MATERNITY POLICY & PROCEDURE

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| --- | --- |
| Person(s) responsible for updating the policy: | Jenna Gipson |
| Dates consulted on with recognised unions: | From: 17/07/2023 To: 18/08/2023 |
| Date approved by Trustees: | 29/08/2023 |
| Date of next review: | September 2026 |

# Mission, Vision and Values



**WeST Core Values**

WeST holds four core values which underpin the engagement, motivation and retention of employees, no matter what their role in the organisation.

* **Collaboration**

Creating a shared vision and working effectively across boundaries in an equitable and inclusive way to skilfully influence and engage others. Building and securing value from relationships, developing self and others to achieve positive outcomes.

* **Aspiration**

Having high expectations, modelling the delivery of high quality outcomes. Showing passion, persistence and resilience in seeking creative solutions to strive for continuous improvement and excellence.

* **Integrity**

Acting always with the interests of children and young people at our heart, and with a consistent and uncompromising adherence to strong moral and ethical principles.  Communicating with transparency and respect, creating a working environment based on trust and honesty.

* **Compassion**

Recognising need in others and acting with positive intention to promote well-being and improve outcomes.

**Providing Accessible Formats**

If you are unable to use this document and require it in a different format please contact Human Resources.

**WeST Policy Suite**

All Trust HR Policies are accessible via the WeST Staff Portal. Please contact your local administrative office or Human Resources for log-in details.

HR Helpline: 01752 891754 ext. 1765

HR Email: HR@westst.org.uk

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1. **Introduction, Purpose and Principles**

This policy sets out the rights of Westcountry Schools Trust employees to maternity leave and pay in accordance with national, local and statutory conditions of service. Nothing in the provisions shall be construed as providing rights less favourable than statutory rights.

This policy applies to all pregnant colleagues employed by Westcountry Schools Trust including support staff and teachers regardless of the number of hours worked per week.

Employees are not discriminated against on the grounds of their pregnancy in addition to being free to exercise their rights to maternity leave, paid time off for antenatal care, maternity pay and the right to return to work.

An employee who qualifies for statutory paternity pay, is allowed to take paid maternity support leave at or around the time of the birth in accordance with the local conditions of service. Please see the ‘Paternity Policy’ for further details.

# PROCEDURE

# Notification of pregnancy

The employee should notify their line manager as soon as possible so that the employee can find out about their entitlements and the employee and manager can identify any potential health and safety implications by completing a risk assessment. Early notification also allows the manager to begin to prepare appropriate maternity cover.

The employee should notify the HR Admin or school administrator, who will contact the Payroll provider on your behalf. The employee will be sent a Maternity Information letter, which includes a maternity payment schedule.

The employee should complete the notification form and send the original to HR Admin or school administrator as soon as possible, but at least by the 15th week before their Expected Week of Child birth (EWC).

The Line Manager will respond to the notification within 28 days, setting out the date on which the employee is expected to return to work if they take their full entitlement to maternity leave.

The employee will be able to change their mind about when they wish to start their maternity leave, providing they give at least 28 days’ notice in advance (unless this is not reasonably practicable).

The employee should give the HR Admin or the school administrator their MAT B1 form. The employee will receive the MAT B1 from their GP or Midwife stating when the baby is due, not before 20 weeks before the expected date of birth.

If a personal development review (PDR) is due whilst the employee will be on maternity leave, the line manager should agree with the employee to either carry this out before they start their leave or upon their return.

Employees should discuss the management of their annual leave with their manager at the earliest opportunity so that they are able to take their annual leave around the needs of the service.

# Ante natal care

In order to exercise their right to time off, the employee must notify the line manager of their pregnancy and obtain the line manager’s authorisation to take time off by providing evidence of antenatal appointments, if requested (an appointment card will suffice as evidence). It is recommended that the manager maintains a record of the appointments through the normal processes for recording employee absences.

Please see the ‘Paternity Policy’ for those accompanying a pregnant person at an antenatal appointment.

# Commencing maternity leave

Maternity leave can commence at any time from 11 weeks before EWC. It must commence no later than the day after childbirth.

If the employee is absent from work due to a pregnancy related illness during the 4 weeks before the EWC, their maternity leave will commence automatically.

If childbirth occurs before the date the employee notified as the day they intended to start maternity leave, then the maternity leave will commence on the day after the day of childbirth.

If a temporary replacement is required to cover the employee’s maternity leave, the temporary employee must be informed in writing that their employment will be terminated on the return to work of the employee from maternity leave.

