



# **Maternity/Adoption And Family Related Leave Rights**

**Approved by:** Board of Trustees

**Last reviewed:** November 2025

**Next review due by:** Autumn 2026

## **Policy Outline**

### **Reviewing the Policy**

Inspire Multi Academy Trust will keep the operation of this policy under review and will make such changes to the policy as deemed appropriate following consultation with the trade unions, where appropriate.

### **Summary of Changes**

The policy has been updated to reflect changes in the law on Neonatal Care Leave, Parental Leave and Parental Bereavement Leave.

### **Equality Impact Assessment**

As with all policies that affect service users, the wider community or employees, schools should undertake an analysis of the potential equality impacts and record that assessment and actions taken as a result.

### **Contacts for help and assistance**

Please contact the Inspire Multi Academy Trust Central Team for help and assistance in applying the content of this policy.

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# 1 Introduction

This policy provides guidance and information for Trustees, Local Governors, Chief Executive Headteacher, Lead Headteacher, Headteachers, managers and employees wishing to understand their obligations and entitlements in relation to a range of leave and pay entitlements linked to the birth of an employee's child or employee's adoption placement. These include Maternity, Adoption and Surrogacy arrangements, Paternity, Parental, Neo-natal and Shared Parental Leave. This policy includes details of pay and leave entitlements as well as keeping in touch and communication during leave and provisions for returning to work.

Entitlements to time off and pay in connection with family related leave are governed by a number of different statutory and contractual schemes and regulations, which interact with each other. We recognise the schemes and regulations can be complex and difficult for employees to understand, and we are committed to ensuring that employees can access helpful guidance and assistance.

The Trust recognises the value of its employees and aims to retain the skills and experience of its employees by having family friendly policies to support families at work. In applying this policy, the Trust will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act which include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation or marriage and civil partnership.

## 1.1 Consistency of Treatment and Fairness

The Board of Trustees is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including where the duty to make reasonable adjustments applies. The Board of Trustees is aware of the guidance on the Equality Act issued by the Department for Education.

## 1.2 Who does the policy apply to?

This policy covers the range of different entitlements to leave and pay for both Teaching and Support staff. This policy therefore applies to **all staff employed by the Trust**.

# 2 Data Protection

When managing an employee's leave and pay in line with this policy, the Trust processes personal data collected in accordance with its data protection policy / policy on processing special categories of personal data. Data collected from the point at which an employee informs the Trust that they are pregnant or that they plan to take any leave which falls within the provisions of this policy, is held securely and accessed by, and disclosed to, individuals only for the purposes of managing the leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's data protection policy immediately. It may also constitute a disciplinary offence, which will be investigated and dealt with under the Trust's disciplinary procedure.

### **3 Employee Health & Wellbeing**

Throughout this policy it sets out the measures which the Trust will take to support all employees in maintaining their health and wellbeing at work whilst also managing family responsibilities. We are committed to creating an environment that promotes good mental health and where staff can thrive and feel supported. However, we recognise that balancing work and family life, whether that be during a time of pregnancy or an adoption process, taking time away from work and retuning to work following a period of family leave, it can be an anxious time for those involved.

Ultimately it is the Board of Trustees who are responsible for ensuring, so far as reasonably practicable, that the health and wellbeing of those employees is considered at all times and that the relevant officer(s) appointed to support and make decision in relation to family leave are continuing to support our wellbeing strategy.

The Board of Trustees are also responsible for ensuring that the health and wellbeing of those officers making decisions in relation to and supporting staff during periods of family leave feel supported in their responsibilities too.

### **4 Continuous Service**

Continuous service for the purposes of eligibility for Occupational Schemes is calculated differently for support staff (Green Book) and teaching staff (Burgundy Book).

#### **Support Staff**

This would include service with any Employer listed under the Redundancy Payments (Continuity of Employment in Local Government etc.) Order 1999

#### **Teachers**

This would include not less than 1 years' service as a teacher, with one or more Local Authorities.

However, for consistency, the Trust will consider continuous service for all staff to be service with any Employer listed under the Redundancy Payments (Continuity of Employment in Local Government etc.) Order 1999

### **5 Maternity and Adoption**

#### **5.1 Notification**

##### **5.1.1 Maternity**

A pregnant employee is advised to notify their Headteacher/Line Manager of their pregnancy as early as possible. However, as a minimum requirements for employees are as follows:

#### **Support Staff**

The Headteacher/Line Manager should be notified in writing at least 28 days before the absence begins or as soon as is reasonably practicable, of the following:

- i. that they are pregnant,

- ii. the expected week of childbirth (EWC) and
- iii. the date they intend to start their ordinary maternity leave (this cannot be earlier than the 11th week before EWC).

### **Teaching Staff**

The pregnant employee should notify the Headteacher/Line Manager in writing as soon as practicably possible, but not later than 14 weeks before the EWC (unless there is good cause), that they are pregnant and intend to take maternity leave.

In addition, the employee should notify the Headteacher/Line Manager, at least 21 days before they wish to start maternity leave, or as soon as is reasonably practicable of;

- i. the expected week of childbirth, and
- ii. when they wish the maternity leave to start.

### **5.1.2 Adoption**

The employee should notify the Headteacher/Line Manager in writing within 7 days of being told they have been matched with a child. They should notify the Headteacher/Line Manager of the following information;

- i. the date they intend to start their leave.
- ii. the 'date of placement' - the date the child is placed with the employee.

In order to be eligible for adoption pay, the employee must also provide the Headteacher/Line Manager with proof of;

- i. the name and address of the adoption agency
- ii. the match date - for example, the matching certificate
- iii. the date of placement - for example, a letter from the agency
- iv. the relevant UK authority's 'official notification' confirming the employee is allowed to adopt (overseas adoptions only)
- v. the date the child arrived in the UK - for example plane ticket (overseas adoptions only)

### **5.1.3 Surrogacy**

The employee should notify the Headteacher/Line Manager as soon as possible of the surrogate's pregnancy. In addition, no later than 15 weeks before the EWC, the employee should notify the Headteacher/Line Manager of;

- i. the expected week of childbirth
- ii. the date they intend to start their leave.

In order to be eligible for adoption pay, the employee must also provide the Headteacher/Line Manager with;

- i. a written statement ('statutory declaration') to confirm they have applied or will apply for a [parental order](#) in the 6 months after the child's birth.
- ii. A copy of the parental order within 6 months of the leave commencing

The Trust should confirm the employee's maternity/adoption leave start and end dates within 28 days of the school being provided with written notice.

## 5.2 Leave Entitlement

All pregnant employees and primary adopters (the parent who has elected to be the main carer of the child) have the right to 52 weeks leave, regardless of the number of hours they work or their length of service. This period of leave is made up of 26 weeks Ordinary Maternity/Adoption Leave (OML/OAL) and 26 weeks Additional Maternity/Adoption Leave (AML/AAL). Where a couple is adopting a child, only one parent, the primary adopter (main carer), can request adoption leave.

Employees can choose to start their leave on any day of the week, however, to ensure employees receive their full entitlement to statutory pay, as it is paid in whole complete weeks, employees should return to work on the same day of the week as their first day of leave. For example, if an employee's last day at work prior to their leave was a Thursday they should return to work at the end of their leave on a Friday.

### 5.2.1 Maternity

In order to be eligible for maternity leave, employees must;

- Provide the appropriate notice (see section [5.1.1](#))
- Provide proof of pregnancy including details of the Expected Week of Childbirth (via a MATB1 certificate)

Generally speaking, it is up to the employee to determine when to start maternity leave and how long they wish to stay off work subject to the following restrictions;

- Maternity leave cannot start before the 11th week before the Expected Week of Childbirth (EWC), as confirmed by the employee's MATB1 certificate.
- An employee cannot return to work during the 2 weeks after giving birth, this is compulsory maternity leave.
- Provided that there are no health and safety implications, or pregnancy related illness, an employee may work up until the date the baby is born. The maternity leave is automatically triggered if after the beginning of the 4th week before the EWC the employee is absent from work either wholly or partly due to a pregnancy related reason. (further information at section [5.4.4](#))
- If the actual date of childbirth occurs before the date notified by the employee or the employee suffers a miscarriage, and this is after the 24th week of pregnancy then the maternity leave and pay period will also be automatically triggered. The employee must notify the Headteacher as soon as reasonably practicable that they have given birth.

