



## Windsor Academy Trust

### **Maternity and Adoption Policy**

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<b>Responsible Committee:</b>	Windsor Academy Trust, Board of Directors
<b>Date revised by Board of Directors:</b>	December 2016
<b>Next review date:</b>	December 2018

# Maternity and Adoption Policy

## Definitions

**Chief Executive** means the Chief Executive of WAT

**Headteacher** refers to all or any of the Headteachers of each school within WAT

**Leadership Team** refers to any member of the Leadership Group as defined by the School Teachers' Pay and Conditions Document and includes the Headteacher, Deputy Head and Assistant Head, or a senior member of staff with responsibility for support staff

**Local Advisory Body (LAB)** is a key mechanism for local accountability for each academy and community.

**Board of Directors/Directors** mean the Directors of WAT

The information given in this policy outlines the Trust, Academy and individual's responsibilities when an employee is taking maternity and adoption leave. Whilst the first two sections cover maternity and adoption leave separately the last section refers to both types of leave and it is therefore important that the whole policy and the appendices are read in full. If there are any queries or concerns with regard to this information you can contact the Trust or Academy's personnel provider to discuss your individual case in more detail.

## 1. Maternity Leave - General Principles

All women are entitled to maternity leave. The amount of maternity pay is dependent on your length of Local Authority continuous employment.

Your maternity leave cannot begin earlier than the beginning of the eleventh week before the expected week of childbirth (EWC). You may continue to work beyond this eleventh week if you wish, and still qualify for maternity pay, but you must not remain at work if medically unfit to do so.

All women have a right to return to work after maternity leave.

All contractual entitlements, except for remuneration, will continue throughout the maternity leave period.

If, in the early months of pregnancy, you are advised by the approved medical practitioner to absent yourself from school because of the risk of rubella, you will be granted leave with full pay.

No later than the end of the 15<sup>th</sup> week before your baby is due you must tell your manager or Headteacher in writing that:

- You are pregnant;
- When the expected week of childbirth will be;
- The date you intend to start your maternity leave (this can be no earlier than the 11<sup>th</sup> week before the EWC).

You must give 28 days' notice of the date you intend to commence your maternity leave. You may change your leave start date as long as you give 21 days' notice.

A form MatB1 provided by your midwife after 20 weeks of pregnancy must be sent to the WAT's payroll department to enable maternity pay to be paid. Maternity Pay cannot be paid without the original form being sent to payroll.

If you aren't planning on taking your full maternity leave, you must let your employer know when you will be coming back. You can change your mind later on as long as you give 21 days' notice of the change. If you change your mind to come back later, you must give 21 days' notice before the original earlier date.

Your employer must write to you within 28 days' of being notified of your intended maternity start date to advise you of the date you are due back to work.

## **2. Antenatal Care**

All staff have a right to paid time off for ante-natal care and must produce evidence of appointments from the second appointment onwards.

## **3. Maternity Leave and Pay Entitlements**

All staff have to take a minimum of two weeks from work immediately following the date of childbirth and cannot therefore return before this period. This is known as Compulsory Maternity Leave.

Please see the attached tables to confirm your maternity pay and leave entitlement. If you have any queries please contact the school's personnel providers.

You have a right of return to work at the end of the 52 weeks' maternity leave or earlier providing you give the Trust or Academy 21 days' notice in writing of your intention to return to work before the end of your maternity leave.

## **4. Conditions Regarding Salary Entitlement During Absence for Maternity**

Payment of a period of half salary for staff with more than one year's service at the 11<sup>th</sup> week before EWC is made on the condition that you will be available to work for a period of 13 weeks at the end of the maternity leave. If you return to work on a reduced hours basis, this period of work will be increased accordingly, i.e. if you return on 50% of your original contractual hours, then you will need to return for a period of 26 weeks. In the event of you not being available this payment has to be refunded to the school. You will be able to retain the first six weeks' payment and any statutory maternity pay.

Following your return to work, the normal provisions for submitting your notice will apply as follows:

- The period of 13 weeks is inclusive of any holidays you may take;
- The requirement to return for at least 13 weeks to retain your half pay may be reduced at the discretion of the Trust Board;
- Absence on account of illness which occurs outside the period provided for maternity absence will be treated under the sick pay/leave regulations;
- If you wish to leave at the end of the 13 week period you will be expected to give normal contractual notice.

## **5. Notice Requirements**

Where you wish to exercise your right to return to work, you are entitled to return to the post in which you were previously employed or one of a similar nature which is deemed to be a suitable alternative.