# Contact during maternity leave

Managers will maintain reasonable contact with employees during their maternity leave period to discuss issues such as return to work and will keep employees informed of vacancies, any significant workplace developments and training opportunities.

Contact will not constitute ‘work’ and would not therefore count towards the 10 days ‘keeping in touch’ days and neither would contact bring the maternity leave period to an end.

# Returning to work

The employee cannot return to work in the two weeks following the day of childbirth. This is Compulsory Maternity Leave.

**Expected Return Date**

If the employee chooses to return to work at their expected Return Date, they do not have to give specific notice, although they should confirm to their line manager the date that they wish to return so that arrangements can be made.

**Altering an early return date** – If an employee changes their mind about the date that they intend to return, they must give 8 weeks’ notice before the new date, however, at the direction of the Trust, this notice period may be reduced to 3 weeks (21 days). If the employee does not give enough notice, we may postpone the return date until eight weeks after the employee gave notice, or to the expected return date if sooner.

**Return to work and sickness absence –** If the employee is unable to return to work on the expected date due to sickness, the employee has still exercised their right to return by complying with the notification procedure. They will then commence a period of sickness absence, and be treated as any other employee who is absent due to sickness, including the payment of sick pay.

The HR Department will provide details of any outstanding entitlement to public/extra statutory holidays that occurred during the maternity leave period and communicate this to both the employee and line manager in order for arrangements for the taking of any substitute days can be made.

# Breastfeeding / Chest feeding Colleagues

It is advised that returning parents who are still breastfeeding or chest feeding inform their line manager so that appropriate arrangements can be agreed and put in place regarding accommodation and regular breaks. Further information can be found on the HSE Website - <http://www.hse.gov.uk/mothers/index.htm> The line manager and employee should review the new and expectant person’s risk assessment upon their return to work.

# Flexible working requests

An employee returning to work may make a request to work flexibly, as set out in the Flexible Working Policy. Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

Full consideration is given to the full range of flexible working arrangements when requested by those returning to work after maternity leave and these are arranged wherever possible in response to such requests. Details are in the relevant Flexible Working Policy and Procedure.

Around or after the time of the birth, requests by the child’s non-pregnant parent, or the partner or nominated carer of an expectant parent, or intended parents (in the case of surrogacy) for flexible working arrangements are treated sympathetically. Details are in the relevant Flexible Working Policy and Procedure.

# Choosing not to return to work

The employee must give normal notice of resignation if they do not intend to return to work after their maternity leave.

The employee will have received a lower rate of maternity pay or will have to pay back any half pay received, as part of contractual maternity pay. Payroll will notify the employee of their particular circumstances.

The last day of maternity leave will be the last day of service, unless the employee has given written notice that they wish to resign on an earlier date.

# GUIDANCE

# Ante Natal Care

Any pregnant employee has the right to paid time-off to attend antenatal care. The employee will normally be required to attend antenatal classes (such as relaxation and parenting classes), which are usually at set times during the week, and antenatal appointments where the employee arranges the time with their midwife. The employee should liaise with their line manager regarding time-off giving as much notice as possible (see procedure).

Please see the Paternity Policy for those accompanying a pregnant person at an antenatal appointment.

# Maternity leave and pay

Entitlement to maternity pay is based on the employee's length of continuous service. The flowcharts provide more detailed information (appendix 1/2).

Maternity leave cannot commence more than 11 weeks before the Expected Week of Childbirth (EWC).

All pregnant employees are entitled to both 26 weeks ordinary maternity leave and 26 weeks additional maternity leave, thus providing a right to one year’s maternity leave in total, regardless of length of continuous service.

If the employee is absent from work due to a pregnancy related illness during the 4 weeks before the EWC, their maternity leave will commence automatically.

Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness absence.

Employees may be eligible for one or more of the following payments –

* **Statutory Maternity Pay (SMP)** - An employee is eligible for SMP providing that they meet certain criteria. The local payroll service will advise the employee of their entitlement. SMP payments are higher rate SMP (90% of average weekly earnings) for the first six weeks, then flat rate SMP for the next 33 weeks or 9/10ths average weekly earnings if this is less. Current rates are available from the Gov.uk website.
* **Maternity Allowance (MA)** - Where the employee is not eligible for SMP they may be able to claim MA from the Department for Work & Pensions. The local payroll service will send the employee a claim form to complete. MA payments are flat rate for 39 weeks. Current rates are available from the Gov.uk website.
* **Contractual Maternity Pay (CMP)** - This will depend on the employee's length of service (appendix 1/2).

