



## Windsor Academy Trust

### **Policy: Maternity and Adoption Leave (Inc miscarriage)**

Responsible Committee:	Windsor Academy Trust, People and Culture Committee
Date approved by the Committee:	8 February 2024
Implementation date:	March 2024
Next Review Date	March 2025

### **APPENDICES**

Appendix 1 Summary of leave and pay entitlements

Appendix 2 Application for maternity leave

Appendix 3 KIT Day Claim Form

## 1. Introduction

1.1 This policy sets out the maternity and adoption provisions to which employees are entitled, both before and after the birth/placement of their child. All employees have a statutory right to take maternity/adoption leave.

1.2 This policy is in three separate sections:

- Part A, which covers maternity leave
- Part B, which covers adoption leave
- Part C, which covers general information for both maternity and adoption leave.

1.3 This policy applies to employees and does not form part of any employee's contract of employment. The policy may be amended at any time.

### 1.4 Definitions

**Parent:** One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother/father's partner).

**Adopter:** A child's adopter is either the person who has been matched with the child for adoption or, where two people have been matched jointly, the person who has elected (at the time they are notified that they have been matched) to be the child's adopter for statutory adoption leave and pay purposes.

**Partner:** your spouse, civil partner or someone living with you in an enduring family relationship at the time the child is born/placed for adoption, but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

**Adoption agency:** An adoption agency in England and Wales is defined by reference to section 2 of the Adoption and Children Act 2002 (ACA 2002) (either a local authority or registered adoption society in England and Wales)

**Notification:** The employee to notify their Headteacher/line manager in writing by either letter or email.

## Part A – Maternity Leave

### 2. General Principles

2.1 Employees are entitled to take up to one year's (52 weeks) maternity leave, regardless of length of service. Although it is up to employees to decide how much of the 52 weeks' maternity leave they wish to take. The law requires that a minimum of two weeks' leave from the date of childbirth must be taken.

2.2 Entitlement to maternity pay is dependent on your length of service and on whether or not the employee intends to return to work following maternity leave.

2.3 A MATB1 certificate issued by the midwife/Doctor (usually after 20 weeks of pregnancy), must be sent to the Headteacher/line manager to enable maternity pay to be paid. Maternity Pay cannot be paid without the original certificate.

### 3. Antenatal Care

3.1 All pregnant employees irrespective of length of service have a right to reasonable paid time off for antenatal care prescribed by a doctor, midwife or health visitor. Evidence of appointments may be requested.

### **3.2 Miscarriage Time Off Work**

We recognise that some colleagues may require time off work to recover physically and/or emotionally. The period of time required will vary. Compassionate/bereavement leave is available in conjunction with the Discretionary Leave of Absence Policy, providing up to 5 days with pay for employees whether you or your partner has had a miscarriage. It is advisable for employees to discuss their support needs with their Line Manager.

### **4. Maternity Pay Entitlements**

- 4.1 Statutory Maternity Pay (SMP) is payable for up to 39 weeks. Employees who have been continuously employed by WAT for at least 26 weeks into the 15<sup>th</sup> week before the expected week of childbirth (EWC) are entitled to SMP. The 15<sup>th</sup> week is known as the Qualifying Week (QW).
- 4.2 Employee's whose average weekly earnings are less than the lower earnings limit are not entitled to SMP and will be provided with a SMP1 form.
- 4.3 In addition to SMP, Occupational Maternity Pay (OMP) is payable to an employee who has been continuously employed by WAT for at least 1 year by the end of the 11<sup>th</sup> week before the expected week of childbirth. OMP is payable for 12 weeks.
- 4.4 The tables in Appendix 1 details a summary of maternity leave and pay entitlements. If you have any queries please contact your HR lead at the school/the Trust.
- 4.5 All maternity pay is subject to tax and national insurance. If you are a member of the Trust's pension scheme, pension contributions will continue to be made during any period when OMP/SMP is paid but not during periods of unpaid maternity leave. The employee's contributions will be based on actual pay and the Trust's contributions will be based on the contractual salary had the employee not been on maternity leave.
- 4.6 Payment of OMP is made on the condition that the employee is available and able to return to work for a period of 13 weeks (or part time equivalent) at the end of the maternity leave. If the employee returns to work on reduced hours, this period of work will be increased accordingly, i.e. if they return on 50% of the original contractual hours, then the period increases to 26 weeks.
- 4.7 In the event of the employee not being available, or being unable to return to work (for reasons other than sickness absence) for the required period, the employee shall refund the 12 weeks' OMP. The first six weeks' payment and any statutory maternity pay will be retained by the employee. Should the employee commence a period of sickness absence immediately following their maternity leave, the Sickness Absence Policy will apply.
- 4.8 If an employee is undecided about a return to work, they may at the outset request that the 12 weeks' half pay (OMP) is received by way of a lump sum (subject to tax, national insurance, pension contributions) following their return to work.
- 4.9 If an employee wishes to leave at the end of the requisite period, normal contractual notice is applicable.

