

July 2019



Maternity Leave Policy

Approved By: The Trust Board

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Review Frequency: Three years

Horncastle Education Trust is committed to maintaining and promoting the health and well-being of all its employees.

Rationale:

This policy sets out the fair and consistent framework that we will use to support staff during periods of pregnancy and maternity leave. .

The aim of this policy is to provide the employee and managers with information regarding entitlements to maternity leave and maternity pay. It also gives details of the process the employee will need to follow when arranging their maternity leave.

The Trust will always take a supportive approach whilst attempting to achieve a balance between the needs of the individual member of staff and the needs of the school and its students.

This policy lays out the procedures that will ensure that:

- All employees are treated fairly, consistently and sensitively at all times
- All employees understand their responsibilities during periods of maternity and are aware of any support mechanisms that may be available to them
- Each Trust School is able to effectively manage maternity
- All employees understand how to make a request for a Maternity Leave and what to do when expecting a baby

1. Roles and Responsibilities:

1.1. **The Headteacher** should follow the systems put in place by Horncastle Education Trust to manage a pregnancy and maternity leave. They should maintain regular contact with the employee during their pregnancy. The Headteacher should make a record of any contact with the employee. They may also discuss any advice given via the GP, consider any reasonable adjustments that may be required and undertake a risk assessment. In addition, the Headteacher may make a referral to Occupational Health in conjunction with the CEO and advice from the Trust's HR Advisor.

The **Central Finance Team Manager** coordinates the requirements for and collection of 'MATB1s' notes along with any GP or Occupational Health advice that is to be made.

Section 1: MATERNITY LEAVE FOR TEACHING STAFF

The Trust operates the statutory maternity scheme with the enhanced benefits of the Burgundy Book's maternity scheme. For the purposes of the scheme, maternity leave and pay entitlements apply to pregnant teachers.

The following overview has been extracted from the Burgundy Book in conjunction with the NUT Guidance "Maternity Matters".

All pregnant women, irrespective of length of service or hours worked, have a right to 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML).

The Burgundy Book maternity scheme does not apply to Supply Teachers employed on a daily basis.

1. Before Maternity Leave starts:

1.1. The employee must give the Trust School Headteacher written notification by no later than the end of the 15th week before the Expected Week of Childbirth (EWC), or as soon as reasonably practicable, that:

- They are pregnant.
- The expected week of childbirth.
- The date the employee intends to start maternity leave (this can be any time from the 11th week before the EWC).
- They intend to return to work after their period of maternity leave

1.2. The employee should present their MATB1 form to the Trust School Headteacher as soon as it has been received from the GP/ Midwife. The Central Finance Team Manager will then write to the employee within 28 days of receipt of this form confirming the end date of the maternity leave (1 year from the first day of commencement of maternity leave unless the employee has advised otherwise). The employee can choose to notify Horncastle Education Trust (their employer) during maternity leave that they wish to return earlier than this date, provided that the employee gives 21 days' notice.

2. Maternity Pay: Maternity pay comprises 2 parts, Statutory and Occupational Pay.

2.1. Statutory Maternity Pay (SMP):

2.1.1. Statutory Maternity Pay (SMP) is a scheme for most women employees to get a basic amount of maternity pay from their employers. It is paid along with Occupational Maternity Pay (OMP) if an employee is entitled to this. SMP is treated as “pay” and will be subject to deductions, e.g. tax, national insurance. SMP is paid for 39 weeks. An employee may work up to the birth of their baby without losing any entitlements to SMP.

2.1.2. The earliest an employee can receive SMP is from the beginning of the 11th week before the week in which the baby is due - but only if the employee stops working at that point (SMP is only payable if you are absent from work). It is not normally payable for part weeks. SMP will commence on the day the employee has specified to start their maternity leave, provided that maternity leave is started on that day. However, maternity leave may start on other days of the week if triggered by the birth of the baby or absence from work for a pregnancy-related reason in the 4 weeks before the EWC.