If an employee has declared that they will be returning to work following the birth, then they must return to work for the Trust for a period of time in order to ‘protect’ their Contractual Maternity Pay (CMP). Where the employee holds more than one post, they must return to each post in order to protect the CMP which has been paid against that employment.

The period for which the employee must return is 3 months for support staff and 13 weeks for teachers, at the hours worked prior to maternity, in accordance with Burgundy Book provisions. Contractual maternity payments are made at the normal pay interval (less normal deductions) or withheld until the employee returns to work, when the amount is paid as a lump sum (less normal deductions).

If an employee decides not to return to work (i.e. resigns) or the contract ends for a reason other than redundancy whilst on maternity leave, CMP ceases when the employment ends. The employee is required to repay the half pay elements of CMP (12 weeks) paid up to and including the last day of employment if they do not return to work for the Trust. Payroll will notify the employee of the amount. This applies to employees on permanent and fixed term contracts.

If an employee holds more than one post and chooses to return to one or more but not to all posts, they will be required to repay the half pay elements, if applicable, paid against the post(s) which they choose to not return to.

If an employee is made redundant whilst on maternity leave, CMP ceases on the last day of employment. The employee is not required to pay back any half pay elements of CMP (12 weeks) paid up to and including the last day of employment. (This applies to employees on permanent and fixed term contracts).

The employee will not have to refund SMP/MA payments.

If the employee is made redundant during maternity leave any maternity pay should be topped up to the equivalent of full pay during the notice period (section 88 of the Employment Rights Act 1999).

To be eligible for maternity leave and pay employees must meet specific notification requirements (appendix 1 & 2).

# Health & Safety

The manager and/or the relevant risk assessor is/are required to carry out WeST’s New and Expectant Person’s specific risk assessments for all pregnant individuals.

When somebody notifies their manager that they are pregnant, it is important that this risk assessment is reviewed, in consultation with the individual and the risk assessor. The document should be reviewed on a regular basis as the pregnancy develops.

A further review should take place when the employee returns to work following maternity leave.

Should the risk(s) be significant the line manager will need to take action. Advice can be sought from the Trust’s occupational health provider. This may include:

i) Removing the hazard(s) or avoiding the employee’s exposure to the risk(s);

ii) Advising the employee of the risk;

iii) Informing the employee of any action the Trust will take to ensure that the employee is not exposed to a risk that could cause harm.

Removing the employee from the workplace if the level of risk is greater than the level of risk expected outside the workplace: This can be done by temporarily adjusting the working conditions and /or hours of work, offering the employee suitable alternative work (if any is available) or if neither of these is feasible, suspending the employee from work (with pay) for as long as necessary to protect their safety and that of the child.

The Health and Safety Executive (HSE) has advised that ‘pregnancy should not be equated with ill health, it should be regarded as part of everyday life and its health and safety implications can be adequately addressed by normal health and safety procedures’.

# Risk of Rubella

If in the early months of pregnancy a member of staff is advised by an approved medical practitioner to absent themselves from school because of the risk of rubella, they shall be granted leave with full pay, provided that they do not unreasonably refuse to serve in another school where there is no such undue risk.

# Annual leave entitlement during maternity leave

*(not applicable to Teachers or support staff who take their holidays during the School closure periods)*

Maternity leave does not affect annual leave entitlement, i.e. when taking maternity leave the employee will still be entitled to their full annual leave allowance within the year(s) in which the maternity leave falls.

If an employee's maternity leave spans two annual leave years, they will be able to carry forward their contractual entitlement into the new leave year. However, the manager should be proactive about managing the amount of leave that the employee will have and discuss the options available as early as possible (see procedure). These options could be to:

* take annual leave before the start of the maternity leave;
* start the maternity leave earlier than anticipated and fit in the annual leave before returning to work;
* return before the end of the maternity leave so that the remaining leave can be taken before the end of the annual leave year;
* take annual leave at the end of maternity leave, fitting it in before returning to work.
* any leave carried over must be taken by 31st August of the subsequent leave year.

During maternity leave, annual leave will accrue in the same way as it did before the absence began. If the employee returns to work on a reduced hour’s basis, on the date of return to work the annual leave will begin to be calculated at the new pro-rata rate.

If the employee decides not to return to work, annual leave will accrue up to the final date of service.

