



*Thinking Schools Academy Trust*  
"Transforming Life Chances"

Maternity Policy and Procedure

Policy was adopted following consultation with recognised trade unions on:	September 2021
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## Contents Page

Part A - Policy .....	4
1 Policy Statement .....	4
2 Scope.....	4
3 Adoption Arrangements and Date .....	5
4 Responsibilities of the Trust .....	5
5 Responsibilities of the Employee .....	5
Part B: Procedure .....	5
6 Maternity Leave and Pay – Summary of Entitlement.....	5
7 Notification .....	6
8 Evidence of Maternity.....	6
9 Health and Safety .....	7
10 Ante Natal Care.....	7
11 Maternity Leave Entitlements .....	8
12 Starting Maternity Leave .....	8
13 Premature Births .....	8
14 Miscarriage and Still Birth.....	9
15 Sick Leave.....	9
16 Leaving Employment Prior to Maternity Leave .....	9
17 Eligibility for Statutory Maternity Pay.....	9
18 Eligibility for Contractual Maternity Pay.....	10
19 Contractual Maternity Pay.....	11
20 Conditions relating to the payment of contractual maternity pay .....	11
21 Maternity Allowance .....	12
22 Deductions From Maternity Pay.....	12
23 Annual Leave .....	12
24 Pension Contributions .....	13
25 Contact during maternity leave .....	13
26 Keeping in Touch Days.....	13
27 Returning to Work .....	14
28 The Right to Return.....	14
29 Returning to Work Early .....	14
30 Arrangements on Return to Work.....	13
31 Sickness.....	15
32 Requests to change working hours.....	15
33 Leaving Employment .....	15
34 Childcare Vouchers.....	16

*Abbreviations*

EWC	Expected week of Childbirth
SML	Statutory Maternity Leave
SMP	Statutory Maternity Pay
CMP	Contractual Maternity Pay
OML	Ordinary Maternity Leave
AML	Additional Maternity Leave
MA	Maternity Allowance

## Part A - Policy

### 1 Policy Statement

The Thinking Schools Academy Trust recognises its legal obligations with regards to maternity entitlements and is committed to supporting best practice in relation to maternity provision. This policy applies to all pregnant women, trans men, and non-binary employees.

Employees have certain statutory maternity rights, including the right to maternity leave, maternity pay and to return to work after their baby is born. In addition to the statutory provisions the Trust operates a contractual maternity scheme for eligible employees.

The Trust is committed to ensuring the health, safety and welfare of all employees including pregnant and breast/chest feeding employees.

The Trust recognises that employees have protection against detriment, disadvantage, unfair treatment or dismissal arising from pregnancy or maternity leave.

An equality impact assessment has also been carried out to ensure that no groups or individuals with protected characteristics are unintentionally disadvantaged by the policy or practice. This policy and procedure are applied in line with the Equality Act 2010.

This policy and procedure explains: -

- The entitlements and benefits for pregnant employees and new mothers.
- The requirements and procedures employees will need to comply with in order to obtain maternity benefits.

Employees are advised to read this document carefully as failure to comply with certain requirements and procedures could impact on their maternity benefits.

### 2 Scope

This Policy and Procedure applies to all employees of The Thinking Schools Academy Trust.

Where an employee has transferred into the Trust as part of and has enhanced terms that are subject to TUPE then this would continue to apply. Also, continuity of employment would TUPE across with an employee and count towards their entitlement.

Maternity rights apply equally to full and part-time employees regardless of how many hours worked, provided qualifying conditions are satisfied. Certain entitlements may be dependent on length of service.

### 3 Adoption Arrangements and Date

This procedure was adopted by the Board of Directors of The Thinking Schools Academy Trust on 1st September 2016 and supersedes any previous Maternity Policy and Procedure.

This policy will be reviewed by the Board of Directors every 4 Years or earlier if there is a need. This will involve consultation with the recognised unions.

### 4 Responsibilities of the Trust

- To comply with statutory and contractual provisions relating to maternity leave and pay.
- To take due regard of the health, safety and welfare of pregnant employees.
- Not to disadvantage an employee for exercising their maternity rights.

