



# SIR THOMAS RICH'S

## Maternity Leave (Teachers) Policy

**Date reviewed:** June 2024

**Status:** Statutory

**Responsibility:** The School's Senior Leadership Team (SLT) draws up and implements the Maternity Leave (Teachers) Policy for Staff. It is the responsibility of the Trustees' Personnel committee to review the policy regularly and monitor its implementation.

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### 1. Introduction

The School is committed to supporting pregnant employees before, during and after they return from maternity leave. This policy provides guidance on claiming maternity pay, obligations during maternity leave and statutory and contractual maternity entitlements.

Maternity leave is the paid and unpaid time off work that employees are entitled to when they have a baby. This policy applies to teachers.

This policy does not form part of any employee's contract of employment and is entirely non-contractual.

It may be amended, withdrawn, suspended, or departed from at the discretion of the School at any time.

### 2. Informing a line manager of a pregnancy

The School understands that individuals may not want to tell their line manager they are pregnant in the early stages. However, employees must inform their manager by the 15<sup>th</sup> week before the expected week of childbirth. This will allow employees to take paid time off to attend antenatal appointments and so that the School can address any health and safety concerns in a timely manner.

Employees must give written notice to the Headteacher via the return of the Teacher Application for Maternity Leave and Pay (Appendix A) proforma duly completed and signed, detailing when they intend to start maternity leave. This date along with the maternity certificate (Mat B1 form) will be sent to the payroll provider by the School.

### **3. Changing the maternity leave start date**

The employee must give the Headteacher 28 days' written notice of the new date which will be forwarded to the payroll provider by the School.

The employee can start the maternity leave on any day of the week but not before the beginning of the 11<sup>th</sup> week before the expected week of childbirth.

### **4. Taking time off for antenatal appointments**

An employee can take a reasonable amount of paid time off work to attend antenatal appointments. The time off must be requested with the line manager/Headteacher and evidence of appointments and/or a certificate from the doctor confirming the pregnancy should be provided. The employee may not receive an appointment card for their first appointment.

Partners (to include spouse, civil partner of the pregnant person and a person in a long term relationship with them) have the right to take paid time off work to accompany the pregnant person to up to two antenatal appointments (approved by the line manager/Headteacher in advance).

### **5. Maternity risk assessment**

The line manager should complete a pregnant worker's risk assessment when they are informed of the pregnancy. The line manager should review the risk assessment at reasonable intervals during the pregnancy or if the individual's situation changes. Individuals are still responsible for their safety at work and should advise their manager if there are parts of their work or areas of the workplace that they think might affect their health and safety.

### **6. Maternity leave entitlement**

Employees are entitled to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave. If they plan to share leave with their partner, they may do so by curtailing their maternity leave – please see the shared parental leave policy for further information.

Maternity leave cannot be broken and must be taken as one continuous period. However, employees could consider shared parental leave which can be taken discontinuously.

### **7. Eligibility for maternity pay**

Maternity pay will depend on the length of continuous service. The pay entitlements are included at the end of this policy.

If an employee has been transferred into the School's employment from another organisation under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (often referred to as 'TUPE'), the length of continuous service will include any service with the previous employer.

The maternity pay is subject to income tax and national insurance in the same way as normal pay. If employees are a member of the Teachers' Pension Scheme, they will pay pension contributions on the maternity pay received.

During maternity leave pension contributions will be deducted whilst the individual receives full, or half pay. If they fall below half pay, contributions will cease, and this will be "excluded" from pensionable service. Individuals are not able to make up these payments when they return to work however, they can buy additional pension to make up the deficit and should contact Teachers Pensions to discuss this.

Pay will go into the employee's bank account in the normal way at the end of each month. The individual will receive a schedule of maternity pay from the School's payroll provider.

If the employee is entitled to CMP, they have options as to the time over which this is paid. These options can be found at the end of this policy. If employees have any questions about maternity pay, they should contact the School's Director of Finance and Operations.

If individuals decide to remain in the childcare voucher scheme during maternity leave period they need to be aware that the way in which contractual pay is structured will be different to the details within this policy. Information is provided in the childcare voucher scheme rules, which were signed up to when individuals joined the scheme and are available on the scheme's website.

If employees choose not to receive contractual pay during this period but wish to receive a lump sum on return then the amount the School has subsidised for the vouchers will be deducted from the lump sum. Where there is a balance, this will be paid to the employee should they return for the specified period stated in this policy.