If during the maternity leave period the employee subsequently decides not to return to work and too much annual leave has been taken then there will be a requirement to pay back some of the annual leave taken in advance.

# Annual leave entitlement during maternity leave

*(applicable to Teachers and support staff who take their holidays during school closure periods)*

1. The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 September to 31 August.
2. The leave year for support staff on NJC terms and conditions, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 April to 31 March.

Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect on 1 October 2007, the statutory leave entitlement has increased to 28 days (5.6 weeks), pro rata for those working part time. This is not an additional entitlement to annual leave on top of the current school closure arrangements.

Employees on maternity leave are entitled to the statutory annual leave under the Working Time Regulations. Employees who take maternity leave must be able to take the statutory annual leave at a time outside of their maternity leave. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the maternity leave period.

On return from maternity leave, employees must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate leave in that leave year. Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take the entire annual leave entitlement, employees must be allowed to carry over any balance of leave to the following leave year. Employees can be required to take this during the remaining periods of school closure after the statutory annual leave for that leave year has been accommodated.

It will not be possible for employees to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. However, payment in lieu may be necessary, if the employee does not return to their job following maternity leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

# Public and extra statutory holiday entitlement during maternity leave

*(not applicable to teachers)*

**Full time employees** - During both periods of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML), an employee is entitled to accrue public holiday entitlement as those public holidays and extra statutory days fall, with a substitute day of paid leave being provided at another time.

**Part time employees** - During both periods of OML and AML an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given substitute paid leave at another time. E.g. where an employee works three days per week, they will receive an entitlement to 3/5ths of the total number of public holiday and extra statutory days that fall during their whole maternity leave period.

**Term time employees** - Term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OML and AML period. This should be managed locally, in the same way as the additional one day of annual leave which is to be taken during term time and the additional long service days which are awarded after 10 years’ continuous service

Additional Days – The two 'extra-statutory' holidays and one additional day, which are scheduled within the break at Christmas also continues to accrue during periods of OAL and AAL and this entitlement added to annual leave.

Substitute leave may be taken immediately following the end of the period of maternity leave, which should allow for any maternity cover arrangements to be managed most effectively. Alternatively, any substitute leave may be added to the annual leave entitlement to be taken upon the return to work. In all cases, this should be recorded on leave logs.

# Pension contributions during maternity

 **Teachers**:

* During the period of paid maternity leave, pension contributions will be paid and deducted from the teachers’ pay in the usual manner.
* Any unpaid period will not be pensionable/reckonable.
* Contact Teachers Pensions on 0845 6066166 and ask for the Fact sheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

**Support Staff**:

* During any period of paid or unpaid statutory maternity leave, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but the Trust will pay pension contributions on the pay the employee would have received had she been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
* During any period of unpaid additional Maternity Leave, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the ‘lost’ pension.
* If an employee elects to buy the ‘lost’ pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3rd being paid by the employee. If the election is not made within the 30 day period then the employee with pay the full cost, unless the employer chooses to contribute towards the cost.
* If the employee wishes to buy the ‘lost’ pension they need to read the employee factsheet <https://www.lgpsmember.org/more/apc/taclost.pdf> which can be found on the Peninsula Pensions website (www.peninsulapensions.org.uk), which explains how to calculate the cost and then what the process is.
* Where an employee works on a Keeping in Touch Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes (See Appendix 3)

# Working during maternity leave ‘Keeping in Touch’ days

A person who has had a baby can do 10 days’ work during their maternity leave without bringing their maternity leave to an end. Working for part of a day will count as one day.

* Work is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.
* A manager cannot insist that a person on maternity leave carries out any work and equally a person on maternity leave cannot insist on being given any work to do.
* A person’s maternity leave will not be extended due to the fact that they have carried out some work during this period.
* A person on maternity leave will not lose any SMP for working up to 10 days.
* A person on maternity leave will be paid their normal rate of pay for any work done under the contract of employment and this will be offset against any SMP due for each day.
* A person on maternity leave will lose their SMP for any week in which they do any further work.
* A person on maternity leave cannot carry out any work during the first two weeks following the birth of the child.

# Maternity rights in the event of a still birth or miscarriage

**Stillbirth or miscarriage before the 25th week of pregnancy** - If a person who miscarries or has a stillbirth earlier than the 25th week of their pregnancy they will commence a period of sickness absence in accordance with the sickness policy arrangements.

