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Paternity Policy

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St Margaret's
Academy

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1 Introduction

The following information contains provisions which are applicable to eligible employees who will be caring for a baby or matched or placed for adoption of a child under the age of 18.

Fathers/partners may qualify for 'ordinary' statutory paternity leave (2 weeks) and subject to meeting certain criteria, shared parental leave. The right to shared parental leave also applies to babies who are due or children due to be matched with joint adopters. In addition to statutory paternity leave and pay, the employee may also be eligible for 'maternity support leave' as part of National Joint Conditions of Service (Green Book).

Maternity/adoption support leave is more generous than current statutory provisions as 5 days paid leave may be granted, subject to meeting the criteria. This scheme will incorporate any additional entitlement provided for under the National Joint Conditions of Service as well detailing the current statutory provisions for paternity leave and pay.

1.1 Scope

This policy applies to all employees of the Trust.

1.2 Equality Statement

This policy applies equally to Academy employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

2 Paternity Leave

Under statutory paternity leave and adoption regulations, paternity leave is provided for the purposes of caring for a child or a) supporting the child's mother around the time of the birth or b) supporting the main adoptive parent around the time of settling in the new child.

2.1 Eligibility for Paternity (Maternity/Adoption Support) Leave

Employees who qualify for ordinary statutory paternity leave and pay are eligible for up to 2 weeks leave, paid at the current statutory paternity pay weekly rate. Employees who qualify for the contractual scheme provided for under NJC (Green Book) terms and conditions are entitled to receive 5 days paid at their usual rate of pay as the '**nominated carer**' of an expectant mother at or around the time of birth. A 'nominated carer' is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of birth.

The above contractual scheme applies to all employees on NJC terms and conditions, regardless of whether they work full- or part- time or are 'permanent' or 'temporary'.

In order to qualify for ordinary **statutory** paternity leave, the father/partner must:-

- have 26 weeks' service with the employer as at the end of the 15th week before the child's expected week of birth;
- remain in continuous employment with the employer until the date of birth or adoption placement;
- be either the father of the child, or the spouse, partner or civil partner of the child's mother or a partner of the main adoptive parent (adopting a child jointly with their partner) – a partner is someone of either sex

who lives with the mother in an “enduring family” but is not an immediate blood relative, i.e. parent, grandparent, sibling, aunt or uncle;

- have, or expect to have, the main responsibility (apart from the mother) for the child’s upbringing.

2.2 Taking Statutory or Contractual leave

Eligible employees are entitled to take either one week or two consecutive weeks leave. There is no entitlement to take ‘odd days’.

Leave can start on any day of the week on or after the child’s birth/date of placement and must be taken within 56 days (8 weeks) of the actual date of the birth/placement. If the child is born early, leave can be taken within the period starting from the actual date up to 56 days after the EWC (Expected Week of Childbirth – see Maternity Scheme).

Staff Group	Type	Qualifying period	Amount of paid leave
Support staff on Green Book Terms (will include TUPE protected staff)	Contractual	None.	1 week at full pay
	Statutory	Worked continuously in Local Government or Trust for at least 26 weeks into the 15 th Week before the EWC or in the case of adoption, ending with the week in which notification of matching with the child is provided by the adoption agency.	Ordinary - 2 weeks (<u>inclusive</u> of the 1 week’s contractual leave). Additional – up to 26 weeks (dependant upon mother/adopter’s remaining maternity/adoption leave entitlement).
Teachers	Contractual	None	1 week at full pay
	Statutory	Worked continuously in Local Government or Trust for at least 26 weeks into the 15 th Week before the EWC or in the case of adoption, ending with the week in which notification of matching with the child is provided by the adoption agency.	Ordinary - 2 weeks (<u>inclusive</u> of the 1 week’s contractual leave). Additional – up to 26 weeks (dependant upon mother/adopter’s remaining maternity/adoption leave entitlement).

2.3 Multiple births and adoptions

Only one period of leave and pay can be taken in the case of a multiple birth (i.e. twins) or multiple adoptions (i.e. where more than one child is adopted as part of the same arrangement).

2.4 Requesting Paternity Leave

In order to request ordinary paternity leave, the carer, or nominated carer must provide at least 28 days notice, unless this is not reasonably practical. The request must be provided in writing to the Trust.

The carer must state:

- The expected week of childbirth (EWC)/expected date of placement (EDP)
- The length of leave to be taken.
- The date, or period in which, leave and pay is expected to begin.
- That they are eligible.

