

Family Leave – Maternity

(Policy and Procedure)

Approval Arrangements

All statutory policies in the Trust are ultimately the responsibility of the Trust Board. To enable it to discharge this responsibility appropriately and in collaboration with the constituent schools, the Trust Board will

1. set a full Trust wide policy,
2. set a 'policy principles' document (a framework within which Headteachers develop a full and appropriately customised policy),
3. or delegate to Headteachers or LGBs the power to develop their own policy.

This is a **level 1 policy** which was approved by Board of Trustees, for implementation in Tenax Schools Trust on the date below and supersedes any previous scheme.

Review Body:	CEO
Date Approved:	6 March 2023
Author:	Human Resources Director
Next review due:	March 2026
Review period:	3 years

1 Introduction

This policy sets out the statutory rights and responsibilities of employees who need to take a period of maternity leave. The Trust recognises that maternity provisions can be complex and it is the Trust's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible.

2 Ethos

Our Trust is a place where everyone should be able to flourish in a loving and hospitable community. Everyone is equal and we treat each other with dignity and respect. Each employee, in all their unique difference should be able to thrive, irrespective of physical appearance, age, gender, race, religion, ethnicity, socio-economic background, academic ability, disability, sexual orientation, marital status or gender identity. The individual identity of each school is valued equally, whether of faith designation or none.

3 Scope

This policy and procedure applies to all employees of Tenax Schools Trust, and should be read in conjunction with an employee's statement of terms and conditions of employment.

Maternity rights apply equally to full and part-time employees no matter how many hours worked, provided qualifying conditions are satisfied.

4 Responsibilities of the Trust

- To provide information to employees regarding their rights and responsibilities.
- To discharge the Trust's obligations under the contemporary legislation, including obligations under the Maternity and Parental Leave etc Regulations 1999, and the Equality Act 2010
- To maintain appropriate contact with all employees during periods of paternity and family leave

5 Responsibilities of the employee

- To fulfil the notification requirements
- To provide evidence of pregnancy and appointments etc. as required
- To maintain reasonable contact with the school/Trust during family leave

6 Information processing and sharing

When managing an employee's maternity leave and pay, the organisation processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which an employee informs the organisation that they plan to take paternity leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their paternity leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure.

7 Maternity leave

Employees are entitled to take up to 52 weeks' maternity leave regardless of length of service. Maternity Leave is made up of:

- 26 weeks' ordinary maternity leave
- 26 weeks' additional maternity leave

Additional maternity leave immediately follows ordinary maternity leave with no gap in between.

Employees must take a minimum of 2 weeks' compulsory maternity leave after the birth of their baby.

Employees must notify their headteacher or line manager of their pregnancy, expected week of childbirth and the date they wish to start maternity leave by the 15th week before their baby is due, or not later than 14 weeks before the date the expected week of childbirth for those employed under Burgundy Book terms and conditions. Employees must confirm their intentions in writing and include:

- Confirmation of pregnancy
- The week the baby is expected to be born
- The date they wish to start maternity leave
- Confirmation of their intention to return to work (if applicable)

Employees may change the start date of their leave by giving their Headteacher or line manager 28 days' written notice of the revised dates (not less than 21 days' written notice for those employed under Burgundy Book terms and conditions). This notification requirement does not apply in the event of premature birth.

Support staff can start their maternity leave on any day of the week, not sooner than 11 weeks before the baby is due. For those employed under Burgundy book terms and conditions, maternity leave must be planned to start on a Sunday. The latest date maternity leave can start is the date the baby is due. Maternity leave will also start:

- For support staff, the day after the baby's birth if the baby is early, or the date of childbirth for those employed under Burgundy Book terms and conditions
- Automatically if the employee has been off work from a pregnancy-related illness in the 4 weeks before the due date (6 weeks for employees who are employed under Burgundy Book terms and conditions).

8 Maternity pay

Subject to government eligibility criteria, employees may be entitled to receive Statutory Maternity Pay (SMP). Full details of payments can be found on the gov.uk website.

