Maternity scheme - teaching staff

Formally adopted by the Governing Board of:-	**Hillside Primary**
On:-	**9.12.25**
Chair of Governors:-	**Trevor Wainwright**
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Maternity scheme - teaching staff P208b

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We, the Governing Board, have adopted this scheme.

1. Introduction and scope

1.1 The scheme outlined in this document covers:

- the benefits available for teachers on maternity leave,
- national occupational scheme provisions (from the Burgundy Book),
- some locally agreed provisions.

1.2 Governing boards and trusts must comply with the statutory scheme. All governing boards must comply with the nationally agreed schemes and all trusts, other than those who have formally moved away from the Burgundy Book provisions, must also follow the national schemes. All governing boards must follow locally agreed provisions.

1.3 The Headteacher will ensure that employees are made aware of the provisions of this procedure and that they are applied in a consistent manner.

2. Equalities and support

2.1 The Headteacher will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.

2.2 Through the implementation of this procedure, the Governing Board will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.

2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Governing Board understands the employee may require extra support in relation to the application of this policy. Where reasonable adjustments are necessary and can be accommodated, the Headteacher will support these.

3. Scheme application

3.1 The occupational maternity scheme shall apply to all pregnant teachers regardless of the number of hours worked per week. The scheme applies to all employees working under teachers' terms and conditions of employment, for example qualified teachers, sessional tutors and unqualified teachers.

4. Initial obligations on the employee

4.1 To benefit from the scheme the employee must:

(a) continue to be employed by the employer, (whether or not at work) immediately before the start of maternity absence.

(b) notify the employer in writing by completing *Maternity leave and pay form for teaching staff F208f***,** as soon as practicable, but not later than 14 weeks (unless there is good cause) before the expected week of childbirth (EWC) stating:

i. that they wish to be absent for maternity
ii. that they are pregnant
iii. the expected week of childbirth, by means of a medical certificate MATB1
iv. the intended date of the beginning of maternity absence.

If requested by the employer, the employee must produce a certificate from a registered medical practitioner or a certified midwife stating the EWC.

(c) begin maternity absence no earlier than 11 weeks before EWC.

(d) If necessary, change the date to commence maternity leave by providing 28 days' notice in writing.

(e) declare in writing, at the time of notification of intended absence (under (b) above), that they intend to return to work with the employer (if that is the employee's intention and if they are able to return to work with the employer).

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(f) not remain at work if certified medically unfit to do so (taking into account the provisions of the Management of Health and Safety at Work (Amendment) Regulations 1994).

(g) following the employee's notification under sub para (c) the employer shall write to the employee within 28 days of receiving the notice stating the expected date of return from Maternity leave.

5. Antenatal care

5.1 Any pregnant teacher has the right to paid time off to attend antenatal care and must produce evidence of appointments if requested to do so by the employer. Antenatal care is defined as visits to a registered Medical Practitioner, Midwife or Health Visitor. Antenatal care may include relaxation classes and parent craft classes.

5.2 Except for the first appointment, the employee must provide a certificate from a registered practitioner, midwife of health visitor confirming an appointment has been made.

5.3 The provision is different for partners – refer to the Leave and time off policy for further information.

6. Maternity leave and pay

6.1 The teacher is automatically entitled to a period of 26 weeks ordinary maternity leave and 26 weeks additional maternity leave regardless of hours of work or length of service, where the appropriate notice has been given. This means the employee can remain on maternity leave for a total period of up to 52 weeks. The employee may receive maternity allowance (MA), statutory maternity pay (SMP) and/or occupational maternity pay (OMP) during this period depending on the eligibility criteria satisfied.

6.2 Statutory Maternity Pay (SMP)

SMP is paid on behalf of the Department for Work and Pensions. To get SMP an employee must satisfy all of the following conditions:

a) have been continuously employed by their current employer for at least 26 weeks, at the start of the 15th weeks before the baby is due.

b) have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions in the 26 weeks up to and including the 15th week before the expected week of confinement.

c) still be pregnant at the 11th week before the week the baby is due or have had the baby by that time.

d) have provided medical evidence of the date the baby is due at least 28 days before the maternity absence is due to start, and

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e) have stopped work.

If an employee is not entitled to SMP, the payroll provider will issue a Statutory Maternity Pay form (SMP1) explaining why they are not entitled to SMP and how they can claim for state maternity allowance from Job Centre Plus.

SMP is subject to PAYE, income tax and NI contributions.