### 5.2.2 Adoption and Surrogacy

Only one person in an adopting couple, or the primary parental order parent in a surrogacy situation, is entitled to take adoption leave. The other partner may be entitled to take paternity leave and/or maternity support leave if they meet the qualifying criteria.

Adoption leave can be taken by the primary adopter for any child placed for adoption up to the age of 18 via an official adoption agency, however, only one period of adoption leave can be taken at any time, regardless of the number of children being adopted. Adoption leave is not available in circumstances where the child is not newly placed for adoption i.e. a step-parent adopting a partner's child. Leave can also be taken by the primary parent in a legal surrogacy arrangement.

It is up to each employee to choose when to start adoption leave and how long to stay off work, subject to the following restrictions:

- For UK adoptions, adoption leave can start no earlier than 14 days before the date the child is expected to be placed and up to the date the child is placed with the family;
- For Overseas adoptions, adoption leave can start when the child arrives in the UK or within 28 days of this date;
- For surrogacy arrangements it can start no earlier than 14 days before the expected date of birth of the surrogate child and up to the date the child is born;
- An employee cannot return to work during the first 2 weeks of adoption leave.

Dual approved prospective adopters (sometimes referred to as fostering to adopt) may be eligible for adoption leave and pay where they have agreed to have a child placed with them in accordance with section 22C of the Children Act 1989 with a view to them adopting that child.

## 5.3 Pay Entitlement

### 5.3.1 Statutory Maternity/Adoption pay – All Staff

The Trust pays SMP/SAP on behalf of the government to all qualifying employees. Statutory Maternity and Statutory Adoption Pay is paid at two rates for a maximum of 39 weeks as follows;

- 90% of average weekly earnings (before tax) for the first 6 weeks
- [SMP/SAP](#) or 90% of average weekly earnings (whichever is lower) for the next 33 weeks

To qualify for statutory pay an employee must;

- earn on average (before tax and NI) at least equal to the Lower Earnings Limit ([LEL](#))
- given the appropriate notice

In addition the following qualifying conditions apply depending on the particular situation:

#### Maternity

- 26 weeks' continuous service by the 15<sup>th</sup> week before the EWC. \*(Continuous service is calculated from recognised service within external educational and/or local authority establishments. If there has been a break in service then the calculation will be from the start date with the Trust)
- provided proof of pregnancy including EWC (MATB1 certificate).

If an employee does not qualify for SMP then her original MATB1 form will be returned to her along with an SMP1 form which explains why she can't receive SMP within 7 days of the Trust making their decision.

If an employee does not qualify for SMP, they may qualify for Maternity Allowance (MA) which can be accessed via Jobcentre Plus or via a claim form on the UK Government website <https://www.gov.uk/government/publications/maternity-allowance-claim-form>

### **Adoption**

- 26 weeks continuous service by the week the adopter is notified of being matched with a child. \*(Please see definition of continuous service above).
- provided official proof of the date of placement e.g. letter from the adoption agency;
- provided a copy of the matching certificate provided by the adoption agency;
- for overseas adoptions only, provided proof of the date the child arrives in the UK.

### **Surrogacy (SAP)**

- 26 weeks continuous by the 15th week before the baby's due
- 
- provided proof of pregnancy including EWC (copy of birth mother's MATB1 certificate);
- the intended parents must have applied for, or intend to apply for, a Parental Order and expect to obtain this;
- provided a copy of the parental order within 6 months of the child's birth;
- if requested must provide a 'statutory declaration' (written statement signed in the presence of a legal professional) confirming you have applied or will apply for a parental order in the 6 months after the child's birth

#### **5.3.2 Occupational Maternity/Adoption pay – Support Staff**

Occupational Maternity/Adoption Pay (OMP/OAP) is an enhanced pay package when qualifying criteria is met;

Occupational Maternity/Adoption provides employees with;

- 1 week at 100% of a week's pay (OMP)  
5 weeks at 90% of a week's pay (SMP)
- 12 weeks at 50% of a week's pay plus SMP/MA or other benefits (not to exceed full pay) and, (OMP)
- 21 weeks SMP or entitlement to MA or other benefits. (SMP)

Employees should be aware that the OMP/OAP plus SMP/SAP payment cannot exceed their normal rate of full pay, therefore if this occurs, the occupational pay element will be reduced.

To qualify for OMP/OAP the employee must have:

- agreed to return to work for at least 3 calendar months following their leave (an employee will be considered to have returned to work even if they choose to add holiday to the end of leave or are unable to physically return to work due to sickness);

### **Maternity and Surrogacy**

- More than one year of continuous service with the Trust and/or relevant local authority at the start of the 11<sup>th</sup> week before the Expected Week of Childbirth (EWC).

## Adoption

- More than one year of continuous local government service by the date notice is given that they are matched with a child.
- The employee will be asked about whether they intend to return to work for the purpose of receiving the occupational pay element. The employee can choose not to respond to this request but OMP/OAP will not be paid unless an agreement to return to work has been signed. If the employee subsequently decides not to return to work after OMP/OAP has been paid then this amount will need to be refunded to the Trust.

Should an employee opt to receive Occupational Maternity/Adoption pay and then not return to undertake the 3 months work\* required within this policy they may be liable to refund the difference between Statutory Pay and Occupational Pay. This decision is at the discretion of the relevant Committee of the Board of Trustees.

An employee will be considered to have returned to work if they choose to add holidays at the end of their leave or are unable to physically return to work due to sickness.

As an alternative, employees can choose to have the 12 weeks half pay entitlement paid in equal instalments over the remaining 33 weeks of their maternity/adoption leave. Should an employee wish to have the payments distributed in this way, they would need to notify payroll. This can be done via the maternity/adoption notification form which will be sent to payroll for calculating pay entitlement.

A week's pay is determined as follows:

- For those employees whose pay for normal working hours does not vary, a week's pay is the amount paid under their current contract of employment for working their normal hours in a week.
- Where there are no normal working hours, a week's pay is the average pay over the 12 complete weeks preceding the date when maternity leave starts (excluding any week in which no pay was earned).

During paid maternity/adoption leave employees will continue to have deductions made from their pay for National Insurance (NI). No NI contributions will be made during unpaid leave so an employee will, therefore, have a gap in their contributions.

### 5.3.3 Occupational Maternity/Adoption pay – Teaching Staff

Employees with at least 1 year's continuous service (as specified within [Section 4](#)), at the beginning of the 11<sup>th</sup> week before the EWC/by the date the notice is given that they are matched with a child, are entitled to 39 weeks maternity/adoption salary which is payable at a rate of:

4 weeks	full pay
2 weeks	90% pay
12 weeks	50% pay plus the lower rate SMP or 6 week's full pay which may be spread over any other distribution agreed with the trust during OML or AML or paid in full when you return to work following maternity leave.
21 weeks	Lower rate of SMP only

OMP/OAP is paid on the understanding that the teacher will return to their employment for a period which equates to 13 weeks full time service (including periods of Trust closure). They will be considered as having returned to work even if they are unable to return to work because of sickness.

The OMP/OAP plus SMP/SAP payment cannot exceed the normal rate of pay. If this situation were to occur, the occupational pay will be reduced accordingly.

In the event of the Teacher not being available, or being unable, to return to their job for the required period, they may be liable to refund the difference between SMP/SAP and OMP/OAP after the first 6 weeks (i.e., payment for weeks 7 to 18). This decision is at the discretion of the relevant Committee of the Board of Trustees.