You must notify the school, if, at any time after the fourth week before the expected week of childbirth, you are unable to attend work because of any reason connected with your pregnancy. In this case your maternity leave will start immediately.

You must notify the school if the birth is early, and this notice must be given as soon as practicable after the birth.

## **6. Keeping in Touch Days**

As well as staying in contact with the school during your maternity leave if agreed you can do up to 10 days work. They are not limited to your current job and could be used for training or other events. These can be used to support you in returning to work.

Any agreement to work these days must be made with the Chief Executive or Headteacher. If you would like to discuss the opportunity of working some 'keeping in touch days' please contact the Chief Executive or Headteacher.

## **7. Health and Safety**

We will assess the risk at work to your health when pregnant. Where your job poses a risk to your health to yourself or the baby, the school will consider alternative employment that is not prejudicial. If there is no suitable alternative work you will be suspended on maternity health and safety grounds.

If you are suspended on maternity health and safety grounds you will be entitled to receive your normal salary.

## **8. Adoption Leave – General Principles**

The right to adoption leave entitles you to take paid leave when a child is newly placed for adoption and is available to:

- Individuals who adopt;
- One member of a couple where a couple adopt jointly (the couple must choose which partner takes adoption leave).

The partner of an individual who adopts or the other member of a couple who are adopting jointly may be entitled to paternity and/or shared parental leave and pay.

## **9. Eligibility**

To qualify for adoption leave and pay you must be newly matched with a child by an adoption agency. Statutory adoption pay is available if you have worked continuously for 26 weeks ending with the week in which you are notified of being matched with a child for adoption.

Adoption leave and pay is not available where a child is not newly matched for adoption e.g. where a step-parent is adopting a partner's children.

To receive statutory adoption pay you will need to provide documentary evidence. You must ask your adoption agency for this evidence which could be a matching certificate which includes basic information on matching and expected placement dates. This should then be handed to the Trust or Academy before being forwarded to the payroll department.

## **10. Adoption Leave and Pay Entitlements**

You can choose to take your leave either:

- From the date of the child's placement (whether this is earlier or later than expected);
- From a fixed date which can be up to 14 days before the expected date of placement.

Leave can start on any day of the week. Only one period of leave is available even if more than one child is placed for adoption as part of the same arrangement. If the child's placement ends during the adoption leave period you may continue to take up to 8 week's adoption leave after the end of the placement

Please see the attached tables to confirm your adoption pay and leave entitlement.

You have a right to return to work at the end of the 52 weeks' adoption leave or earlier providing you give the Trust or Academy 8 weeks' notice in writing of your intention to return to work before the end of your adoption leave.

## **11. Conditions Regarding Salary Entitlement During Absence for Adoption Leave**

Payment of a period of half salary for staff with more than one year's service at the 11<sup>th</sup> week before the expected week of placement is made on the condition that you will be available to work for a period of 13 weeks at the end of the adoption leave. If you return to work on a reduced hour basis, this period of work will be increased accordingly, i.e. if you return on 50% of your original contractual hours, then you will need to return for a period of 26 weeks. In the event of you not being available this payment has to be refunded to the Trust or Academy. You will be able to retain the first six weeks' payment and any statutory adoption pay.

Following your return to work, the normal provisions for submitting your notice will apply as follows:

- The period of 13 weeks is inclusive of any holidays you may take;
- The requirement to return for at least 13 weeks to retain your half pay may be reduced at the discretion of the Board of Directors;
- Absence on account of illness which occurs outside the period provided for adoption absence will be treated under the sick pay/leave regulations;
- If you wish to leave at the end of the 13 week period you will be expected to give normal contractual notice.

## 12. Notice Requirements

- You are required to inform the Trust or Academy of your intention to take adoption leave within 7 days of being notified by your adoption agency that you have been matched with a child for adoption unless it is not reasonably practical for you to do this.
- You must inform the Trust or Academy when you expect the child to be placed with you and when you want your adoption leave to start.
- You can change your mind about which day you want your adoption leave to start by giving the school 28 days' notice in advance unless this is not reasonably practical.
- You must give 28 days' notice of when you expect your statutory adoption payments to start unless this is not reasonably practical to do this.
- We will respond to your notification of your leave plans within 28 days. We will write to you advising the date on which we expect you to return to work if you take your full entitlement to adoption leave.