### **5. Notice Requirements – starting maternity leave**

- 5.1 As soon as reasonably possible after the employee becomes aware that they are pregnant; they should notify the Headteacher/line manager. Early notification will assist the Academy to comply with relevant health and safety requirements and enable time to make arrangements to cover the absence during maternity leave
- 5.2 Maternity leave cannot begin earlier than the beginning of the 11<sup>th</sup> week before the expected week of childbirth (EWC). The employee may continue to work beyond the 11<sup>th</sup> week, but must not remain at

work if medically unfit (pregnancy related illness) to do so.

5.3 No later than the end of the 15<sup>th</sup> week before the baby is due, the employee must inform the Headteacher/line manager in writing using the application for maternity leave form (Appendix 2) that:

- They are pregnant;
- The week their baby is expected to be born;
- The date they wish to start their maternity leave

5.4 At least 28 days' notice of the date you intend to commence your maternity leave must be given. The employee may change the start date as long as 28 days' notice is given. The Headteacher/line manager will take into account where this may not be practicable.

5.5 The employee must notify the Headteacher/line manager, if, at any time after the fourth week before the expected week of childbirth, they are unable to attend work because of any reason connected with their pregnancy. In this case the maternity leave will start immediately.

5.6 If the employee gives birth before the commencement of maternity leave, they should notify the Headteacher/line manager as soon as practicable after the birth. In these circumstances, the maternity leave will start automatically on the day after the birth.

5.7 The Academy will write to the employee within 28 days' of being notified of the intended maternity start date to advise of the date they are due back to work at the end of the 52 weeks.

## **6. Returning from maternity leave**

6.1 An employee has the right of return to work at the end of the 52 weeks' maternity leave. If the employee wishes to return to work earlier than 52 weeks, they must provide at least 21 days' notice in writing. The employee may wish to discuss their intentions with their Headteacher/line manager before providing notification.

6.2 If the employee changes their mind about their earlier return to work date, at least 21 days' notice of the changed date must be given in writing.

6.3 If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence in accordance with WAT's Sickness Absence Policy.

6.4 If the employee wishes to change their working hours upon return, an application must be made in accordance with WAT's Flexible Working Policy. There is no automatic right to an adjustment, but careful consideration will be given on receipt of a request.

6.5 If an employee wishes to resign at the end of the requisite period, normal contractual notice is applicable.

## **7. Health and Safety**

7.1 The Headteacher/line manager will assess any risks at work whilst the employee is pregnant, has given birth in the last six months or is breastfeeding. Where the job poses a risk to the employee's health or the baby, the Headteacher/line manager will consider alternative employment that is not prejudicial. If there is no suitable alternative work you will be suspended on maternity health and safety grounds.

7.2 If the employee is suspended on maternity health and safety grounds, they will be entitled to receive their normal salary.

## **Part B – Adoption Leave**

### **8. General Principles**

8.1 Adoption leave is a statutory entitlement for employees who have at least 26 weeks service by the week in which they are notified of being matched with a child/children.