#### **5.3.4 Ineligible for Occupational and Statutory Pay**

Those employees who have less than 26 weeks continuous service at the start of the 15<sup>th</sup> week before the EWC/the week they are matched with a child, are not entitled to SMP/SAP.

Where it is determined that an employee does not qualify for SMP/SAP the employee should expect to receive a [SMP1 form](#)/SAP1 form from payroll, within 28 days of their request for SMP/SAP, or the birth (whichever is earlier).

#### **Maternity**

A pregnant employee who is ineligible to be paid SMP may be able to claim Maternity Allowance (MA) direct from the Department for Work and Pensions. A pregnant employee can claim MA as soon as they have been pregnant for 26 weeks.

It is the pregnant employee's responsibility to submit a claim for Maternity Allowance. This can be done by obtaining and completing a [MA1 claim form](#) and sending it to the Department for Work and Pensions along with the completed SMP1 form (provided to the employee by payroll), and the MATB1 form.

#### **Adoption**

An employee ineligible to be paid SAP may qualify for some financial assistance. The employee should contact the adoption agency to notify them that they are ineligible to be paid SAP and to discuss what support may be available to them in this situation.

### **5.4 Other time off**

#### **5.4.1 Ante-natal Care**

Any pregnant employee has the right to reasonable paid time off to attend antenatal care. This includes travel time.

Antenatal care is not restricted to medical examinations, for example, it could also include antenatal or parenting classes, if they've been recommended by a doctor or midwife.

After their first visit employees should be asked to produce their appointment card when asking for time off. Requests for paid time off for antenatal care should not be unreasonably refused.

Partners and civil partners of a pregnant employee are entitled to unpaid time off to attend up to two ante-natal appointments, up to a maximum of 6 ½ hours per appointment.

If you're eligible for adoption leave, you have the right to paid time off work for 5 adoption appointments after you've been matched with a child. The secondary adopter will be entitled to take unpaid time off for up to 2 appointments.

The right to 2 unpaid antenatal appointments will also extend to those who will become parents through a surrogacy arrangement, if they expect to satisfy the conditions for, and intend to apply for a Parental Order for the child.

All employees should give as much notice as possible for time off to attend these appointments.

#### **5.4.2 Fertility Treatment**

There is no statutory right for employees to take time off work to undergo investigations or treatment. However, employees who are undergoing fertility treatment will be allowed reasonable time off to attend appointments.

Medical appointments related to IVF should be treated the same as any other medical appointments. The Headteacher/Line Manager may wish to discuss and agree temporary flexible working arrangements or a combination of paid, unpaid, or annual leave during the treatment, where appropriate.

Should an employee be unable to work due to the effects of the treatment, they should obtain a medical certificate from their GP to cover the period of absence. This sickness absence will be treated in the same way as sickness for other reasons in accordance with the Trust's Absence Reporting Policy and Attendance Management Policy.

Following implantation the employee should be regarded as being pregnant and is protected from dismissal or adverse treatment under the Equality Act 2010 pregnancy legislation. If the IVF is unsuccessful, the protected period ends 2 weeks after the end of the pregnancy i.e. 2 weeks after the date the employee was informed that implantation was unsuccessful.

#### **5.4.3 Annual Leave**

In agreement with the Headteacher/Line Manager, employees may take Annual Leave before or after a period of maternity/adoption leave.

An employee will be expected to take their annual leave in the appropriate leave year and only carry over the maximum 5 days (as set out within the Annual Leave Guidance).

In situations where the employee is unable to take all of their annual leave entitlement in the appropriate leave year, for example due to sickness or early commencement of maternity leave due to premature birth, or whereby maternity/adoption leave coincides with the whole of the annual leave year, they should be able to carry over all remaining contractual leave.

Maternity/adoption leave, whether paid or unpaid, counts as service and annual leave continues to accrue throughout the period of ordinary and additional leave. Bank holidays should accrue as they fall, for each bank holiday that falls within the

ordinary or additional leave period a substitute day's leave should be provided to full-time employees. Part-time employees should not receive a substitute days' leave as their entitlement to bank holidays is already provided as part of their annual leave entitlement which is calculated at the beginning of each leave year.

Where an employee resigns at the end of their leave period, they will be paid for the untaken annual leave in which they have accrued whilst on maternity/adoption leave. If the employee resigns with the termination date effective before the end of their leave, they will be entitled to payment only for untaken leave accrued to the date of termination.

#### **5.4.4 Sickness**

##### **Prior to Maternity Leave**

An employee's maternity leave and pay will automatically be triggered by absence, either wholly or partly because of pregnancy, any time after they have reached the 4th week before the EWC.

Under the normal sickness absence reporting procedures employees are required to give the reasons for their absence and this requirement still applies.

Deciding whether an employee's absence is connected with pregnancy or childbirth may be problematic.

Problems may arise when an employee is absent for only an odd day due to a pregnancy-related absence. Under the terms of legislation this will trigger the maternity leave and pay period even though the employee maybe fit to return to work after that day's absence. Further concerns may arise over whether the reason for absence is in fact pregnancy related. Consideration should be given to the individual circumstances of each case and in difficult cases the decision as to whether the maternity leave and pay period is triggered should be discussed with your Trust HR provider. The Trust may also require medical advice via the employees General Practitioner and/or the Occupational Health Unit.

##### **Following Leave**

Where an employee fails to return to work from maternity/adoption leave due to sickness or where an employee on maternity/adoption leave provides 21 days' notice to return to work early then subsequently fails to return to work on the new date, the employee will qualify for sick pay as appose to maternity/adoption pay and should be supported in line with the Trust's Attendance Management Policy.

Employees who are sick during a period of maternity/adoption leave are not entitled to sick pay and will continue to be paid statutory/occupational maternity/adoption pay, unless they give notice to end their leave early.

Maternity and adoption leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness leave.

## **5.5 Health and Safety**

### **5.5.1 Risk Assessments**

As soon as an employee notifies the Headteacher/Line Manager that they are pregnant a formal risk assessment should be carried out in order to determine any health and safety requirements during and after the pregnancy. The Trust's Health and Safety provider can provide support and guidance with pregnancy risk assessments.

A new or expectant pregnant person is defined as an employee who is pregnant, has given birth within the last six months or is breastfeeding, therefore it is important to ensure that the risk assessment is reviewed on a regular basis throughout the pregnancy and upon the return to work.

The legislation also covers an employee who has 'delivered a living child or, after 24 weeks of pregnancy, a stillborn child'.

Where a significant health and safety risk is identified for a new or expectant pregnant person, which goes beyond the normal level of risk found outside the workplace, the school must take the following actions:

- i. Temporarily adjust working conditions and / or working hours; or if that is not possible,
- ii. Offer suitable alternative work (at the same rate of pay) if available; or if that is not possible,
- iii. Suspend from work on paid leave for as long as necessary to protect their health and safety, and that of the child.

The [Employment Rights Act 1996](#) provides that, where appropriate, suitable alternative work should be offered (on the same terms and conditions) before any suspension from work.

The employee should not unreasonably refuse to transfer to another establishment/department where there is no such undue risk.

## **5.5.2 Leave**

Where it is determined necessary to suspend due to health and safety risk (as described above) the school will grant paid leave on health and safety grounds for as long as is necessary to protect the employee and/or the child's health and safety.

The Headteacher/Line Manager may wish to consult with the Trust's HR Advisor in these situations and may also require medical advice via the employees General Practitioner and/or their Occupational Health provider.

## **5.6 Special Circumstances**

### **5.6.1 Stillbirths or Miscarriages**

In the unfortunate situation where an employee miscarries or the baby is stillborn after the 24th week of pregnancy, they are still entitled to the period of leave and payments as described in sections [5.2](#) and [5.3](#) of this policy. The maternity leave and pay period will be triggered if the employee gives birth or miscarries before the intended (notified) date for starting their leave.