## 13. Keeping in Touch Days

As well as staying in contact with the school during your adoption leave if agreed you can do up to 10 days work. They are not limited to your current job and could be used for training or other events. These can be used to support you in returning to work.

Any agreement to work these days must be made with the Chief Executive or Headteacher. If you would like to discuss the opportunity of working some 'keeping in touch days' please contact the Chief Executive or Headteacher.

## General Information

### 14. Continuous Service

Your service will be counted as continuous during maternity/adoption leave for both statutory and contractual rights.

### 15. Protection Against Dismissal

Regardless of length of service you are protected against dismissal or selection for redundancy on maternity/adoption related grounds, which will automatically be, regarded as unfair dismissal. In addition there is an automatic right to receive written reasons for dismissal during the maternity/adoption leave period.

### 16. Other Legislation to Support Family and Working Life

There are a number of other initiatives designed to support you in balancing work and family life. These include:

- **Paternity leave** – A right to 2 weeks off 1 week paid at full pay and 1 week paid (or 2 weeks at SPP only – dependent on Academy) at Statutory Paternity Pay (SPP) for fathers
- **Parental leave** – Unpaid leave for children up to 5 years old;
- **Shared Parental Leave** – Converting your maternity/adoption leave so that you can share it with your partner;
- **Time off for dependants** – The right to deal with emergencies.

If you would like more information about these please contact the Trust or Academy's personnel provider.

## **17. Changing Working Hours Upon Return**

Current employment legislation allows employees who have 26 weeks continuous employment with their employers the right to ask for flexible working. Under this legislation you are allowed to make one application every 12 months to vary your contract with regard to:

- Times you are required to work;
- Hours of work;
- Where you are required to work.

This variation if agreed will normally become permanent. We have a duty to consider each request seriously and will need to carry out a formal time bound procedure. If the request is refused we will give you clear business reasons as to why your request could not be accepted.

If you wish to apply for flexible working please speak to your manager or the Chief Executive/Headteacher at the earliest opportunity to help us support you with your needs whilst managing the resources to meet the Trust and Academy's needs.

## **18. Redundancy or dismissal during Pregnancy, Maternity or Adoption Leave**

It is automatically unfair and automatic sex discrimination for you to be selected for redundancy or dismiss you for a reason connected with;

- pregnancy
- maternity/adoption leave
- paternity leave
- shared parental leave
- unpaid parental leave
- time off for dependents

You can be made redundant while you are on maternity/adoption leave if we can fairly justify our choice. For example, if we no longer needed a particular curriculum area and make all employees in that section redundant and you worked in that area.

However, if we make staff cuts across the school, we cannot make you redundant simply because you are on or are about to take maternity/adoption leave.

If you are made redundant whilst on Maternity/Adoption Leave, you have special rights. You have the right to be offered any suitable alternative job in the Trust or Academy. This applies even if there are other employees that might be more suitable for the job. If you are offered a new job, you are entitled to a four-week trial period, which should start when you return from Maternity/Adoption leave. This four-week trial period is to help you decide if it is suitable alternative employment.

If you are made redundant or dismissed during your Maternity/Adoption Leave we will give you a written statement explaining the reasons for the decision. You will receive your normal notice period or pay in lieu of notice and redundancy pay, if you are entitled to receive them.

## 19. Annual Leave Entitlement

### 19.1 Annual Leave for Teachers

During your maternity/adoption leave you will accrue statutory annual leave entitlements of 28 days (5.6 weeks), pro rata for part time employees, under the Working Time Regulations 1998. This includes bank holiday entitlements.

Annual leave entitlement can be offset against any period of Academy closure that has taken place during the academic year from September to August e.g.

#### **Scenario 1 – Teacher starting maternity leave October taking 26 weeks**

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Ma y	J u n	Jul	Aug
		Mat Leave	Mat Leave	Mat Leave	Mat Leave	Mat Leave	Mat Leave					
School Closures		1 wk		2 wks		1 wk		2 wks	1 wk		2 wks	4 wks

The Teacher will benefit from 9 weeks of Academy closure from April to August, therefore there will be no additional annual leave entitlement.

#### **Scenario 2 – Teacher starting maternity leave March taking 26 weeks**

	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
							Mat Leave	Mat Leave	Mat Leave	Mat Leave	Mat Leave	Mat Leave
School Closures		1 wk		2 wks		1 wk		2 wks	1 wk		2 wks	4 wks

The Teacher will have already benefitted from 4 weeks (20 days) of Academy closure from September to February; therefore an additional 8 days will be accrued and carried into the new academic year.