- If adopting, the date they were notified as being matched with the child.

Employees should use the My View system to access the E-Form in order to provide this information. A photocopy of the original MATB1 certificate provided to the mother, or matching certificate (for adoption) should be scanned in and uploaded to the My View system.

Reasonable notice should be provided to actually take the leave, if the date is different to that originally stated in the plan.

The carer must also provide the Trust with confirmation of the actual date of birth or date of placement.

2.5 Antenatal care/Pre-placement meetings

All employees and agency workers who have a qualifying relationship with a pregnant woman or an expected child are entitled to take time off work to accompany that pregnant woman at up to two antenatal appointments.

Employees will have the right from day one of their employment. The right to time off is capped at a maximum of six-and-a-half hours on each occasion, which can include travelling time, waiting time and attendance.

An employee has a qualifying relationship with a pregnant woman or her expected child if he or she:

- is the husband, wife or civil partner of the pregnant woman;
- lives with the pregnant woman in an enduring family relationship, but is not her parent, grandparent, sister, brother, aunt or uncle;
- is the father of the expectant child; or
- is an intended parent in a surrogacy situation who meets certain conditions.

The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse.

The employee should **provide reasonable notice to request time off** for accompanying a pregnant woman at antenatal appointments. The employee should provide their line manager with an appointment card each time he/she requests time off work.

Time off to attend ante-natal appointments will be paid. Employees wishing to request this time-off must record this within the adjustment panel on their flexi record, where in operation.

Carers who are adopting can apply for up to 5 days paid leave for essential visits etc. near to the date of placement and for subsequent attendance at court, provided reasonable notice is given and organisational requirements are not unduly disrupted. The employee should provide their line manager with evidence of an appointment each time they request time off work.

2.6 Terms and Conditions whilst on Maternity/Adoption Support Leave

During the period of Maternity/Adoption Support Leave terms and conditions of employment, apart from receipt of 'normal' pay, continue. This includes, for example, accrual of annual leave (where applicable, please see following section relating to Statutory Annual Leave for Teaching Staff) as well as the employer's duty of trust and confidence, and any terms which relate to notice of termination by the employer, redundancy pay, grievance and disciplinary procedures. The employee's duty of good faith is maintained, as are any terms relating to notice on termination, disclosure of confidential information, the acceptance of gifts or other benefits, and involvement in any other business.

Pay awards and other improvements to benefits continue in the normal manner as if the carer was still at work.

2.7 Pension Arrangements During Paternity Leave

If the employee is a member of the **Local Government Pension Scheme**, pension contributions will be paid and deducted from pay in the usual manner and at the same percentage rate during the period of **paid** paternity leave.

Any periods of authorised **unpaid** leave following paternity leave, such as a period of Parental Leave, will not be treated as pensionable and will reduce the amount of pension earned during the year. Employees can, however, choose to pay Additional Pension Contributions (APC) to buy the 'lost' pension. Employees can elect to pay an APC within 30 days of returning to work and the Council will pay 2/3rds of the APC.

If the employee elects to pay an APC after 30 days of returning to work, the Trust will not be required to make a contribution and the employee will bear the full cost. For employees who want to pay additional contributions to buy the 'lost' pension for this period, they should complete the LGPS Calculator below and return one copy of their completed application form to Peninsula Pensions and the other copy to:- Pensions, Torbay Council, Lower Ground Floor, Town Hall, Torquay, TQ1 3DR. For any queries in completing the application for, please contact Pensions, Tel: 01803 207410.

Link to LGPS Calculator:- <http://lgps2014.org/apc/lostMPF.php>

3 Paternity (Maternity/Adoption Support) Pay

Type of pay	Qualifying period	Amount of pay
Statutory	<p>Employed by Trust continuously for at least 26 weeks into the 15th Week before the EWC or in the case of adoption, ending with the week in which notification of matching with the child is provided by the adoption agency.</p> <p>There needs to be a minimum of 2 weeks of the mother/adopter's remaining entitlement to Statutory Maternity/Adoption Pay in order to be entitled to Additional Statutory Paternity Pay</p>	<p>Ordinary - 2 weeks at Statutory Paternity Pay (SPP) weekly rate.</p> <p>Additional – up to 26 weeks at Statutory Paternity Pay (SPP) weekly rate (dependant upon mother/adopter's entitlement to Statutory Maternity/Adoption Pay).</p> <p><i>See Maternity, Adoption, Support (Paternity) Pay Guidelines for Pay Rates from 1st April.</i></p>

Contractual (applicable to employees on Green Book terms and conditions)	None.	1 week full pay (off-set against any SPP received in week 1).
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To receive statutory paternity pay the employee’s average weekly earnings must be at least as much as the lower earnings limit for NI contributions, which applies at the end of their qualifying week.