Where a miscarriage or termination occurs before the 24th week of pregnancy the Headteacher will give sympathetic consideration to the individual circumstances. Consideration will be given as to whether sick leave or another type of leave is

appropriate, as set out in the Trust's 'Leave of Absence Policy'. Medical advice may need to be sought in agreeing the appropriate leave in these circumstances.

### **5.6.2 Premature Birth**

Where a baby is born prematurely, the Headteacher/Line Manager will consider the individual circumstances of the case in deciding whether further support is appropriate.

#### **Premature or early birth after the Qualifying Week (QW)**

Where a baby is born early, the maternity leave and pay period starts on the day after the date of birth.

The employee may not have been able to give you advance notice, but they must tell you the date of birth as soon as possible.

The employee should give you medical evidence (usually a MATB1) of the date the baby was due and the date of birth. You can accept a birth certificate as evidence of the date of birth.

The employee should provide you with this evidence within 21 days after the date of birth, or as soon as they can if that's not possible, and no later than 13 weeks after the start of the SMP pay period.

#### **Premature or early birth before the Qualifying Week (QW)**

Where a baby is born before or during the QW, the continuous employment rule will be satisfied as if they would have completed 26 weeks continuous employment with you if the baby had not been born early.

In these circumstances the employee should provide the Headteacher/Line Manager with medical evidence (usually a MATB1 certificate) of the date the baby was expected to be born as well as the actual date of birth. The school are able to accept any document signed by a doctor or midwife as long as an expected date of birth is provided. The school can accept a birth certificate as evidence of the date of birth, but this would not be accepted as evidence of the date the baby was due.

The employee should provide this evidence within 21 days of the start of their maternity pay period (or adoption where there is a surrogacy arrangement), or as soon as they can, but no later than 13 weeks after the start of the maternity/adoption pay period.

### **5.6.3 More than one child is placed**

Where an employee is adopting a second or more siblings from the same family within 39 weeks of entitlement to SAP for the first child, and a separate Matching Certificate is issued, this will be considered as a separate arrangement.

In this situation the entitlement of up to 39 weeks of SAP will commence from the date the second child is placed with the employee. Where periods of SAP overlap, payment of the first period of SAP will continue regardless of the second period of SAP therefore two payments of SAP may be payable for the same week.

### **5.6.4 Child is placed later**

An employee who is adopting a child can be paid up to 14 days before the date the child is expected to be placed with them and no later than the date the child is placed, or the day after if they are at work that day.

Where the child is placed later than the expected date, but the SAP has already started, the SAP will continue. The SAP cannot be extended.

#### **5.6.5 Adoption Placement ends**

Adoption leave and pay will end where the child isn't placed, the child ceases to live with the adopter or where the child dies. The adoption leave and pay will end 8 weeks after such an event, if it was not due to end earlier.

If the adoption pay hasn't started prior to an employee being notified that the child won't be placed, adoption pay will not be paid in this situation. It is the employee's responsibility to tell the Headteacher/Line Manager when the child is placed as adoption pay will not be paid on the assumption that the child was placed on the expected date.

### **5.7 Keeping in Touch**

#### **5.7.1 Communication**

The school/Trust and the employee are expected to make reasonable contact during maternity leave. Reasonable contact might include discussions regarding the employee's return to work, job vacancies, training opportunities or other significant workplace developments. The arrangements for keeping in touch during leave should be discussed and agreed before the period of leave commences.

Should the school/Trust consider a restructure or be faced with redundancies during a time when an employee is on maternity/adoption leave, the Headteacher/Line Manager will keep the employee informed of any changes and consult with them in the same way as would have been the case if they were in school at the time.

#### **5.7.2 Keeping in Touch Days (KIT)**

Regulations provide that an employee can carry out up to 10 days' work during a period of maternity / adoption leave without bringing the leave or pay to an end. Working any part of a day will count as one full day for the purpose of calculating the number of KIT days taken.

Work is defined as any work done under the contract of employment and may include training events, appraisals, meetings, as well as enabling an employee to return to work gradually at the end of their leave.

Any KIT days must be mutually agreed, therefore the Headteacher/Line Manager will not insist that work is carried out during a maternity or adoption leave period and likewise, an employee cannot insist on working during the leave period.

An employee cannot carry out any work during the first two weeks following the birth of the child.

Where an employee claims for payment for a KIT Day worked, their normal hourly rate (including additional contracted payments i.e. TLR payment), offset against any SMP / SAP or OMP / OAP will be paid, for the hours worked on that day.

All efforts should be made to ensure both the employee and Headteacher/Line Manager are fully aware of the work and hours to be carried out on the day.

## **5.8 Return to Work**

### **5.8.1 Right to Return to Work**

Subject to subsequent reorganisations or redundancy situations arising, an employee has the right to return to their job in which they were employed under their original contract of employment. If however, due to reorganisation during the time the employee has been on leave, it is not possible for the employee to return to their job, they have the right to return to a similar job on terms and conditions not less favourable than those, which would have been applicable to them if they had not been absent.

Employees have the same redundancy rights as their colleagues while on maternity or adoption leave. Employees have the right to be offered any suitable alternative job if they're selected for redundancy while on maternity or adoption leave, even if other colleagues are more suitable for the role.

If the employee unreasonably refuses to take the similar job the school can take this as their resignation. Advice should be sought in these situations from your Trust HR provider.

An employee can only be made redundant if the Trust can clearly justify its reasons i.e., where a part of the business closes and everyone in that section is made redundant.

### **5.8.2 Exercising the Right to Return to Work**

The law requires that all employees take Compulsory Maternity leave immediately after the birth of their baby, which is 2 weeks from the date of birth in order to assist with recovery.

It will be assumed that an employee will be taking their full leave entitlement of 52 weeks. If the employee intends to return to work before the end of their ordinary or additional maternity / adoption leave they must give the Headteacher/Line Manager 21 days' notice of their return date in writing.

If the employee attempts to return to work earlier than the end of their ordinary or additional leave without giving the 21 days' notice, the Headteacher/Line Manager may postpone the return date until 21 days' notice has been given. The Headteacher/Line Manager may not postpone the return to a date later than the end date of the additional leave.

Should the employee not want to return to work after their maternity / adoption leave, they are required to give the Headteacher written notice in line with their contract of employment.

### **5.8.3 Breastfeeding**

An employee returning to work after maternity leave, may have particular wishes and needs connected to their new baby, including the provision of facilities to allow them to express milk during the working day. Consideration will be given to any health and safety implications for breastfeeding employees and a risk assessment should be completed to identify any issues.

Although schools may have limited space, every effort will be made to provide suitably quiet and private facilities for employees who are breastfeeding or expressing milk.

## **5.9 Other information**

### **5.9.1 Flexible Working**

All employees have a statutory right to ask their employer for a change to their contractual terms and conditions of employment to work flexibly from the first day of employment.

Employees returning from maternity / adoption leave may wish to consider this as an option prior to returning to work. Should an employee wish for the Trust to consider a request for flexible working, to commence on their first day back to work, it is advised that the employee considers the timescales as set out in the Flexible Working Policy to allow sufficient time for the request to be considered and implemented, if approved.

For further detailed guidance on the procedure, please refer to the Trust's Flexible Working Policy.

### **5.9.2 Childcare Benefit Scheme**

An employee's salary is subject to tax and National Insurance deductions. Under the childcare voucher scheme employees are able to take a portion of their salary as childcare vouchers which are not subject to tax and National Insurance deductions. This allows employees to save money on the cost of their childcare through their tax and National Insurance savings and is referred to as a '**salary sacrifice scheme**'.

The benefits of this Scheme to employees is;

- Help towards employees existing childcare fees
- Savings of up to £933 for low-rate taxpayers and savings of up to £625 for high-rate taxpayers
- It's easy to do, flexible and convenient.