**Stillbirth from 25th week of pregnancy onwards** – An employee who has a stillbirth from the 25th week of pregnancy onwards will be eligible to full maternity scheme benefits.

**Birth of a live child**  – An employee who gives birth to a live child, even if the child later dies, at any point in their pregnancy will be entitled to full maternity scheme benefits.

In addition, there may be an entitlement to parental bereavement leave in accordance with the statutory provisions.

# Right to return to work

Employees have the right to return to work, following maternity leave; subject to specific requirements (see Procedure).

‘Return to work’ means to the job to which the employee was employed under their original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to them if they had not been absent. ‘Job’ for this purpose, means the nature of the work that they are employed to do and the capacity and place in which they are so employed.

**Protection from Redundancy**

In accordance with the Protection from Redundancy (Pregnancy and Family Leave) Act 2023, qualifying employees at risk of redundancy are entitled to be offered a suitable alternative vacancy, if one is available, giving them priority protection against dismissal.

Under the maternity policy, this applies in the following circumstances;

* pregnant employees, from the point they inform the employer that they are pregnant; and
* employees returning from maternity leave, until 18 months after the expected week of childbirth or the date of childbirth if you notify WeST of that as a later date.
* This protection includes employees who have a stillbirth after the end of the 24th week of pregnancy or whose baby is born alive at any time in the pregnancy but does not survive.
* If an employee has a miscarriage within the first 24 weeks of pregnancy, the redundancy protected period ends 2 weeks from the end of the pregnancy.

The duties in that post should be suitable for the employee and appropriate to the circumstances. Also, the capacity and place in which they are to be employed and their terms and conditions of employment should not be substantially less favourable to them than if they had been able to return to the job in which they were originally employed. Suitable alternative employment as described above may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which they were employed prior to their absence.

# Return to the Trusts Service following a Resignation and Break for Maternity Reasons (Support Staff only)

Where an employee returns to the Trust’s service following a break for maternity reasons, or reasons concerned with caring for children or other dependants they will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened:

* Sickness provisions
* Maternity provisions
* Adoption provisions
* Shared Parental Leave provisions
* Period of notice to terminate employment

For the purpose of the calculation of entitlement to annual leave, the eight years’ time limit does not apply, provided that no permanent paid full-time employment has intervened.

The calculation of continuous service for rights against unfair dismissal or redundancy payments are not included within this contractual provision.

If an employee chooses to return to the Trust they will be asked to write to the Responsible Officer confirming their service and that no permanent paid full-time employment has intervened.

# APPENDIX 1 - SUPPORT STAFF MATERNITY BENEFITS FLOWCHART

Employee with at least 26 weeks continuous service at the 15th week before the EWC but less than 1 years continuous service at the beginning of the 11th week before the EWC

Employee with less than 26 weeks continuous service at 15th week before the EWC

Employee with **at least 1 year’s** continuous service at the beginning of the 11th week before the EWC

**26 weeks OML and 26 weeks AML**

* 6 weeks at 90% of a week’s salary (inclusive of SMP)
* 12 weeks at half pay + SMP or 90% of average weekly pay whichever is the lower (providing the half pay + SMP does not exceed full pay)
* 21 weeks at SMP
* 13 weeks unpaid

If you do not return to the Trust’s employment for at least 3 months the half pay must be repaid.

**26 weeks OML and 26 weeks AML**

* 1 weeks’ pay

No entitlement to Statutory Maternity pay. Maternity Allowance may be payable.

**26 weeks OML and 26 weeks AML**

* 1 weeks full pay (inclusive of SMP)
* 5 weeks SMP at 90% of average weekly pay (inclusive of SMP)
* 33 weeks at SMP or 90% of average weekly pay whichever is the lower
* 13 weeks unpaid

**OML =** Ordinary Maternity Leave

**AML =** Additional Maternity Leave

**SMP =** Statutory Maternity Pay\*

**EWC =** Expected Week of Childbirth

**\*SMP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Gov.UK website.

# APPENDIX 2 - TEACHERS MATERNITY BENEFITS FLOWCHART

Teachers with at least 26 weeks continuous service at the end of the 15th week before the EWC and at least 1 years continuous service as teacher with one or more LAs at the beginning of the 11th week before the EWC

Teachers with at least 26 weeks continuous service at the end of the 15th week before the EWC but less than 1 years continuous service as a teacher with one or more LAs at the beginning of the 11th week before the EWC

Teacher with less than 26 weeks continuous service at the end of the 15th week before the EWC, **but** at least 1 years continuous service as a teacher with one or more LAs at the beginning of the 11th week before the EWC

Teacher with less than 26 weeks continuous service at the end of the 15th week before the EWC and less than 1 years continuous service as a teacher with one or more LAs at the beginning of the 11th week before the EWC

**26 weeks OML and 26 weeks AML**

* 4 weeks full pay, inclusive of maternity allowance if eligible
* next 2 weeks 90% of a week’s salary, inclusive of maternity allowance if eligible
* next 12 weeks, half pay + maternity allowance if eligible (providing the half pay + MA does not exceed full pay)
* next 21 weeks on MA if eligible
* up to 13 weeks unpaid.