In addition to statutory maternity provisions, employees may be entitled to contractual maternity pay (CMP) provisions. To be eligible for CMP employees must:

- Have at least 1 year's continuous service with the Trust by the beginning of the 11th week prior to the expected week of childbirth.
- Continue to be employed immediately before their maternity leave starts.
- Provide a MATB1 certificate.
- Fulfil their obligations to notify the school of their pregnancy and the date they intend to start their maternity leave on time.
- Return to work for a period of 13 weeks following their maternity leave (including periods of school closure).

Qualifying employees will receive the following CMP:

- 4 weeks at full contractual pay (90% where applicable will be made up of SMP), followed by;
- 2 weeks at 90% of contractual pay or SMP (where applicable) at the earnings-related rate (90% of average weekly earnings) whichever is the greater, followed by;
- 12 weeks at contractual half pay (if you intend to return to work) to run alongside (where applicable);
- 33 weeks at standard rate SMP or 90% of your average weekly earnings, whichever is less. The total contractual half pay and standard rate SMP must not exceed full pay.

Where there is no intention to return at the outset of maternity leave CMP will not be due. Employees must repay their CMP to the Trust if they decide not to return for the minimum period. Where the Trust agrees to a reduction in contractual hours on return from maternity leave, support staff must return to work for the minimum period of 13 weeks. Employees employed under Burgundy Book terms and conditions must complete 13 weeks' aggregate service based on the previous contract.

Both SMP and CMP are subject to PAYE tax, National Insurance and pension contributions.

For employees taking advantage of any salary sacrifice scheme, including childcare vouchers, average weekly earnings is calculated after deductions have been made.

9 Evidence of pregnancy

Employees should notify their headteacher or line manager of their pregnancy as soon as possible. Early notification will assist the Trust to comply with relevant health and safety requirements and provide support to pregnant employees.

Pregnant employees must submit a MAT B1 certificate when applying for Maternity Leave. It is required to confirm the baby's due date and to authorise maternity leave and pay. Maternity pay cannot be paid without this certificate.

10 Health and safety

Following notification of pregnancy, the headteacher/line manager or a health and safety adviser will initiate a workplace risk assessment with the employee.

If employees have concerns regarding their health and safety they should raise them with your headteacher in the first instance without delay. Employees should notify their headteacher or line manager immediately if they experience any complications during pregnancy or receive specific advice from their midwife or other health care professional so that their risk assessment can be reviewed.

11 Time off for antenatal care

Employees have the right to take a reasonable amount of time off to attend antenatal appointments. This includes medical examinations, and may include relaxation and parentcraft classes provided these are advised by a registered medical practitioner, midwife or health visitor. This time off will be paid at normal rates.

There is no qualifying period for this right, however, with the exception of the first appointment, employees may be asked to provide an appointment card, or similar evidence of appointments. Employees may be asked to provide a certificate from a registered medical practitioner, midwife or health visitor confirming their pregnancy.

The employee should endeavour to give their headteacher or line manager as much notice as possible of when they need the time off for the antenatal appointment and, where possible, try to arrange them as near to the start or end of the working day. Requests for planned time off must be made to the headteacher/line manager in line with the school's staff attendance procedures.

11 Premature and multiple births

If the employee's baby is born early i.e. before the date they intended to start their leave, maternity leave and pay will start automatically the day after the baby's birth. In order to preserve their rights to maternity leave and pay they must give written notice of the baby's birth date as soon as is reasonably practical.

In the event of a multiple pregnancy, standard maternity leave and pay arrangements apply.

12 Pregnancy loss and stillbirth

In the sad event of pregnancy loss, including in the event of an ectopic pregnancy, before or during the 24th week of pregnancy employees are not be able to claim SMP or CMP. Normal sick pay entitlements will apply for any resulting sickness absence in accordance with the Trust's Staff Attendance Policy. Partners are able to take Personal/Carer's Leave for either their own wellbeing, or to support a partner following the loss of a pregnancy.