6.2.1 Teachers who satisfy the following conditions will have the full statutory entitlements and the full occupational entitlements:

- At least 26 weeks continuous service with their current employer at the beginning of the 15th week (known as the qualifying week) before the expected week of childbirth (EWC) and
- at least one year's continuous service as a teacher with one or more Local Authority (LA)[1] at the beginning of the 11th week before the EWC.

The combined effect of these entitlements, provided the eligibility criteria are satisfied is:

26 weeks ordinary and 26 weeks additional maternity leave paid as follows:
- first 4 weeks of absence, full pay, inclusive of SMP or MA;
- next 2 weeks 90% of a week's salary, inclusive of SMP or MA;
- next 12 weeks, half pay plus flat rate SMP or MA;
- next 21 weeks, flat rate SMP or MA

The remaining 13 weeks of additional maternity leave will be unpaid.

6.2.2 Teachers who satisfy these conditions will have the full occupational entitlements but will not be entitled to SMP (they may, however, be entitled to Maternity Allowance (MA)):

- Less than 26 weeks continuous service with their current employer at the beginning of the 15th week before the EWC, but at least one year's continuous service as a teacher with one or more LAs[2] at the beginning of the 11th week before the EWC.

Their entitlement, providing the eligibility criteria are satisfied is:

26 weeks ordinary and 26 weeks additional maternity leave paid as follows:
- first 4 weeks on full pay, inclusive of MA if eligible;
- next 2 weeks on 90% of a week's salary, inclusive of MA if eligible;
- next 12 weeks on half pay plus MA if eligible;
- next 21 weeks MA if eligible.

The remaining 13 weeks of additional maternity leave will be unpaid.

[1] Includes Academy service, where the Trust follows Burgundy Book conditions.
[2] As above

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6.2.3 Teachers who satisfy these conditions will have the full statutory entitlements but will not qualify for the occupational entitlements:

- At least 26 weeks continuous service with their current employer at the beginning of the 15th week before the EWC, but less than 1 year's continuous service as a teacher with one or more LAs[3] at the beginning of the 11th week before the EWC.

Their entitlement, providing the eligibility criteria are satisfied is:

26 weeks ordinary and 26 weeks additional maternity leave paid as follows:
- first 6 weeks, higher rate SMP equal to 90% of a week's salary or MA if eligible;
- next 33 weeks, SMP at the lower rate or MA, if eligible.

The remaining 13 weeks of additional maternity leave will be unpaid.

6.2.4 Teachers who fall under these definitions will not qualify for any occupational entitlements. The statutory entitlement will be for 26 weeks ordinary maternity leave and 26 weeks additional maternity leave, for which SMP will not be payable. There may, however, be an entitlement to MA:

- Less than 26 weeks continuous service with their current employer at the beginning of the 15th week before their EWC and less than 1 year's continuous LEA service at the beginning of the 11th week before their EWC.

6.3 The basic principle of the leave provisions is that teachers have a right to choose when to start their maternity leave. The exceptions are:

(i) where the teacher is absent from work "wholly or partly because of a pregnancy related reason or childbirth" after the beginning of the 4th week before the expected week of childbirth. In these circumstances, unless it is a very minor illness and they are expected to return within one or two days, maternity leave and pay will be automatically triggered the day after the first day of absence or childbirth; and

(ii) where the baby is born early, before maternity leave commences, the employee must, if reasonably practicable, give notice of the date of birth within 28 days. In these circumstances, the day after the day of childbirth should be regarded as the first day of maternity leave and OMP and/or SMP will be paid from the day following the day of childbirth.

(iii) If the baby is stillborn before the 24th week of pregnancy i.e., earlier that the 16th week before the expected week of birth, SMP/MA/OMP is not payable. Instead, the sick pay scheme applies. If the baby is still born after the start of the 16th weeks before the expected week of childbirth then the provisions of the maternity scheme for leave and pay will apply, as it would for a live birth. It should be noted that if a baby survives for only an instant, it is a live birth not a stillbirth.

[3] As above

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In these situations, the employee must notify their employer in writing as soon as reasonably practicable that they have given birth or that they are absent wholly or partly because of pregnancy.

6.4 In the event of the employee not being available, or being unable to return to their job for the required period, they shall refund such sum after the first six weeks' payment, as the employer, at their discretion, may decide. Payments made by way of SMP are not refundable.