## **8. Illness before maternity leave starts**

In the event of absence for a pregnancy-related illness this will be managed in the same way as other sickness absence. Pregnancy related absences will not be included in the monitoring of the trigger calculations. If the absence is at or after the beginning of the fourth week before the expected week of childbirth, this will trigger the start of the maternity leave. The maternity leave would then start on the day after the first day of absence.

## **9. Baby being born early or late**

If the baby is born before the start of maternity leave, maternity leave will start the day after the birth. Employees must inform their manager and payroll and confirm the day maternity leave will start.

If baby arrives late this will not affect maternity leave dates.

## **10. Stillbirth, miscarriage, and death of a child shortly after birth**

If the baby is stillborn at 24 weeks or more, employees will still be entitled to maternity leave and statutory maternity pay (SMP).

If individuals have a miscarriage before 24 weeks they will not be entitled to maternity leave or SMP. If they are absent from work following the miscarriage this will be treated as sickness absence.

If the baby is born alive but dies shortly after birth the employee will retain full rights to maternity leave and SMP.

## **11. Keeping in touch whilst on maternity leave**

How the employee and line manager will keep in contact should be agreed before the individual goes on maternity leave. This will allow the line manager to update the individual on any important changes in the team or development opportunities.

## **12. KIT ('keeping in touch') days**

'Keeping in touch' or KIT days are days worked while on maternity leave without losing maternity pay or bringing leave to an end. They allow the employee to attend training or work the odd day to 'keep in touch' with what is happening in the workplace.

There is no obligation for individuals to work KIT days or for managers to offer them. Individuals can agree with their manager to work up to 10 days but no more. A whole day KIT leave is deducted, regardless of whether a part or full day is worked.

Employees are not legally allowed to work during the first two weeks following the birth and this includes KIT days.

Employees cannot use KIT days to extend ordinary or additional maternity leave.

If maternity pay is greater or the same as the pay the individual would normally receive then they are not paid anything extra. If it is less, they will be paid the difference.

If employees are part-time and work different hours on different days, the payroll provider will calculate average weekly hours over five days to determine an average day/hours pay.

Irrespective on the number of contracts an employee works there is a limit of ten KIT days. If an employee works beyond ten KIT days the employee will lose a full week of statutory maternity pay for any week in which they work.

### **13. Annual leave and bank holidays**

Entitlement is the same as it would be had the individual not been off work on maternity leave.

Statutory paid leave (currently 28 days) must be taken at a time outside of the maternity leave period, during school closures within the academic year (deemed to be 1<sup>st</sup> September to 31<sup>st</sup> August).

### **14. Appraisal/pay progression and maternity leave**

Where possible the School will conduct an appraisal prior to the commencement of maternity leave and this together with performance in previous appraisal periods will inform the outcome of the current appraisal period and any subsequent pay recommendations.

### **15. Redundancy and maternity leave**

If the role becomes redundant whilst the individual is off work on maternity leave the school will try to re-deploy them and where possible they will be offered suitable alternative employment, with a period of temporary safeguarding of salary if appropriate.

An employee on maternity leave, and employees who have returned to work within 18 months after the birth of a child following maternity leave must be given first refusal on any suitable alternative vacancies that are appropriate to the employee's skills. While the School will make every reasonable effort to offer alternative employment, if no suitable vacancy exists the position will be made redundant. Employees are reminded that the unreasonable refusal of an offer of suitable alternative employment will lead to loss of entitlement to a redundancy payment. Similar protection applies to employees on, or who have recently returned from, adoption leave or shared parental leave.

If an individual is made compulsorily redundant whilst on maternity leave (whether 'ordinary' or 'additional' leave) and as a result they are unable to fulfil the requirement to return to work for 13 weeks, they will not be required to repay CMP.

If an individual chooses to apply for voluntary redundancy whilst they are on ordinary or additional maternity leave and this is accepted and as a result, they are unable to fulfil the requirement to return to work for 13 weeks, they will be required to repay any CMP they have already received.

If an employee applies (and is accepted) for voluntary redundancy after they have returned to work following ordinary or additional maternity leave, they will not be required to repay any CMP previously received, provided they will have completed 13 weeks employment between the date of the return from maternity leave and the date on which their employment with the school ends.