No new applications for the Childcare Benefit Scheme can be accepted due to the legislation changes in October 2018, see appendix 1. Where an employee's has already been accepted payroll will make a payment to the childcare provider each month. This payment can be anything up to a (current) maximum of £55 per week, which is the most the Government will allow under this type of scheme. This equates to a calendar monthly payment of up to £243. Payroll will pay this directly to the childcare provider and reduce employee gross pay by the same amount. This figure is then deducted from the bill received from the childcare provider.

The vouchers can cover children up to the age of 16 and can be used to pay registered and approved childcare such as day nurseries, out-of-school clubs, childminders, school holiday clubs and pre-school play groups.

**PLEASE REFER TO [APPENDIX 1](#) FOR OCTOBER 2018 CHANGES**

### **5.9.3 Salary Sacrifice Schemes**

Where an employee is participating in a salary sacrifice arrangement during the maternity leave period, for example the Childcare Benefits Scheme, employee contributions will be collected from pay as normal during paid leave, provided the pay being received is more than the employee contribution. Where the employee contribution is more than the amount of pay e.g. where the employee has gone onto unpaid leave employees will be invoiced for their contribution.

#### **5.9.4 Pension Contributions**

During all periods of leave referred to in this policy, the employee pays pension contributions on the actual payment received, therefore the employee's service during this period counts in full, as contributions are paid.

During any period of leave referred to in this policy where no pay is received, the employee will make no pension contributions and therefore the employee's service during this time does not automatically count for pension purposes. The employee can choose to pay contributions to cover this period and therefore maintain their service, however, this decision must be made within 30 days of either the return to work or the end of the employee's employment, whichever comes first.

*Further advice can be sought from [www.lqpsmember.org](http://www.lqpsmember.org) or [www.twpf.info](http://www.twpf.info) (support staff) or <https://www.teacherspensions.co.uk/> (Teachers).*

## **6 Paternity Leave and Pay**

An employee taking time off because their partner is having a baby, adopting a child, or having a baby through a surrogacy arrangement may be eligible for:

- [1 or 2 weeks paid Paternity Leave](#)
- [Paternity Pay](#)
- [Maternity Support Leave](#)
- [Shared Parental Leave and Pay \(section 6\)](#)

### **6.1 Paternity Leave - Eligibility**

Employees who have 26 weeks continuous service by the end of the 15th week before EWC and from the 15th week before the baby is due up to the date of birth qualifies for statutory paternity leave.

The employee must also be taking time off to look after the child and be one of the following:

- the father
- the husband or partner of the pregnant person (or adopter) - this includes same-sex partners
- the child's adopter
- the intended parent (if you're having a baby through a surrogacy arrangement)

In order to be eligible for Paternity Leave and Pay the employee must also provide the [correct notice](#).

If the baby is born earlier than the 14th week before it is due and, but for the birth occurring early, the employee would have been employed continuously for the 26 weeks, then they will be deemed to have the necessary length of service.

A qualifying employee will be entitled to paid leave if the baby is stillborn after 24 weeks of pregnancy. If the baby is born alive at any point in the pregnancy but dies later, the employee will also be entitled to paid paternity leave in the usual way.

Where a miscarriage or termination occurs before the 24th week of pregnancy the Headteacher will give sympathetic consideration to the individual circumstances. Consideration will be given as to whether sick leave or another type of leave is appropriate, as set out in the Trust's 'Leave of Absence Policy'.

### **Adoption and Surrogacy – Eligibility**

In addition to the above, employees must have 26 weeks continuous employment by the 'matching week'. For adoption this is either;

- the end of the week they are matched with a child (UK adoptions)
- the date the child enters the UK or when they want the pay to start (overseas adoptions)

## **6.2 Paternity Leave and Pay –Teaching and Support Staff**

### **6.2.1 Leave**

Employees will be entitled to up to two weeks paternity leave. A week is the same number of days that the employee would normally work in a week. Part time employees have a pro rata entitlement.

Only one period of leave is provided per pregnancy. Therefore, if the employee's partner gives birth to twins the entitlement will still only be two weeks leave.

Paternity leave cannot start before the birth of the child.

Paternity leave does not have to be taken in one single period but must be booked in blocks of at least one week. Leave can start on any day from the child's birth or placement but must be completed within 52 weeks of the actual date of birth of the child or the date of placement. If the child is born early this time limit is extended to the period from actual date of birth up to 52 days after the expected week of birth

If the baby arrives early, the employee remains entitled to take paternity leave in line with the new legislation, as outlined above.

### **6.2.2 Pay**

Statutory Paternity Pay (SPP) is paid at the lower rate of Statutory Maternity Pay ([SMP](#)) (or 90% of average weekly earnings if less). In addition to the qualifications for leave, to qualify for SPP an employee must have average earnings at or above the [Lower Earnings Limit](#) for National Insurance at the end of their qualifying week. Employees who do not qualify for SPP should be given form SPP1 form via Payroll as they may be able to claim other benefits from the Benefits Agency.

Employees will be entitled to return to the same job on Terms and Conditions not less favourable than would have applied if they hadn't been absent.

Employees continue to accrue annual leave whilst on Paternity Leave. If employees are off sick, they should postpone their paternity leave, but the 56-day period within which they must take their leave cannot be extended.

### 6.3 Maternity Support Leave – Support Staff

Under the Green Book there is an entitlement to 5 days paid support leave for the nominated carer of an expectant person at or around the time of the birth. Parents who have a child through a surrogacy arrangement or adopt a child are also eligible for Maternity Support leave. The partner of an individual who adopts (or has a parental order) or the secondary adopter if a couple are adopting jointly will be entitled to maternity support leave and pay where they are nominated the nominated carer.

A nominated carer is the person nominated by the expectant person / primary carer as their primary provider of support at or around the time of the birth / placement. For the purposes of this leave the expectant person / primary adopter can only choose one nominated carer.

Part time employees have a pro rata entitlement.

Maternity Support Leave cannot be taken before the birth and should be taken within 52 weeks of the birth. **Employees are only entitled to maximum of two weeks leave in total, therefore, where an employee is eligible for MSL, this will replace the first week of any paternity leave that they may also be entitled to.** Nominated carers of the expectant person are not automatically entitled to claim paternity leave.

#### Pay

The [nominated carer](#) will be paid one weeks leave at normal pay and one week's leave paid at the lower rate of Statutory Maternity Pay (SMP) (or 90% of average weekly earnings if less). Any statutory payments received will be offset against normal pay during the first week of absence (so that normal pay is not exceeded).

### 6.4 Notification

Employees are required to inform the Headteacher/Line Manager of their intention to take statutory paternity leave at the same time as they request Maternity Support Leave (where eligible) and the employee must give the following information:

- the expected week of childbirth
- the length of leave requested, whether 1 or 2 weeks
- the date the leave will start
- a copy of the pregnant person's MATB1

If the baby is due on or after 7<sup>th</sup> April 2024, an employee must also inform the Headteacher whether they wish to take the leave in more than one block and must provide the dates of their leave at least 28 days before each period of leave.

To qualify for Statutory Paternity Pay the employee must give their request for leave and pay to the Headteacher **at least 28 days before they want it to begin**, or as soon as is reasonably practicable. Employees will be able to change the date on which they wish their leave to start if necessary.

Where an employee is requesting Maternity Support, in addition to the information they must provide as above, the Headteacher/Line Manager should satisfy

themselves through discussing the situation with the employee that the employee is the nominated carer.

## 7 Shared Parental Leave

Shared Parental Leave (SPL) allows eligible individuals to be able to volunteer to end their maternity or adoption leave and / or pay early to create parental leave and pay which they can share with the child's father or their partner. SPL means that eligible fathers and partners will be able to request more leave from work in the first year following their child's birth or placement for adoption. Because it is shareable, there will also be cases where eligible individuals will return to work early because the child's father or their partner is taking leave in their place.