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

- Individuals who adopt;
- One member of a couple (primary adopter), where a couple adopt jointly.

The partner of an individual who adopts may be entitled to paternity and/or shared parental leave and pay.

8.3 A minimum of two weeks adoption leave must be taken immediately following the placement of the child.

8.4 Entitlement to adoption pay is dependent on your length of service and on whether or not the employee returns to work following the adoption leave.

8.5 All contractual entitlements, except for remuneration, will continue throughout the adoption leave period. Annual leave entitlement will accrue as normal.

8.6 A matching certificate/written notification is issued by the adoption agency, must be sent to the Headteacher/line manager to enable adoption pay to be paid.

8.7 If more than one child is adopted as part of the same arrangements, this will be treated as one adoption and will not increase the amount of adoption leave or time off that can be taken.

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

### **9. Eligibility**

9.1 To qualify for adoption leave and pay you must be newly matched with a child by an adoption agency.

9.2 Statutory adoption pay (SAP) is payable for up to 39 weeks. It stops being payable if the employee returns to work sooner or if the placement is disrupted (see paragraph 13)

9.3 Employees are entitled to SAP if:

- They have been continuously employed by WAT for at least 26 weeks, ending with the week in which they are notified of being matched with a child for adoption (Qualifying week) and are still employed with WAT during that week;
- Their average weekly earnings during the eight weeks ending with the qualifying week are not less than the lower earnings limit; and
- They have given the relevant notification under Section 10

9.4 The tables in Appendix 1 details a summary of adoption leave and pay entitlements. If you have any queries please contact your HR lead at the school/the Trust.

9.5 All adoption pay is subject to tax and national insurance. If you are a member of the Trust's pension scheme, pension contributions will continue to be made during any period when OAP/SAP is paid but not during periods of unpaid adoption leave. The employee's contributions will be based on

actual pay and the Trust's contributions will be based on the contractual salary had the employee not been on adoption leave.

9.6 Payment of Occupational Adoption Pay (OAP) is made on the condition that the employee is available and able to return to work for a period of 13 weeks (or part time equivalent) at the end of the adoption leave. If the employee returns to work on reduced hours, this period of work will be increased accordingly, i.e. if they return on 50% of the original contractual hours, then the period increases to 26 weeks.

9.7 In the event of the employee not being available, or being unable to return to work (for reasons other than sickness absence) for the required period, the employee shall refund the 12 weeks' OAP. The first six weeks' payment and any statutory adoption pay will be retained by the employee.

9.8 If an employee is undecided about a return to work, they may at the outset request that the 12 weeks' half pay (OMP) is received by way of a lump sum (subject to tax, national insurance, pension contributions) following their return to work.

9.9. If an employee wishes to leave at the end of the requisite period, normal contractual notice is applicable.

9.10 If the child's placement ends during the adoption leave period you may continue to take up to 8 week's adoption leave after the end of the placement

## **10. Notice Requirements – starting adoption leave**

10.1 Employees can choose to take their adoption leave either:

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

10.2 Not more than seven days after the adoption agency notifies the employee in writing that it has matched them with a child (or as soon as reasonably practicable), the employee must give the Headteacher/line manager notice in writing of the expected placement date and intended start date for adoption leave.

10.3 The Academy will then write to the employee within 28 days' of being notified of their intended adoption leave start date to advise them of the date they are due back to work at the end of the 52 weeks.

10.4 Once the matching certificate is issued by the adoption agency, a copy must be provided to the Academy.

10.5 If the employee wishes to change their intended start day, at least 28 days' notice before the original intended start date (or the new start date if it is being brought forward) must be given, in writing.

## **11. Returning from adoption leave**

11.1 An employee has the right to return to work at the end of the 52 weeks' adoption leave or earlier provided they give the Headteacher/line manager at least 8 weeks' notice in writing of their intention to return to work before the end of their adoption leave. The employee may wish to discuss their intentions with their Headteacher/line manager before providing notification.