### 5 Responsibilities of the Employee

- To comply with the notification arrangements and timescales set out within this document.
- To maintain contact with the Headteacher/Principal / line manager and advise the school at least 21 days in advance should their intentions regarding maternity leave change.

## Part B: Procedure

### 6 Maternity Leave and Pay – Summary of Entitlement

Employees are entitled to take up to 52 weeks maternity leave regardless of their length of service. This is comprised of the following:

- Statutory Maternity Leave (SML) – up to 26 weeks ordinary leave immediately followed by 26 weeks additional leave – 52 weeks in total.
- Statutory Maternity Pay (SMP) – an Employee may be entitled to receive 6 weeks at 90% of average weekly earnings and a further 33 weeks at standard rate SMP to find the current SMP please see the government website ([www.gov.uk](http://www.gov.uk)) or 90% of average weekly earnings, whichever is less, for the first 39 weeks during maternity leave.

In addition to the above statutory maternity provisions, employees may be entitled to contractual maternity pay provisions.

#### Contractual – Maternity Pay

- 4 weeks at full contractual pay (90% where applicable will be made up of SMP), followed by;
- 2 weeks at 90% of contractual pay or SMP (where applicable) at the earning related rate (90% of average weekly earnings) whichever is the greater, followed by
- 12 weeks at contractual half pay (if returning to work) to run alongside (where applicable);

- 21 weeks at standard rate SMP (to find the current SMP please see [www.gov.uk](http://www.gov.uk) ) or 90% of average weekly earnings

This entitlement is subject to the employee meeting the qualification requirements detailed below in section 18.

## 7 Notification

An employee must notify the Headteacher/Principal / line manager at least 14 weeks before their EWC.

Early notification will assist the Headteacher/Principal to comply with relevant health and safety requirements and to enable them time to make arrangements to cover the absence during maternity leave.

Notification must be made no later than the end of the 14<sup>th</sup> week before the expected week of childbirth (EWC) unless this is not reasonably practical.

Notification must be confirmed in writing and should include:

- Confirmation that the employee is pregnant (MATB1);
- The week the baby is expected to be born
- Date the employee wishes to start maternity leave
- Confirmation of the employee's intention to return to work

An Employee may change the start date of their leave but must give the Headteacher/Principal 21 days' notice of the revised dates.

The employee will receive formal notification, to confirm;

- leave and pay entitlement
- the date the Employee is expected to return to work.

## 8 Evidence of Maternity

The employee should provide the school with the original of the MATB1 certificate issued by their doctor / midwife no later than the end of the 14<sup>th</sup> week before the EWC.

This certificate is required to confirm when the baby is due and to authorise maternity leave / pay.

The MAT B1 is usually issued around the 20<sup>th</sup> week of pregnancy. If the MATB1 is issued before this date it will be invalid for pay purposes and will be returned to the employee for the doctor / midwife to re-certify.

If the employee does not provide the required notification and evidence, maternity pay cannot be paid and will be withheld until correct notification is received. To avoid overpayment - normal pay will cease from the start of the maternity leave.

## 9 Health and Safety

As part of the Trust's duty of care towards a pregnant employee, the Headteacher/Principal will arrange a workplace health and safety risk assessment to take place that will be done in conjunction with the school/department.

Where a potential risk is identified, reasonable temporary adjustments to the work/working conditions and/or working hours may be considered as appropriate.

Where the risk cannot be reduced to an acceptable level the employee will be offered suitable redeployment on their existing terms and conditions of employment. In exceptional circumstances if there is no suitable redeployment, the employee will be suspended on full pay for as long as the risk remains- this would be categorised as paid maternity suspension.

Positive considerations will also be given to providing suitable rest and break facilities and times for pregnant employees over and above normal break periods if requested.

Pregnant employees should raise any concerns relating to their own Health & Safety with the Headteacher/Principal as soon as possible.

If there is a potential risk to the mother or the unborn child's health due to rubella or other infectious diseases in the school, a precautionary approach will be taken. GP or Occupational Health advice should be sought. Options may include, a change of working location to a local Trust school, duties carried out at home or leave with full pay may be granted.