Funding consideration – There are centrally held funds to support maintained schools with costs relating to maternity. Academies and Free schools will need to fund this from their own budget.

7. Subsequent obligations on the employee

7.1 The teacher's subsequent obligation is to return to their job for at least 13 weeks (including periods of school closure) as a qualifying condition to occupational maternity pay after 6 weeks' absence (see paragraph 8 below). This requirement may be reduced at the discretion of the employer (see paragraph 9 below for entitlement to pay).

7.2 Where the employer agrees, a full-time teacher may return to work on a part-time basis for a period which equates to 13 weeks of full-time service. Similarly, where the employer agrees, a part-time teacher may return to work on a different part-time basis for a period which equates to 13 weeks' part-time service relating to their previous contract.

7.3 The 13 week period (or part-time equivalent) starts from the date the teacher returns to work or the date during the school holiday on which the teacher is declared medically fit to be available for work.

7.4 If the teacher does not return to work or fails to complete the 13 week obligation period (or part-time equivalent) they will normally be required to repay any 12 weeks half pay paid to them.

8. Keeping in Touch (KIT) days

8.1 KIT days are a statutory entitlement where the employee may work for up to 10 days during their maternity leave without the loss of statutory maternity payments for that week, or their maternity leave being terminated.

8.2 Both parties must be in agreement of any such work – the employee cannot be required to attend a KIT day, nor is the employee entitled to a KIT day if there is no reason for them to attend the workplace.

8.3 A KIT day cannot take place during the first two weeks following the birth of a child (compulsory maternity leave). KIT days do not have to be consecutive and can be used for work activities, training or any other activity such as a staff meeting or INSET day that enables the employee to keep in touch with the workplace. Working for part of a day will count as one of the 10 KIT days.

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8.4 Employees who attend a KIT day will claim for the actual hours that they have worked on each KIT day taken, up to a maximum of the employee's normal pay for a day's work KIT day payments will be paid at the employee's normal hourly rate, offsetting any OMP for that day and SMP is not affected.

Funding consideration - KIT days in schools are funded by the central maternity budget, managed by the Local Authority. Academies and Free schools must fund KIT days from their own budget.

9. Right to return to work

9.1 Subject to sub-paragraph 8.2 below, a teacher's right to return to work is a right to return to the job in which they were 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, which they are employed to do and the capacity and place in which they are so employed.

9.2 Where it is not practicable, by reason of redundancy, for the employer to permit the employee to return to work in their job as defined in sub-paragraph 8.1 above, the teacher shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable to them and appropriate to the circumstances, and that the capacity and place in which they are to be employed and the terms and conditions of employment are not substantially less favourable to them than if they had been able to return to the job in which they were originally employed.

9.3 Returning to work on a part-time basis

Some employees wish to return to work on reduced hours after their period of maternity leave. There is no automatic right to do this but employees do have a right to request it. Employers have a statutory duty to give such requests full consideration and have an obligation to formally respond to the request. It follows that the Headteacher should assess the practicalities of allowing a return on this basis and not unreasonably refuse it. The Headteacher will be required to justify any decision not to allow such a return.

10. Exercising the right to return to work

10.1 The teacher can return to work before the end of their full maternity leave entitlement period if they want to. They need give no further notice of their date of return unless they wish this to be earlier that the natural end of the 52-week (one year) period. In the event of wishing to return earlier, they must give at least 21 days' notice to the employer.

10.2 In cases where the notice given is less than this, the employer can postpone the return to ensure the minimum period above, as long as this does not go beyond the end of the maternity leave period. Any postponement is conditional upon the employee having been issued with the required notice of expected date of return within the 28 day limit (see point 4 (g)). Where no early or prior notice of a date of

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return is given, the employee will be expected to return to work at the end of the 52 week maternity leave period.

10.3 Where a teacher is unable to return to work at the end of their period of maternity leave due to sickness, the sick pay scheme as set out in section 4 of the Conditions of service for School Teachers (Burgundy Book) shall apply to such absence.

10.4 A teacher can return from maternity leave during a school holiday period, providing they have met conditions as outlined in this scheme and they are medically fit to do so.

10.5 If a teacher decides **before** going on maternity leave that they are not going to return to work and therefore not receive OMP, they should notify their Headteacher in writing that they wish to terminate their employment. Notice should be given at least 21 days before they wish their employment to come to an end, or as soon as is reasonably practicable. The appointment shall then terminate:

- either with the agreement of the teacher, or, if because of their pregnancy they are incapable of doing their own or other suitable work, at a date 11 weeks prior to the EWC
- or, at some other date less than 11 weeks.