**If you do not return to the Trust’s employment for at least 13 weeks the half pay must be repaid.**

**26 weeks OML and 26 weeks AML**

* 4 weeks full pay, inclusive of SMP
* next 2 weeks 90% of a week’s salary, inclusive of SMP
* next 12 weeks, half pay + SMP or 9/10 of average weekly pay whichever is the lower ( providing the half pay + SMP does not exceed full pay )
* next 21 weeks at SMP
* 13 weeks unpaid

**If you do not return to the Trust’s employment for at least 13 weeks the half pay must be repaid.**

**26 weeks OML and 26 weeks AML**

* 6 weeks at SMP equal to 90% of a week’s salary
* 33 weeks at SMP or 9/10 of average weekly pay whichever is the lower
* 13 weeks unpaid

**26 weeks OML and 26 weeks AML**

* No entitlement to contractual or statutory maternity pay.

Maternity allowance may be payable.

**OML =** Ordinary Maternity Leave **AML =** Additional Maternity Leave

**SMP =** Statutory Maternity Pay\* **EWC =** Expected Week of Childbirth

**\*SMP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Gov.UK website.

# APPENDIX 3 – PENSION CONTRIBUTIONS DURING ORDINARY MATERNITY LEAVE (OML) AND ADDITIONAL MATERNITY LEAVE (AML)

|  |  |  |  |
| --- | --- | --- | --- |
| Type of Leave | **Member pays basic pension contributions on** | **Employer pays contributions on** | **How pension counts under the LGPS** |
| **OML** **(wks 1-26)** | Actual OMP and/or SMP, if any, received  | Notional full pay(Assumed Pensionable Pay) | Counts in full as if the employee had been at work |
| Paid AML**(wks 27 – 39)** | Actual pay received | Notional full pay(Assumed Pensionable Pay) | Counts in full as if the employee had been at work |
| Unpaid AML (wks 40 – 52) | Employee opts to pay Additional Pension Contributions (APC) to cover unpaid period | Employee requests details of lost pensionable pay from Employer and uses the calculator on [www.lgps2014.org](http://www.lgps2014.org)  to calculate the APC | If employee confirms option to pay APC within 30 days of returning to work, employer pays two-thirds of the APC cost. If the option is made more than 30 days after returning to work, the employee pays the whole APC and the employer pays nothing. | Record is credited with the amount of lost pension bought by the APC |
| Employee does not opt to pay contributions for unpaid AML period | Not applicable – no contributions are due | Not applicable – no contributions are due | Does not count |

**Note:** If an employee is paying additional regular contributions (ARCs) and/or additional pension contributions (APC) to purchase extra annual pension, or is paying additional survivor benefit contributions (ASBCs) to uprate some or all of their pre 6 April 1988 membership so that it counts in calculating a surviving nominated co-habiting partner’s pension, or is paying additional pension contributions to purchase added years of membership, those additional employee contributions continue to be paid throughout the whole period of any maternity, paternity or adoption leave (unless the employee opts to stop paying those contributions). AVCs continue to be paid on any pay received (unless the employee opts to stop paying those contributions). Any AVCs that are being paid in respect of additional life cover must be maintained during the whole period of leave or the policy will lapse and the life cover lost.