Where there are concerns about the employees' health during their pregnancy additional medical support may be sought. This may be to clarify whether there is a risk to health and determine if it is in the employee's best interests to be at work as well as possible workplace adjustments that could be considered.

Where an Occupation Health report is undertaken, this is provided to the employee in the first instance and they can request for amendments to the report to be made as well as to not share this with the Trust. If there are disagreements between medical professionals then an independent medical opinion will be sought in line with the Access to Medicals Records Act 1988.

## 10 Antenatal Care

Once an Employee has advised the Headteacher/Principal that they are pregnant – they will be given reasonable paid time off to attend antenatal appointments.

In addition to medical examinations, this may include time off for parent support classes as long as these are supported by a registered medical practitioner, midwife or health visitor.

Except in the case of the first appointment, evidence such as an appointment card or medical certificate may be requested.

The Employee should endeavour to give the Headteacher/Principal as much notice as possible of antenatal appointments and wherever possible arrange these outside of the work day. If they are in work hours, then this should be at the start / end of the working day where possible.

In addition, the father or partner of the pregnant woman may take time off work to attend 2 antenatal appointments with the expectant mother. These need to be agreed in advance, but will be paid time off work.

## **11 Maternity Leave Entitlements**

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

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

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

The law requires that all employees take a minimum of 2 weeks compulsory maternity leave immediately after the birth of their child during which time they are not permitted to work.

## **12 Starting Maternity Leave**

Maternity leave and pay can start on any day of the week.

An employee can choose to start their maternity leave at any time from the 11<sup>th</sup> week before the EWC and should confirm this in writing.

An employee may wish to continue working beyond this, however the latest date they can choose to start maternity leave is the day the baby is due or the day after the baby's birth should the baby arrive early.

If an employee is absent wholly or partly due to a maternity related illness after the beginning of the 4<sup>th</sup> week before the expected week of childbirth, maternity leave period will start automatically on the following day. Please refer to section 15.

Should the baby arrive early and maternity leave start on a date other than that previously notified – the employee should make the Headteacher/Principal aware as soon as possible – even if this coincides with a school closure period.

## **13 Premature Births**

If the baby is born early prior to the intended start of maternity leave, maternity leave and pay will start automatically the day after the baby's birth.

In order to preserve the employee's entitlement to maternity leave / pay written notice of the baby's birth date should be provided as soon as is reasonably practical.



#### **14 Miscarriage and Still Birth**

In the unfortunate event of miscarriage before or during the 24th week of pregnancy an employee will not be able to claim statutory or contractual maternity benefits. Normal sick pay entitlements will apply for any resulting sickness absence in accordance with normal procedures and Compassionate Leave may also be granted.

Should the baby be born alive before or during the 24th week of pregnancy but subsequently dies, or where still birth occurs from the beginning of the 25th week of pregnancy, statutory and contractual maternity provisions will still apply.

#### **15 Sick Leave**

If an Employee is absent from work due to non-pregnancy related sickness normal sick pay applies up to the date the baby is born or the agreed date for finishing work, whichever is sooner.

If the absence is pregnancy related, sick pay will be paid up to the beginning of the 4th week before the EWC. Maternity Leave will need to start for any pregnancy related illness in the 4-week period before the due date. Maternity leave and pay will automatically start on the day after the first complete day of absence from work.

#### **16 Leaving Employment Prior to Maternity Leave**

Where an employee leaves employment with the Trust after the start of the 14<sup>th</sup> week (qualifying period) before EWC they will still be entitled to SMP. However, the following conditions apply:

- Where an employee leaves employment after the start of the qualifying period but before the start of the 11<sup>th</sup> week before the EWC, SMP will start from the 11<sup>th</sup> week before the EWC
- Where an employee leaves employment after the start date of the 11th week before the EWC but before the date maternity leave was due to start, SMP will start from the day after leaving employment.

Where an employee leaves employment before maternity leave starts, they will not be entitled to CMP, as their contractual relationship with the school will have ended. Similarly, if an employee leaves employment during maternity leave, CMP will stop on the last day of service.

