any changes at school that may affect their job.

48. Employees can work up to 10 days during their maternity leave (but not within the first two weeks after the birth). These days are called ‘Keeping In Touch days’ (KIT days). KIT days are optional - both the employee and head teacher need to agree to them.

49. KIT days can be used for employees to work or attend events such as training or their appraisal meeting.

50. The employee is entitled to be paid for the work they do on KIT days. This can be at their normal rate of pay or at another rate agreed between the manager and the employee. The type of work and the pay should be agreed before the employee comes into work.

51. A part day worked is counted as one KIT day but the employee is only paid for the hours worked.

52. The employee’s right to maternity leave and maternity pay is not affected by KIT days.

53. KIT days can be used as a single days or in blocks. If the employee continues to work once the 10 KIT days have been used, it will affect their entitlement to statutory maternity pay.

Annual Leave

54. Teachers do not have a contractual entitlement to leave but do retain their right to statutory leave entitlements (28 days inclusive of bank holidays per leave year). Statutory annual leave continues to accrue during maternity leave and teachers ‘take’ their leave during periods of school closure (e.g., school holidays) and can carry this forward to the following leave year.

55. It is important to establish whether there are sufficient periods of school closure to accommodate any carry forward statutory annual leave entitlements PLUS the current leave year’s entitlements.

56. If there are not sufficient school holidays to accommodate carry forward leave, or if an employee leaves employment at the end of maternity leave, the school should contact the payroll team for them to calculate whether any payment for statutory leave entitlement is due. The school will need to advise the teacher that they will be raising an enquiry with the payroll team to calculate this. Should any statutory annual leave entitlement be owed, the payroll team will confirm how the school can process this.

57. No pay in lieu of days owed is payable unless the employee leaves employment at the end of the maternity leave period.

Pension

58. Pension contributions only continue during paid periods of maternity leave for as long as the statutory payment is made. The Teachers' Pension Scheme does not allow service during periods of unpaid leave to be purchased but there is provision for Additional Pension to be purchased when returning to paid teaching service. Full details are on the Teachers' Pensions website.

Returning to work

59. Employees will be expected back at work on the date given on the maternity leave notification form. If a date was not given, it will be assumed that the maximum leave entitlement is being taken. The head teacher must inform the EPA HR and payroll team when the employee returns to work.

Changing the return to work date

60. Employees must give their head teacher at least eight weeks' notice if they want to change their return to work date. If this notice period is not given, their return may need to be delayed by up to eight weeks.

61. If an employee returns to work before exhausting their full entitlement to statutory maternity pay or leave, they and their partner may be eligible for Shared Parental Leave/Pay.

62. If an employee decides not to return to work, they should resign in writing in the normal way, giving at least the amount of notice specified in their contract of employment.

63. Where an eligible employee has opted to receive payment of occupational maternity pay (12 weeks half pay) and subsequently decides not to return work, (see paragraphs 25 - 30 for full terms), they will be required to repay this sum unless exceptional circumstances apply.

Right to request flexible working

64. While there is no obligation to agree to requests for flexible working, the head teacher will carefully consider all requests, ensuring that the needs of the school can be met before agreeing to any new arrangements. See EPA Flexible Working Policy.

Health and Safety for new and breastfeeding mothers

65. A new mother is defined as someone who has given birth within the last six months or who is breastfeeding.

66. It is advisable to revisit the risk assessment when an employee returns to work following maternity leave.

67. There is a legal requirement to provide somewhere for breastfeeding employees to rest.

Child Care Voucher Scheme

68. The Trust participates in a childcare voucher scheme with a variety of childcare providers. This scheme allows childcare vouchers to be paid from the employee's salary, before tax and national insurance deductions. The scheme was closed to new entrants on 4th October 2018 but parents already registered by this date are able to continue using it for as long as their employer offers it or until they leave the scheme. For more information go to www.childcarevouchers.co.uk.

69. The Government's tax-free childcare scheme replaced childcare vouchers. For further details on eligibility and how to apply visit www.gov.uk/tax-free-childcare.