If an individual's role is made redundant whilst on maternity leave, they will be paid on normal pay for the contractual notice period. If the individual qualifies for statutory maternity pay (SMP), any remaining SMP will be paid to them in a lump sum at the end of their employment.

Maternity leave and employment will finish at the end of the redundancy notice period if the School is unable to redeploy the individual.

## 16. Returning to work from maternity leave

Employees will receive confirmation via letter from the Headteacher of their latest return to work date by the time they start maternity leave. If they wish to return before this, they must give the Headteacher 21 days' written notice of the date they would like to return. An employee can return to work at any point in the year.

The School's HR Manager will confirm the return-to-work date to the relevant payroll provider, to ensure normal pay is reinstated.

If an individual wishes to work different days or hours upon their return to work they would need to make a flexible working request to the Headteacher.

If the employee decides not to return to work following maternity leave they must resign in writing giving the appropriate notice, sending a copy to their manager.

If for any reason other than redundancy (see above), an individual does not return to work for the same employer under a contract of employment for 13 weeks they will not be entitled to contractual maternity pay (CMP). If they have already received this they will be required to pay it back.

## 17. Maternity pay entitlements – contractual and statutory

Contractual maternity pay (CMP) - what the school pays. CMP is calculated on the actual weekly pay that would have been due under the contract of employment had the individual not been absent on maternity leave.

Statutory maternity pay (SMP) - what the state pays (for the current SMP rate please refer to the [government website](#)). The following factors may affect entitlement to SMP:

- 17.1 late notification of pregnancy,
- 17.2 no medical evidence of the expected week of childbirth,
- 17.3 being outside the EEC after the 11<sup>th</sup> week before baby is due (this does not apply to all countries and employees so advice should be sought from the Benefits Agency),
- 17.4 being taken into legal custody,
- 17.5 level of earnings not above the National Insurance earnings limit.

| Length of continuous service*   | Pay entitlement  |
|---|--|
| <b>Less than 26 weeks service</b> , irrespective of hours worked, as at the 15th week before the expected week of childbirth (EWC)  | <ul style="list-style-type: none"><li>• No SMP</li><li>• No CMP</li><li>• Possible entitlement to maternity allowance (see advice on Gov website - <a href="https://www.gov.uk/maternity-allowance">https://www.gov.uk/maternity-allowance</a>)<br/><i>The School will provide an SMP1 form.</i></li></ul> |
| <b>26 weeks or more</b> , irrespective of hours worked, as at the 15th week before the expected week of childbirth <b>and less than 1 year's service</b> as at the 11th week before the expected week of childbirth (EWC) | <ul style="list-style-type: none"><li>• Entitled to SMP (subject to sufficient earnings)</li><li>• No CMP</li></ul>  |
| <b>At least 1 year's continuous service</b> , irrespective of hours worked, as at the 11th week before the expected week of childbirth (EWC)  | <ul style="list-style-type: none"><li>• Entitled to SMP (subject to sufficient earnings. <i>If not, individuals may be entitled to maternity allowance</i>)</li><li>• Entitled to CMP</li></ul>  |

\*Continuous service is when an employee has worked for one employer or associated employer without a break e.g., staff who have moved schools but continuously worked for local authority schools will have continuous employment for the purpose of maternity pay. Staff transferring between schools and academies under TUPE keep their existing continuity of service for the purpose of maternity pay.

If individuals are entitled to SMP and CMP it is paid as follows:

| <b>Week of leave</b> | <b>Pay</b>  |
|----------------------|---|
| Weeks one - four     | Full pay  |
| Weeks five – six     | 2 weeks at 90% of full weekly pay (SMP)   |
| Weeks seven-18       | <p>12 weeks' half pay (CMP) if the individual qualifies plus SMP or maternity allowance. Individuals can choose to have half pay paid in one of the following ways:</p> <ul style="list-style-type: none"> <li>• over 12 weeks - weeks seven-18 (it will be paid this way unless one of the other two options, below, is chosen)</li> <li>• over 20 weeks - weeks seven-26 (assuming the individual is taking their full entitlement to ordinary maternity leave). This would result in a lower sum per week.</li> <li>• in one lump sum once the individual has returned to work (this would apply where the employee is unsure as to whether they wish to return to work after the maternity leave period).</li> </ul> <p><i>The amount received must not exceed normal full pay.</i></p> |
| Weeks 19-39          | 21 weeks SMP (or maternity allowance subject to eligibility for SMP not being met).   |