2.1.3. An employee will be eligible to Statutory Maternity Pay if they have been continuously employed by the Trust for at least 26 weeks by the end of the 15th week before the EWC and they have average weekly earnings in the 8 weeks up to and including the 15th week of over the lower limit for National Insurance Contributions

2.2. Occupational Maternity Pay (OMP):

2.2.1. Pregnant Teachers who have by the qualifying date (being the 15th week before the EWC completed at least 1 year’s continuous employment with one or more local authorities will benefit from the full entitlements under the Burgundy Book scheme. If the employee has completed at least 26 weeks’ continuous employment with Horncastle Education Trust, they will also be entitled to SMP.

2.2.2. Full OMP Entitlement:

First four weeks of maternity leave	Full pay offset by SMP (statutory maternity pay)
Following two weeks	90% pay of your weekly earnings offset by SMP
Next 12 weeks	50% of your weekly earnings plus SMP *
Remaining 8 weeks ordinary maternity leave	SMP only
Additional maternity leave: 26 weeks	13 weeks SMP and 13 weeks unpaid leave

* Half pay is not offset against SMP except where the employee has combined pay and benefits (e.g. SMP or MA) which exceed full pay. In this instance a weeks’ full pay will be offset against the SMP payments.

2.3. Both SMP and OMP will be subject to normal deductions, i.e. tax and national insurance.

2.4. Pregnant Teachers with at least 26 weeks’ continuous employment with Horncastle Education Trust but less than 1 year’s continuous employment with one or more local authorities will not be entitled to the OMP provisions of the Burgundy Book, although they will benefit from maternity leave and pay offered under the statutory scheme.

2.5. Pregnant teachers not entitled to OMP or SMP may be eligible for Maternity Allowance (MA).

2.6. The earliest an employee can begin their maternity leave is 11 weeks before EWC. To calculate the 11th week prior to the EWC, an employee needs to count back 11 Sundays from the Sunday prior to the EWC.

2.7. Where a teacher is absent from work wholly or partly because of pregnancy or childbirth after the beginning of the 4th week before the EWC, maternity leave will automatically be triggered from that date.

3. Antenatal Care:

3.1. Pregnant Teachers will receive paid time off work to attend antenatal appointments. Evidence of appointments should be included with the employee’s written request for leave of absence to the Trust School Headteacher.

3.2. A risk assessment will be made in the employee’s place you work, however, if the employee has any special needs during their pregnancy they should be raised their line manager in the first instance or directly with their Trust School’s Headteacher.

4. Keeping In Touch Days (KIT Days):

- 4.1. Teachers may work up to 10 mutually agreed KIT days which can be worked during the ordinary and additional maternity leave period. Employees will receive their normal rate of pay for the time that is worked during KIT days, however any SMP due will be offset against that pay.

5. Requirement to Return to Work:

- 5.1. It is important to note that a condition of entitlement to maternity pay under the Burgundy Book scheme is that the employee must return to work after the birth for a period of at least 13 weeks. If the employee does not, then the Trust is entitled to reclaim part of the maternity pay paid to the employee.
- 5.2. If the employee is working full-time prior to maternity leave, then they are required to complete the equivalent of 13 weeks' full-time service on their return to work. If an employee is working part-time prior to maternity leave, they are required to complete the equivalent of 13 weeks' service on that part-time basis. Where an employee moves to part-time work, or part-time work on a different basis, following their return to work, the employee is allowed to complete the equivalent of these periods on their new part-time basis. School holidays and half terms can be included, together with any subsequent periods of sick leave.
- 5.3. Failure to return for the necessary period will mean that the Trust has the discretion to claw-back the employee's maternity pay insofar as it exceeds the amount payable as SMP. An employee may, however, keep the first 6 weeks' payments and will not have to refund any payments of SMP.