Where an employee is considering leaving employment they are advised to discuss the impact this may have on their maternity benefits with their Headteacher/ Principal / line manager.

#### **17 Eligibility for Statutory Maternity Pay**

All statutory and contractual maternity payments are paid via payroll in the same manner as their normal salary payments.

Statutory Maternity Pay (SMP) is payable to all eligible employees for a maximum period of 39 weeks. SMP pay will start on the first day of maternity leave.

To be eligible for SMP an employee must:

- Have 26 weeks continuous service with the Trust by the end of the 15th week before the EWC.
- Notify the Headteacher/ Principal of the pregnancy, EWC and the date they wish to start maternity leave by the 15<sup>th</sup> week before the baby is due. This will be around the 25th week of pregnancy.
- Still be employed by the 15<sup>th</sup> week before the EWC.
- Have average weekly earnings over a set period above the lower earnings limit for NI purposes.
- Provide a MATB1 certificate.

SMP is paid for a period of 39 weeks made up of:

- 6 weeks at 90% of average weekly earnings, followed by;
- 33 weeks at standard rate SMP.

Where an employee is currently taking advantage of any salary sacrifice scheme, including childcare vouchers, average weekly earnings is calculated after deductions have been made.

There are two rates of SMP:

- Higher rate – equivalent to 90% of average weekly earnings, which are based on the 8-week period immediately preceding the 15th week before the EWC,
- Standard rate – For current SMP rate refer to the government website ([www.gov.uk](http://www.gov.uk)) or 90% of average weekly earnings, whichever is the lowest.

Average weekly earnings will be based on the 8-week period immediately preceding the 15th week before the EWC and will be offset against contractual maternity pay for the first 6 weeks.

Where an employee becomes pregnant again whilst on maternity leave or shortly after returning from leave – they are advised to discuss their entitlement to contractual and statutory maternity pay with Payroll at the earliest opportunity.

## **18 Eligibility for Contractual Maternity Pay**

In addition to SMP eligible employees may also receive contractual maternity pay. This runs alongside SMP provisions.

To be eligible for CMP an Employee must:

- Have at least 1 year's continuous service within a local authority, another academy or with the Trust by the beginning of the 11<sup>th</sup> week prior to the EWC.
- Continue to be employed immediately before the maternity leave starts.
- Notify the Headteacher/Principal of the pregnancy, EWC and the start date of maternity leave by the 14<sup>th</sup> week before the baby is due. This will be around the 25th week of pregnancy.
- Provide a MATB1 certificate.

Contractual maternity pay will be calculated on the salary at the point when maternity leave is due to commence. Contractual half pay plus standard rate statutory maternity pay should not exceed normal weekly earnings.

## 19 Contractual Maternity Pay

This is comprised of:

- 4 weeks at full pay (90% is made up from SMP)
- 2 weeks at 90% of contractual pay or SMP at the earnings-related rate whichever is the greater
- 12 weeks at half pay (where the Employee intends to return to work) in addition to SMP entitlement – total amount not exceeding full pay
- 21 remaining weeks SMP entitlement at the standard rate.

## 20 Conditions relating to the payment of contractual maternity pay

Contractual maternity pay is paid on the basis that an employee will return to work following the birth of the baby. Consequently, if an employee does not return to work they may be liable to repay the half pay element of their CMP.

Where an employee indicates that they will return to work – the 12 week's half pay will be paid during their maternity leave.

Where the employee indicates on their maternity notification that they have no intention of returning from maternity leave - the 12 week's half pay will not be paid.

Where an employee indicates that they may return – the half pay element will be withheld until the employee has returned to work for the required period. If employees are considering this option they should consult with HR or Professional Associations.

## Teachers

A teacher must return to work with the Trust for at least 13 calendar weeks (including periods of school closure). Where a teacher who has previously worked full time returns on a part time basis – they must return to work for a period which equates to 13 weeks full time service.

Similarly, where a part time teacher returns to work revised part time hours – they must return to work for a period which equates to 13 weeks service under their previous part time hours.