### 7.1 Eligibility

All staff can be eligible for SPL where they share the main responsibility for the care of the child at the time of the birth or placement for adoption. SPL can only be used by two people;

- the pregnant person / adopter **and**
- one of the following
  - the father of the child (in the case of birth) or
  - the spouse, civil partner, or partner of the pregnant person / adopter

In order to qualify for SPL, the pregnant person / primary adopter must satisfy the following criteria:

- share responsibility for the child with their partner / child's other parent
- be entitled to maternity / adoption leave or pay (including Maternity Allowance)
- have ended or given notice to end their maternity / adoption entitlements.

A parent intending to take SPL must:

- be an employee;
- share the primary responsibility for the child with the other parent at the time of birth or placement for adoption;
- provide necessary notification of their entitlement and intention to take SPL, and provide the necessary declaration and evidence;
- have at least 26 weeks service at the end of the 15<sup>th</sup> week before the EWC or the matching date;
- still be working for the organisation at the start of each period of SPL.

The partner must:

- meet the 'employment and earnings test' by having been an employed or self-employed earner for a total of 26 weeks (not necessarily continuously) and earned an average of at least £30 a week in any 13 of those weeks in the 66 weeks leading up to the EWC or matching date.

It is the employee's responsibility to check they are eligible for SPL and / or pay and both parties will be required to submit a declaration stating that they are eligible.

## 7.2 Leave

All leave must be taken before the child's first birthday, or before the first anniversary of the day on which the child was placed for adoption.

The amount of SPL that the parents can share is 52 weeks (less the amount of maternity leave taken by the pregnant person or adoption leave taken by the principal adopter – minimum 2 weeks). Adopters and intended parents in surrogacy arrangements (who meet certain conditions) have the same rights as other parents to SPL and pay.

A pregnant person must take at least two weeks of maternity leave after the birth of the child before maternity leave can be curtailed. An adopter, or the parental order parent in surrogacy must also take at least two weeks of adoption leave before it can be curtailed.

The parents will be able to choose how to split the available leave between them and can decide to be off work at the same time or different times. They will need to decide how to divide the leave and pay entitlements between them, as leave or pay taken by one parent will reduce the pool of leave and pay that is available to the other parent.

SPL can be taken as a single continuous block or in smaller blocks of discontinuous leave (a minimum of a week at a time) combined with time at work. This is in contrast to maternity leave / adoption leave which can only be taken in a single continuous block by the pregnant person / primary adopter.

Entitlement to SPL and pay is per pregnancy and is therefore the same whether one or more children are born as a result of the same pregnancy

## 7.3 Pay - ShPP

As the pregnant person / primary adopter must take the first two weeks following the birth of the child as maternity leave (or adoption leave in the case of adopting a child) the maximum SPL for which ShPP can be paid is 37 weeks.

In order to qualify for Statutory Shared Parental Pay (ShPP), the employee must:

- meet all of the [criteria](#) as set out above;
- have average weekly earnings (before tax and NI) at least equal to the [Lower Earnings Limit](#).

The amount at which will be paid for ShPP will be paid at [the rate](#) set by the Government for the relevant tax year.

Occupational maternity / adoption pay (OMP / OAP), paid during maternity / adoption leave, is only available to the pregnant person / primary adopter during maternity / adoption leave.

By ending their leave early and commencing SPL the pregnant person / primary adopter loses any entitlement they may have had to occupational pay. Therefore, employees that are entitled to OMP / OAP may wish to end their leave after their entitlement to occupational pay has expired (i.e. after the 18<sup>th</sup> week of maternity leave).

## 7.4 Notification

If an employee wishes to take SPL they must provide the Headteacher/Line Manager with a notice of entitlement to take Shared Parental Leave. The notice must be given as soon as possible but at least 8 weeks before the start of a period of SPL.

An employee who is the pregnant person / primary adopter can bring forward the date on which their maternity/ adoption leave and pay ends by either:

- giving written notice of curtailment to end maternity/adoption leave early (by completing supporting document F);
- returning to work.

Once written notice of ending maternity / adoption leave early (curtailment) has been given, it is binding and the leave will end on the date specified in the notice. A pregnant person / primary adopter cannot change their decision to end maternity / adoption leave after notice has been given except in very limited circumstances (see section [7.6](#)).

Each parent entitled and intending to take SPL must give the Headteacher/Line Manager notice which must include:

- How much leave is available,
- How much leave they are entitled to take,
- How much leave the parent is intending to take,
- How they expect to take it.

This information, once provided to the Headteacher/Line Manager is non-binding and does not give the employee an entitlement to take the leave. Booking notice is required in addition, in order to take particular periods of SPL. (see section [7.5](#))

Within 14 days of the SPL entitlement notification being submitted by the employee the school can request that the employee provide the following information;

- The name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead);
- For biological parents, a copy of the child's birth certificate (or where one has not been issued yet, a declaration as to the time and place of birth);
- For adoptive parents, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption;
- For parental order parents, a copy of the child's birth certificate (or where one has not been issued yet, a declaration as to the time and place of birth) and a statutory declaration that you intend to apply for a Parental Order within 6 months of the child's birth and that you expect that Order to be made.

The employee must provide this information within 14 days of it being requested in order to be entitled to SPL.

Employees wishing to provide the relevant notice and information that they are eligible and intend to take SPL and/or ShPP, can do so by complying one of the below forms;

[Notification of Shared Parental Leave \(Maternity\)](#)  
[Notification of Shared Parental Leave \(Adoption\)](#)  
[Notification of Shared Parental Leave \(Parental Order/Surrogacy\)](#)

## **7.5 Booking Shared Parental Leave**

Notice to book shared parental leave must be provided in addition to notification of SPL and must also be given at least 8 weeks before the leave is due to start. In most cases notice to book leave will be provided at the same time as notice of SPL. Each eligible employee can give the Headteacher/Line Manager up to 3 separate notices.

Each notice can be for a block of leave, or the notice may be for a pattern of "discontinuous" leave involving different periods of leave. Where the employee requests discontinuous blocks of leave in a notification the Headteacher/Line Manager can refuse and require that the total weeks of leave in the notice be taken in a single continuous block. However, where the employee's notification is for a continuous block of leave the Headteacher/Line Manager is required to agree. It is therefore beneficial for the employee and Headteacher/Line Manager to discuss and attempt to agree the way in which the different blocks of leave can be taken.

Where discontinuous leave notification refused or should the employee not receive a response within 14 days of submitting their request then the employee can withdraw their notification on or before the 15th day after the notification was originally made and it will not count as one of their three notifications. Alternatively, the employee will be required to take the total number of weeks leave requested on the booking notice as a single continuous block of leave starting on the initial start date of the first period of leave requested by the employee.

The employee has 19 calendar days from the date they submitted their request to change the start date of the continuous period of leave. If the employee does not choose a start date then the leave will begin on the first leave date requested in their original notification.

## **7.6 Cancelling the decision to end maternity or adoption leave**

The pregnant person or adopter may be able to change their decision to end maternity or adoption leave early if both:

- the planned end date has not passed
- they have not already returned to work

One of the following must also apply:

- it's discovered during the 8-week notice period that neither partner is eligible for either SPL or ShPP
- the employee's partner has died
- it's less than 6 weeks after the birth (and the pregnant person gave notice before the birth)

## **7.7 Shared Parental Leave in Touch (SPLIT) Days**

During the period of SPL an employee and the Headteacher/Line Manager will be able to agree up to 20 Shared Parental Leave In Touch (SPLIT) days, without bringing their leave to an end. There is no obligation on the Headteacher/Line Manager to offer these days or for an employee to agree to them. Working any part

of a day will count as one full day for the purpose of calculating the number of SPLIT days taken.

SPLIT days are not limited to the employee's normal job and can include attending training events, appraisals, meetings, as well as enabling an employee to return to work gradually at the end of their leave.