6. Sickness:

- 6.1. Statutory and Occupational Sick Pay (SSP and OSP) will apply as normal while an employee is pregnant up to the time that maternity leave is started.
- 6.2. Absence from work due to miscarriage, termination or stillbirth earlier than the 25th week of pregnancy will be treated as normal sickness and the employee will be entitled to statutory or contractual sick pay.
- 6.3. If miscarriage or stillbirth occurs from the 25th week onwards or should the baby not survive following its birth, the employee is entitled to receive maternity leave and pay in the usual way.
- 6.4. If an employee is sick during their maternity leave the employee may not receive statutory sick pay (SSP) if they are receiving SMP.
- 6.5. Maternity leave will not be treated as sick leave and will not, therefore, affect entitlement to sick leave.

Checklist	Action Required by Employee
As soon as an employee knows they are pregnant	The employee informs the Trust School Headteacher that they are pregnant and discusses their intentions for maternity leave.
After 20 weeks pregnant	The employee asks the Doctor or midwife for a maternity certificate (Form MATB1) showing when the baby is due.
During or before the 15th week before the EWC	The employee needs to write to their Headteacher indicating when they intend to commence maternity leave. Within 28 days the Central Finance Team Manager will confirm acknowledgement in writing to the employee.
After 29 weeks pregnant	The employee commences maternity leave if they have chosen so to do.
During maternity leave	If the employee wishes to return early (before 52 weeks) then 21 days' notice is required in writing to the Trust School Headteacher.
52 weeks from the beginning of the week in which maternity leave was started	Latest time by which the employee has a right to return to their job.

Section 2 – MATERNITY LEAVE AND PAY FOR SUPPORT STAFF

The Trust operates the statutory maternity scheme with the enhanced benefits of the Green Book’s maternity scheme. For the purposes of the scheme, maternity leave and pay entitlements apply to pregnant women.

All pregnant women, irrespective of length of service or hours worked, have a right to 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML).

1. Before you start your Maternity Leave:

- 1.1. An employee must give the Trust School Headteacher written notification by no later than the end of the 15th week before the expected week of childbirth (EWC), or as soon as reasonably practicable, that:
 - They are pregnant.
 - The expected week of childbirth.
 - The date they intend to start your maternity leave (this can be any time from the 11th week before the EWC).
 - Declare their intention to return to work after their period of maternity leave.
- 1.2. The employee should present their MATB1 form to the Trust School Headteacher as soon as it has been received from the GP/ Midwife. The Central Finance Team Manager will write to the employee within 28 days of receipt of this form confirming the end date of the employee’s maternity leave (1 year from the first day of commencement of maternity leave unless the employee has advised otherwise). The employee may change the date from when they wish to commence maternity leave providing that they give the Trust 28 days’ notice.

2. Maternity Pay: maternity pay comprises 2 parts, Statutory and Occupational Pay.

2.1. Statutory Maternity Pay (SMP):

- 2.1.1. SMP is a scheme for most women employees to get a basic amount of maternity pay from their employers. It will be paid to the employee along with Occupational Maternity Pay (OMP) if an employee is entitled to this. SMP is treated as “pay” and will be subject to deductions, e.g. tax, national insurance.
- 2.1.2. SMP is paid for 39 weeks. An employee may work up to the birth of their baby without losing any entitlements to SMP.
- 2.1.3. The earliest an employee can receive SMP is from the beginning of the 11th week before the week in which the baby is due - but only if the employee stops working then. SMP is only payable if an employee is absent from work. It is not normally payable for part weeks. SMP will commence on the day the employee has specified to start their maternity leave, provided that they start their leave on this day. However, maternity leave may start on other days of the week if triggered by the birth of the baby or absence from work for a pregnancy-related reason in the 4 weeks before the EWC.
- 2.1.4. An employee will be eligible to Statutory Maternity Pay if they have been continuously employed by the Trust for at least 26 weeks by the end of the 15th week before the EWC and they have average weekly earnings in the 8 weeks up to and including the 15th week of over the lower limit for National Insurance Contributions.