## Support Staff

A member of support staff must return to work with the Trust for at least 13 calendar weeks (including periods of school closure).

**The requirement to repay CMP may be waived at the discretion of the governing body. Any repayments will be of the gross rather than net amount paid. There is no requirement to repay any statutory maternity payments.**

## 21 Maternity Allowance

Where an employee is not entitled to SMP they may be entitled to Maternity Allowance which is payable directly from Jobcentre Plus / DWP.

In this instance the Trust will return the MATB1 to the employee and payroll will provide the employee with SMP1, which will set out the reason why they do not qualify for SMP.

An application for maternity allowance may be made by the individual employee by completing the MA1 form available from: [www.gov.uk/maternity-allowance/overview](http://www.gov.uk/maternity-allowance/overview)

## 22 Deductions from Maternity Pay

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

Where an Employee has a period of unpaid leave it is possible that they may be eligible for a tax refund at the end of the tax year, or may pay lower PAYE for the initial period after return to work.

Any other voluntary deductions will be taken from pay as usual.

## 23 Annual Leave

Annual Leave and Bank Holiday leave entitlement continues to accrue during any period on maternity leave. This is accrued on a pro rata basis for part time and term time only employees.

Annual leave and bank holiday entitlement should, wherever possible, be used in the leave in which it is due. Any leave should be taken with the agreement of the Headteacher/Principal / line manager. It is often most convenient for the employee and the school for leave to be taken immediately before or at the end of maternity leave. However, where this is not practicable – leave may be carried forward to the following leave year.

Where an employee does not return after maternity leave – annual leave is accrued up to the final date of employment.

### Term Time Only Employees

In instances where an employee is contracted term time only, leave is expected to be taken during the school closure periods when the employee does not work. A pro rata payment in respect of annual leave and bank holidays is included within the salary. The entitlement to annual leave will usually be off-set against any non-working periods falling before or after the employee's period of maternity leave. However, if due to the timing of maternity leave the entitlement to annual leave is not fully met – an employee may be able to take this leave during term time following their return to work with the agreement of the Headteacher/Principal / line manager.

## Teachers

Teachers are entitled to 28 days (pro rata) statutory annual leave. This is usually taken during the period outside of term time when a teacher is not expected to attend work.

This entitlement will be off set against any non-working periods falling before or after the employee's period of maternity leave. However, if due to the timing of maternity leave the entitlement to annual leave is not fully met – an employee may be able to take this leave during term time following their return to work with the agreement of the Headteacher/Principal / line manager. Annual leave entitlements can be complex for teachers and Employees are advised to contact HR to discuss their possible entitlements.

## 24 Pension Contributions

Employees in receipt of Maternity Pay will be required to pay pension contributions and these will be deducted salary payments in the normal way. Pension contributions will be based on the actual amount of salary received during maternity leave.

## Support Staff

Members of the LGPS will be given the option to pay pension contributions for the period of unpaid maternity leave when they return to work.

## Teachers

Pension contributions will be taken during the period and employee is in receipt of SMP and CMP. However once maternity payments cease this period will not be regarded as pensionable service and the employee will not be able to make contributions for this period.

Employees may choose to protect their pension by buying in additional pension to compensate for that absence. Full details are available from the Teachers' Pensions & Local Government Pension website.

## 25 Contact during maternity leave

During maternity leave it is often helpful to keep in contact with the school and vice versa. Before starting maternity leave it is advisable for the employee and Headteacher / Principal/ line manager to discuss and agree preferred means of contact.

The school may make reasonable contact with an employee during maternity leave. This may be to update the employee on significant changes in the workplace, make them aware of job / promotion opportunities or to discuss plans regarding a return to work.

## 26 Keeping in Touch Days

An employee may work up to 10 'Keeping in Touch Days' (KIT Days) during their maternity leave. These are intended to help the employee keep up to date with the

work environment, attend training and development activities or to help prepare for return from leave.

The employee and Headteacher/Principal / line manager should discuss and mutually agree appropriate KIT days. There is no expectation for the Headteacher/Principal / line manager to offer work during maternity leave or for the employee to accept any request to work.