Where a baby is born alive before or during the 24th week of pregnancy but subsequently dies, or where stillbirth occurs from the beginning of the 25th week of pregnancy, maternity leave and pay provisions will still apply. Provisions for Parental Bereavement Leave will also apply. Please see the Staff Attendance Policy for full details.

Whilst time off following a stillbirth or neonatal death is legally termed "maternity" or "paternity" leave, some employees may be upset by or uncomfortable with those terms. The Trust will treat such periods of leave sensitively, and be led by the employee's preference on the language used.

13 Sickness absence

Employees who are absent from work due to non-pregnancy related sickness, e.g. a broken arm, will receive normal sick pay applies up to the date the baby is born or the agreed date for finishing work, whichever is sooner.

Where the employee's absence is pregnancy related, sick pay will be paid up to the beginning of the 4th week before the expected week of childbirth. Where absence is for any pregnancy related illness in the 4-week period before the due date, maternity leave will start automatically on the day after the first complete day of absence from work.

Employees are not entitled to sick pay during maternity leave.

14 Leaving employment prior to maternity leave

Employees leaving the Trust after the start of the 15th week (qualifying period) before the expected week of childbirth will still be entitled to SMP.

Where individuals leave employment after the start of the qualifying period but before the start of the 11th week before their expected week of childbirth, SMP will start from the 11th week before the expected week of childbirth. Where individuals leave employment after the start date of the 11th week before the expected week of childbirth but before the date their maternity leave was due to start, SMP will start from the day after their employment ends. Should an employee leave employment during maternity leave, SMP will stop on their last day of service.

15 Notification of birth

The employee should inform their headteacher/line manager or Human Resources of the actual date of birth of their baby as soon as possible. They will in turn notify the Trust's payroll provider to ensure maternity pay is correct.

16 Annual leave

For all year-round support staff, annual leave accrues during maternity leave, and can be taken all or in part before returning to work. Contractual holiday pay will start when maternity pay has ceased. When maternity leave spans two annual leave periods, the whole of the accrued leave should be transferred to the new leave year.

For term-time-only employees, annual leave is taken during the school closure periods and payment in respect of annual leave entitlement is included in salary. When an individual notifies the school of their intended period of maternity leave, the number of school closure days before and after the period of leave will be calculated. Where the school closure weeks exceeds the number of paid annual leave weeks, no adjustment will be made to salary. Should the number of school closure weeks before/after the period of maternity leave be less than the individual's entitlement to annual leave, the individual will be offered compensatory time off. This should normally be taken at the end of the period of maternity leave. In the event that the period of maternity leave spans two annual leave years, annual leave for the first year will be

compared to the number of school closure weeks before maternity leave commences, and leave for the second annual leave year will be compared to the school closure periods that fall after the end of the maternity leave period. Any annual leave owed to the individual should normally be taken at the end of the maternity leave period.

17 Contact during maternity leave

The Trust can contact employees (and vice-versa) during maternity leave, as long as the amount and type of contact is not unreasonable. This contact is necessary to ensure discussions take place regarding return to work plans and to ensure employees are kept up to date on important developments within the workplace including any job opportunities or promotions that arise. Employees should discuss the amount and type of communications that they would like before they start their leave.

18 Keeping In Touch (KIT) days

Employees may work up to 10 'Keeping in Touch Days' (KIT Days) during the course of their maternity leave. These are intended to help employees keep up to date with the work environment and to help prepare for their return from leave. Payment for KIT days does not affect statutory maternity pay or leave. However, where a KIT day is worked during the paid part of maternity leave, the KIT hours/days will be offset against any pay the employee is receiving. This means that unless the pay for the hours worked in that week exceeds the pay you are currently receiving, there will be no payment made for the hours worked.

Employees who work a KIT day in the unpaid period of leave will receive pay for hours worked.

Working for any part of a day will count as one KIT day.

The date and purpose of any KIT days must be mutually agreed between the individual and their headteacher/line manager. Typically KIT days will be used for staff training/INSET days and handover from a covering employee, but may be used for specific project work appropriate to the employee's role.