2.2. Occupational Maternity Pay (OMP):

- 2.2.1. To qualify for OMP from the Horncastle Education Trust an employee must have at least 1 years’ continuous service with the Trust by the 11th week before the EWC.
- 2.2.2. OMP and SMP Entitlements:

First six weeks of maternity leave	90% pay of your weekly earnings offset by SMP
Following 12 weeks	50% of your weekly earnings plus SMP *
Remaining 8 weeks ordinary maternity leave	SMP only
Additional maternity leave: 26 weeks	13 weeks SMP and 13 weeks unpaid leave

* Half pay is not offset against SMP except where your combined pay and benefits (e.g. SMP or MA) exceed full pay. In this instance a weeks’ full pay will be offset against the SMP payments.

- 2.3. Both SMP and OMP will be subject to normal deductions, i.e. tax and national insurance.

3. Requirement to Return to Work:

- 3.1. It is important to note that a condition of entitlement to maternity pay under the Green Book scheme is that the employee must return to work after the birth for a period of at least 3 months. If an employee does not, then the Trust is entitled to reclaim part of the maternity pay paid to the employee.
- 3.2. Unless an employee wishes to return before the end of your maternity leave (52 weeks) they will simply be required to return at the end of this period. However if the employee wishes to return earlier than this date the notice required differs depending on which period of maternity leave an employee is returning from:
- 3.3. Ordinary Maternity Leave - If an employee wishes to return early during this period then 7 days' notice of the date on which they wish to return is required.
- 3.4. Additional Maternity Leave - If an employee wishes to return early during this period then 21 days' notice is required of the date on which they wish to return.

4. Antenatal Care:

- 4.1. Pregnant employees will receive paid time off work to attend antenatal appointments. Evidence of appointments should be included with written requests for leave of absence made to the Trust School Headteacher.
- 4.2. A risk assessment will be made of an employee's place you work, however, if an employee has any special needs during your pregnancy they should be raised and discussed with their line manager or with the Trust School Headteacher.

5. Keeping In Touch Days (KIT days):

An employee may work up to 10 mutually agreed KIT days which can be worked during the ordinary and additional maternity leave period. An employee will receive their normal rate of pay for the time they work, however any SMP due will be offset against their pay.

6. Sickness:

- 6.1. Statutory and Occupational Sick Pay will apply as normal while an employee is pregnant up to the time that maternity leave is started.
- 6.2. Absence from work due to miscarriage, termination or stillbirth earlier than the 25th week of pregnancy will be treated as normal sickness and an employee will be entitled to statutory or contractual sick pay.
- 6.3. If miscarriage or stillbirth occurs from the 25th week onwards or should the baby not survive following its birth, an employee is entitled to receive maternity leave and pay in the usual way.
- 6.4. If an employee is sick during their maternity leave they may not receive SSP if the employee is receiving SMP.
- 6.5. Maternity leave will not be treated as sick leave and will not, therefore, affect entitlement to sick leave.

Checklist	Action Required by the Employee
As soon as an employee knows they are pregnant	The employee informs the Trust School Headteacher that they are pregnant and discusses their intentions for maternity leave.
After 20 weeks pregnant	The employee asks the Doctor or midwife for a maternity certificate (Form MATB1) showing when the baby is due.
During or before the 15th week before the EWC	The employee needs to write to their Headteacher indicating when they intend to commence maternity leave. Within 28 days the Central Finance Team Manager will confirm acknowledgement in writing to the employee.
After 29 weeks pregnant	The employee commences maternity leave if they have chosen so to do.
During maternity leave	If the employee wishes to return early (before 52 weeks) then 21 days' notice is required in writing to the Trust School Headteacher.
52 weeks from the beginning of the week in which maternity leave was started	Latest time by which the employee has a right to return to their job.

Section 3 – PATERNITY, ADOPTION, SURROGACY AND SHARED PARENTAL LEAVE AND STATUTORY SHARED PARENTAL LEAVE

The Trust operates the statutory scheme for paternity, adoption, surrogacy and shared parental leave and pay.