# TERMS AND ABBREVIATIONS

|  |  |
| --- | --- |
| Actual Week of Childbirth (AWC) | This is the week the baby is born. |
| Expected Week of Childbirth (EWC) | The week, starting on a Sunday, during which the pregnant parents’ doctor or midwife expects them to give birth.  |
| Additional Maternity Leave (AML) | An additional 26 weeks maternity leave, immediately following ordinary maternity leave, which gives the right to one year’s maternity leave in total to all pregnant employees, regardless of length of continuous service. |
| Childbirth | The live birth of a child, or a still birth after a pregnancy that has lasted at least 24 weeks. |
| Compulsory Maternity Leave | The two weeks commencing with the day of childbirth during which employers are prohibited from allowing the employee back to work. |
| Continuous service (excluding teachers) | Continuous service includes continuous previous service with any public authority to which the Redundancy payments Modification Order (Local Government) 1983 (as amended) applies.  |
| Continuous service (Teachers) | Continuous service includes continuous previous service as a teacher with any Local Authority under the Redundancy Payments Modification Order. |
| Contractual Maternity Pay (CMP) | This is the payment made by the Trust over and above SMP, as part of the employee's Conditions of Service. |
| Job | For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which she is so employed. |
| MATB1 | This is the certificate issued by the employee's GP or Midwife (no earlier than 20 weeks before the EWC) to confirm the date of the EWC. |
| Maternity Allowance (MA) | Where the employee does not qualify for SMP they may be entitled to MA, which is paid directly by the Department for Work and Pensions. |
| Ordinary Maternity Leave (OML) | 26 weeks maternity leave. Available to all pregnant employees. |
| Qualifying Week | This is the 15th week before the EWC. It is used to determine entitlement to SMP, as the employee needs to have worked for the same employer for at least 26 weeks up to and including the Qualifying Week (in addition to paying appropriate National Insurance Contributions). |
| Return to Work | Means to the job to which the employee was employed under their original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to them if they had not been absent. |
| Statutory Maternity Pay (SMP) | Providing the Qualifying Week and National Insurance contribution criteria are met the employee will be entitled to SMP. This payment is made by the Trust on behalf of the Department for Work and Pensions. Current rates are available from the Directgov website. |
| Week | SMP can commence on any day of the week. |
| Week's Pay | This is usually the amount payable by the Trust to the employee under their current contract of employment for working their normal hours in a week. |

**Useful Contacts and Information**

**HR Department** 01752 891754 ext. 1765

 Email: hr@westst.org.uk

Please contact your school/setting administrator for contact details for your local payroll/pensions provider.