Any work undertaken is a matter for agreement between the school and the employee.

#### **Payment for SPLIT days (Support Staff)**

An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving Shared Parental Pay (ShPP), this will be effectively 'topped up' so that the individual receives full pay for the day in question but they will not receive more than full pay. Any SPLIT days worked do not extend the period of shared parental leave.

#### **Payment for SPLIT days (Teaching Staff)**

Payment will be based on the number of hours actually worked on a SPLIT day, paid at their normal rate of pay, offset against ShPP received for that day.

## **8 Neonatal Care Leave and Pay**

The Neonatal Care (Leave and Pay) Act is intended to support parents of babies who are admitted into neonatal care within 28 days of birth. Eligible employees will be able to take up to 12 weeks of paid leave in addition to their other family leave entitlements such as maternity and paternity leave.

The Act sets out three categories of medical care which will count as neonatal care, these are:

- Any medical care received in hospital
- Medical care received elsewhere following discharge from an inpatient stay hospital. The care must be under the direction of a consultant and includes ongoing monitoring and visits to the child by healthcare professionals; or
- Palliative or end of life care.

Neonatal leave can sometimes be taken while the baby is still in care, such as when a partner's paternity leave has ended. There are two types of neonatal leave, called Tier 1 and Tier 2, depending on when the leave is taken.

- **Tier 1:** leave applies when the baby is still in neonatal care and up to one week after discharge. It can be taken in non-continuous blocks, with a minimum of one week at a time. This leave ends 7 days after the baby finishes receiving neonatal care.
- **Tier 2:** leave applies to all other neonatal leave and must be taken as one continuous block. Only one period of leave can be taken in the Tier 2 period.

### **8.1 Neonatal Care Leave - Eligibility**

Employees will be eligible for Neonatal Care Leave subject to the following criteria:

- Must be an employee and have been continuously employed for 26 weeks by the end of the 15<sup>th</sup> week before EWC or, for adopters, the date they were notified of a match;
- The employee have average weekly earnings (before tax and NI) at least equal to the Lower Earnings Limit.
- The baby must be born on or after 6th April 2025.
- The employee must be the baby's parent, intended parent (for surrogacy), or partner of the baby's mother, and must have or expect to have responsibility for raising the child (similar rules apply to adoption).

Those who do not meet the above criteria are entitled to unpaid leave. Leave is also dependant on the baby being admitted to neonatal care within the first 28 days of birth and remain in care for at least 7 continuous days. Neonatal care leave must be taken to care for the baby and in blocks of one week.

## 8.2 Neonatal Care Leave and Pay –Teaching and Support Staff

### 8.2.1 Leave

Employees are entitled to one week of Neonatal Care Leave for each 7-day period their baby receives neonatal care, up to a maximum of 12 weeks. The first 7-day period starts the day after their baby begins neonatal care (i.e., days 2-8). Neonatal Care Leave can be taken starting from day 9, and it must be used within the first 68 weeks after the baby's birth or placement (in adoption cases). It is often taken after other family leave, such as maternity, shared parental, or adoption leave, especially if the baby's neonatal care ends before the leave is taken.

Depending on the employee's circumstance the leave can be taken in two ways:

- **Tier 1:** leave applies when the baby is still in neonatal care and up to one week after discharge. It can be taken in non-continuous blocks, with a minimum of one week at a time. This leave ends 7 days after the baby finishes receiving neonatal care.
- **Tier 2:** leave applies to all other neonatal leave and must be taken as one continuous block. Only one period of leave can be taken in the Tier 2 period.

### 8.2.2 Pay

Statutory Neonatal Care Pay (SNCP) is paid at a flat rate per week or 90% of average weekly earnings, if this is less. Neonatal Care Pay may be paid for a maximum of 12 weeks and is payable within the first 68 weeks of the child's birth.

## 8.3 Notification

The required length of notice for NCL and NCP differs depending on when the leave is taken.

**Tier 1:** Notice for Tier 1 must be given before the first day of leave or as soon as reasonably possible.

**Tier 2:** For a single week of leave, 15 days' notice is required, or 28 days' notice is needed for two or more consecutive weeks.

Notice must be given in writing to the Headteacher/Line Manager. The Headteacher/Line Manager and employee may agree to waive any notice requirements.

If the employee does not want to return to work after any statutory leave, they are required to give the Headteacher/Line Manager notice in line with their contract of employment.

#### **8.4 Return to Work**

The Headteacher/Line Manager should ensure they meet with the employee, either before their return or immediately upon their return, to aid their smooth return to the workplace and discuss any particular needs they may have.

### **9 Parental Leave and Pay**

Parental leave is different from Shared Parental Leave and offers support to employees with children aged under 18 years who wish to take unpaid leave to care for their child.

#### **9.1 Parental Leave - Eligibility**

Employees who have been continuously employed with the Trust for one year will be entitled to unpaid parental leave, provided they expect to have responsibility (i.e. parental responsibility) for a child.

Employees should be the parent:

- named on the child's birth certificate
  - named on the child's adoption certificate
- OR
- have legal parental responsibility for the child

#### **9.2 Parental Leave –Teaching and Support Staff**

Eligible employees are entitled to unpaid parental leave of a maximum of 18 weeks for each child. Employees may not take more than 4 weeks leave in respect of an individual child during a calendar year. The right to take leave applies in relation to each child, including twins or other multiple births. What amounts to "caring for a child" is construed quite widely and could include simply spending more time with the child. The leave should be taken before the child's 18th birthday.

Leave must be taken in blocks of one week. If the child qualifies for a disability living allowance, however, the leave can be taken as single days or multiples of a day.

Both natural and adoptive parents may exercise these rights.

#### **9.3 Notification**

Employees are required to give the Headteacher/Line Manager 21 days notice of the date on which they wish their leave to begin. The notice given must specify the intention to take parental leave and the dates on which the period of leave is to begin and end.

In addition The Trust may ask for evidence of an employee's entitlement.

The type of evidence that may be requested should show:

- The employee's responsibility or expected responsibility for the child in respect of whom they propose to take parental leave
- The child's date of birth, or in the case of a child who was placed with the employee for adoption, the date on which the placement began

AND

- Where the employee's entitlement depends on whether the child is entitled to disability living allowance (i.e. they wish to take parental leave for a period of less than one week), the child's entitlement to that allowance.

#### **9.4 Postponement of leave**

The Headteacher/Line Manager can postpone the parental leave if they consider that the employee taking leave at that time would unduly disrupt the operation of the school/Trust. The employee must be informed of any postponement within seven days of receipt of the notice of their intention to take leave. The Headteacher/Line Manager must:

- Agree to allow the employee to take the same period of leave at a specified later date
- Consult with the employee about the new start date, which must be within six months of the date originally requested
- Write to the employee confirming the postponement, the reasons for it and the new dates when leave will start and end

Parental leave cannot be postponed if it is being taken on the birth of a child or the placement of a child for adoption.

## **10 Parental Bereavement Leave (Parental Bereavement (Leave and Pay Act 2018))**

An employee may take leave in the event of the death of a child under the age of 18. This also applies if the employee has suffered a stillbirth after 24 weeks of pregnancy.

### **10.1 Parental Bereavement Leave - Eligibility**

Employees can take parental bereavement leave if they:

- Have at least 26 weeks service
- are a biological/birth parent of the child under the age of 18 years; or
- have acquired formal parental responsibility under the Children Act 1989 of the child who is under 18 years old; or
- have adopted the child under the age of 18

### **10.2 Parental Bereavement Leave and Pay –Teaching and Support Staff**

#### **10.2.1 Leave**

Employees can take Parental Bereavement Leave as either a single 2-week block or 2 separate blocks of one week each from the date of the death of the child up to the 56<sup>th</sup> week after death.