Any outstanding leave should be taken on return to work and this can be during term time if there are insufficient school closures to accommodate the leave during the leave year. Any annual leave taken during term time must be agreed with the Chief Executive or Headteacher.

If you decide not to return to work following maternity/adoption leave, you will be paid for any holiday entitlement accrued during maternity/adoption leave that has not been taken during the leave year e.g. scenario 2, you would be entitled to 8 days.

### 19.2 Annual Leave for Support Staff

If you have any accrued but unused holiday entitlement before starting maternity/adoption leave, you will be required to take this prior to maternity/adoption leave commencing.

You will continue to accrue both statutory and any additional contractual holiday entitlement (including bank holidays) during both the 26-week ordinary maternity/adoption leave period and 26-week additional maternity/adoption leave period, pro rata for part time/term time employees.

Any accrued annual leave should be taken on return from maternity/adoption leave, on gaining approval in advance from the Chief Executive, Headteacher or line manager. If working term time, the Trust or Academy may decide to pay any accrued annual leave, as long as there are enough periods of closures for the statutory minimum 28 days to be taken for each leave year.

**Example:** A member of term time only support staff has taken 52 weeks maternity leave and has 12 months of annual leave entitlement accrued. During any leave year there are 13 weeks of school closures (91 days), therefore there are enough school closures for the 28 days from the current year and the 28 days from the previous year to be taken during the school holidays (total 56 days). In this case the employee will receive payment for the accrued annual leave e.g. if working 39 weeks and paid for 45.6 weeks, the school would pay the employee 6.6 weeks for the accrued annual leave whilst on maternity leave.

If you decide not to return to work following maternity/adoption leave, you will be paid for any holiday entitlement accrued during maternity leave. If you resign and have taken more holiday than accrued in the current holiday year, you will be required to repay the equivalent of the excess holiday taken.

### **Further Details**

This procedure is not to be regarded as exhaustive. Maternity and adoption regulations are complex and for further advice and guidance contact either your manager or the Trust or Academy's personnel provider. The Board of Directors may supplement the provisions contained in this procedure from time to time. During your maternity/adoption leave the Trust or Academy will do its utmost to keep in contact with you sending staff newsletter and updating you on any job vacancies which become available during that time. If you need to discuss any details provided please contact your manager who will be pleased to provide further advice.

## APPLICATION FOR MATERNITY LEAVE AND/OR MATERNITY PAY

Please complete and return this form to the Personnel Administrator at the Trust or Academy. **This form should be completed at least 15 weeks before the expected week of childbirth (EWC).**

Full Name: \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Academy: \_\_\_\_\_

Payroll no: \_\_\_\_\_

Job Title: \_\_\_\_\_

The MATB1 certificate confirming my pregnancy: is enclosed  to follow

My baby is due in the week beginning: \_\_\_\_\_

I intend to start my maternity leave on: \_\_\_\_\_

Continuous Service Date: \_\_\_\_\_

Continuous Local Government start date: \_\_\_\_\_

If you intend to return to work following maternity leave and have at least 1 years' service by the 11<sup>th</sup> week before your EWC, please complete the following section regarding Occupational Maternity Pay:

It is my intention to return to work for at least 13 weeks and therefore I am applying for 12 weeks at half pay. I accept that if I am unable to return to work for at least 13 weeks, I will have to repay the contractual element of the maternity pay.

You have a choice regarding the payment of Occupation Maternity Pay, please tick one of the options below:

**A. I would like the 12 weeks at half pay paid in full as it becomes due**

**B. I would like the 12 weeks at half pay to be paid when I return to work**

Option B should be ticked by those not absolutely sure as to whether or not they will be returning for the required 3 months. If you have not ticked either box, it will be assumed that you only require Statutory Maternity Pay (SMP). If you do subsequently return to work, you will not qualify for the half pay due under your Conditions of Service.

**If you do not qualify for SMP because you have been employed for less than 25 weeks employment or insufficient earnings, etc. you will be issued with a form SMP1 which will enable you to apply for State Maternity Allowance, if applicable.**

## MATERNITY TABLE FOR TEACHING STAFF

This table refers to employees with babies due on or after 5 April 2016 and who pay NI above the lower earnings level.