11.2 The employee can change their mind about which day they want their adoption leave to start by giving the Headteacher/line manager at least 28 days' notice in writing, unless this is not reasonably practical to do so.

11.3 If the employee is unable to return to work due to sickness or injury, this will be treated as sickness absence in accordance with WAT's Sickness Absence Policy.

11.4 If the employee wishes to change their working hours upon return, an application must be made in accordance with WAT's Flexible Working Policy. There is no automatic right to an adjustment, but careful consideration will be given on receipt of a request.

11.5 If an employee wishes to resign at the end of the requisite period, normal contractual notice is applicable.

## **12. Time off for adoption appointment**

12.1 An adoption appointment is an appointment arranged by the adoption agency (or at the agency's request) for the employee to have contact with a child who is to be placed with them for adoption, or for any other purposes related to the adoption.

12.2 An employee may take time off to attend an adoption appointment once the adoption agency has notified the employee that a child is to be placed with them for adoption but before the child is actually placed with them. Evidence of appointments may be requested.

## **13. Disrupted adoption**

13.1 Adoption leave is disrupted if it has started but:

- The placement does not take place;
- The child is returned to the adoption agency after placement; or
- The child dies after placement

13.2 In case of disruption, the entitlement to adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which the disruption occurred, unless the entitlement to leave or pay would have ended earlier in the normal course of events.

## **Part C – General Information**

### **14. Keeping in Touch Days**

14.1 As well as staying in contact with the academy during your maternity/adoption leave, the employee may, by agreement, work (including attending training) up to 10 keeping in touch (KIT) days without bringing the maternity/adoption leave to an end. Any agreement to work these days must be made with the Headteacher/line manager.

14.2 Employees will be paid their normal basic rate of pay for time spent working on a KIT day and will be inclusive of any maternity/adoption pay entitlement.

14.3 KIT days claim form at Appendix 3 must be used to submit the days for payment.

### **15. Terms and Conditions during maternity/adoption leave**

15.1 All the terms and conditions of your employment, except for pay, will continue throughout the maternity/adoption leave period. Annual leave entitlement will accrue as normal (see Section 16).

### **16. Annual Leave**

16.1 Annual leave will accrue at the rate provided under the employee's contract.

### **Annual Leave for Teachers**

16.2 Annual leave entitlement will be offset against any period of Academy closure that has taken place during the academic year from September to August. Examples are provided below.

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

	Se p	Oct	Nov Dec Jan Feb				Mar	A pr	Ma y	J un	Jul	Au g
		<b>Mat</b>										
		Leave		Leav e		Leav e						
School		1 wk		2		wks 1 wk		2 w ks	1w k		2 wk s	4 wk s
Closure s												

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

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

	Se p	Oct	No v	De c	Ja n	Fe b	Mar	Apr	May	Jun	Jul	Aug
									<b>Mat Mat Mat</b>	<b>Mat</b>	<b>Mat</b>	<b>Mat</b>
						Leav e	Leav e	Leav e		Leav e	Leav e	Leav e
School		1		2		1		2			2 wks	4 wks
Closure s		wk		wks		wk						

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



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

16.4 If the employee decides not to return to work following maternity/adoption leave, they will be paid for any outstanding holiday entitlement accrued during maternity/adoption leave that has not been taken during the leave year.

#### **Annual Leave for Professional Services Staff**

16.5 If the employee has any accrued but unused holiday entitlement before starting maternity/adoption leave, they will be required to take this prior to maternity/adoption leave commencing. Any accrued annual leave should be taken on return from maternity/adoption leave, on gaining approval in advance from the Headteacher or line manager.

16.6 Term time only staff will have their accrued annual leave entitlement paid to them throughout the period of maternity/adoption leave.

16.7 If the employee decides not to return to work following maternity/adoption leave, they will be paid for any outstanding holiday entitlement accrued during maternity/adoption leave. If an employee resigns and has taken more holiday than accrued in the current holiday year, they will be required to repay the equivalent of the excess holiday taken.