If the employee is taking another type of statutory leave (for example, maternity leave or paternity leave) when the child dies or stillbirth happens, the Parental Bereavement Leave must start after the other leave has ended but does not have to be taken immediately after. This includes if the statutory leave is for another child. If the Parental Bereavement Leave is interrupted by the start of another type of statutory leave, employees can take the remaining entitlement to Parental Bereavement Leave after that other leave has ended.

The remaining Parental Bereavement Leave must still be taken within 56 weeks of the date of death or stillbirth.

Parental Bereavement Leave can be taken between blocks of Shared Parental Leave that the employee booked before the child died. This includes if the shared parental leave is for another child.

### **10.2.2 Pay**

Statutory Parental Bereavement Pay (SPBP) is paid at a flat rate per week or 90% of average weekly earnings, if this is less.

### **10.3 Notification**

Due to the nature of the leave, employees should notify the Headteacher as soon as possible if they wish to take Parental Bereavement Leave following the death of a child. As a minimum notice should be provided as follows:

#### **0 to 8 weeks after the child's death or stillbirth**

Employees must provide notice to the Headteacher before they would normally start work on the first day of the week or weeks they want to take off work.

#### **9 to 56 weeks after the child's death or stillbirth**

Employees must give the Headteacher at least one week's notice before the start of the week or weeks the employee wants to take off work.

Employee must inform the Headteacher/Line Manager:

- the date of the child's death or stillbirth
- when the parental bereavement leave is requested to begin
- how much leave is being taken - either 1 or 2 weeks

Employees do not need to give proof of death or stillbirth.

## **11 Other Leave Types**

Employees may be able to take periods of paid or unpaid leave in order to look after their child's welfare. For further information linked to leave please refer to the Trust's Leave of Absence Policy.

## 12 Glossary

Abbreviation	Description
QW	Qualifying Week - The 15th week before the beginning of the week in which the baby is due.
EWC	Expected week of childbirth or confinement - The week in which the baby is due beginning with midnight between Saturday and Sunday, in which it is expected that the baby will be born.
MATB1	Maternity Certificate MATB1. A certificate issued by a Doctor or Midwife after the 20th week before the week in which the baby is due. The Certificate shows the date on which the baby is due.
SMP/SAP	Statutory Maternity Pay/Statutory Adoption Pay. A weekly payment which employers are legally required to make to employees or former employees on maternity / adoption leave provided that a number of criteria are satisfied. This can be paid for up to 39 weeks.
KIT days	Keep In Touch Days - Up to a maximum of 10 days during maternity leave where an employee, by mutual agreement with their Head Teacher, carries out work or attends work related events, without bringing their maternity leave to an end.
LEL	Lower Earnings Limit ( <a href="#">LEL</a> ). Employee must have earnings of not less than the LEL to be entitled to statutory payments (SMP or SAP)
MA	Maternity Allowance. Maternity Allowance is a benefit paid weekly to a pregnant employee who is not able to get SMP. The Benefits Agency determines who is entitled to the benefit and at what rate. MA can be paid for up to 39 weeks.
SMP1	SMP1 Form will be provided by the payroll section for employees who are not entitled to SMP.
MA1	<a href="#">MA1 claim form</a> must be completed and sent to the Benefits Agency together with form SMP1 and their MATB1 in order to claim MA.
OML/OAL	Ordinary Maternity Leave / Ordinary Adoption Leave - the first 26 weeks of a maximum of 52 weeks maternity/adoption leave.
OMP/OAP	Occupational Maternity Pay / Occupational Adoption Pay – enhanced employer payments paid during maternity/adoption leave to employees who meet the qualifying conditions and who intend to return to work after maternity leave.
MSL	Maternity Support Leave – (also applicable during adoption) one week’s leave at full pay taken within 56 days of the birth/adoption by father/partner or, where the pregnant person does not have a partner and is not being supported by the child’s father, the nominated carer of the expectant person.
SPP	Statutory Paternity Pay – a legal entitlement to a certain amount of statutory pay to qualifying employees which is paid for up to 2 weeks.

SPL	Shared Parental Leave - must be taken in blocks of at least one week and taken between the baby's birth and first birthday or within 1 year of adoption.
ShPP	Statutory Shared Parental Pay - Up to a maximum of 37 weeks' pay is created when an eligible employee/primary adopter or parental order parent ends their maternity/adoption leave early.
SPLIT days	Shared Parental Leave in Touch Days - days during SPL leave where an employee, by mutual agreement with the Head Teacher carries out work/attends work related events up to a maximum of 20 days without bringing their shared parental leave to an end.
SNCP	Statutory Neonatal Care Pay. A weekly payment which employers are legally required to make to employees or former employees on neonatal care leave provided that a number of criteria are satisfied. This can be paid for up to 12 weeks.
NCL	Neonatal Care Leave – Up to a maximum of 12 weeks' for each 7-day period the baby receives neonatal care. Leave must be used within the first 68 weeks after the baby's birth or placement (in adoption cases).

## Appendix 1 Childcare Scheme

### Childcare Voucher Scheme

On 4 October 2018, the childcare voucher scheme covered within section 5.9.2 of the policy closed to new applicants. However, employees can continue to get vouchers if:

- they've signed up, had their first wage adjustment and were in receipt of vouchers before midnight on 4th October 2018.
- they stay with the same employer, who continues to run the scheme.
- they don't have a break in receiving vouchers of a year or more, for instance when taking an unpaid career break.

From 5 October 2018, if an employee moves with their work under a business transfer covered by the Transfer of Undertakings Protection of Employment (TUPE) rules, the employee's terms and conditions will remain the same. In this case, either the employee can join any existing childcare voucher scheme the school runs, or the school can start a new scheme for them, if they don't already have one.

### Tax-Free Childcare

From 5 October 2018 employees will need to apply for Tax-Free Childcare (TFC) directly from HM Government. Tax-Free Childcare is a new government scheme that helps working parents with their childcare costs.

Employees can get up to £500 every 3 months (£2,000 a year) for each of their children to help with the costs of childcare. For an employee receiving Tax-Free Childcare, the government will pay £2 for every £8 the employee pays their childcare provider via an online account.

### Eligibility

An employee can usually get Tax-Free Childcare if they (and their partner, if they have one) are each earning at least the [National Minimum Wage or Living Wage](#) for 16 hours a week

Employees are not eligible if:

- their child does not usually live with them
- the child is their foster child
- either the employee or their partner has a [taxable income](#) over £100,000
- the employee is from [outside the EEA](#) and their UK residence card says they cannot access public funds

### The child

The child must be 11 or under and usually live with the employee. Employees will stop being eligible on 1 September after their child's 11th birthday.

Adopted children are eligible, but foster children are not.

If the child is disabled, the employee may get up to £4,000 a year until their child is 17. Employees are eligible for this if they:

- get Disability Living Allowance, Personal Independence Payment, or Armed Forces Independence Payment
- are registered as blind or severely sight-impaired

**The childcare provider**

The childcare provider must be signed up to the scheme before the employee can pay them and benefit from Tax-Free Childcare.

Employees cannot get Tax-Free Childcare at the same time as claiming Working Tax Credit, Child Tax Credit, Universal Credit, or childcare vouchers.

The online [childcare calculator](#) helps employees work out which scheme they are better off with.

**If an employee receiving childcare vouchers starts using Tax-Free Childcare**

Should an employee who receives childcare vouchers wish to start using the Tax-Free Childcare Scheme they must notify the school of this, in writing within 90 days, so that the school can stop making deductions. The employee must also contact the current Child Care Provider, to cease salary sacrifice. It is the employees responsibility to notify the school and Child Care Provider.

Employees can continue to use any vouchers they already have, including to make a joint payment for childcare with Tax-Free Childcare. There's no deadline for using their existing vouchers.

Once an employee has notified the school that they are getting Tax-Free Childcare, they cannot re-join an Employer Supported Childcare scheme later on.

**To apply**

For further information and to apply for Tax-Free Childcare employees can visit the [Childcare Choices](#) website.