If the employee leaves the Trust for any reason before the baby is born or before the child is placed, they will not be entitled to support leave or pay.

4 Special Considerations

If a child is stillborn from the start of the 25th week of pregnancy onwards, the carer would be eligible for maternity support leave and pay in the usual way. If a mother gives birth prematurely to a living child, even in cases where the baby later dies, at any point in her pregnancy, the carer will be entitled to maternity support leave and pay in the usual way.

5 Return to Work

The carer is entitled to **return to the same job on terms and conditions of employment as if they had not been absent**. The same applies if a period of parental leave, for example, is taken at the end of the Maternity/Adoption Support Leave. Where it is not practicable, for instance by reason of redundancy, for the Trust to permit the employee to return to work in his/her job, the employee shall be entitled to be offered a suitable alternative vacancy where one exists under a new contract that begins on the day immediately following the day on which the employee's previous contract came to an end. The work to be done under the new contract must be both suitable for the employee and appropriate for him/her to do in the circumstances. The provisions of the new contract relating to the capacity and place in which the employee is to be employed, and the other terms and conditions of employment, must not be substantially less favourable to the employee than if he or she had continued to be employed under his or her previous contract.

Consideration will be given to the full range of flexible working arrangements when requested by a parent of a new child, including a temporary reduction in hours. Any adjustments should be discussed with the Trust as soon as reasonably practical and made in accordance with procedures.

Unless otherwise notified, it will be assumed that the carer will return to work at the end of their paternity leave as stated in their leave plan.

5.1 Statutory Annual Leave for Teaching staff

Teachers do not have a contractual entitlement to paid annual leave nor a specified annual leave year, however, they are entitled to 28 days' statutory annual leave under the Working Time Regulations.

This means that a teacher who takes additional paternity leave must be able to take the minimum 28 days statutory annual leave at a time outside of his/her paternity leave. The Trust may not treat any part of the additional paternity leave period i.e. ordinary paternity leave (initial 2 weeks) or additional paternity leave as annual leave.

Annual leave entitlement can be offset by any period of Academy closure that has taken place in the leave year in question, i.e. both before and after the paternity leave period, and a teacher should be advised prior to commencing their additional paternity leave that they have a statutory entitlement to 28 days annual leave and that this should be taken either before or after the additional Paternity leave period during Academy closure periods. On his/her return from additional paternity leave, a teacher must be allowed to take any outstanding leave during term time during that leave year if there are insufficient Academy closures to accommodate his/her leave in that leave year.

Where the return from paternity leave is so close to the end of the leave year that there is not enough time to take all his/her annual leave entitlement, a teacher must be allowed to carry over any balance of leave to the following leave year. A teacher can be required to take this during the remaining periods of Academy closure after the 28 days' annual leave for that leave year has been accommodated;

It is not possible for either the teacher or the Trust to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e. in Academy closures or in term time.

It will not usually be possible for a teacher to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. As an employee has 28 days' leave under the Working Time Regulations 1998, the accrual of leave is not affected by what stage of additional paternity leave an employee is at or whether they are receiving pay.

5.2 Annual Leave for Support staff

Where support staff are concerned, Trusts should have regard to ensuring that their employees do not lose out on their entitlement to paid annual leave whilst on Additional Paternity Leave. Where an employee in Trust would be deemed to be on annual leave during a period of Academy closure but cannot take this because he/she is on maternity leave, the Trust may need to make alternative arrangements to ensure this employee receives their entitlement to paid leave. Any Trust wishing to clarify the arrangements for individuals should contact Human Resources for advice.

6 Shared Parental Leave

Eligible parents can share adoption leave and pay under Shared Parental Leave arrangements. Shared parental leave enables parents to commit to ending their maternity or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity or adoption leave and opt in to shared parental leave and pay at a later date.

Employees can refer to the Trust's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the parents maternity or adoption leave can be curtailed.

7 Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy mailbox –

HRpolicy@torbay.gov.uk

7.1 History of Policy Changes

Date	Page	Details of Change	Agreed by:
Sept 2017	All	Refresh and update of dates etc.	
Sep 2017		Academy specific options to determine contractual entitlements	

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