Other related policies and sources of information

- Oxfordshire Family Information Service (OxonFIS) - all about childcare, activities and services for families
  - EPA Flexible Working Policy
  - EPA Paternity Leave Policy

Review of policy

We check our policies regularly to make sure they are up to date. The latest version can be accessed from the EPA website at www.epa-mat.org/policies/

If you have any questions about this policy contact the EPA HR team.

Annex A - Quick look up table for Maternity Pay entitlement

Qualifying length of service **EWC – Expected week of childbirth*	**Pay you are eligible for:** *Maternity pay is paid monthly in the same way as your salary. Tax and national insurance contributions will be deducted.*
I will have less than 6 months continuous service with the school/local authority by the beginning of the 11th week before the EWC*	You are not eligible for maternity pay under the school's maternity scheme or Statutory Maternity Pay (SMP). You may be able to claim Maternity Allowance - GOV.UK. The payroll team will notify you and send you a claim form.
I will have worked for the same employer continuously for at least 6 months by beginning of the 11th week before the EWC*	You qualify for school's maternity pay but not Statutory Maternity Pay: ▪ Full pay for the first four weeks of maternity leave followed by ▪ 90% of normal pay for the next two weeks and ▪ 12 weeks at half pay normal pay, if you intend to return to work for at least three months after maternity leave
I will have worked for the same employer for at least 26 weeks by the beginning of the 15th week before the *EWC	You are eligible for Statutory Maternity Pay (SMP), as long as your weekly pay is above the National Insurance Lower Earnings Limit and the school's maternity pay. You will be paid: ▪ Full pay for the first four weeks of maternity leave (this includes SMP) followed by ▪ 90% of normal pay for the next two weeks (this includes SMP) and ▪ 12 weeks at half pay normal pay, if you intend to return to work for at least three months after maternity leave ▪ in addition to half pay, from week 7 and for the remaining 33 weeks –flat rate Statutory Maternity Pay or 90% of your average weekly earnings (whichever is lower)

Annex B – Teachers Request for Maternity Leave and Pay Form

The original copy of this form must be returned to your Headteacher at least 28 days before your maternity absence is due to begin.

Employees: Please keep a copy for your records

A. PERSONAL DETAILS

Employee reference number (see your payslip):

Surname: First Name:

Job Title: School Name:

Place of work: Work Tel. No:

Date starting work current employer:

Length of continuous local government service:

Home Address: Tel. No:

B. DETAILS OF MATERNITY LEAVE

Date when baby is expected:

Please attach your maternity certificate MAT B1 (or other evidence of expected date of baby's birth).

Date when you intend to commence your maternity leave (this can be any day of the week and should not be earlier than the beginning of the eleventh week before the week in which the baby is due):

Date of intended return:

If you do not give a date, the date will be confirmed to you as the end of the maximum maternity leave period. If you subsequently wish to return on a different date, you must give your employer at least 8 weeks' notice.

C. DETAILS OF MATERNITY PAY: (Maternity pay is only paid to those with 26 weeks local government service into the qualifying week (the 11th week before the baby is due). If you are not eligible for this you will need to contact the Department for Work and Pensions in order to claim maternity allowance).

For the first 4 weeks of maternity leave you will receive 100% of your normal pay and 90% for the next 2 weeks. For the following 12 weeks you will receive your entitlement to flat rate Statutory Maternity Pay (SMP), plus if eligible, half pay as below if you have indicated that you intend to return to work. For the next 21 weeks you will receive your entitlement to flat rate SMP (or 90% of your normal pay if this is less).

Please choose one of the following options:

I intend to return to work following my maternity leave and would like my 12 weeks half pay on the normal pay date during my absence ☐

I intend to return to work following my maternity leave and would like my 12 weeks half-pay to be paid over a mutually agreed period as to enable the continued receipt of childcare vouchers. My proposal for the payment of the half pay salary is attached ☐

Please pay my 12 weeks half pay as a lump sum on the first pay date after I return to work ☐

(NB: Although you are asked above to state your intention to return to work following your maternity leave this statement is not binding. If you do not return to the same employer for at least 3 months then you will be required to repay the 12 weeks half pay unless exceptional circumstances apply.)

Signed: …….

Date: ……..