If the teacher decides **after** going on maternity leave that they are not going to return to work, they should give contractual notice in the usual way. However, the Headteacher can agree with the teacher to shorten the notice period, avoiding the teacher potentially having to return to work for a short period of time when this might not be practicable or the intention of the teacher. The teacher should give as much notice as possible. In these circumstances, where OMP has already been paid the teacher will be subject to paragraph 7.4.

10.6 As a matter of good practice, Headteachers are advised to maintain reasonable contact with their employees throughout their maternity leave, to let them know of changes occurring in the workplace and to keep informed about changes to the employee's plans. There should be no pressure put on the employee to return sooner than the 52 weeks maternity leave period. It is the prerogative of the employee to decide if they will return earlier. This contact with the employee does not count towards the 10 KIT days.

The Headteacher will need to inform the payroll provider when an employee's maternity leave ends, even if they are not returning to work straight away e.g., due to being on sick leave.

[Customers whose payroll provide is Norfolk County Council can do this by email. It will ensure the employee is paid correctly.

Schools should email Hrschoolspayroll@norfolk.gov.uk
Academies should email hrnccexternals@norfolk.gov.uk

Please include the date of return from maternity leave and if there are any changes e.g., changes to hours.]

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11. Relationship with sickness

Maternity leave will not be taken into account for the calculation of the period of entitlement to sickness leave.

12. Definitions

12.1 For the purpose of this scheme, a week's pay shall be treated as the amount payable to the employee under the current contract of employment. If there are significant variations in their salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.

12.2 Confinement means the birth of a living child, or the birth of a child whether living or dead after 24 weeks of pregnancy.

12.3 Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.

13. Other absences

13.1 If, in the early months of pregnancy, a teacher 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.

13.2 Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity, shall be treated as ordinary absence on sick leave and shall be subject to the conditions normally governing such leave, provided it is covered by a doctor's statement.

14. Teachers' Pension Scheme

For employees who are a member of the Teachers' Pension Scheme, pension contributions will be payable on all payments made to them in the form of SMP, SAP and OMP (but not MA). Service will be counted as reckonable for pension purposes during any paid employment. Service will not count for pension during unpaid adoption/maternity leave. Employees should contact Teachers' Pensions directly if they wish to make voluntary contributions during their period of unpaid maternity leave or if they require guidance regarding this matter.

15. Any other provisions

15.1 Notice provision for pregnant teachers who do not intend to return to work are set out in Section 3, paragraph 7, of the Conditions of service for School Teachers (Burgundy Book). Following a return to work, the normal provisions for termination upon notice in Section 3, paragraphs 2 and 4 (Burgundy Book) shall apply.

15.2 It is an employee's responsibility to tell their employer if they go outside the European Economic Area (EEA) or are taken into legal custody. In this event, any entitlement to SMP/SAP will automatically cease. In these circumstances, should they come

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back into the EEA or are released from custody, they will not be eligible to receive SMP/SAP.

15.3 Employees should not undertake any other paid employment with their employer during adoption/maternity leave.

16. Contractual benefits

16.1 Excess travel

If an employee is receiving excess travel payments, further information on what will happen to these payments once they start maternity leave can be found in the Excess mileage policy.

Strategy consideration - A model *Excess mileage policy and procedure P304f* is available on InfoSpace.

16.2 Salary sacrifice arrangements

Employees should be aware that if they are participating in a salary sacrifice arrangement e.g., childcare vouchers, or thinking of doing so, payments for maternity pay may be affected due to reductions in national insurance contributions and income tax.

16.3 Childcare vouchers

Where the teacher is in receipt of childcare vouchers via salary sacrifice, they can either:

- suspend their childcare vouchers during maternity leave.
- continue to receive childcare vouchers during maternity leave providing their occupational maternity pay covers the cost of the vouchers.

The provision of childcare vouchers will be suspended if a teacher's occupational maternity pay does not cover the cost of providing their childcare vouchers. Statutory Payments such as Statutory Maternity Pay cannot be exchanged for childcare vouchers.

16.4 Teachers' Pension Scheme

Pension contributions will be payable on all payments in the form of SMP, SAP and OMP (but not MA). Service will be counted as reckonable for pension purposes during any paid employment. Service will not count for pension during unpaid maternity leave. Members should contact Teachers' Pensions direct if they wish to make voluntary contributions during a period of unpaid maternity leave or if they require guidance regarding this matter.