19 Returning to work

After the period of ordinary leave, employees have the right to return to the same job. After additional leave employees have the right to return to the same job or, if not reasonably practical, an appropriate alternative job, on terms and conditions of employment that are no less favourable than their role immediately prior to taking maternity leave. Exceptions may occur where there is for instance, a redundancy or the end of a fixed term or temporary contract. In these circumstances, employees will be offered suitable alternative work, where available.

Unless otherwise notified, the Trust expects employees to return to work on first working day after the end of the 52 weeks' maternity leave. Employees will be informed in writing before the start of their leave of the latest date they are expected to return. Should maternity leave start earlier than planned, employees will be advised of the revised date as soon as possible. Employees will not receive any further notification or reminders of this date.

Employees who wish to return to work before their latest date to return must give at least 8 weeks' notice of their intended return date, or at least 21 days for those employed under Burgundy Book terms and conditions. Where an employee gives less notice, their return to work may be delayed by a period of up to 8 weeks, or 21 days for those employed under Burgundy Book terms and conditions.

Employees who are employed under Burgundy Book terms and conditions must also refer to the Burgundy Book for details of how any failure to follow the notification requirements will be managed.

Employees have a statutory right to request to change their work pattern / hours (flexible working) on their return from maternity leave. Such requests will be considered using the Flexible Working Policy.

In the event that an employee is unable to return to work due to sickness, the Staff Attendance Policy will apply. Employees must report their absence and provide medical certificates if required in the normal way.

New and breastfeeding mothers should also have a risk assessment on, or when planning for, their return to work. New mothers are defined as those who have given birth within the last 6 months. Employees who are choosing to continue to breastfeed following their return to work should discuss their needs with their line manager, or in the event that they are uncomfortable doing so, with human resources. See Appendix A for more details.

20 Leaving the Trust

Employees who choose not to return from maternity leave must formally resign, giving written contractual notice. The contract will terminate at the end of the contractual notice period, or, at the end of the Statutory Maternity Pay period, whichever is later. Employees who return to work and then decide to resign must give contractual notice.

Employees who leave employment before completing 13 weeks' service upon return from maternity leave and have received CMP, must repay this amount in line with an individual's contractual provisions.

21 Associated policies

Other relevant policies include:

Data Protection Policy
Discipline and Conduct Policy
Shared Parental Leave policy
Parental Leave Policy
Paternity Policy
Flexible Working Policy
Staff Attendance Policy

These are available from the school's intranet/staff shared area.

Appendix A

Information for breastfeeding employees.

The Trust recognises the importance of normalising and protecting breastfeeding and we will support employees and visitors to Trust sites to be able to breastfeed. The Trust also understands the benefits of supporting new mother's in their transition back to work following a period of maternity leave.

Employees or visitors who need to breastfeed will be offered an appropriate private, hygienic and safe area in which to do so. Where required, these facilities will be provided to those who wish to express milk, along with the facilities to store milk appropriately.

Employees who intend to continue to breastfeed after their return to work should discuss their needs with their line manager, or with human resources at the earliest opportunity prior to their return. This will allow the time needed to ensure that appropriate arrangements can be planned and agreed. Such arrangements may require an employee to leave site to feed, or for them to express milk, either in or away from school premises. Employees should discuss their needs and the facilities required. The Trust will take all reasonable steps to facilitate an employee's needs, which may include:

- Provision of a safe, hygienic, private space to breastfeed or express milk
- Provision of appropriate storage space for expressed milk
- Temporary changes to working arrangements, including start and finish times, adapted arrangements for attendance at meetings or training events, adapted arrangements for break times.

An individual risk assessment should be undertaken for employees who are continuing to breastfeed following their return to work.

Employees will not be treated less favourably on the grounds of breastfeeding, or other maternity related reasons, and all employees are entitled to be treated with dignity and respect within the workplace. In the unlikely event that an employee is in receipt of, or becomes aware of any inappropriate comments in relation to their pregnancy, maternity leave or breastfeeding, they should raise these with their line manager or human resources. Such behaviours are not tolerated.