1. Paternity Leave and Pay:

- 1.1. Fathers and partners can take one or two consecutive weeks off work to care and spend time with their child.
- 1.2. To be eligible for leave employees must have worked for the Trust for 26 weeks ending with the 15th week before the baby is due and have responsibility for the child's upbringing.
- 1.3. At least 15 weeks before the baby is due, the employee must notify in writing to the Trust School Headteacher:
 - the baby's due date
 - when they wish the leave to start, for example the day of the birth or the week after the birth
 - and if 1 or 2 weeks' leave is required.
- 1.4. If a change to the start date of the leave is required, employees must give the Headteacher 28 days' notice
- 1.5. Leave cannot start before the baby is born and must be taken within 56 days of childbirth
- 1.6. Employees can take unpaid leave to attend two antenatal appointments; up to six hours for each appointment.
- 1.7. To receive Statutory Paternity Pay (SPP) employees must have worked for the Trust for 26 weeks ending with the 15th week before the baby is due and earned at least £118 per week. During paternity leave employees will be paid either SPP, or 90% of their average weekly earnings (whichever is lower). SPP will be paid in the same way as normal pay. Tax and National Insurance will be deducted.

2. Adoption and Surrogacy Leave and Pay:

Statutory Adoption Pay and Leave runs parallel to Statutory Maternity Pay. Employees must meet both the eligibility criteria for Statutory Adoption Pay and Leave, plus meet the following conditions, if they wish to apply in situations of adoption or surrogacy:

- a) Employees must have been employed by the Trust for at least 26 weeks by the 'matching week' or 'qualifying week'. For adoption this is either:
 - the end of the week that the employee is matched with the child (UK adoptions)
 - the date the child enters the UK or when the employee wants their pay to start (for overseas adoptions)
- b) For surrogacy this is:
 - the 15th week before the baby is due

Only 1 person in a couple can take Statutory Adoption Pay and Leave, however, their partner can take paternity leave.

2.1 Adoption

- 2.1.1 Employees must give 28 days' notice when they want to stop work to adopt a child and when they want their Statutory Adoption Pay to start.
- 2.1.2 When adopting a child from abroad the following government forms must be used:
 - SC6: Statutory Adoption Pay and Leave: adopting a child from abroad
 - SC5: Statutory Paternity Pay and Leave: adopting a child from abroad
- 2.1.3 Employees must have proof of adoption to qualify for Statutory Adoption Pay and Leave which must include:
 - their name and address and that of the agency
 - the match date - for example the matching certificate
 - the date of placement - for example a letter from the agency
 - the relevant UK authority's 'official notification' confirming they are allowed to adopt (overseas adoptions only)
- 2.1.4 The period of adoption leave can start:
 - Up to 14 days before the child starts to live with the employee (UK)
 - on the date the child arrives in the UK or within 28 days of this date (overseas adoptions only)
 - the date the child arrived in the UK - for example plane ticket (overseas adoptions only)

2.2 Surrogacy

2.2.1 To be eligible for Statutory Adoption Pay and Leave if a surrogate is used to have a baby, the employee must:

- intend to apply for a parental order
- Expect the order to be granted
- Have worked for Horncastle Education Trust continuously for at least 26 weeks by the end of the 'qualifying week' (the 15th week before the baby is due)

2.2.2 At least 15 weeks before the due date, the employee should notify the Trust School Headteacher in writing when the baby is due and when they wish to start their leave.

2.2.3 The period of leave can start the day the child is born or the day after (surrogate parents)

2.3 Shared Parental Leave and Statutory Shared Parental Pay

2.3.1 Shared parental leave and statutory shared parental pay is a means of parents sharing up to 50 weeks of leave and statutory pay. The guidelines are quite complex.

2.3.2 To be eligible the employee and their partner must meet certain criteria. Horncastle Education Trust does not offer any enhancement to the statutory scheme.

For any questions or queries about paternity leave and shared parental leave, please contact the Central Finance Team Manager in the first instance; detailed information can also be found via HMRC: www.gov.uk/shared-parental-leave-and-pay