16.5 Pregnancy and unfair dismissal

It is automatically unfair to dismiss an employee:

- for a pregnancy or pregnancy related reason,

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- at the end of their general maternity leave because they have given birth or a related reason,
- after their general maternity leave because they have availed themselves of maternity benefits,
- within 4 weeks from the end of their general maternity leave where they are covered by a medical certificate,
- where a requirement to suspend on health and safety grounds is the main reason for the dismissal,
- where they are prevented from exercising their right to return because of redundancy and they are not offered a suitable alternative vacancy where it is available,
- where they are made redundant during their maternity leave and are not offered available suitable alternative employment.

In the above circumstances, employees will be entitled to bring unfair dismissal claims regardless of the hours they work or their length of service.

Where an employee is dismissed at any time during their pregnancy or maternity leave, they are entitled to be provided with written reasons for their dismissal (whether requested or not).

However, employers are not prevented from dismissing employees for reasons unconnected to their maternity leave (e.g., for redundancy or misconduct reasons). Where a dismissal would have occurred regardless of the fact that the employee is on maternity leave, such a dismissal will not be automatically unfair. The fairness will be judged according to the reasonableness of the employer's actions. Employees will need two years' service to make an unfair dismissal claim in these circumstances.

Special considerations apply to redundancy during maternity leave, this is detailed in the Staffing adjustment policy and procedure (P318 for schools and P318a for MATs).

Where redundancy occurs during the period of paid maternity leave (i.e., the first 39 weeks of leave), the employee is entitled to be offered any existing suitable alternative employment. Suitable alternative employment means work that is suitable for the employee and appropriate for them to do in the circumstances and on terms and conditions, which are not substantially less favourable, than those under their previous contract. The offer must be made before the existing contract comes to an end, to take effect immediately on the ending of the original contract. A trial period will be applicable where redeployment has occurred due to redundancy.

Where the redundancy would take effect in a period of unpaid maternity leave, employees retain their right to return within the 52-week period. It is the responsibility of Headteachers to ensure that employees who are absent from work on maternity leave are kept consulted on any restructuring. This means that regardless of whether the contract of employment continues, the employee can exercise their right to return. Where redundancy means there is no job for them to return to, the employee is entitled to be offered any existing suitable alternative to coincide with their date of return to work i.e., the end of their period of maternity leave

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or earlier if the employee gives 21 days' notice of the wish to return before this. As a result of this, it is advisable to delay any redundancy dismissal until the employee reaches their date of return. It is only where no suitable alternative vacancy exists at this time that notice is given and a redundancy payment made.

17. Health and Safety

Appropriate risk assessments should be undertaken and health and safety implications considered to ensure the pregnant employee can continue to work safely and all aspects of health and safety requirements are complied with.

Strategy consideration - NCC Health, Safety and Wellbeing customers can read *the 'New and expectant mothers' policy P640* and *Guidance on assessing risks for new and expectant mothers G640* on InfoSpace.

18. Data protection

Personal data collected and processed for the purpose of this scheme will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.

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Appendix 1 – Table of changes

Date of change	Paragraphs affected	Summary of update
15/05/2025	6	Updated to reflect that the central budget supports maintained schools with maternity costs.
01/10/2024	8.4	Updated to add that actual hours can be claimed, up to a maximum of the employee's normal pay for a day's work
27/03/2024	All	Review of whole document and terminology to ensure consistency across all policies and procedures. Gender specific terms removed. Inclusion of the protection from redundancy legislative changes.
01/09/2023	11	Updated to reflect amended approach to KIT day payments – claims are now made for actual hours worked.
01/09/2023	Equal Opportunities	Updated to reflect correct terminology for protected characteristics.
17/11/2021	1	Additional paragraph to include consideration for employees with mental health issues.
06/12/2018		Updated to ensure the policy is fit for MAT's as well as schools. Changes reflect terminology and MAT structure and set up.
11/05/2018	16	New para added to take account of the General data protection regulations in force from 25 May 2018.
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content
01/06/2017	14	Change to the payment of childcare vouchers during maternity leave.
13/06/2017	7.1.4	Updated to include information that a teacher can return from maternity leave during a school holiday period.
18/12/2017	1 and throughout	Reference to HR Direct amended. Reference to Governing Body amended to Governing Board.

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