Length of Service	Ordinary Maternity Leave	Additional Maternity Leave	Total Maternity Pay Entitlement	Notes
Less than 26 weeks service at the 15 <sup>th</sup> Week before EWC	26 weeks leave including up to 11 weeks before EWC.	A further 26 weeks after Ordinary Maternity Leave	You may be entitled to a maternity allowance for 39 weeks providing you meet the employment and earnings rule.	Minimum Statutory Entitlement  Maternity Allowance is a benefit which must be claimed by you from your local Jobcentre Plus/Social Security Office
More than 26 weeks continuous service at the 15 <sup>th</sup> week before EWC but less than a year at the 11 <sup>th</sup> week before EWC	26 Weeks leave including up to 11 weeks before EWC.	A further 26 weeks after Ordinary Maternity Leave	<ul style="list-style-type: none"> <li>➤ 6 weeks at 90% (this includes SMP)</li> <li>➤ 33 weeks SMP (this includes SMP)</li> <li>➤ <b>39 weeks in total</b></li> </ul>	Maximum Statutory Entitlement.
More than one year at the 11 <sup>th</sup> week before EWC	26 Weeks leave including up to 11 weeks before EWC.	A further 26 weeks after Ordinary Maternity Leave	<ul style="list-style-type: none"> <li>➤ 4 weeks at full pay (this includes SMP)</li> <li>➤ 2 weeks at 90% (this includes SMP)</li> <li>➤ <b>12 weeks half normal weeks pay*</b>, plus 12 weeks SMP</li> <li>➤ 21 weeks SMP only</li> <li>➤ <b>39 weeks in total</b></li> </ul> <p><b>*This can not exceed normal full pay.</b></p>	Please note: if you do not return from maternity leave for 13 weeks the 12 weeks half pay (Occupational Maternity Pay which is highlighted in bold) will have to be paid back.

Please note: This information should be read in conjunction with the Burgundy Book.  
If there are any queries please contact the HR Advisory Team on 0330 123 2542.

EWC= Expected week of birth.

SMP = Statutory Maternity Pay (either the lower of **£139.58** per week or 90% of weekly earnings)

To qualify for SMP your salary must at least equal the lower earnings limit of **£112** a week which applies on the Saturday at the end of your qualifying week. The lower earnings limit is the amount you have to earn before you are treated as paying National Insurance contributions. If you do not qualify for SMP you may be entitled claim Maternity Allowance.

## MATERNITY TABLE FOR SUPPORT STAFF

This table refers to employees with babies due on or after 5 April 2016 and who pay NI above the lower earnings level.

Length of Service	Ordinary Maternity Leave	Additional Maternity Leave	Total Maternity Pay Entitlement	Notes
Less than 26 weeks service at the 15 <sup>th</sup> Week before EWC	26 weeks leave including up to 11 weeks before EWC.	A further 26 weeks after Ordinary Maternity Leave.	You may be entitled to a maternity allowance for 39 weeks providing you meet the employment and earnings rule.	Minimum Statutory Entitlement  Maternity Allowance is a benefit which must be claimed by you from your local Jobcentre Plus/Social Security Office.
More than 26 weeks continuous service at the 15 <sup>th</sup> week before EWC but less than a year at the 11 <sup>th</sup> week before EWC	26 Weeks leave including up to 11 weeks before EWC.	A further 26 weeks after Ordinary Maternity Leave.	<ul style="list-style-type: none"> <li>➤ 6 weeks at 90%</li> <li>➤ 33 weeks SMP</li> </ul>	Maximum Statutory Entitlement.
More than one year at the 11 <sup>th</sup> week before EWC	26 Weeks leave including up to 11 weeks before EWC.	A further 26 weeks after Ordinary Maternity Leave.	<ul style="list-style-type: none"> <li>➤ 6 weeks at 90%</li> <li>➤ <b>12 weeks half normal weeks pay*</b>, plus 12 weeks SMP</li> <li>➤ 21 weeks SMP only</li> </ul> <p><b>*This can not exceed normal full pay.</b></p>	Please note: if you do not return from maternity leave for 13 weeks the 12 weeks half pay (Occupational Maternity Pay which is highlighted in bold) will have to be paid back.

Please note: This information should be read in conjunction with the Green Book.  
If there are any queries please contact the HR Advisory Team on 0330 123 2542.

EWC= Expected week of birth.

SMP = Statutory Maternity Pay (either the lower of **£139.58** per week or 90% of weekly earnings)

To qualify for SMP your salary must at least equal the lower earnings limit of **£112** a week which applies on the Saturday at the end of your qualifying week. The lower earnings limit is the amount you have to earn before you are treated as paying National Insurance contributions. If you do not qualify for SMP you may be entitled claim Maternity Allowance.