**HM Revenue & Customs** <http://www.hmrc.gov.uk/>

**Department for Work & Pensions** <http://www.dwp.gov.uk/>

**Gov.uk** [http://www.gov.uk](http://www.gov.uk/)

# POLICY HISTORY

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Policy Date** | **Summary of change** | **Contact** | **Version / Implementation Date** | **Review Date** |
| 15.12.2006 | Policy amended to take account of Work & Families Act 2006 for those with an EWC on or after 1.4.07 | P&S | 01.04.2007 |  |
| 28.3.2007 | Policy reformatted into shell document & rate of SMP, effective from 1.4.07, updated to £112.75.  | P&S | 01.04.2007 | 01.04.2008 |
| 06.04.2008 | Policy updated as statutory pay increased to £117.18 per week. Reference to maternity leave/pay prior to 1 April 2007 has been deleted.  | P&S | 06.04.2008 | April 2009 |
| 16.06.2008 | Policy updated following a High Court ruling that UK law on pay and benefits during maternity leave does not meet EU requirements. New regulations will affect those with an expected week of childbirth (EWC) which falls on or after 5 October 2008. Essential car user and bank holiday entitlement now extended to include AML.  | P&S | 05.10.2008 | April 2009 |
| 07.07.2008 | Section 17.3 added to policy to ensure the essential car user lump sum continues throughout OML/AML, if applicable. | P&S | 05.10.08 | April 2009 |
| 08.09.2008 | Policy updated following amendments to the Sex Discrimination Act 1975 in relation to pension contributions.**Section 18.1 amended as teachers no longer able to pay combined contributions.**  | P&S | 05.10.08 | April 2009 |
| 08.09.2008 | Section 16 added following the introduction of the Working Time (Amendment) Regulations 2007.  | P&S | 01.09.08 | April 2009 |
| 20.03.2009 | Flexible Working Requests (Section 10) added. Other minor adjustments: amended wording (9.6 and 21.5); changed ‘bank’ to ‘public’ holidays (Section 21); added reference to adoption leave (24.1); corrected numbering (Section 11), and, added definition of Continuous Service (excluding teachers)(Appendix 3 ).  | P&S | 20.03.09 | April 2009 |
| 24.03.2009 | Policy updated as Statutory Maternity Pay increased to £123.06 per week. | P&S | 06.04.09 | April 2010 |
| 23.10.2009 | Minor amendments: Updates to front cover, amended wording to align with adoption policy (section 1.1 and 2.1), changed Personnel to HR (sections 4.4, 8.2 and page 16 costs table), amended wording from 24 days to statutory (section 17.4), deleted last line (section 17.4) regarding pay in lieu, changed Social Services to Social Care (section 21.5), deleted CMP for weeks 2 to 6 (Costs table – page 16), added SMP after 5 weeks at 90% of average weekly pay (Appendix 1 – 2nd column), amended flowchart wording from authority to government (Appendix 1), added further wording in first box of Appendix 2, reordered Appendix 3 and added continuous service information for teachers, and updated contact pages. Section 12 added information about relaxation and parenting classes.Section 13.7 updated to align with adoption policy wording and confirming that teachers have to return to [ACADEMY NAME] for 13 weeks. Section 24.1 updated to reflect the Green Book National Provisions. | P&S | October 2009 | April 2010 |
| 12.02.2010 | Minor amendment to section 8.1 – Payroll no longer need to be sent a copy of the birth certificate following the birth of the baby. | P&S | February 2010 | April 2010 |
| 06.04.2010 | SMP rates deleted as information can be obtained from Directgov website. | P&S | 04.04.2010 | April 2011 |
| 18.10.2010 | Minor amendments to essential car user wording in section 18.2.  | P&S | 18.10.2010 | April 2011 |
| 19.04.2011 | Sections 13.8 and 13.9 added. Updates to names of forms – CTP5 to MAT5, CTP6 to MAT6, CTP1 to Online Absence Report and LGS8 to Prism 2.  | P&S | 19.04.2011 |  |
|  | New Section 6.1 added “Maternity leave can commence at any time from 11 weeks before EWC. It must commence no later than the day after childbirth.”New Section 6.3 added: “If childbirth occurs before the date the employee notified as the day she intended to start maternity leave then her maternity leave will commence on the day after the day of childbirth.” | HR Direct | 12.07.2012 |  |
| 20.09.2012 | Update to section 4.4 to reflect that Payroll undertake this function, and update to 8.2 to reflect change of name to HR Direct | HR Direct | 20.09.2012 |  |
| 15.11.2012 | Correction to section 4.4 to reflect line management responsibility | HR Direct | 15.11.2012 |  |
| 01.11.2013 | Amendment to section 16.2 regarding carryover of annual leave.Update HR Direct to HR ONE HelplinePublic and extra statutory holiday entitlement during maternity leave section amended to clarify accrual, and moved to follow Annual Leave during Maternity Leave sectionsUpdate to sections 13.7 and 13.8 to clarify where employee holds more than one post. Update to wording 24.2 and 24.4  | HR ONE | 01.11.2013 |  |
| 01.05.2014 | Update to Section 6.4. Employee to notify Payroll if they require a hard copy of their Payslip to be sent to their home address. | HR ONE | 26.6.2014 |  |
| 26.06.2014 | Update to Section 20.2. Update to Pensions section as result of changes to LGPS. | HR ONE | 26.6.2014 |  |
| 08.12.2014 | Update to Section 16 and 17 to encompass staffwho work in schools and take their leave duringschool closure periods | HR ONE | 09.12.2014 |  |
| 16.12.2014 | Section 5.2 added to reflect the addition of Time off for Ante Natal Care  | HR ONE | 17.12.14 |  |
| 16.12.2014 | 13.11 added to highlight the legal position in relation to pay whilst an employee is under notice of redundancy.  | HR ONE  | 17.12.14 |  |
| 27.2.2015 | Format and content revised to specifically apply to academy schools | HR ONE | 27.2.15 |  |
| May 2017 | Update policy with new Trust name. Adjusted policy in line with local processes. Adjusted notice staff for early return to work to meet statutory requirements with a discretion to reduce further granted by Line Manager (section 7) Added guidance on Breastfeeding mothers (section 8) | WeST HR | May 2017 |  |
| September 2017 | Publication date | WeST HR | September 2017 | Annually |
| July 2019 | Full policy review and consultation JCNC and staff consultation.Trust Board agreement 11 July 2019 | WeST HR  | July 2019 | Biannually or at change in Statutory guidance. |
| June 2023 | Update to adopt gender neutral terminology and updates to annual leave | WeST HR | September 2023 | September 2025 |
| April 2024 | Update to reflect change in Legislation in-line with the Protection from Redundancy (Pregnancy and Family Leave) Act 2023 | WeST HR | TBC | September 2026 |