- KIT days may be paid without affecting statutory or contractual maternity pay or leave. Any hours undertaken for KITS days will be paid at the standard hourly rate (inclusive of any recurring allowances). This will be paid in addition to any statutory or contractual maternity pay that you are due to receive.
- If an employee works a KIT day in the unpaid part of maternity leave they will receive payment for the hours worked.
- KIT days may not be taken during the first 2 weeks following childbirth. Taking KIT days does not extend the duration of the maternity leave.
- Working for any part of a day will count as one KIT day.

## 27 Returning to Work

Employees should notify the Headteacher/Principal of the date they intend to return to work. Unless we are otherwise notified, the return to work date will be the first working day after the end of the 52 weeks maternity leave.

This date will be confirmed before commencing maternity leave. An employee will not receive any further notification and it is expected that they will return to work on this date. If an employee does not return by the latest date of return, they may risk losing the right to return.

## 28 The Right to Return

After the period of ordinary leave, an employee has the right to return to the same job on terms and conditions no less favourable than if they had not been absent.

After additional maternity leave, an employee will have the right to return to the same job or, if not reasonably practical, an appropriate alternative job with the same or better terms and conditions.

Exceptions may occur where there is for instance, a redundancy or at the end of a fixed term or temporary contract. In these circumstances appropriate consultation will take place with the employee and they will be offered suitable alternative work, where available.

## 29 Returning to Work Early

If an employee wishes to return to work early or change the previously notified date of return - they must give at least 21 days notice of this alternative date.

Should an employee fail to give the required notice the Headteacher/Principal / line manager may postpone the date of return until the required notice has been served. However, the notice period cannot extend the period of leave beyond the original maximum duration of the maternity leave.

An employee may return to work during a school closure period – subject to giving the required notice.

### **30 Arrangements on return to work**

#### **Facilities for breastfeeding and for expressing /storing milk at school**

If an Employee is planning on breast/chest feeding or expressing/storing milk at school upon their return to work they should arrange to discuss the provisions with the Headteacher/Principal prior to returning.

#### **Rest Facilities**

Rest facilities for new mothers will be considered especially where an employee returns to work within the first 39 weeks after the birth of their child or is still breast/chest feeding. In such cases employees should discuss with the Headteacher/Principal, prior to returning to work, any support needed.

### **31 Sickness**

Where an employee is ill whilst on a period of maternity leave they will not be entitled to sick leave.

Where an employee is unable to return to work due to illness, maternity leave is not extended but normal sickness procedures apply.

### **32 Requests to change working hours**

An Employee may make a flexible working request to alter their pattern / hours of work at the point of return from maternity leave.

The Headteacher/Principal /line manager will give careful consideration to any request. Should the request not be accommodated in the business reasons for this will be explained to the employee.

Please refer to the Trust's flexible working policy and procedure which can be found on the Trust website for further details.

### **33 Leaving Employment**

Should an employee determine after careful consideration that they no longer wish to return to work following the end of maternity leave, they should formally resign in writing giving the required contractual notice.

Employment will terminate at the end of the period of contractual notice, or, at the end of the Statutory Maternity Pay period, whichever is later.

Should an employee return to work and then decide to resign, they must give the appropriate contractual notice.

If an employee leaves employment before completing 13 weeks service upon return from maternity leave and has received payment of the 12 weeks half pay, this must be immediately repaid. Please refer to section 21 for further details.

#### **34 Childcare Vouchers**

The childcare voucher scheme ceased on 5 October 2018, however if you joined the scheme on or before 4 October 2018 you will still be able to utilise the scheme. The childcare voucher scheme operates by way of salary sacrifice, where an amount is deducted from the employees gross salary in return for an equivalent value of childcare vouchers on which no tax or national insurance is payable.

There is an entitlement to continuing non-cash benefits (i.e. childcare vouchers) throughout both ordinary maternity leave and additional maternity leave. This obligation continues to apply even though the employee may not be receiving any salary or wages that can be sacrificed. Further information can be obtained from payroll.