**APPENDIX 1**  
**Summary of Leave and Pay Entitlements**

**Maternity Leave**

Length of Service	Length of Absence	Pay
Less than 26 weeks service as at 15 weeks before EWC	Up to 52 weeks	No contractual or statutory maternity pay. Form SMP1 to be provided by payroll provider to apply for statutory maternity allowance.
More than 26 weeks service as at 15 weeks before EWC but less than 1 year as at 11 weeks before EWC	Up to 52 weeks	<ul style="list-style-type: none"> <li>• 6 weeks at 90% of average earnings</li> <li>• 33 weeks SMP</li> <li>• Remainder unpaid</li> </ul>

1 year as at 11 weeks before EWC

- 4 weeks at full pay
- 2 weeks at 90% of average earnings
- 12 weeks half pay and lower rate SMP (cannot exceed normal full pay)
- 21 weeks SMP
- Remainder unpaid

**Professional Services Staff**

- 6 weeks at 90% of average earnings
- 12 weeks half pay and lower rate SMP (cannot exceed normal full pay)
- 21 weeks SMP
- Remainder unpaid

**Adoption Leave**

Up to 52 weeks  
**Teachers**

Length of Service	Length of Absence	Pay
At least 26 weeks service but less than 1 year as at the week in which notification of the child being matched is given	Up to 52 weeks	<ul style="list-style-type: none"> <li>• 6 weeks at 90% of average earnings</li> <li>• 33 weeks SAP</li> <li>• Remainder unpaid</li> </ul>

1 year as at the week in which notification of the child being matched is given

Up to 52 weeks

**Teachers**

- 4 weeks at full pay
- 2 weeks at 90% of average

earnings

- 12 weeks half pay and lower rate SMP (cannot exceed normal full pay)
- 21 weeks SAP
- Remainder unpaid

**Professional Services Staff**

- 6 weeks at 90% of average earnings
- 12 weeks half pay and lower rate SMP (cannot exceed normal full pay)

- 21 weeks SAP

- Remainder unpaid

All half pay payments are conditioned on a return to work.

EWC: Expected Week of Childbirth

SMP: Statutory Maternity Pay

SAP: Statutory Adoption Pay

## APPENDIX 2



### APPLICATION FOR MATERNITY LEAVE

WAT\_Maternity\_AdoptionLeavePolicy\_March 2024

Please complete and return this form to Sarah Dodd, HR Lead. **This form should be completed at least 15 weeks before the expected week of childbirth (EWC).**

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

Address \_\_\_\_\_

\_\_\_\_\_

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

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

The MATB1 Certificate is: enclosed  to follow

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

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

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

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

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

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

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

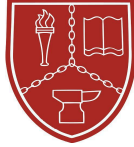
**A. I would like the 12 weeks at half pay paid in full as it becomes due**

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

Option B should be ticked by those not absolutely sure as to whether or not they will be returning for the required 13 weeks. If you have not ticked either box, Option B will be assumed.

**If you do not qualify for SMP because you have been employed for less than 26 weeks employment or insufficient earnings, etc. you will be issued with a form SMP1 which will enable you to apply for State Maternity Allowance, if applicable.**

**APPENDIX 3**



**KIT DAY CLAIM FORM**

Claim for Month:	
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**Employee Details** (Please print clearly)

Full Name:	
Current Payroll No:	
Number of days already claimed:	

Date	Hours worked	Reason

**Total Hours Worked**

Signed by Employee:		Date:	
Countersigned by Verifying Manager:		Date:	
Payroll Authorisation by: <b>(Headteacher or Delegated Officer)</b>		Date:	

Notes:

- Up to ten KIT days can be claimed whilst on maternity or adoption leave.
- Maximum number of hours claimed for full day is 6.5 hours for teachers and 7.4 hours for support staff.
- Claimants can only be paid for the number of hours worked. If worked less than a full day (i.e. 6.5 or 7.4 hours), it will count as one of ten KIT days worked.